

**Lobbying in the European regulatory
arena: a study of banks and the
European Banking Authority**

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Declaration

I, John-Paul Salter, confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I can confirm that this has been indicated in the thesis.

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Abstract

Extant studies of lobbying in the European Union (EU) by private actors have focused on the legislative arena: how such actors target the Commission, or the Parliament. These works have generally considered lobbyists as *uniform transnational capitalist actors*, seeking to extend the reach, or depth, of the single market. Recent advances in supranational institutional capacity have begun to create a 'single European regulatory space' (Levi-Faur, 2011), through which the EU now seeks to achieve market delivery. However, to date there has been little study of how private actors lobby this new institutional venue.

Using the example of the European Banking Authority (EBA) – one of the regulatory institutions in this new arena – this thesis examines the patterns in lobbying behaviour. It takes the cases of British and German banks, and uses the notion of durable variations in domestic contexts to account for differences in their lobbying activities. This approach draws on the work of Hall and Soskice (2001), and posits that domestic financial systems and their associated regulatory regimes shape lobbying in the European regulatory arena. These features of the national landscapes condition banks' holding, and deployment, of lobbying resources; and shape their beliefs about European bank regulation – meaning that banks engage essentially as *national capitalist actors*.

The thesis uses a variety of qualitative data to investigate these activities and their roots. The findings show that banks' lobbying behaviours can be seen to remain grounded in their national contexts; and in turn that the strength of these domestic institutional and ideational structures mean that a great deal of lobbying remains distinctly national, even where directed at a supranational venue. Targeting of the EBA is fragmented and contingent.

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List of Abbreviations

AFME	Association for Financial Markets in Europe
BaFin	Bundesanstalt für Finanzdienstleistungsaufsicht: German financial regulator
BAKred	Bundesaufsichtsamt für das Kreditwesen: forerunner of the BaFin
BBA	British Bankers' Association
BdB	Bundesverband deutscher Banken (Federal Association of German Banks)
BSA	Building Societies Association
BVR	Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (National Association of German Cooperative Banks)
CEBS	Committee of European Banking Supervisors; forerunner of the EBA
CEIOPS	Committee of European Insurance and Occupational Pensions Supervisors; forerunner of the EIOPA
CESR	Committee of European Securities Regulators; forerunner of the ESMA
CRDIV	Fourth Capital Requirements Directive
CRR	Capital Requirements Regulation
DK	Deutsche Kreditwirtschaft (German Banking Industry Committee)
DSGV	Deutscher Sparkassen- und Giroverband (Association of German Savings Banks)
EACB	European Association of Co-Operative Banks
EAPB	European Association of Public Banks
EBA	European Banking Authority
ECB	European Central Bank
EIOPA	European Insurance and Occupational Pensions Authority
ESMA	European Securities and Markets Authority
FCA	Financial Conduct Authority: UK agency responsible for regulation of conduct
FSA	Financial Services Authority; forerunner of PRA and FCA
IFRS	International Financial Reporting Standards
LCR	Liquidity Coverage Ratio

LR	Leverage Ratio
NSFR	Net Stable Funding Ratio
PRA	Prudential Regulatory Authority: UK agency responsible for prudential regulation
SME	Small- and medium-sized enterprises
US GAAP	'Generally accepted accounting principles': the set of accounting rules which prevail in the US
VÖB	Bundesverband Öffentlicher Banken Deutschlands (Federal Association of Public Banks in Germany)

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Chapter 1: Introduction

1.1: Introduction

Private actors play an integral role in the European Union's legislative activity, providing expertise into policy-making processes. This began with the reinvigoration of the single market programme several decades ago, and the associated transfer of policy-making competences, in several domains, upwards from national governments to European legislative actors (Pollack, 2003). Private actors are now afforded a status as 'legitimate political actors' (Coen, 1997), and their provision of information to legislators has come to be seen as a form of *lobbying*¹: deploying a resource in the hope of influencing decisions, and shaping eventual legislative outcomes. In turn, such lobbying has been the subject of a rich and lively scholarly literature, and we now know a great deal about the drivers of private actors' behaviour: how they supply different types of information in order to gain access different venues (Bouwen, 2002; Chalmers, 2011); how they strategically navigate their complex policy-making environment, selecting the most appropriate forum based on an internal rationale (Guiradon, 2000; Holyoke, 2003; Mazey & Richardson, 2006); and the circumstances which drive them to collaborate and pursue collective, and perhaps transnational, approaches (C. Mahoney, 2007). The present study contributes to this literature, investigating lobbying behaviour in a new empirical context.

This legislative lobbying, aimed at the Commission and the Parliament, has been concerned with shaping the broad principles behind market creation. Meanwhile, firms and associations have also long been engaged in a similar activity aimed at national regulatory authorities: the agencies to whom governments have delegated regulatory competences, often in the name of demonstrating a credible commitment to a policy of non-intervention in market

¹ This is a rather protean term, laden with many connotations in the public imagination. For discussions of the various conceptualisations as used in political science, see Naoi and Krauss (2009), Baumgartner (2007) or Hall and Deardorff (2006).

activities (see Thatcher & Stone Sweet, 2002).² This regulatory lobbying, involving a similar provision of information, has been pursued with the intention of shaping the detailed rules which achieve market delivery, and regulate the behaviours of market actors. The interactions between private actors and regulatory agencies give rise to an interdependence, with both parties embraced in a stable relationship allowing a degree of strategic co-operation in shaping market structures (Ayers & Braithwaite, 1992; Coen, 2005).

The picture we have, then, is of lobbying cast into two distinct modes – in Europe, aimed at legislative actors, and at home, aimed at regulatory agencies. Recently, however, changes in the EU's institutional capacity have created a new layer: supranational regulatory authority has been crystallised in a set of standalone bodies, replete with their own mandates, resources and powers. This has led to what has been termed the 'single European regulatory space' (Levi-Faur, 2011), and the formation of this institutional layer has generated an incentive for private actors to combine their lobbying efforts on the European scene. Two features of this crystallisation combine to create an area for research where current theoretical coverage is lacking. First, the bodies in the supranational regulatory layer have a novel institutional form – hybrids of networks and agencies – and this creates a complex landscape in which private actors operate. Secondly, and more importantly, their role represents an incursion by the EU into the (previously national) business of market delivery, or the writing of specific rules by which regulation is achieved. Thus, we have an opportunity for research: to investigate the lobbying by private actors of the authorities which inhabit this unified regulatory space. This thesis seeks to address this opportunity by answering the question: *“What shapes the lobbying behaviours of banks in the European regulatory arena?”*

In answering this question, this thesis seeks to make a distinct contribution to the lobbying literature by examining how the national origins of private actors shape the way they lobby the European regulators. It takes as its case a specific

² This has occurred as part of a larger transition, referred to as the rise of the 'regulatory state.' See Majone (1994), Braithwaite and Drahos (2000a) or Moran (2001; 2002).

policy domain: that of banking, and thus of the European Banking Authority (EBA). As will be explained, the unique nature of this policy domain makes it a valuable ground in which to investigate these lobbying behaviours.

1.2: Setting the scene

1.2.1: Identifying the research opportunity

Banks perform a vital function in a capitalist economy, connecting savers to borrowers and bridging the divide in time horizons between the two: savers may need access to their funds at any point, while users of these funds need them to be stable over a period of time³. By carrying out this role banks enable investment, facilitate output and promote growth, but this role brings with it several risks. Some can be thought of as ‘primary’, as they arise directly from banks’ activities: these include the danger that they cannot meet a sudden demand for withdrawals by depositors, or that the firms to whom they have lent money fail.⁴ A second category of risks can be thought of as ‘consequential’ – since exposure to them arises as a consequence of *how* banks carry out their business. For example, banks face operational risk: the danger that failures in their internal governance or control procedures allow errors to occur, exposing them to losses or fraud. In this category also resides compliance risk: the danger that banks can fall foul of some piece of regulation written to constrain their behaviour, or more broadly, that some part of their conduct later transpires to be illegal.

³ The functions of banks are examined in more detail in Chapter Four.

⁴ More formally, these can be defined as follows. The first is liquidity risk: the danger that banks are unable to meet a sudden demand for withdrawals by depositors, because their funds are tied up in long-term investments. When this happens banks can fail very quickly indeed. Banks also face the risk that their clients – businesses or individuals to whom they have lent money – go bankrupt; when this happens, a portion of the loan, if not all, may be lost (credit risk). Third, they face the risk that prevailing interest rates fall, meaning a corresponding fall in the difference between that paid out to depositors, and that received in as returns on investments; when this happens, their profitability is harmed (interest rate risk). Finally, banks face the risk that securities prices or foreign exchange rates move against them, thus reducing the value of assets held or making foreign currency commitments more costly to service (market risk); again, when this happens, profitability is harmed.

Such regulations exist precisely *because* of the primary risks banks face, and the harm potentially caused to society – or to public finances – by their being realised.⁵ The control of banks’ behaviours and activities is delivered by regulatory authorities, which have evolved over time from previously often very informal, meso-corporatist structures with little statutory backing (Moran, 1991; 1994). The resulting institutional frameworks, and their practices, can be cast into various types (Barth et al., 2006; H. Davies & Green, 2008; Sousa, 2008), as they have emerged in distinctive political contexts and are founded on different understanding of the risks involved and the associated responsibilities of the state in managing them (Quaglia, 2008a; Westrup, 2007). Indeed, these developments have been typical of a broader shift in the relationship between the state and the market which has seen the delegation of regulatory authority to independent agencies. The wide-ranging transfer has been the subject of a literature on regulatory governance, examining the logics behind the delegation (Thatcher, 2002a; Thatcher & Stone Sweet, 2002), the variations in the form of the body (Coen & Thatcher, 2005), and in its degree of independence (Maggetti, 2009; Thatcher, 2002b; 2005). The literature has also taken a more holistic perspective that has allowed the comparison of *regulatory regimes* – comprising these bodies, but also their regulatory practices or supervisory techniques – across national contexts or policy domains (Hood et al., 2001; Levi-Faur, 2006; S.K. Vogel, 1996). A significant finding of this research is that there exist distinct ‘national styles’ to regulation, framed around different legal traditions or cultural perceptions on risk (Moran, 1986; D. Vogel, 1986).

Importantly, bank regulation entails a stark information asymmetry between the parties involved, and the reason for this lies in the nature of the business that banks engage in. In performing maturity transformation, and in placing themselves between savers and borrowers, they create balance sheet assets and liabilities the specifics of which only they have any information on. Almost everything about the contract is private to the banks, and it is extremely difficult for external parties (such as regulators) to independently gain knowledge of the

⁵ This notion is, itself, the subject of a lively literature. See Dow (1996) on uncertainty; Benston and Kaufman (1996) on prudential regulation; or Dowd (1996) on financial *laissez-faire*.

details of these assets.⁶ This difficulty – the essential privacy of the knowledge of the assets and their associated risks – means that the regulation of banking relies heavily on input from the banks themselves, so that a lively interaction emerges between the two parties.⁷ This is certainly the case during the regulatory functions of monitoring and behaviour modification; yet it is just as true during the prior exercise of standard-setting, or rule-making. Banks have the best knowledge of the workings of their markets, and so are almost uniquely placed to provide advice on the impacts (intended or otherwise) of rule changes to the functioning of those markets. We can, of course, conceptualise this in a rather different way: given that banks provide expertise and informational input into rule-making discussions in the hope of shaping outcomes, we can identify this behaviour as *regulatory lobbying*.

The delegation to independent regulators at ground level has been accompanied by a similar transfer of broader policy-making competences *up* to European legislative actors (Pollack, 2003). The consequence of this has been that while regulatory authority has remained at the national level, in the hands of these independent agencies, the writing of the over-arching legislation has moved to the supranational level. Banks have naturally directed lobbying efforts at these legislative actors, and this has involved providing information and expertise into discussions aimed at establishing the broad principles of legislation, or building the conceptual frameworks behind market creation. In other words, banks have faced two distinct lobbying arenas: the national regulatory context and the European legislative context. The result has been a bifurcated lobbying approach, maintaining two separate modes of engagement.

⁶ This contrasts markedly with other aspects of statutory regulation we might imagine: consider, for example, regulating emissions from a chemical plant. A regulator seeking to limit such emissions can measure them for herself; she can also call on independent scientific expertise to inform her of ‘safe’, or harmful, levels. Conversely, there is very little about the risks run by a bank – which have an equivalent ability to cause harm to society – which can be externally determined, and very little source of independent expertise as to how those risks may actually cause harm.

⁷ The asymmetry behind this interdependence is not unproblematic, and has sat behind theories of ‘regulatory capture’ (Laffont & Tirole, 1990; Stigler, 1971).

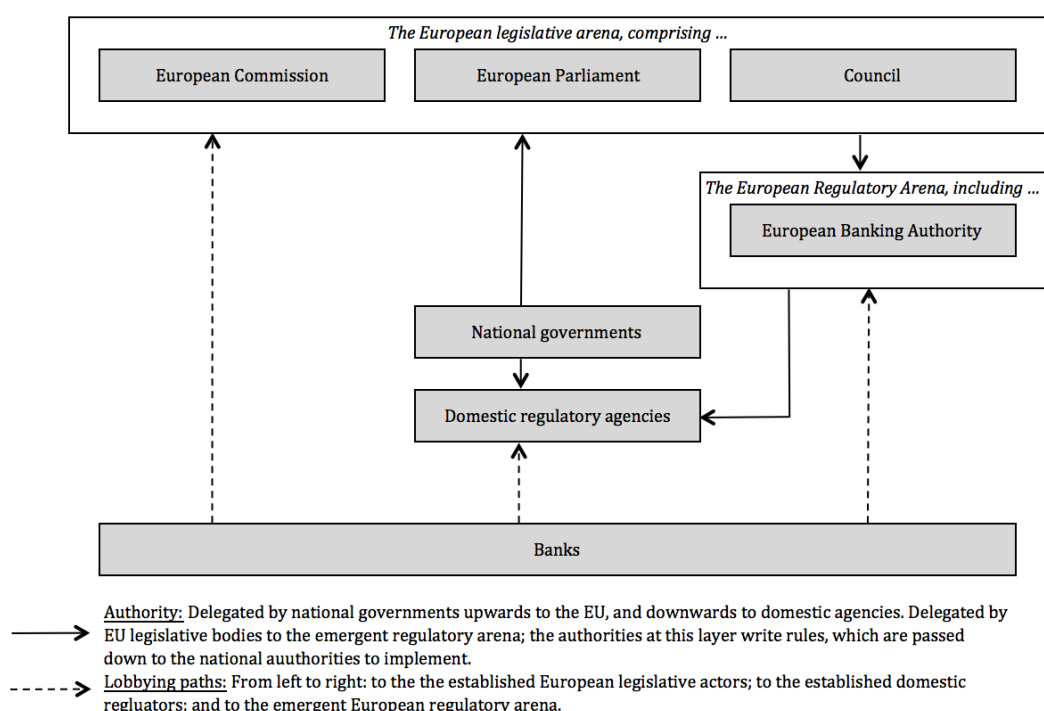
Recently, however, the EU has made advances in its institutional capacity which have begun to unify these arenas. In the latter decades of the last century, the implementation of the European legislation was co-ordinated through a set of loose networks – committees of national agency heads brought together to share best practices (Coen & Thatcher, 2008; Dehousse, 1997; Eberlein & Grande, 2005; Eberlein & Newman, 2008; Majone, 1997a). Following a long-run process instigated and then encouraged by two reports (the Lamfalussy Report in 2001 and the de Larosière report in 2009), these were crystallised into standalone supranational regulatory authorities in their own right, with a distinct mandate, their own resources, and new powers (Alford, 2005; McPhilemy, 2014; Moloney, 2003; Thatcher, 2011).⁸ Indeed, this transition is part of a far larger evolution in capacity, which has seen agencies and other bodies gradually develop through processes of institutional layering (Thatcher, 2011; Thatcher & Coen, 2008). In the empirical context of this project, this process brought about the creation of an ‘agencified network’ (Levi-Faur, 2011: 810) : the European Banking Authority (EBA). This new body writes the specific rules and standards which implement European financial legislation in national contexts, drawing input and expertise from the national regulators themselves. In practice, this means that the locus of rule-making authority has moved upwards from the domestic to the new European regulatory arena; meaning in turn that banks have a new institutional venue – albeit one with a complex structure – at which to aim their regulatory lobbying.

We thus have a picture comprising several layers (see Figure 1.1). At the top is the European legislative arena, where the established actors have been producing legislation governing banking for nearly three decades. Here, the banks have been engaged in the activity of *legislative lobbying*, aiming to shape market creation; this has been the subject of the European interest group literature. At the bottom are the national contexts, where independent regulatory authorities have traditionally translated the European legislation into market delivery using specific implementing standards. Here, the banks have

⁸ This evolution is examined in more detail in Chapter Four.

been involved in the more detailed business of *regulatory lobbying*. Finally, the third layer is the newly-formed European regulatory arena, where the EBA has begun to take over this function of rule-making. The lobbying behaviours of banks at this new institutional venue are the subject of this thesis, which addresses the question: “*What shapes the lobbying behaviours of banks in the European regulatory arena?*” In doing so, it puts forward a theoretical argument that lobbying behaviours are shaped by banks’ national origins.

Figure 1.1: The three layers



1.2.2: Rationales for the study

This topic – how banks lobby regulators – is particularly germane, for two reasons. The first we could call empirical, or circumstantial. The crisis which swept through banking markets between 2008 and 2010 caused a seizing up of credit and liquidity, and prompted what became the deepest recession since the 1930s. It also led, some eighteen months later, to a protracted sovereign debt crisis which beset the Eurozone, and which has arguably come to re-define European integration (Crum, 2013; Mourlon-Druol, 2014). The speed with which the crisis spread, and the reach it had into economies and national balance

sheets, exposed many flaws in the extant regulatory frameworks governing the financial sector, and specifically banks. A litany of collapses, bail-outs and scandals has focussed public attention on revising these frameworks, and politicians and regulatory thinkers have responded with great vigour. Virtually every country impacted by the crisis has enacted some legal or regulatory response: the outcomes of the Vickers Commission and the Parliamentary Commission on Banking Standards in the UK, the Dodd-Frank Act in the US, and similar moves in Germany and France (see Mayntz, 2012). But equally significant have been the more co-ordinated efforts at the transnational level, notably third iteration of the Basel Accords⁹ in 2010, and the passing of the fourth Capital Requirements Directive and the Capital Requirements Regulation (collectively CRDIV/CRR) by the EU in 2011.

The thesis takes this last instance of regulatory policy-making as its policy context, focussing on the interactions between banks and the EBA during the writing of the rules in support of this legislative package. A study of how banks lobby regulators is of academic – and public – interest: in normal times, establishing an understanding of how banks do this provides an important control and oversight into the functioning of the regulatory process. For responses following a period of crisis, this is additionally important.

The second reason is more theoretical, and relates to the state of our knowledge of lobbying behaviour in the EU. Since they first became ‘legitimate political actors’ (Coen, 1997) after the Single European Act, scholars have studied how firms have lobbied political actors in the EU over the drafting of legislation, tackling a set of key questions: what goods were offered to policy-makers? How were they targeted? What norms prevailed over the activity of lobbying? The aim was to build generalizable knowledge about private actors’ lobbying across the board, and so the focus was on the characteristics of the actors themselves, rather than their national origins. The empirical reason for this pattern was that

⁹ These are the internationally-agreed, non-binding standards which underpin global bank regulation. They are given force by national implementation – which in the European Union has been achieved via a series of directives (and lately a regulation). The standards, and the accompanying EU legislation, are examined in more detail in Chapter Four.

for most of the period since Maastricht, the EU's liberalising agenda had been aimed at integrating product, and latterly service markets, and at this stage private actors sought to extend or deepen the single market. Essentially they lobbied as *transnational capitalist actors*; as a result, lobbying behaviours remained shaped by 'institutional' rather than 'national' factors, and that was where scholars' attention lay.

Recently, however, the EU has turned to the regulation of financial markets, and so begun the process of integrating the 'deep cores' of the national economies into a single European market. At the deep core sits the financial system, and the regulation of it resides in a body of rules developed in national contexts. The lobbying activities of private actors (banks, primarily) over this new field of European integration will be shaped by the features of these national contexts; or, to put it another way, by the private actors' *national origins*. They now operate as *national* capitalist actors; and so the shift towards supranational financial regulation affords an opportunity to bring a new perspective to our understanding of lobbying, by bringing a focus on the national origins of private actors.

Finally, there is an additional element to this argument relating to the new field of integration, in that the lobbying literature has not specifically embraced 'banks' as a unique class of firm. Other, non-financial firms are engaged in producing, or selling, physical goods, or providing services in support of that activity.¹⁰ However, banks are economic actors in their own right, playing a central role at the heart of financial systems and capitalist economies; but the way they do so varies significantly between national contexts. As we have seen, their regulatory environment has been significantly centralised with the creation of the EBA, and while studying their lobbying in this new, supranational landscape we should be aware of their unique position in their domestic

¹⁰ Bertrand Russell memorably referred to these forms of activity thus: 'Work is of two kinds: first, altering the position of matter at or near the earth's surface relatively to other such matter; second, telling other people to do so. The first kind is unpleasant and ill paid; the second is pleasant and highly paid' (1935: 3).

contexts. To paraphrase a recent research agenda article, there is a need to put 'finance' back into the study of lobbying (Mügge, 2013: 461).

1.3: Answering the research question

1.3.1: The theoretical approach

In the thesis I argue that the lobbying behaviours of private actors in the new European regulatory arena are shaped by their national origins. To address the research question, and to establish *how* national origins shape lobbying behaviours, I use a 'varieties of capitalism' approach (P.A. Hall & Soskice, 2001) as an organising theory. This informs us that national contexts vary robustly, and more importantly helps us operationalize the features of this variation coherently. It provides a means of identifying and categorising the different national landscapes.

The theoretical framework is used to generate two manifestations of variety. The first draws on the 'varieties of financial system' literature (Allen & Gale, 2000; Demirgüç-Kunt & Levine, 1999) to posit that, like broader models of the economy, we can classify countries' financial systems into two casts. The second manifestation takes us from the banking market to its associated national regulatory regime (Hood et al., 2001; S.K. Vogel, 1996), and in particular the underlying paradigm on which it is founded. Similar to the broader conception of the policy paradigm (P.A. Hall, 1993), this contains a set of beliefs about how banking should be regulated, and so conditions the perceptions and preferences of private actors towards EU bank regulation. Together, these two manifestations form the key elements of the national contexts in which banks have their origins. The specification of this theoretical framework, and the model, is discussed in more detail in Chapter Two.

1.3.2: The variables and hypotheses

I define the dependent variable of the theoretical model as the observed lobbying behaviour of the banks. The first concerns the approach they take when

targeting the EBA: whether they do so individually, or through an association. The next builds on the prominent role played by national authorities in the EBA's rule-making processes, which mean banks can still seek to influence their Europeanised regulatory environment by enlisting the support their home regulator. The second aspect of the lobbying behaviour thus considers the regulatory venue – domestic or European – chosen by banks. The final aspect examines the type of informational input (technical and regulatory, or more political and high-level) they provide.

Meanwhile the two independent variables extend from the two manifestations of national variety outlined above. Thus, for the first, I take as an initial premise that the prevailing mode of financial capitalism conditions the structure of the domestic banking market, which then determines the distribution of *lobbying resources*; these act as the independent variable and shape behaviours. The resources are conceived of as informational capability (rather than simply material or financial resources): the capacity the bank has to monitor policy-making discussions, generate relevant expertise, and represent itself in the various fora. For the second manifestation, I take as a similar premise that the paradigm underneath the national regulatory regime in which banks operate shape their *preferences* over European financial regulation; these are, roughly, for 'more' or 'less' harmonisation of regulation (although naturally, at a more granular level, they are often for a specific alterations to a certain aspect of regulation). The preferences thus act as the second independent variable: it is the extent to which the banks' preferences align with those of the regulatory institutions – at either level – which shape behaviours.

From these stem three elements of a theoretical model, each with a set of hypotheses. The first element examines how banks lobby the EBA, and how this part of their behaviour is shaped by their lobbying resources. *H1* thus links increased holdings of lobbying resources among banks with direct engagement with the EBA; while *H2* predicts that as resource diminish so banks lobby via representative associations. The second element presents an alternative explanation, allowing banks to deliberately lobby their domestic regulator. *H3*

therefore focuses on preferences, and predicts that banks will examine the alignment of their own preferences with those of either the domestic or the European regulators, and direct their efforts correspondingly. *H4* examines how banks flex the content – the information provided – according to the varying discursive rules of these venues. Finally, the third element brings the two together, and examines the possibility that resources and preferences *combine* to shape lobbying behaviours. Since theorising about such an interaction is very difficult to do *a priori*, *H5* simply suggests that with increased resources, banks are better able to lobby based on their preferences.

In this way, the model knits together the various literatures. The ‘varieties of capitalism’ (P.A. Hall & Soskice, 2001) theory provides the explicitly-specified manifestations of national variety (expressed either as financial systems or national regulatory paradigms). Next, the EU lobbying literature provides insights on the ability of private actors to operate in a complex opportunity structure (Guiradon, 2000; Holyoke, 2003; Mazey & Richardson, 2006), on the role of informational resources (Chalmers, 2011; 2013; Dür & Mateo, 2012) and associational activity (C. Mahoney, 2007) and on the importance of matching this input to the demands of the venue being targeted (Bouwen, 2002; Dür & De Bièvre, 2007; Michalowitz, 2004). The model then takes us through two causal pathways, and ultimately to banks’ observed lobbying behaviours in the European regulatory arena.

1.3.3: Data and methods

To investigate the lobbying patterns around the EBA, I concentrate on the rule-making exercises conducted in support of the drafting of the CRDIV/CRR legislative package. I use a qualitative research design, which was chosen for its strength in examining the causal processes behind observed phenomena, rather than searching for co-variation among numerically-coded variables (George & Bennett, 2005; Gerring, 2004; Lin, 1998; J. Mahoney & Goertz, 2006). Thus, the variables which *are* specified (and which were outlined in the previous paragraphs) are intended as ‘guides’ into the complexity of the empirical realm

of the subject. The study takes a comparative case-study approach, with empirical cases arranged into a nested structure (Gerring, 2004). At the top level are the UK and Germany, chosen as exemplars of the two dimensions of variety suggested by the theoretical framework. Within this sit the embedded units of analysis, or the cast of actors – banks, associations, regulators – relevant to the study.

The data for the study were gathered from three sources. Firstly, 55 semi-structured interviews were conducted with representatives of banks, trade associations and regulators from the UK and Germany. Second, publicly-available responses submitted by banks and associations into consultation processes were gathered. Third, a range of supporting material and secondary sources – such as notes taken at public events, position papers, media reports and commentary – were used to complete the empirical picture. These various sources were subjected to a qualitative content analysis procedure, which was used to extract information pertaining to the banks' lobbying behaviours, and to the reasons behind them. In turn, the causal narrative was framed around specific instances of lobbying, in which process tracing techniques were deployed to connect the variables to the observed behaviours. In this way, a richly-detailed but theoretically robust explanation was developed. The specification of the research design, including the variables, data sources and analytical techniques, is discussed in more detail in Chapter Three.

1.4: Empirical findings

Chapter Five deploys *H1* and *H2*, examining how domestic market structures shape the distribution of lobbying resources among banks, and how the very different models of financial capitalism in Britain and Germany give rise to very different capacities in the sets of banks. It then examines how these different holdings of resources shaped the various banks' lobbying in the emergent European regulatory arena. Successive sections study the activities of the large banks (both British and German) and then the remainders of the two sectors in turn. The chapter finds that the large banks had the resources to direct lobbying

efforts at the European regulator, and that the far greater organisational strengths of the German sector led to strong engagement. The medium- and small-sized British banks lost out in this arena: they had neither the independent resources nor the associational support to lobby effectively in Europe.

Chapter Six deploys *H3* and *H4*, looking at how banks' lobbying behaviours were shaped by their perceptions of, and preferences over, European regulation. It grounds these in the domestic regulatory paradigms in which the banks operate, explaining how their understanding of European regulation stemmed from their deep-rooted beliefs about *how* regulation should be practiced as a whole. Next, it draws out similar preferences on the part of the national authorities, showing how, over certain specific policy debates, the positions of the banking sectors and regulatory authorities were aligned. It finds that although alignments between banks and regulators were often circumscribed and problematic, banks continued to focus their regulatory lobbying on domestic, over European, actors. It also shows how banks shifted the content of their informational input, but often retained a central thread which was linked to their paradigmatic beliefs on European financial regulation.

Chapter Six also applies *H5*, bringing together the resource- and preference-based explanations. It describes how greater resources allowed banks to use lobbying strategies based on their preferences, but also how stronger associational representation enabled the small German banks to effectively penetrate the European regulatory arena.

Finally, Chapter Seven reviews the study, first presenting some broad, contextual findings, and then a set of conclusions pertaining to the functioning of the causal model. It connects these to the literature on lobbying in the EU, and to broader thoughts on European regulatory governance. It also offers some practical implications and possible avenues for further study.

Chapter 2: Theoretical framework

2.1: Introduction

*“What shapes the lobbying behaviours of banks in the
European regulatory arena?”*

With the rise of the EU’s policy-making capacity following the Maastricht Treaty came a parallel rise in lobbying activity by private actors (Coen, 2007; Woll, 2006). This became the subject of a lively scholarly debate, and of a richly detailed theoretical and empirical literature. Once early and important theoretical advances had been made attention switched to the drivers of this lobbying behaviour, and consensus settled on it being essentially an exchange – of informational goods for privileged access, and, perhaps, influence (Broscheid & Coen, 2003; 2007). The key determinants of private actors’ ability to penetrate policy-making venues thus centred on the resources they commanded, and so, in a secondary sense, on the various institutional characteristics which effected holdings of these resources.

Operating in this vein a great deal of valuable work was conducted, and we now have a clear picture of how institutional characteristics shape lobbying behaviours. Meanwhile, a second feature of this literature has been an implicit view of lobbyists as *transnational capitalist actors*, seeking to extend or deepen the single market. Hence, the story ran, these actors pushed the Commission towards further liberalisation and integration of markets in goods, and later services. The conclusions reached about lobbying were based on these two facets: lobbying behaviour was shaped by institutional characteristics, and driven by a desire to spread the reach of the market.

This thesis takes a slightly different perspective. It argues that this extant literature has under-estimated the importance of the national origins of private actors as significant factors in shaping their behaviour, focussing instead on institutional characteristics and transnational intentions. Furthermore, it has not

yet absorbed the recent developments in the EU's institutional architecture, which have created a single European regulatory space with a set of discrete, standalone bodies at the supranational level (Levi-Faur, 2011). The extent of this centralisation has varied across policy domains, but has been particularly pronounced in that of bank regulation. Here, a new institutional has been created, at which private actors can address their lobbying: the European Banking Authority (EBA).

By investigating the research question above, then, this thesis aims to make an important theoretical contribution by showing the lobbying behaviours of private actors in the developing regulatory arena are shaped by features of their national contexts. It does so by using the case of the EBA and by focussing on how banks have lobbied it. The thesis deploys a 'varieties of capitalism' approach (P.A. Hall & Soskice, 2001) as an organising theory, using it to build a theoretical model linking national contexts to behaviours. Two dimensions of variation in these national contexts are established. First, national varieties of capitalism are associated with different financial systems, and different arrangements for linking them to the broader economy. These 'varieties of *financial* capitalism' then bring about very different structural patterns in banking sectors, which dictate the number, types and sizes of the constituent banks. This drives the distribution of lobbying resources among banks, and so shapes the ways in which they lobby regulatory actors. In this sense, the thesis investigates whether these domestic arrangements for lobbying regulators – caused by the distribution of resources, and ultimately by the structure of the national sector – are replicated in the new European arena.

Second, national varieties of financial capitalism are accompanied by distinctive regulatory regimes, which are themselves based on different sets of beliefs about banking markets and their regulation. These beliefs are held (to varying degrees) by both banks and regulatory authorities, and they serve to structure relations between the two. The thesis investigates how the perspectives of banks on European financial regulation – shaped by these domestic ideational frameworks – shape the way banks lobby in the emergent arena.

This chapter sets out to develop the research question, and to construct the theoretical framework on which the thesis rests. Drawing on Maxwell (2005: 39), I use the framework to specify the ‘working parts’ of the theoretical model – the key actors, the fundamental concepts, and so on – and to explain how they fit together. To this end, the chapter proceeds as follows. First, I open with a broad thematic review of the literature covering the activities of private actors in the European Union,¹¹ in order to establish a general context. From this, I then extract a more detailed study of that part of the literature which deals specifically with various aspects of their *lobbying*; this provides many of the conceptual components on which the thesis is founded. Section three then identifies two opportunities to contribute to the literature, and from there isolates the research question; it also explains the use of the organising theory. With this in place, section four develops two manifestations of national variety relevant to the study, and explains the theoretical underpinnings of the two approaches used to answer the question. Section five extends these into a causal model, weaving in insights drawn from the earlier review of the lobbying literature. Finally, section six offers some concluding remarks.

2.2: Interest groups in the European Union

2.2.1: Thematic review of the literature

Our first task is to establish the broad theoretical context in which this study is grounded, and so we begin with a review of the main themes in the literature on interest groups and their activity in the EU. This literature grew with the rapid expansion of engagement by private actors in EU decision-making processes after the Single European Act (Coen, 2007; Woll, 2006). Early investigations described activity in individual issue areas or policy fields, and tracked the growth of interest representation alongside the transfer of competences up to the supranational level. These then moved onto more theoretically ambitious projects aimed at establishing whether national patterns of interest intermediation – pluralism or neo-corporatism – were carrying through to the

¹¹ Also referred to as the ‘European interest group literature.’

European stage. By the 1990s, scholars had characterised the European system as 'transnational pluralism' (Streeck & Schmitter, 1991) and later 'élite pluralism' (Coen, 1997). More recently, it has been shown in a different, more variegated light, with often very different sets of actors and styles of representation in different policy domains – so-called 'chameleon pluralism' (Coen & Katsaitis, 2013). Elsewhere, studies of the EU's governance style began to integrate a consideration of interest group activities. These had identified a fluid approach to policy-making, with shifting constellations of actors involved over several layers – regional, national and European (Marks & Hooghe, 2001). Interest groups representing various constituencies were shown to participate in the loose policy networks thus convened (Eising, 2004; Kohler-Koch & Eising, 1999). As this developed, attention turned to how private actors formed groupings, either within or across these various levels, in order to navigate the complex environment and achieve success in their lobbying. The intricacy of the policy-making process, and of operating in the dynamic multi-level setting, were found to hinder the formation of stable, transnational groupings, so instead firms tended to forge *ad hoc* alliances, or to operate through domestic associations (Coen, 1997; C. Mahoney, 2007). Meanwhile, federations of national associations were shown to be sluggish, lacking in resources, and beset with collective active action difficulties (Mazey & Richardson, 2006).

With lobbying activity maturing, focus turned to the examination of its underlying logics. These projects aimed to uncover what shaped lobbying behaviours, and tackled a set of key questions: what goods were offered to policy-makers? How were they targeted? What norms prevailed over the activity of lobbying? Under what conditions was representation structured through associational channels? These studies aimed to build 'system-wide' accounts of lobbying; that is, explanations of how firms or interest groups lobbied regardless of their national origin, or the policy involved. Their empirical focus was thus on large numbers of groups (of various types) from as many national contexts as possible (see Chalmers, 2011; Coen, 1997; Dür & Mateo, 2012; Eising, 2004; C. Mahoney, 2004).

There are, naturally, many other strands to this extensive literature. For example, scholars have examined normative concerns about the legitimacy of European policy-making processes (Føllesdal, 2013; Héritier & Lehmkuhl, 2013; Weale, 2013), or about the wider democratic deficit (Føllesdal & Hix, 2006); they have also studied the extent to which private actors' access actually translated to influence, and commented on the methodological problems inherent in investigating this topic (Dür, 2008). However, for our purposes it is the four themes outlined above which are particularly relevant. The study of several modes of interest intermediation reminds us that there exist differences in such arrangements among national contexts, and that a European style has emerged which is itself variegated and complex. Analyses of private actors' involvement in the many networks of multi-level governance remind us that such activity can take place away from the pressures of intergovernmental policy-making, in a quiet world of technocracy. Lastly, studies of group formation, and of the drivers of behaviour focus our attention on the micro-level decisions within these private actors, and so on what shapes the various observable lobbying strategies.

2.2.2: Components

From this overview of the literature and its main themes we move to a more specific survey of the subset of works concerned with the drivers of behaviour. This is framed around the set of key questions identified above.

We begin with an important conceptual clarification: of the term 'lobbying.' The conceptualisation running through the literature rests on the notion of an information asymmetry between well-informed private actors and under-resourced legislators (Austen-Smith, 1993; Crombez, 2002; Naoi & Krauss, 2009; Potters & Van Winden, 1992). Hall and Deardorff refer to the resulting arrangement as 'lobbying as legislative subsidy' (2006): information and expertise are provided in order to help legislators draft better policy. These gifts feed into discussions among European legislative actors (in the Commission and Parliament) aimed at creating the overall framework of policy. At this level there is considerable flexibility in the boundaries of the debate, as overarching

principles are constructed and solidified. The decisions to be made pertain to the general direction of travel: which of several competing regulatory goals, or tools, should be prioritised, for example. We can describe this activity, then, as *legislative lobbying*.

The literature has taken the asymmetry one step further, however, and shown that it actually generates an *interdependency* between the two sets of actors (Pfeffer & Salancik, 1978). Legislators seek policy input from private actors; they, in turn, seek to influence their future regulatory environment. But achieving influence is uncertain, and so a second motivation has been identified: private actors trade their expertise for access to future rounds of policy-making discussions (Broscheid & Coen, 2003). Only by establishing a reputation for providing high-quality and reliable information can they do this, and so a disciplining effect is brought to bear.

Who participates in this lobbying activity? Drawing on typologies provided by several scholars (Beyers et al., 2008; Jordan et al., 2004), we can identify three types of private actors involved in the business of lobbying the European institutions. Firms are unitary players acting on their own behalf with distinct preferences of their own. Next, there are professional consultancies, to whom representation is occasionally delegated by such firms. Third, there are all those trade bodies, peak associations and collective organisations that represent shared or communal interests, who seek to influence policy, and who are effected by internal bargaining problems and collective action difficulties. Often for these, lobbying is not necessarily a *raison d'être*, but rather an additional function performed on top of core services supplied to their members.

The interdependence highlighted by the literature may imply a certain stability, with private actors settling into durable relationships with European institutions. However, the European policy-making system is complex, with often over-lapping stages and multiples points at which influence can be exerted. This complexity, far from hindering private actors' lobbying, actually affords them a 'menu' of possible targets for their lobbying, allowing them to switch among

locations in order to achieve a maximum return on their efforts. This dynamic venue-shopping entails a delicate trade-off, balancing the likelihood of success against private actors' own resources and capacities. It also entails an understanding of where the locus of policy-making power sits, so that efforts can be directed towards the most appropriate venue at a given point in time (Alter & Vargas, 2000; Baumgartner & Jones, 1991; Beyers & Kerremans, 2011; Constantelos, 2007; Holyoke, 2003; Mazey & Richardson, 2006).

Gaining access to these multiple venues is a matter of being able to provide the appropriate informational goods, and this brings us to the challenge of classifying information. As Mahoney notes, any such classification is likely to be at least partly arbitrary, since the types of information provided are 'so broad and rich' (2008: 82). Nevertheless, we can follow the lead of several scholars who have tackled the problem. Bouwen (2002) offered an early, and highly influential, model, which distinguished between two broad categories. First, *expert knowledge* pertains to the precise technical details of the policy area, drawing out unforeseen complications or unintended consequences. *Encompassing interest* speaks in more general terms about the preferences of a given sector over the policy, and can exist at a national, or at a pan-European, level. The same basic distinction was employed by Michalowitz, who described the more general type as 'expertise with regard to the national situation (2004: 89); using a similar framework, Dür and De Bièvre (2007) highlighted NGOs' inability to provide precise technical information as a key factor behind their exclusion from EU decision-making.

These different types of information are then connected to different institutional demands. In Bouwen's formulation (echoed elsewhere in the literature) the Commission prizes high-quality expert knowledge, and the Parliament input of a more 'political' nature (on the distributional consequences of policy, perhaps) – reflecting their differing roles in the legislative process. On the supply side, firms are best able to provide detailed technical expertise, since they are closest to the markets or products involved and not required to arbitrate between many internal positions when generating or conveying the information (as an interest

group would). The sort of sectoral opinion needed by the Parliament is provided by either domestic or pan-European interest groups (Bouwen, 2002).

The notion of a connection between the policy-making institution and the suppliers of access goods has recently been extended. Coen and Katsaitis (2013) argued that the type of private actor involved varies according to the specifics of the policy domain, rather than the overall EU institution. Thus, highly technical, or regulatory domains (including dossiers such as economics or finance) draw input from unitary actors; whereas areas which are more political, or distributive, in nature attract associations, NGOs and civil society groups. For Chalmers, meanwhile, informational input should be thought of in more granular terms: he proposed a more comprehensive typology including information on legal or technical aspects of policy, on public opinion, and on the social or economic impact of a proposal (Chalmers, 2011: 479). Again, he also relaxed the link between EU institutions and types of actor, finding that in practice both firms and associations had access to a 'large repertory of strategies' (2011: 481). A similar theme was conveyed by McGrath (2007), who compared the presentation of political argumentation in different institutional venues to the approach of 'product positioning' used in advertising strategies. The implication was that messages need to be subtly shifted – without losing their intent to persuade – according to the tastes of the audience being targeted. These newer perspectives combine to give the impression that the clustering of private actors around lobbying venues is a complex business, and that actors of various types are able to provide different informational goods.

However, information, of any type, is not simply 'held' by private actors: it has to be either internally developed or bought in. Notwithstanding the disagreements about the links between venue and type of private actor, scholars have been fairly unanimous in stressing the importance of the underlying resources in driving lobbying behaviours. The most basic consideration is clearly the financial resources the private actor has available to fund the costly business of lobbying (Eising, 2007a; Klüver, 2010). Using these resources entails making an important strategic choice (Lowery, 2007): for firms, it means diverting money away from

business activities; for associations, the choice is between engaging in costly political activities or providing core services to members (particularly if we consider that many such groups do not *solely* exist to lobby on behalf of their members). Indeed for the latter, the strength of the connection to the membership has been shown to be a key determinant of the quantity of financial resources available (Beyers & Kerremans, 2007).

Beyond this hard financial aspect, we come to more subtle considerations, relating to how information is generated or communicated. Private actors' ability to access policy-makers is linked to resources such as the number of staff they have dedicated conducting research and generating policy-relevant expertise (of whatever form – be it 'political' or 'technical'). It is then further shaped by their ability to use transmission channels: namely, to deploy the various types of information generated, they need to have established contact with their possible target venues, and staff dedicated to representation (Chalmers, 2011; 2013; Dür & Mateo, 2012). These strengths have then been related to the characteristics of the private actor: being able to navigate the EU's complex and dynamic policy-making process, and its institutional system, requires private actors to have a high degree of decentralisation and functional specification (Klüver, 2012).

Considering these types of resources brings us to the issue of the organisation of lobbying. At a basic level, unitary actors facing a shortage of resources will be forced to find alternative approaches. They can hire a professional lobbyist, or a consultancy, to act on their behalf, or they can enter into a loose alliance with peers. Most likely, however, they will participate in associational representation via a trade body, or a similar group, which will help organise the lobbying. Depending on circumstances, and perhaps on the opportunity structure involved, this association may then choose to work with others – across sectoral divides or borders. The drawback of such an associational approach is that it necessarily entails a dilution of the firm's message, since it must be considered alongside those of all the others who are participating. For this reason, firms with adequate resources of their own will avoid this channel, and prefer to organise their own efforts.

2.2.3: Summary

These various insights can be brought together to form a picture of lobbying in the EU's political structure, to define some key terms, and to establish the elements of the theoretical model this study will employ.

First, the definition of lobbying used in this study follows that employed elsewhere in the literature. Underlying it is an assumption of *rationality*, whereby private actors go through an internal thought process in which the cost of lobbying is weighed against the benefits of achieving the desired policy outcome, discounted against the probability of success. Next, it is *purposive*: information is provided to policy-makers with the intention of shaping the direction of legislation, or of resolving high-level questions of design. Finally it is a *dynamic* activity, in which private actors are able to operate at various levels of their opportunity structure and to absorb changes in that structure into their behaviours.

Second, the key good provided by private actors is informational, rather than being in the form of electoral or financial support. Thus, they supply *high-level information*, relating to the scoping and shaping of fundamental issues of framework design: which of several competing goals should be pursued, for instance. This information may also speak, in general terms, to the unintended consequences of a legislative proposal. Alternatively, they provide *technical information*, which is more akin to Bouwen's 'expert knowledge' and which is a more precise, detailed version of the political. This speaks to specific technicalities of the legislative proposal.

Third, in order to engage in this lobbying activity, private actors must be able to call on certain resources. *Interface resources* govern the flow of information into and out of the organisation. They have several different manifestations, beginning with monitoring capacity – the ability to watch for developments in various regulatory discussions at many different levels, and to keep abreast of consultation requests, scheduled public hearings, and papers being circulated by policy-makers. This is followed by an ability to manage the procurement of

information – referred to as internal brokerage, which is important as often responses to such requests will require input from different parts of the organisation, or from different sections of the membership in the case of associations. Last is the ability to communicate such information back into the outside world – a capacity for external representation.

These various resources shape private actors' interaction with their *milieu*; but obviously equally important are resources dedicated to *generating information* that policy-makers require in the first place. What matters is the ability to answer different types of question – or rather, to be able to provide different types of information, as this affords the actors access to the many different venues. In this vein, private actors need to have developed internal capacity capable of generating both *high-level* and *technical information*, and this is achieved by investing staff and resources in research or policy analysis.

Finally, the costs involved in meeting the informational demands of the venue with suitable input, and doing so in a timely manner, have an effect on how lobbying is organised. Unitary actors unable to muster the financial wherewithal to sustain these informational resources are faced with three choices of substitution. They can hire in external consultants or lobbyists, to both keep them informed of policy developments and to represent them at the appropriate fora. Next, they can enter into informal alliances with peers, hoping to share the burden while retaining some degree of individual input. Alternatively, they can delegate their lobbying efforts to a trade association, and so sacrifice their autonomy and input.

2.3: Developing the research question

As we have seen, the literature has provided vital insights into the activity of lobbying in the EU. However, I argue that this literature also contains two important areas in which contributions can be made. In this section I outline these: the first opens the way for the thesis' theoretical contribution; and the

second provides the empirical opportunity. With these in place, I then develop the research question and explain the organising theory deployed to answer it.

2.3.1: National origins

The first observation is that the literature has under-estimated the importance of the national origins of actors as factors shaping their lobbying behaviours. This is primarily because, as was noted earlier, this literature has pursued generalizable knowledge about private actors' lobbying across the board, and in this endeavour what mattered was understanding how behaviours were shaped by institutional resources and characteristics, not national origins. However, there is also an empirical reason for this pattern. For most of the period since the Maastricht treaty, the EU's single market agenda has aimed at liberalising product, and latterly service markets. At this stage, the integration essentially operated at a level which did not go far into the fundamental political economies of the member states. Thought of differently, the liberalisation was bringing together peripheral sectors of national economies, while leaving the 'deep cores' untouched.¹² At the deep core sits the financial system; and the connections between it and the overall economy are defined by legal frameworks and bodies of rules developed in the national context. As long as integration stayed away from such fundamental arrangements, any associated lobbying was performed by firms (and any representative associations) essentially operating as *transnational capitalist actors*; as a result lobbying behaviours remained shaped by 'institutional' rather than 'national' factors. This encouraged, indeed required, scholars to focus on institutional characteristics.

¹² A comparison between this and an imaginary product market serves to clarify the matter. Consider a range of widget-making firms of varying sizes spread across the EU. The Commission wishes to integrate these separate national markets, and so sets about harmonising product standards. We can expect the lobbying by these firms (driven by the adjustment costs they face) to vary according to institutional factors, chiefly the resources they can call upon; we would not expect the behaviours to vary robustly according to national origins. However, in the case of a similar attempt to standardise the level of equity capital that banks are required to hold, their domicile *is* expected to feature much more prominently in explaining their lobbying responses – because of differences in the way finance capital is provided to the real economy among countries, and thus in the roles and structural positions of banks in those countries.

Recently, however, the legislative agenda has turned to the *financial* markets, and so has begun to move closer to the deep cores. The Commission transposed the new Basel III accords into European law with a legislative package tabled in June 2011. It comprised two elements: a directive ('The Fourth Capital Requirements Directive' – CRDIV) and a regulation ('The Capital Requirements Regulation' – CRR). Between them, these laid out rules raising capital levels for banks and credit institutions, specified new regulatory ratios for the management of liquidity and leverage, imposed restrictions on pay and harmonised supervisory arrangements (European Commission, 2013a; 2013b). As well as addressing the perceived causes of the crisis, the package was at least partly inspired by the EU's long-run ambition to integrate banking markets, which had been part of the intellectual framework behind the single currency but which had stalled during the first decade of the 21st century (Grahl & Teague, 2005; Grossman & Leblond, 2011).

The move was of profound significance for the shape and speed of European integration. Under this new package, the many different national frameworks defining the operation of financial systems were now to be combined into a single European rulebook. Importantly, much of the substantive material in the package was presented in the *regulation*, meaning that areas of national discretion were closed down. From this perspective, it is clear to see how in this new field of integration, the features of their national contexts shape the lobbying behaviours of private actors. As will be shown in the coming sections, national financial systems are configured in different ways, as are the associated regulatory regimes. The drive to combine them will, I argue, lead private *financial* actors (namely banks) to lobby in ways which are distinctly national – as *national* capitalist actors they will exhibit behaviours in their lobbying rooted in domestic structures.

Thus, the EU's turn to closer integration of financial services presents an opportunity to bring a theoretical contribution to the lobbying literature by considering how variations in national origins (or more specifically, in the national financial systems) shape lobbying behaviours.

2.3.2: European regulatory governance

The second observation is that the extant literature has not yet embraced the recent developments in the EU's institutional architecture, and this provides the empirical opportunity on which this thesis rests. The literature has examined interactions between private actors and the Commission or the Parliament (Bouwen, 2002; 2004; Coen, 1997; Dür & Mateo, 2012; Eising, 2007b; Klüver, 2012; Rasmussen, 2011), but it has not yet moved on to a coverage of such behaviour in the newly-formed European regulatory arena. Here, scholars have studied how the new bodies might be controlled by national governments or the Commission (Egeberg & Trondal, 2011), or studied the implementation of their outputs (Maggetti & Gilardi, 2014), but our knowledge of how they are *lobbied* remains undeveloped. To grasp the significance of this new arena, and to understand why private actors *would* lobby it, we must step back and briefly survey its development.

We begin at the national level, where broad shifts in the relationship between the state and the market have seen the delegation of regulatory authority to independent agencies. The overall transfer has been the subject of a wide literature on regulatory governance, and in a wider it has also been associated with the 'rise of the regulatory state': the withdrawal by the state from the public ownership of utilities or network industries, or the public provision of welfare, and their replacement with private markets and an associated regulatory apparatus (Braithwaite & Drahos, 2000b; Majone, 1994; Moran, 1999; 2001).¹³

The rise of these independent agencies calls to mind a second 'mode' of lobbying: efforts aimed at regulators, rather than legislative actors. This is concerned with calibrating, or fine-tuning the regulatory model; to continue the earlier metaphor, the direction of travel is set, and discussions now centre on how best

¹³ This literature has examined the logics behind the delegation (Thatcher, 2002a; Thatcher & Stone Sweet, 2002), the variations in the form of the resulting agency (Coen & Thatcher, 2005), or in its degree of independence (Maggetti, 2009; Thatcher, 2002b; 2005). It has also taken a variety of theoretical perspectives: for principal-agent analyses see Kerwer (2005) or Mattli and Büthe (2005); for historical institutionalist works see Wilks and Bartle (2002); or for a step-wise comparative approach see Humphreys and Padgett (2006). Finally, Thatcher (2002c) combines a principal-agent starting point with a consideration of contextual (and often historical) factors.

to reach the destination. Private actors lobby domestic regulators, supplying information in the hope of shaping outcomes, and an interdependence – similar to that we encountered in the European context – has emerged (Coen, 2005; Coen & Héritier, 2005). At this level the information provided is subtly different, being a finer-grained version of the technical expertise identified as being supplied to legislative actors. This speaks, in specific terms, to *how* a rule should be specified in order to function as intended. Furthermore, such interactions are marked by a flow of information which is not so much expertise as merely *data*: information about business activity, safety standards, and so on – part of the routine business of compliance. Importantly, these flows of information, and the interactions between the regulator and the regulated, are embedded in nationally-distinct patterns of representation, reminiscent of the variations in financial systems the EU is now seeking to integrate.

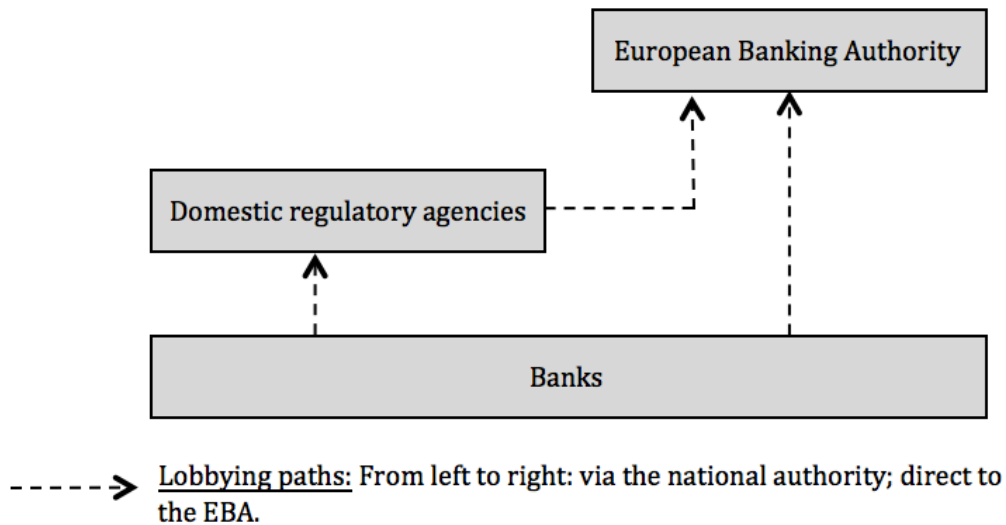
Turning to the supranational level, meanwhile, the EU's approach to governance has long made use of fluid arrangements bringing together actors of various kinds in informal, non-hierarchical settings (Kohler-Koch & Eising, 1999). Indeed, as we saw in the earlier thematic review, these policy networks were often described as a defining feature of the supranational polity's multi-level governance style (Marks & Hooghe, 2001). As part of this overall strategy, and in response to perceived inconsistencies in the implementation of directives, the Commission convened networks of national regulatory agencies, where best practices and ideas could be shared (Coen & Thatcher, 2008; Eberlein & Grande, 2005; Eberlein & Newman, 2008; Majone, 1997a). Following a process combining formal delegation and institutional layering (Thatcher, 2011; Thatcher & Coen, 2008) these networks grew into more formal bodies, so that by the early 21st century relatively stable committees had been formed in several policy domains. At this point, however, private actors' engagement with them remained limited: they lacked the authority and capacity to be attractive as lobbying targets (Coen & Thatcher, 2008).

More recently, the EU has crystallised these committees into fully-fledged institutions in their own right. This constituted a vital step in creating a 'single

European regulatory space': a supranational layer between the European legislative arena and the national regulatory regimes (Levi-Faur, 2011; Thatcher, 2011). The institutions which populate it are 'agencified networks' (Levi-Faur, 2011: 810), which have independent resources, a coherent mandate, and concrete rule-making authority. Prior to this move, market creation may have been enacted through European legislation, but market delivery – the writing of specific, detailed rules – remained a national competence handled by the independent agencies created at ground level by the waves of delegation. This meant that private actors' engagement was separated across two locations – with European legislative actors and with domestic regulators. Now, however, market creation and delivery have both shifted upwards, creating a distinct pull for private actors to combine their lobbying efforts onto the European level.

The European Banking Authority (EBA) typifies this novel institutional form. It was created in 2011 by upgrading the Committee of European Banking Supervisors, and is now a standalone body with its own budget, and with responsibility for writing the detailed rules which support the CRDIV/CRR package (Alford, 2005; McPhilemy, 2014). However, we must also be aware of its complex institutional form: it draws in expertise from its constituent national authorities (it is, after all, an 'agencified network'), and requires agreement among them when approving the rules. This gives private actors wishing to influence it two possible routes: either target it directly, or take an indirect approach and use their national regulatory to act on their behalf (see Figure 2.1).

Figure 2.1: Two paths to access



Overall, we have a picture of a distinct European regulatory arena, which has arisen between the supranational legislative institutions and the national contexts. In this layer sit distinct regulatory bodies, which now constitute important lobbying targets for private actors. Two aspects of this layer are novel from a theoretical perspective. First, the institutional form of the regulatory bodies marks them out as distinct from both the national authorities and the legislative institutions, which leads us to question how well our existing understanding of lobbying behaviour may apply to the way they are targeted by private actors. Second, their rule-making function represents a move by the EU into the (previously national) business of market delivery, and so we can examine how the dynamics of regulatory (rather than legislative) policy-making effects lobbying behaviours.

2.3.3: Developing the research question

The thesis' central question emerges from these two parallel shifts in European regulatory governance: the moves, in recent legislation, to integrate the 'deep cores' of national economic structures, and the centralisation of market delivery in institutions at the supranational level. Bringing these together, the research

question is thus: *What shapes the lobbying behaviours of banks in the European regulatory arena?*

In addressing this question, the thesis seeks to integrate these two opportunities and to make a distinct contribution to the European interest group literature: it provides a focus on how the national origins of actors shape their lobbying behaviours in the emergent European regulatory arena. It trains the analytical lens on banks, and examines how variations in their national contexts – in financial system and in regulatory environment – shape the way they navigate this complex institutional landscape and lobby the EBA.

2.3.4: The organising theory

To answer this question, I make use of the ‘varieties of capitalism’ approach (P.A. Hall & Soskice, 2001) as an organising theory. This informs us that institutional structures vary robustly between national contexts, and so provides an important theoretical link between the gaps identified in the literature and the explanatory framework the thesis uses. I use the approach to generate two manifestations of the differences between national contexts. Firstly, alongside the broader dichotomy proposed by the literature – between liberal and coordinated market economies – *financial systems* vary. That is to say, countries exhibit robust differences in the ways their financial systems are structured, and how they are connected to the real economy. These variations then shape the structures of national banking sectors, which in turn drive the distribution of lobbying resources (defined earlier) among banks. Secondly, national contexts are marked by differing regulatory regimes, which in turn rest on different *regulatory paradigms*. These fundamental ideational frameworks condition the preferences of private financial actors, and those of their regulators, over European financial regulation. Both the resources and the preferences shape their lobbying, and so we can link behaviours in the European regulatory arena back to national origins.

2.4: The origins of variety

In this section I develop the use of the organising theory in more detail, establishing the theoretical underpinnings of the model which is used to explain the factors shaping banks' lobbying behaviours. I outline two manifestations of national variety – in financial systems and in regulatory paradigms.

2.4.1: Varieties of financial system

The first pathway builds on the theme, discussed in the earlier literature review, that resources are key drivers of lobbying behaviour. The holdings of such resources among private actors can be understood in terms of variations in the national banking sectors; to construct this, I start with the theoretical explanation of why, and how, these differ.

The notion that national economies display robust variations in their form and output goes back to the writings of Ricardo (1817). He suggested that countries enjoyed comparative advantages in the production of certain goods, and should concentrate their efforts accordingly. By producing either wine or cloth (to use his original example) and trading with each other, two countries could deploy their individual resources more efficiently, and so raise overall wellbeing. Some 200 years later, Hall and Soskice (2001) took this further by laying out a fundamental source of such advantage. Rather than being based on geographical or climatic good fortune, their model saw relative advantage arising from the extent to which a country had forged the economy and its supporting structures into a set of complementary relationships. Thus, a country which had tailored its educational and productive institutions in one arrangement would excel at heavy industry or engineering, while another might establish a strength in innovative technology. The approach was taken up by many other scholars, and in particular brought a new analytical clarity to study of neo-corporatist, or co-ordinated models of capitalism (see Streeck & Yamamura, 2001).

The 'varieties of capitalism' model put firms at the centre of these institutional complementarities. As the engines of economic output and growth, they drew

other essential components – legal frameworks, education systems, welfare state regimes – to their will. Such public goods, normally thought of as being shaped by ‘politics’, however defined, were now reconceived as being provided by state actors to satisfy the needs of firms. They were embedded in dense relational networks, interacting with other market actors in ways that were mutually beneficial and self-reinforcing. Over time these networks stabilised into equilibria in which co-ordination problems were resolved, and in its canonical form the literature proposed two such systems. In *liberal market economies (LMEs)*, compromise is achieved in contractual, arms-length arrangements through market transactions; meanwhile in *co-ordinated market economies (CMEs)*, stable patterns of non-market consensus emerge, with economic actors forming closer and more durable bonds.

For our purposes, the VoC approach opens a path towards understanding the structure of national banking markets. The important step is to observe that patterns of robust variation, similar to those at the level of the overall economy, can be identified in the configurations of financial systems. These systems transform savings into investments and allocate funds among competing users, and achieve this task in one of two ways: through the operation of the capital or the loan markets.

In the former, firms sell stakes in their future profits to investors in the form of equity securities – occasionally directly but usually through an agent or broker (note: this need not be a bank). At this point a share in the ownership of the firm is transferred from the original owner to external investors. Alternatively the firm sells a portion of debt to investors in return for a fixed annual return and the promise of the repayment of the capital sum on maturity. In either case savings are transferred into investments in firms, who in turn use them to finance business activity; the secondary market then allows investors to sell off their holdings to either crystallise gains or adjust portfolios to suit risk preferences. The price of securities in these primary and secondary markets acts as an information carrier, signalling the aggregated sentiment on a firm’s prospects.

The second approach sees savers placing their funds at an institution (note: this *is* a bank), which then makes carefully considered loans on their behalf. Such an institution acts as a long-term intermediary in the way a mere broker does not: it collects the return on these investments, passes a portion back to the depositors as interest, and keeps a margin for itself. It also serves as a processor of information, screening investment choices on behalf of the saver, and monitoring the firm's performance. In a loan transaction, the intermediary – the bank – creates an entirely new asset in the form of the loan extended to the firm in its name but on behalf of its depositors; strictly speaking no ownership has changed hands.

All national financial systems contain these two modes of financing economic activity. What matters for our purposes is that they contain these modes in *different proportions*: that banks operate largely as brokers or as intermediaries in different national contexts. Following the early lead of Zysman (1983), Demirgüç-Kunt and Levine (1999) and Allen and Gale (2000) I identify two such arrangements. The first is dominated by (*capital*) *market-based* finance. The major source of long-term capital is the issuance of debt or equity securities; banks provide an initial underwriting service to facilitate such transactions, and play a role as short-term lenders. Competitive capital markets connect investors with borrowers and ensure an efficient allocation of funds among firms. Banks themselves do not act as 'owners' as they do not take and hold equity stakes in firms on their own account.¹⁴ The model is marked by a clear separation among the actors – as Zysman put it: '[it] places banks, firms and governments in distinct spheres from which they venture forth to meet as autonomous bargaining partners' (1983: 70) The second model relies heavily on *bank-based* finance. Both short- and long-term finance is provided by banks, acting as intermediaries in pooling savers' deposits and making loan investments on their

¹⁴ This is often restricted by law: in the US the Glass-Steagall Act forbade such principal position-taking until its repeal in 1999.

behalf. By implication this model is marked by a far stronger, more durable connection between banks and firms.¹⁵

Importantly, the two systems have implications for the resulting structure of the banking markets. In a market-based system, the economies of scale provided by having large balance sheets (and so able to manage more, and larger, capital market transactions) place a consolidating pressure on banks. This causes the banking sector to reduce down to a small number of large firms. Conversely, in bank-based system an opposite pressure exists. Long-term lending and stable finance is based on close relationships with firms, so banks remain at a size appropriate to that of their institutional clients. This results in a more fragmented sector, populated by many more individual banks. These patterns have obvious consequences for the distribution of lobbying resources (outlined above) among the banks.

2.4.2: Varieties of regulatory paradigm

The second manifestation of national variety concerns the ideational frameworks underpinning regulatory regimes. This also allows us to correct for an oft-cited criticism of the VoC approach: that it has an excessive focus on private actors and the neglect of the state (see Howell, 2003). This pathway posits that lobbying behaviours are driven by preferences over European financial regulation, and we are thus minded to examine the origins of these preferences. We must begin by taking a few steps back and examining briefly the study of ideas in politics.

¹⁵ These two models also describe other regularities. For instance, in a market-based system, investors apply pressure on a firm's behaviour through the threat of exit: their ability to trade out of its securities and push their price down exerts an influence on it to consider short-term profitability. In a bank-based system, the equivalent pressure is brought to bear by banks' use of voice, as they work closely with firms to help guide longer-term profitability. This distinction thus characterises different approaches to corporate governance, as well as illustrating the varying pressures firms face in servicing their capital: short-term profit in a market system, and long-term, patient returns in a bank system.

During the late twentieth century, scholars shifted towards a focus on the importance of ideas in shaping political phenomena (Mehta, 2011; Schmidt, 2011). Changes in institutional configurations, policy outcomes, or observed behaviours, were now seen to have been caused by shifts in underlying beliefs, rather than an expression of material interests. For example, Hall pondered what drove the choices of bureaucrats if – as state theorists had it – they were largely insulated from pressures brought to bear by political parties or private interests (P.A. Hall, 1993). He developed the ‘policy paradigm’¹⁶, which contained a core set of ontological beliefs about the nature of the problem at hand; integrated into a broader model of policy-making, this then framed the selection of goals, techniques and instruments appropriate to the given situation. The contents of the paradigm spread among policy-makers through a process of social learning, and then, as they were challenged in a revolutionary moment, profound policy change occurred (what Hall referred to as ‘third order change’).¹⁷

A similar reference to ideational backdrops can be found as we move from the general literature on public policy to the more specific study of regulation. Such work often deploys the ‘regulatory regime’ as an analytical tool to describe the mechanisms through which regulation is practiced: the form and independence of the regulator, the tools available to the regulator, and so on. Sitting behind these institutional regimes, however implicitly, are ideational structures defining

¹⁶ This drew on the work of Thomas Kuhn, who used the concept of the ‘paradigm’ in explaining how science was capable of steady, incremental progress and bursts of intense change. The paradigm was a framework of fundamental beliefs about the world, within which ‘normal science’ could proceed. This framework would identify ‘model problems and solutions to a community of practitioners’ (1962: viii), delineating what sort of questions could be asked, how they were to be structured, and the tools and methods by which they could be answered. As new data came to light challenging the tenets of the paradigm – the moment of ‘scientific revolution’ – an alternative framework would emerge, and progress would begin anew (1962: 52-3). A central element of this schema was the subtlety of the relationship between ideas (or beliefs) and data (or facts). Kuhn argued that the latter were constructed, interpreted and used in the context defined by the former, in a process which operated on a fragile epistemological bridge between ‘objective truth’ and ‘socially-constructed knowledge.’

¹⁷ The notion of sets of ideas has appeared in other approaches to studying public policy. Thus, Haas incorporated it into his model of the ‘epistemic community’: a network of professionals with ‘a shared set of normative and principled beliefs’ (1992: 3). Likewise, the paradigm appeared at the heart of the advocacy coalition framework, proposed by Sabatier and Jenkins-Smith (Sabatier & Jenkins-Smith, 1993). Here, actors were organised into coalitions framed around a shared ‘set of normative or causal beliefs’ (Sabatier, 1998: 103) These beliefs are arranged into a set of concentric rings, with actors willing to sacrifice ‘softer’ preferences at the periphery in exchange for seeing the overall aim actualised in a policy outcome.

such fundamentals as the nature of the risk involved, the harm potentially caused by *not* regulating it, and the appropriate degree of intervention. These can be thought of as more narrowly focussed variants of Hall's 'policy paradigm.' For example, Hood *et al.* propose a two-layered structure which includes 'control components' – standard-setting, monitoring, and behaviour modification – embedded in a 'regime context.' The latter refers to '... the backdrop or setting in which regulation takes place ... such as the public preferences and attitudes over risk' (2001: 21). Meanwhile, Vogel's model uses 'regime orientation' and 'regime organisation' to connect ideas to institutions, with the former defining the 'proper scope, goals, and method of government intervention in the economy' (1996: 21). It contains the ontological beliefs about the risk involved, and, accordingly, the set of tools available to manage that risk. From such fundamental regulatory paradigms spring the various institutional manifestations.

Several scholars have applied this theoretical lens to specific policy domains. Coen (2005) examined the differences in the institutional regimes governing utilities markets in Britain and Germany, identifying flexible and legalistic approaches respectively. Thatcher (2007) took a similar approach and sketched out three broad regulatory arrangements across Europe: the industry-led, the state-led, and the regulated competitive market models. Meanwhile, engaging perhaps more directly with underlying belief systems, Vogel (2012) examined the role of the 'precautionary principle' ("if in doubt, regulate") in shaping regulatory responses to various social and economic risks either side of the Atlantic.

Drawing on these previous endeavours, we can outline the components of the regulatory paradigm for bank regulation. The framework contains four elements, and at each of these we can imagine two competing perspectives (see Table 2.1). At the core is an ontological belief about the *status of markets*: whether they are natural phenomena which somehow pre-date the rise of the modern state, or even human society, or whether they are socially constructed and exist under the aegis of a body of norms and rules. Relatedly, there then sits a second belief

about the *status of the liberty of market actors*: whether it, too, is natural, or whether it is somehow granted by the state. Third, there is a belief about the *status of competition*: whether it is a prime desideratum through which markets achieve allocative efficiency, or whether it should be constrained. These three give rise to a fourth, derived belief about *the status of public regulation*: whether it should be minimal, and concerned with protecting freedom of action and fairness of competition, or whether it should be more energetic, aimed at constraining competition and steering markets towards a (socially-, or politically-determined) end.

Table 2.1: The layers of the regulatory paradigm

Component	Competing perspectives	
The status of markets	Natural phenomena which exist beyond the state	Socially-constructed phenomena
The status of the liberty of market actors	Natural and essential	Liberty is granted by the state
The status of competition	Necessary to achieve allocative efficiency; an automatic consequence of the freedom of market actors	Needs to be constrained to keep the negative consequence at bay
The status of public regulation	Concerned purely with guaranteeing freedom, and open competition	Directing, or steering

These regulatory paradigms are the ideational foundations of the regimes, and they find expression in the physical institutional apparatus; but we can also use them to account for actions and behaviours – in our case, of *lobbying* behaviours. Doing so unpacks the fluid relationships between actors, motivations and institutions. Ideas, as paradigms, provide interpretive frameworks through which actors view the world and form their priorities. In turn, they act on the basis of these perspectives. Ideas also underpin, as we have seen in the case of regulatory regimes, the formal institutional landscapes in which actors operate. Thus, as Béland and Cox put it:

‘... ideas give rise to people’s actions ... As people interact with institutions, the founding ideas are reproduced. Through repeated interactions with institutions, people are confronted again and again with the founding ideas.’

(2011: 9)

In this way, the underlying paradigm shared by actors and formal institutions is reinforced through their repeated interactions. However, the link between the beliefs of an individual actor and her actions are more fluid, almost by definition, than in the case of a formal institution (such as an independent regulatory authority). In other words, the degree to which we can say that either are ' beholden ' to the paradigm varies, and the behaviours of individual actors arise from many sources.

The preceding paragraphs have shown how the paradigm has been applied to the study of political phenomena. Like Hall, and many others, I use the term to describe the set of basic beliefs about financial markets, and about their regulation. However, where much of the scholarship has used concept to account for institutional (or policy) change, I use it to develop an understanding of lobbying behaviours. The fundamental beliefs encased in the paradigm shape the preferences of regulatory actors over European regulation, and these paradigms also vary robustly with national contexts. Individual banks are embedded in the regulatory regimes which are borne of these paradigms, and, to varying degrees, share the preferences of regulatory actors. It is the alignment – or otherwise – of these two sets of preferences which then drive the lobbying behaviours of banks.

2.4.3: Summary

The earlier discussion of the European interest group literature showed an opportunity to focus on national origins as drivers of lobbying behaviour. These two sections have explained the theoretical foundations behind two manifestations of variety in these origins. We have seen how financial systems vary between national contexts, just as the wider economy can be cast into distinctive institutional arrangements. We have also considered the components of the paradigmatic frameworks that sit behind regulatory regimes, and seen how those regimes themselves differ between national contexts. The next section takes these sources of variation and explains in more detail how they are thought

to drive differences in lobbying behaviour. It does so by specifying the elements of a theoretical model.

2.5: The theoretical model

The theoretical model comprises three elements, which are laid out in the following section. All examine the factors behind banks' lobbying behaviours: the first considers these to be driven by resources, which are linked back to the underlying varieties of financial capitalism; the second considers behaviours to be driven by perceptions and preferences, which derive from fundamental regulatory paradigms; and the third probes the interaction between these two alternative explanations. In the following section, I connect the elements of the model back to blocks of theoretical literature studied earlier: on European interest group lobbying, and on national varieties in financial system or regulatory paradigm.

2.5.1: The 'varieties of financial capitalism' approach

The first element examines how resources shape the lobbying behaviour of banks. Specifically, this is defined as the approach used (direct or associational) when lobbying the EBA.¹⁸ Recalling the crystallisation of institutional capacity outlined in the review of the European regulatory governance literature (Alford, 2005; Levi-Faur, 2011; McPhilemy, 2014; Moloney, 2003), we can begin by identifying the EBA as the new locus of rule-making authority in the supranational regulatory arena. Banks detect the significance of this new body, and respond accordingly.

Next, we can draw on the European interest group literature, and predict that banks' lobbying behaviour will be shaped by the informational resources that they can call upon (Chalmers, 2011; 2013; Dür & Mateo, 2012). These take two forms. *Interfacing resources* govern the flow of information into and out of the organisation. Banks must be able to monitor policy-making discussions at many

¹⁸ The overall dependent variable is specified in more detail in Chapter Three.

different levels: in the European legislative arena, in the newly-created European regulatory space, and at home. This entails tracking items from proposal to draft to specific rule, and being aware of opportunities to provide input. It also includes judging which of the many initiatives will bring material impacts to the organisation, and prioritising efforts accordingly.

Having become aware of an issue and decided it merits a response, a capacity for internal brokerage becomes important, as input into policy-making discussions has to be sourced from within the organisation. Given the breadth of subject areas potentially included in financial regulation, the required expertise can exist in many different locations: in the business divisions, or indeed in support functions such as finance, human resources or general counsel. Having staff able to match an informational need with a pocket of knowledge, and to arrange the procurement efficiently, is vital.

Next comes the ability to communicate this expertise back into the policy-making process. This is fairly labour-intensive work, since staff will be required to represent the organisation at many (potentially simultaneous) fora. At a basic level, then, this capacity is a straightforward question of manpower. But less tangible is the ability to develop and maintain a roster of contacts at the relevant policy-making institutions, and among the community of private actors. Such a network helps facilitate the sharing of the burden of representation, as it can be (partially at least) delegated to others.¹⁹

Supporting these various capacities is the second category, describing the ability to *generate information* required by policy-makers. Privileged insider status is granted to those who are able to answer different types of question, or to provide different types of information. This reminds us of the debate in the literature about ‘types’ of information, and of the basic distinctions used in several studies (Bouwen, 2002; Dür & De Bièvre, 2007; Michalowitz, 2004). Significant for lobbying in the regulatory arena is precise *technical expertise*,

¹⁹ It also assists in the initial business of monitoring, as news of policy initiatives is informally transmitted through the network.

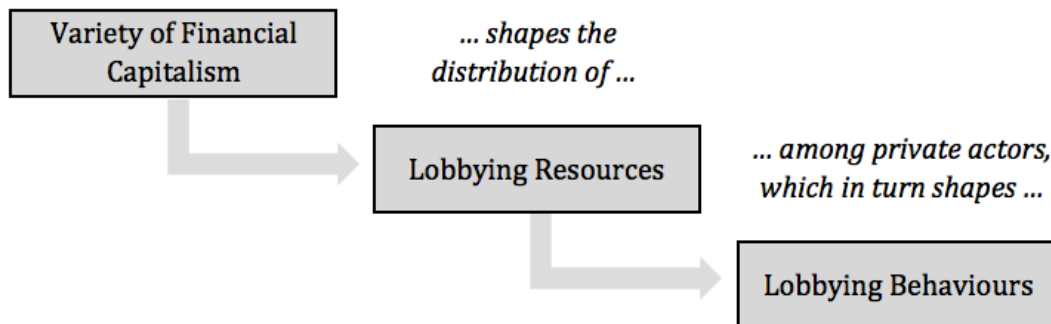
about how a proposal will impact the functioning of a certain market, or shape the trading of a certain instrument. To provide this, banks need staff and internal resources specifically dedicated to regulatory policy analysis.

So banks must have significant endowments of these two resources – interfacing and information generating – to be nimble players on the European lobbying scene, and to be able to penetrate the new arena. However, these are costly, in both human and financial terms, and with that in mind we can take the bank's size as a proxy indicator of strengths in these resources. The larger the bank, the better able it is to meet the significant financial costs required to sustain these information resource endowments. Conversely, smaller banks will cope with the resource shortfall by participating in associational activity (C. Mahoney, 2007). In turn, brings us back to the distinctions made between the different modes of financial capitalism, and so to the organising theory and the accompanying 'varieties of capitalism' literature (Allen & Gale, 2000; Demirgüç-Kunt & Levine, 1999; P.A. Hall & Soskice, 2001; Zysman, 1983). The distribution of banks of different sizes is heavily conditioned by the structure of the national sector. In a market-based system, economies of scale place a consolidating pressure on the banking market, with the result that it becomes led by a few very large players. These banks are then able to dominate the holdings of the resources needed to lobby effectively. Conversely, in a bank-based system, the *diseconomies* of scale place a fragmenting pressure on the market, resulting in a far larger number of far smaller banks.²⁰ Here, lobbying resources are far more widely dispersed.

On this basis we can propose some expectations about how varieties of financial system, bank size and lobbying behaviours inter-relate (see Figure 2.2).

²⁰ The exact specification of 'bank size' is discussed in more detail in subsequent chapters.

Figure 2.2: Financial systems and lobbying behaviours.



We can propose, as an initial premise, that the structure of the banking markets does indeed shape the distribution of lobbying resources among the constituent banks. This tests the empirical validity of our theoretical connection between the prevailing variety of financial capitalism and the banks' resources, and can be determined by examining the empirical landscape, and the resources, in detail.

Next, we move to banks' lobbying behaviours. We assume that banks seek to lobby the EBA, as the real locus of rule-making authority. We can hypothesise that:

H1: Larger banks, with greater lobbying resources at their disposal, will be more likely to lobby the EBA, and to do so directly and independently.

There is a causal mechanism operating behind this. Working from the ground up: the prevailing variety of financial capitalism conditions the size and types of banks in the sector; the larger banks will have greater financial resources to support their lobbying resources; these will then be best able to engage directly with the EBA. Conversely:

H2: Smaller banks, with fewer lobbying resources, will lobby the EBA through their representative associations.

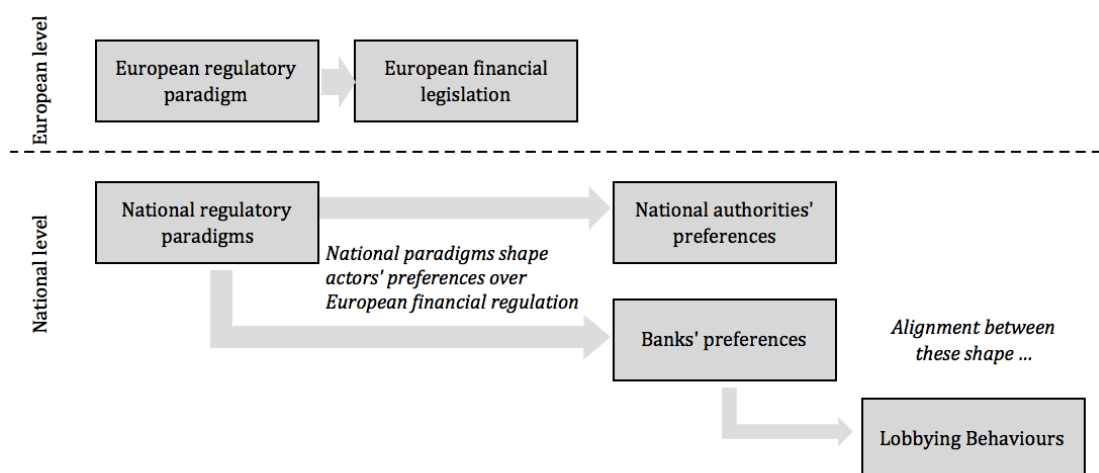
Again, the assumption that banks will aim high is carried through. This time, however, the reduced holdings of key resources will lead these smaller banks to participate in associational activity when lobbying the EBA.

Bringing these two hypotheses together, we cover the links of the theoretical chain – from national origins, through resources, to observed behaviours. The larger banks (from market-based systems) will lobby the European regulator directly, while the smaller banks (particularly among bank-based systems) will rely on substitutions.

2.5.2: The ‘varieties of regulatory paradigm’ approach

The second element presents an alternative explanation behind banks’ lobbying behaviours, examining how they are shaped by their perceptions of, and preferences over, European financial regulation. This time, we relax the presumption that private actors will *necessarily* seek to aim high and engage the EBA, and instead allow other institutions to be seen as viable lobbying targets. Recalling the review of the European interest group literature, we can begin by asserting that lobbying is a dynamic activity: studies of venue-shopping in the EU highlight how private actors are able to strategically select between various points in their opportunity structure (Beyers & Kerremans, 2011; Guiradon, 2000; Holyoke, 2003; Mazey & Richardson, 2006). In our empirical context, the novel institutional form of the EBA itself presents two such points, in that banks can lobby it, or seek to work with their own national authority. Thus, the dependent variable concerns the venue selected. Next, banks’ perceptions, or preferences over European financial regulation are rooted in domestic regulatory paradigms, and this returns us to the theory of robust national variations and the accompanying literature. The overall arrangement of these preferences is best demonstrated by a simple schematic (see Figure 2.3).

Figure 2.3: Regulatory paradigms and lobbying behaviours



At the very top is the European level, where legislation is written and the supporting rules are crafted. Here the prevailing paradigm that drives much international financial regulation also applies: in favour of liberalising markets, but also of imposing regulation on the banks in those markets.²¹ Below this supranational layer sit the national contexts, where deep-rooted regulatory paradigms show greater or lesser congruence with European regulatory liberalism. National authorities constitute the formal institutional apparatus of the regulatory regimes, and have *national regulatory preferences* over the shape of European financial regulation. Next, the banking sectors and their prominent constituent parts have equivalent preferences – but these are clearly far more fragmented, as different banks, or types of bank, seek different regulatory outcomes. Although the sectors are embedded in domestic regulatory systems, it is possible – indeed plausible – for sub-sectors or individual players to have preferences distinctly at odds with the national regulatory actors.

At an ideational level these preferences reflect beliefs about the suitable role of regulation in the operation of banking markets; at a more detailed level they are focussed on the shape of specific rules²². They can thus be cast along two dimensions. The first describes, simply, ‘more’ or ‘less’ regulation: more

²¹ The contents of this European paradigm is explained in more detail in subsequent chapters.

²² The contents of these paradigms are explained in more detail in subsequent chapters.

activities the bank is not permitted to do, or more conditions around the business it is allowed to undertake. This also includes a consideration of the intrusiveness of supervision. The second relates to the degree to which such regulation is harmonised across the banking markets of Europe: whether a given rule should apply uniformly to *all* participants, or whether certain national regulators should be allowed to soften it or toughen it. Within this generic classification, we can obviously conceive of *specific* preferences: calling for a certain aspect of a new rule to be altered, for example.

We can now use all of this to construct some predictions. Again, we begin with an initial premise that the perceptions and preferences of the banks will derive from their domestic paradigms; we test the empirical validity of this theorised connection by examining the paradigms, and the banks' perceptions and preferences, in detail.

Next, we can propose a hypothesis concerning their venue selection:

H3: Banks will lobby their domestic regulator, or the EBA, based the alignment of their preferences over a given issue. The greater the alignment, the greater the likelihood that a particular venue will be targeted.

The causal mechanism operating here rests on the assumption, stated earlier, that banks can choose to lobby either domestic or European venues. The selection rests on a subtle implication of the European interest group literature: that 'the goal of lobbying is, on balance, not to change the minds of those who do not agree with you, but rather to subsidise the work of those who already do' (Chalmers, 2011: 474; R.L. Hall & Deardorff, 2006). The various regulatory paradigms at play shape banks' preferences, and those of their regulatory counterparts; and in deciding where to lobby the banks will scan these positions and act accordingly. As with the previous part of the model, the intention here is to examine the entire length of the theoretical chain: from national origins (expressed as regulatory paradigms), through preferences, and to observed behaviours.

The perceptions, founded in the underlying domestic paradigms, are naturally reflected in the input deployed by the banks in the course of their lobbying. However, we should again consider an important element of interest group literature: that different venues have different needs for informational input, and feature different discursive rules (Bouwen, 2002; Dür & De Bièvre, 2007; Michalowitz, 2004). Private actors wishing to penetrate these venues must therefore adapt their informational input accordingly. This gives a second aspect to the dependent variable – the informational good supplied to the various venues. We can propose a hypothesis concerning their informational input:

H4: Banks will be sensitive to the demands of the various regulatory venues, and will adapt their input accordingly.

This draws on a similar implication of the literature: that different institutional venues have different information demands, or tastes, and private actors must be sensitive to these when deciding how to lobby. In this way, when targeting either the domestic or the European regulatory arena, banks will obey the discursive rules of the different fora, and flex their input accordingly. Building on the distinction between ‘types of information’ established while specifying the lobbying resources (in Section 2.5.1), we can put forward some expectations about these tastes. As *regulatory* actors, both potential targets will have an institutional need for technical expertise, as opposed to higher-level, ‘direction-setting’ input favoured by legislative actors. However, the supranational role of the EBA generates a different set of discursive rules from those present in domestic regulatory venues – meaning that input framed around *national* impacts of regulatory change will not be welcomed.

2.5.3: The interaction effect

The final element of the model concerns the possibility of an interaction between these two proposed causal pathways: that resources and preferences may combine to bring about lobbying behaviours. It is particularly difficult to theorise about the operation of such an interactive process *a priori*, since it is likely to act in a highly complex and contingent matter. Nonetheless, we hypothesise, as a route into the morass, that:

H5: The greater a bank's resources, the more likely it is to be able to lobby according to its preferences.

This rests on the intuition that resources are in fact a constraining factor, and that without adequate capacities for lobbying the ability to strategically select venues according to preferences will be severely constricted. In the overall schema of the empirical chapters this analysis comes last, as we must first examine the operation of 'resources' and 'preferences' independently.

2.6: Conclusion

This thesis examines the lobbying behaviours of private actors in the emergent European regulatory arena. The bodies in this layer are distinct from those in the legislative sphere, which have existed, and been lobbied, for several decades. In this new arena, I argue, actors' lobbying is shaped by their national origins.

This chapter began by reviewing the EU lobbying literature, drawing out key insights which were later used to underpin parts of the causal model. Thus, we have a picture of lobbying as being centred on the supply of information, which in turn rests on a set of informational resources; and of private actors being able to navigate intricate and dynamic opportunity structures. This discussion also established the research question, and identified the case of banks, and the European Banking Authority, as the analytical focus of the thesis. Deploying a 'varieties of capitalism' approach, a theoretical framework was constructed to specify two manifestations of national variety which shape banks' lobbying behaviours. Variations in the model of financial capitalism prevailing in the national contexts conditions the distribution of lobbying resources among banks, and these shape how they approach the EBA. Similarly, different national regulatory paradigms influence banks' preferences over European financial regulation, which then shape whether they direct lobbying efforts at the EBA or at their home regulator. Finally, three elements of the causal model, each with containing hypotheses, were laid out. Our next step is to examine in detail the research design this thesis employed, and this is the subject of the next chapter.

Chapter 3: Research design

3.1: Introduction

The review of the literature in the previous chapter generated the research question: *What shapes the lobbying behaviours of banks in the European regulatory arena?* This research opportunity was afforded by the recent changes to the European institutional apparatus for regulatory governance. Some years ago, studies of the landscape suggested that private actors' engagement with the loose networks of regulators was minimal (Coen & Thatcher, 2008). Now, however, the upgrading of these into concrete bodies, and the centring of rule-making authority at the European level, mean that private actors have a strong incentive to lobby there. To date, although the extensive European interest group literature has focussed on the established actors (the Commission and the Parliament) little has been conducted with regard to these new bodies.

The aim of this thesis is to build an in-depth understanding of the factors shaping lobbying behaviours in this new setting. In that sense it is an exploratory exercise – the lobbying literature has not yet ventured into studying the behaviours of private actors in the emergent European regulatory arena, and so we are in a position to apply (and possibly refine) existing theories to this new empirical context.

Insights taken from the review of the European interest group literature in the previous chapter showed the many factors which could explain behaviour; factors such as the institution's material resources (Beyers & Kerremans, 2007; Eising, 2007a), its form (Klüver, 2012) or its ability to gather and transmit information (Chalmers, 2011). The current study draws on these insights, but also puts forward an argument that lobbying behaviours in the European regulatory arena are shaped by private actors' national origins: these condition the way they engage with domestic regulatory actors, and feed forward into the way they lobby the emergent European regulators. To structure this argument, a 'varieties of capitalism' approach (P.A. Hall & Soskice, 2001) is used as an

organising theory, helping to operationalize the relevant aspects of variety in national origins.

Overall the theoretical framework chapter also revealed something that is key to the way I approach this subject: that it is difficult to explain behaviours with reference to a simple set of factors; instead, it is perhaps the interaction *between* factors which determine where, and how, private actors conduct their lobbying. As I argue below, capturing this complexity was an important reason behind the methodological choices I made when planning this study.

In this chapter, I lay out the methodology and research design adopted by the project. I begin by explaining the choice of the overall method, by presenting a stylised discussion between two approaches: the qualitative, case-oriented, and the quantitative, variable-oriented. The aim is to use this dichotomy to highlight the suitability of the former to this project, as well as to provide some sense of the methodological concerns that mark it. I then outline the research design, continuing to use this comparison to explain the logic of case selection. Section four details the specification of the variables of the causal model, including how they are operationalised, and reiterates the hypotheses developed in the previous chapter. From there, I lay out the data sources, and describe the analysis techniques to which they were subjected. Finally, in section six I offer some concluding remarks.

3.2: Methodology

In order to address the research question I employ an approach which is *qualitative*, and *case-oriented and comparative*. In the social sciences, qualitative approaches employ an analysis of the *qualities* of phenomena; as Berg puts it, they are concerned with ‘the what, how, when, and where of a thing – its essence and ambience’ (2009: 3). They are further recognised for their strength in shedding light on causal mechanisms, or processes (George & Bennett, 2005: 21; Gerring, 2004: 348; Lin, 1998). Mahoney and Goertz describe how using such an approach enables the researcher to establish the ‘causes of effects,’ remarking

that this is 'consistent with normal science as conventionally understood' (2006: 230), in which the researcher begins with an observed phenomenon and works backwards to establish its causes. However, a key reason for the choice of overall approach is linked to the notion of complexity encountered during the development of the theoretical framework. From an empirical perspective, the policy-making process is clearly complex: it is spread over many layers and institutions and is ever-changing. But from a theoretical perspective this is also true: synthesising the works of the various scholars who have tackled the drivers of lobbying behaviour, we can see a complex story of overlapping and interacting causal conditions. To understand this in more detail, we first take a brief examination of the central notion of causality.

The understanding of causality marks a key difference between qualitative and quantitative approaches. The quantitative researcher assumes *additivity* and *uniformity* – the presence of a given factor is expected to bring about the *same* incremental change in outcome across *all* cases (Berg-Schlosser et al., 2009; J. Mahoney & Goertz, 2006). In contrast, the qualitative researcher begins with the assumption that there can be several *different* paths to the same outcome, and it is her job to parse through these and lay out distinct narrative threads. Such a standpoint is evident in much qualitative work in political science, and appears in various guises. Thus, della Porta refers to it as 'plural causality', whereby a certain outcome can have different causes in different contexts (2008: 205). Berg-Schlosser *et al.* label it 'multiple conjunctural causation', suggesting that it is varying combinations of conditions which interact in bringing about outcomes (2009: 8).

This discussion can be cast in a slightly different perspective, focusing on 'case-' and 'variable-oriented' approaches – aligned with qualitative and quantitative endeavours respectively. In the latter, the researcher analyses *concomitant variation* (della Porta, 2008: 204). The focus is on the ways in which factors vary together across a large number of cases. Variables not thought of as being part of the causal relation ('parameters') are eliminated ('controlled for'), allowing the researcher to establish, in precise terms, the power of the ones that remain.

Conversely, in a case-oriented comparative design, the researcher pursues and in-depth analysis of a small number of cases. Elements within those cases (the values of certain variables, or their combinations and configurations) are compared across these cases, in order to identify causal pathways (in the plural) (Ragin & Amoroso, 2011).

The two approaches described above produce different types of knowledge. Large-scale, quantitative inquiry aims at generalizable knowledge of relations among variables, allowing the researcher to make claims about the wider world based on her work. It establishes an 'average effect': as Lin puts it, '... the effect that one might imagine a variable having if the world allowed for a series of replications of the observation' (1998). Meanwhile, the procedures by which the research is conducted allow it to be replicated by others with the same results, meaning its conclusions can be said to have a high degree of 'reliability' (Yin, 2009: 45). In contrast, by poring over the detail of the causal mechanisms of a small number of cases, the qualitative researcher aims for rich empirical detail and a high degree of internal validity: this refers to the 'fullness' of the study's explanation, or the extent to which it accounts for the observed variation and copes with the problem of spuriousness (Yin, 2009: 42). This comes at the cost of correspondingly narrow external generalizability, and so findings can be said to strive for *analytical generalizability*: the more circumspect applicability of conclusions to other cases which are theoretically similar but empirically different (Flyvbjerg, 2006; Yin, 2009).

This project will strive for internal validity by building on a set of theory-inspired hypotheses (drawn largely from the EU lobbying literature), and by using an array of data sources and analytical techniques to capture the complex interaction among the variables. These are detailed in further sections of this chapter.

The review of the literature in the previous chapter generated a theoretical position that drives this thesis: that the lobbying behaviours of banks in the European regulatory arena can be explained with reference to causal factors

relating to their resources and preferences, and that both of these link back to the underlying national contexts. The aim of the project is to draw out and explain these patterns. The preceding methodological discussion highlighted key strengths of the qualitative approach: first, it is attuned to the discovery of causal mechanisms – the uncovering of processes which link together observed variations in phenomena. Second, it is particularly able to grasp causal complexity – the possibility that these processes may indeed exist in the plural, and that it may be varying combinations of factors which bring about an outcome. Connecting these, we can see how the method chosen accords with the ambitions of the thesis.

3.3: Research design

3.3.1: Casing

With the choice of the overall approach explained, we move to the specifics of the research design, beginning with case selection. As a route into this we can consider a further difference between qualitative and quantitative methods – in the role of theory. Both begin with a theoretical grounding in some conjectured set of ideas about relationships between empirical phenomena; in this way social science proceeds via an interplay between theory and data (Gerring, 2004). Operating with a quantitative approach, the researcher moves from this starting point and selects some measures to represent variation in these phenomena, and then draws in a (preferably large) set of cases from the empirical world. Importantly, the specification of the variables is fixed at this point, and the selection of cases is *not* conducted with regard to their value on these measures. Conversely, the qualitative researcher begins with a theoretical inspiration, and then uses it to actively select cases for study – a process Ragin describes as ‘casing’ (1992). Similarly, although the initial theory may indicate some variables tentatively thought to be causal, these are not ‘locked down’; rather, over the course of the study, the researcher is able to embrace new, previously unconsidered, variables and fine-tune the causal story. This leads to ‘an extensive dialogue between the researcher’s ideas and the data in an examination of each case as a complex set of relationships’ (della Porta, 2008:

207). This active use of theory – in driving case selection and in allowing a more dynamic relationship with variables – has provoked vigorous debate among methodological scholars: King, Keohane and Verba (1994), for example, famously argued that research which focussed purely on cases which had been selected to all share the same outcome were fundamentally flawed. Nonetheless, the practice has become a mainstream part of the qualitative approach to the conduct of inquiry.

With the strategic, deliberate selection of cases taking such an important role, the procedure by which the choices are made must be transparent. In the first instance, the selection of a single case for analysis is driven by the researcher's aim with respect to the underlying theory, and by a concern for the relevance of the case to the research aim (della Porta, 2008; George & Bennett, 2005). Thus, for example, a case can be chosen for being 'typical' (representative of a larger class) or 'deviant' (being an outlier from that class). These align with the researcher's aim to either expose a theory's weakness (by applying it to a 'perfect' case and showing it to fail), or to demonstrate its strength (by applying it to an extreme case and showing it to succeed) (Seawright & Gerring, 2008). Alternatively, the researcher can choose to bring in several cases, with the intention of conducting a comparative analysis to illuminate a causal relationship behind some observed covariation. Unlike designs based purely on a single case (the typical or the deviant, say), the aim here is to use a comparison between cases to study, and account for, diversity (Ragin & Amoroso, 2011: 135)

According to Gerring, such research designs should be thought as being constructed over several layers (2004: 343). At the upper-most level there may be a single case, selected to be representative of a broader set of units. Within this, however, are embedded units of analysis, which between them demonstrate variation in certain key dimensions, and with which the researcher can construct a causal explanation. Such units can be spatial (offering a comparison between two communities, perhaps) or temporal (examining the same community at several points in time). Thus, for example, a case study of the development of the English working class can be re-cast as an examination of one of a larger class of

units ('class consolidations'), conducted across several distinct phases of time. In each, the researcher draws out variations in actors, or processes, in order to construct a causal explanation.

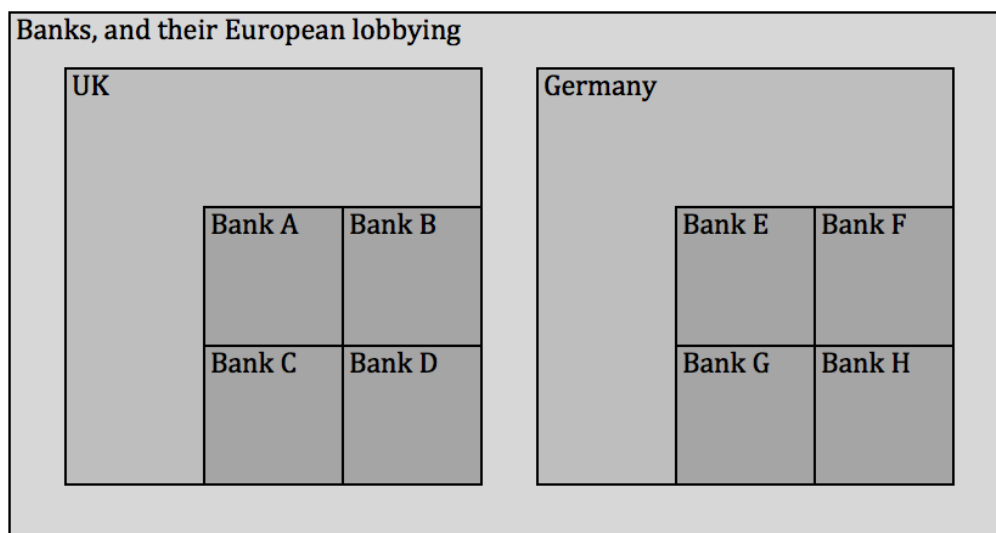
The selection of these cases (at whichever level they may sit in the logical model) is intended by the researcher to facilitate the building of a causal explanation. In a similar way that a quantitative design controls for and eliminates extraneous variables, so the qualitative researcher assembles her cases in such a manner as to focus attention on a hypothesised set of factors (notwithstanding the possibility that others may emerge as the project progresses). Practically, this involves arranging the cases according to Mill's 'most-similar' or 'most-different' designs (1872). Each enables the research to precisely identify the causal power of one or more factors, depending on their presence or absence in the selected cases. The entire exercise is underpinned, della Porta suggests, by a prior set of ideal types: 'abstract models, with an internal logic, against which real complex cases can be measured' (2008: 206). Again, this highlights the role of theory in qualitative endeavours: it is theory which inspires the ideal types and which suggests the causal mechanisms connecting the elements of the model, and then these ideal types which drive the selection of the cases for comparison.

This project follows these established routines of case study design in two regards: in applying Gerring's approach to constructing logical frameworks, and in using an underlying theory to drive the selection of the cases and the initial specification of the variables. Beginning with the logical model, the project is constructed over three layers. The outer-most layer constitutes the overall case – the activity of lobbying by banks in the EU.²³ The second comprises a paired analysis of two countries. Variation is thought to exist among the lobbying behaviours of actors drawn from these two cases, building on the theoretical framework outlined in the previous chapter. Finally, a third layer contains a set of embedded units of analysis – the cast of actors on which the detailed analysis is focussed. The overall schematic is shown in Figure 3.1, and the following

²³ This sits as a case in the wider universe of units, comprising 'the lobbying of European regulators (in general) by private actors.'

sections specify the selection of the cases, and the specification of the variables, in more detail.

Figure 3.1: The three layers of nested cases



3.3.2: Choosing the cases

In choosing the candidates for the comparative study, I followed della Porta's primary concern for relevance (della Porta, 2008; George & Bennett, 2005). The review of the lobbying literature revealed an opportunity to contribute an understanding of how actors' *national origins* shaped behaviour. This led, in the first instance, to a need to construct a case design which took two *countries* as the units of comparison. That would enable me to study how country-level variations impacted upon individual institutions in shaping their lobbying activities.

Next, the selection of the two countries was based on the application of a set of considerations, inspired by the underlying theory. The initial universe was obviously restricted to those countries which are members of the European Union (and so potentially players in the lobbying game). Within this set, I was keen to frame the comparison around countries which had been members for similar lengths of time. This ruled out, for example, the accession countries of the

2004 EU enlargement, since we could imagine their banks' lobbying efforts being marred by a lack of experience in the European arena.

The most important consideration, however, was to follow della Porta's call for case selections to be based on a congruence with theoretical ideal types (2008: 206). The theoretical framework chapter identified two key dimensions of variation in national contexts: in financial systems and in regulatory paradigms. It was the influence of this variety that I was seeking to test through my comparative analysis; in other words, if the central argument was that lobbying behaviours are shaped by national origins, and national origins can be expressed in terms of varieties of financial system and regulatory paradigm, I needed two countries which displayed variation along these key dimensions.

The candidate countries were grouped into two broad clusters: the 'liberal' (UK, Holland, Ireland and Scandinavia) and the 'continental' (Germany, France, Italy and Spain). Common to the 'varieties of financial capitalism' literature (Allen & Gale, 2000; Demirgüç-Kunt & Levine, 1999; Story & Walter, 1997; Zysman, 1983) is the identification of the former as having, to varying degrees, market-based financial systems, with liquid capital markets and consolidated banking sectors. The latter, conversely, have financial systems more reliant on bank intermediation, and more fragmented banking sectors. Meanwhile, the literature on European financial regulation, and comparative regulatory governance more broadly, has classified the liberal group as subscribing to a 'market-trusting' paradigm, with beliefs in light-touch and pro-competition regulation underpinning their domestic regimes (Quaglia, 2010; 2011; 2012; Thatcher, 2007). The continentals have a more circumscribed view of markets, and employ more prescriptive, legalistic and steering approaches to regulation. These two sets of countries were thus shown to display the required variety along the key dimensions specified by the theoretical framework. Using one from each would allow me to test the theoretical argument in a comparison between two 'ideal type' countries.

However, it seemed sensible to follow established practice in the varieties of capitalism literature and concentrate on the two – Britain and Germany – which have most often been held up as exemplars of these theoretical ideal types (P.A. Hall & Soskice, 2001). As will be shown in Chapter Four, these two countries have very different banking landscapes, and ‘liberal’ and ‘ordo-liberal’ paradigms underpinning their regulatory regimes. Using these two also avoided the issue of certain banks’ lobbying behaviours being shaped by entirely circumstantial factors, such as the collapse, or near-collapse, of their banking sectors (in Ireland and Spain, respectively).²⁴

Finally, I did consider including France as a third case. This would have been to move France from the ‘continental’ cluster and treat it – along with other VoC scholars – as a ‘median’ case, following a distinctive *dirigiste* model of economic organisation (see Schmidt, 2012). However, concerns for practicality ruled this out: it would have imposed a heavy burden on data gathering and analysis and would not have brought much additional analytical leverage.

Following this procedure I selected Britain and Germany as exemplars of the two aspects of variation I sought to study. This most closely followed a ‘most-similar’ design, in that the two countries were broadly similar on the ‘control’ variables, but very different in their financial system and regulatory paradigm. However, this represents a slight adaptation of Mill’s design. In his original schema, variations in outcomes and causal conditions are observed at the same level: it is *countries* that do or do not have revolutions, and that do or do not have oppressive monarchies and agrarian societies. In my design, the variables used to select the cases are at the level of *countries*, but the observed outcomes (variations in lobbying behaviours) are at the level of private actors. The motivation behind this is a desire to maintain the fundamentals of the comparative approach, while extracting analytical leverage by focusing attention on behaviours, and decisions behind them, at the *micro* level – at the level of

²⁴ It should be noted, in passing, that in this way this research follows a long tradition of Anglo-German comparisons. For example, see Coen (2005) on utilities regulation, Lütz (2004) or Zimmerman (2010) on financial regulation; Moran (1999) on healthcare; or Thatcher (2007) on network industries.

individual actors operating in overarching national contexts. This aligns with similar procedures adopted in the comparative public policy literature (see Engeli & Allison, 2014; Levi-Faur, 2006).

3.3.3: Embedded case selection

Within these two country-cases, I aimed to study the lobbying behaviours of the banks, and the factors shaping those behaviours. The selection of these embedded cases, or units of analysis, was again primarily motivated by a consideration of relevance. Secondary material analysing the two banking sectors was used to build a general picture of their structure, and to identify prominent sub-sectors or strata. Then, reports published by the central banks and regulatory authorities of the two countries gave an indication of the banks which were particularly significant – because of their dominance of domestic markets, perhaps, or their international activity. This gave a more specific list of banks on which to focus the empirical analysis. From this point, the procedure for bringing in further banks – or indeed actors such as representative trade associations – into the units of analysis was fairly open: I examined registers of attendance at public consultations, for example, and used the information they contained to widen the sample. I also allowed interviewees to suggest others to be covered. This rolling, iterative procedure allowed me to include a suitable, and relevant, set of units.

3.4: Variables and hypotheses

Despite this being a case-oriented, qualitative project framed around a comparison of the UK and Germany, certain variables and hypotheses were specified *a priori*. These were based on intuitions drawn from the literatures – on interest group lobbying and on varieties of capitalism – and were developed to provide a route into the empirical morass.

3.4.1: Dependent variable

The dependent variable adopted by this study captures the observed actions undertaken by banks in their lobbying efforts. These can be disaggregated into three aspects. First is the approach taken: whether the individual bank undertook its own representation, or participates in associational lobbying. This draws on the realisation from the literature that lobbying is costly, and that private actors face resource constraints in their behaviour (Beyers & Kerremans, 2007; Eising, 2007a; Lowery, 2007). The second concerns the venue at which the bank targeted its lobbying effort: a national regulator, the EBA. This builds on the theory of venue-shopping we encountered in the previous chapter, by which actors can vary their effort according to opportunities or pressures in their institutional environment (Baumgartner & Jones, 1993; Beyers & Kerremans, 2011; Mazey & Richardson, 2006). The third focuses on information conveyed, and follows the lead of the literature in highlighting information, and different types of information, as a valuable currency in European lobbying (Bouwen, 2002; Dür & De Bièvre, 2007; Michalowitz, 2004). The variable differentiates between high-level intelligence, or detailed technical expertise, and examples are shown in Table 3.1.

Table 3.1: Examples of information input

Coding	Example
'Political'	<i>'What is more, national supervisors know the specificities of their respective national banking market better than a European supervisor could ever do and have in-depth knowledge of national accounting rules. A European solution just for the sake of comparability that cannot be achieved in any case therefore merely imposes an unnecessary additional burden.'</i> (Bundesverband deutscher Banken, 2012)
'Technical'	<i>'As a threshold 0.25% of CET1 capital seems very low if the aim is to assess materiality. By definition this is 1/400 of one type of capital which an institution may hold. However, a criterion based on a measure such as this would not address those leveraged products which utilise less capital but may in fact carry greater risk.'</i> (Barclays Bank, 2013)

The distinction here is marked by references to 'national supervisors' and 'national markets' in the first category; in comparison, the second avoids such appeals, and instead focuses on more neutral, and technical, expertise. This

aligns with the basic separation common to the lobbying literature and explained in the previous chapter.

Together, these form a set of 'bundles,' on which the task of uncovering activity can be based. They also provide a way of easily viewing the *variation* in the activity of lobbying, and so open the way to building a causal explanation.

3.4.2: Independent variables

These variations in lobbying behaviour are hypothesised to be shaped by factors pertaining to the banks. As we saw in the development of the theoretical framework in the previous chapter, these can be traced back to variations in the underlying financial system, and the regulatory paradigm. In this way, then, we have a link between the 'country-level' variables (on which the two cases were selected) and the embedded units of analysis (the banks). These variables were used as the basis for guiding the empirical research: they largely framed the development of the narrative threads. In the following sections I specify what these variables are, and how they are operationalised.

3.4.2.1: Resources

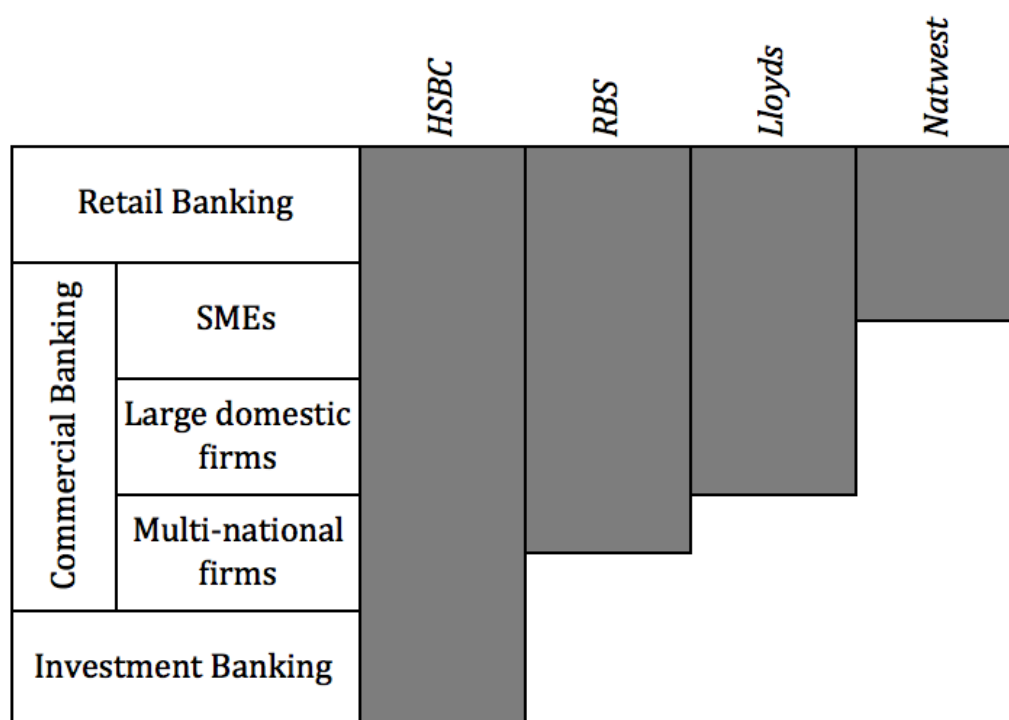
At this point, we can recall the theme identified in the review of the lobbying literature: that resources matter in determining lobbying behaviours. As we saw in the theoretical framework chapter, the key resources are informational and centre on the ability to interface with policy-making fora, and to generate and communicate expertise. However, these are very difficult to observe for the external researcher, since banks rarely disclose information on such resources. Still more rarely, we must add, do they publish details of their *spend* on lobbying.

I therefore took two approaches to operationalising this variable, and capturing data pertaining to it. The first was to take, as a proxy, a simple measure of the bank's size. Admittedly this was a crude indicator, but it worked on the assumption that a larger bank would have more financial resources to commit to developing *informational* resources. Furthermore, the approach sufficed given

that I was only using this variable as a route into the causal mechanisms (rather than, for example, as the basis of a detailed regression analysis).

To define this, I considered two dimensions of banks' activity: the services offered and the geographical focus. Information on these dimensions was taken from websites, or published financial statements. From these sources I also took figures relating to banks' net assets, as a simple indicator of raw size. These were combined to give a qualitative and numerical representation of a bank's size and so an indication of the financial resources it could commit to lobbying. The output of the procedure can be symbolized graphically using a simple schematic, as shown in figure 3.2.²⁵

Figure 3.2: Stylised portrayal of four UK banks



Secondly, I obtained specific information about banks' holdings of informational resources from the interview data. Questions were included in the interview script to gather information about how banks monitored policy-making

²⁵ The same approach was taken to analysing banking sectors at an aggregate level. See Chapter Four.

processes, or how they went about developing the required expertise. Through these processes I was able to construct clear pictures of the banks' sizes and resource endowments, which could then be used to link to their lobbying behaviours.

3.4.2.2: Preferences

The second hypothesised variable captured the bank's preferences over European financial regulation. Again, the theoretical framework chapter showed how these are grounded in the underlying national regulatory paradigms. Indeed, this variable hints at the complexity I identified at the start of this chapter, since it is the *alignment* of preferences between banks and public actors which are thought to drive lobbying behaviours.

Nonetheless, these preferences had to be operationalised. Following the lead of scholars engaged in the research of ideas in politics, I concede that preferences can never be externally known with full certainty; to paraphrase Béland and Cox slightly: '[preferences] cannot be seen and are sometimes hard to track down' (2011: 13). Instead they must be extrapolated from statements or utterances made by the actors in question, and so, in order to capture this variable, I used markers – in all data sets – which portrayed a preference on European financial regulation, or which referred (in some way) to the underlying regulatory paradigm. The preferences were cast along two dimensions. The first describes, 'more' or 'less' regulation, and the second relates to the degree to which such regulation is harmonised across the banking markets of Europe: whether a given rule should apply uniformly to *all* participants, or whether certain national regulators should be allowed to soften it or toughen it. Examples of material coded on this basis are shown in Table 3.2. At a more granular level, naturally, the preferences can feature calls for a *specific* aspect of a regulation to be changed. Meanwhile, a similar procedure was used to gather information from the data showing reflections of the underlying paradigms. For example, comments made by interview respondents referring specifically to aspects of their national regulatory model, and its ideational foundations, were coded and

used as identifiers of the paradigms showing through in discourse. During the analysis stage, the markers collected from private actors were calibrated against those of national regulators, to give a sense of diverging preferences, and diverging perceptions of the national regulatory paradigm.

Table 3.2: Examples of material coded as preferences over European regulation

Coding	Example
'More Europeanisation'	<i>"And I think, you know, be really clear about this: firms and banks want a single rulebook, it makes everyone's life a lot easier, and so that mandate that the EBA has is broadly very, very supported."</i> (Interview, 4 th April 2014, London)
'Less Europeanisation'	<i>"... under CRDIV there was this belief, or even fetish, but it's not appropriate way, or it's not consistent with the cultures of every country effected. It can't be. It cannot possibly be..."</i> (Interview, 17 th September 2014, London)

Like the selection of the country-cases before them, the specification of these variables drew heavily on the underlying theory. The theoretical proposition that national origins (modelled as variations in financial capitalism or regulatory paradigm) drove the choice of the UK and Germany; and the idea that lobbying is shaped by resources and preferences inspired the choice of these variables. Together, then, the overall logical model, the cases, and these variables form the research design: the pragmatic blueprint according to which the project was conducted.

3.4.3: Hypotheses

As with the specification of the variables, the hypotheses were developed to be used as guides, or as a means to parse through the empirical complexity and organise the findings. They too drew on intuitions taken from the literatures, and were constructed so as to provide a theorised causal chain from the varieties in fundamental national contexts, through the variables, and to the observed lobbying behaviours.

The hypotheses arise from the three elements of the causal model, as outlined in the previous chapter. The first element has banks responding to the rise of the EBA as a supranational rule-making authority and lobbying it; and so the

hypotheses examine the link between the approach used and the informational resources which banks have at their disposal. The hypotheses are laid out below:

'The resource hypothesis'

H1: Larger banks, with greater lobbying resources at their disposal, will be more likely to lobby the EBA, and to do so directly and independently.

'The associational hypothesis'

H2: Smaller banks, with fewer lobbying resources, will lobby the EBA through their trade associations.

The second element presents an alternative explanation, relaxing the earlier assumption and allowing banks to deliberately lobby their national regulator. It focuses instead on their preferences, and how these shape venue choices and rhetoric deployed:

'The alignment hypothesis'

H3: Banks will lobby their domestic regulator, or the EBA, based the alignment of their preferences over a given issue. The greater the alignment, the greater the likelihood that a particular venue will be targeted.

'The informational matching hypothesis'

H4: Banks will be sensitive to the demands of the various regulatory venues, and will adapt their input accordingly.

The final element probes the interaction between these two causal pathways:

'The interaction hypothesis'

H5: The greater a bank's resources, the more likely it is to able to lobby according to its preferences.

With these in place, we now proceed to examining the sources of data the project used, and how they were treated.

3.5: Data

The following data sets were gathered and analysed in order to investigate the factors that shaped banks' lobbying behaviours:

- Consultation requests issued by the EBA, 2011-15
- Responses to these requests, submitted by various stakeholders
- Stakeholder interviews

- Notes taken at public events
- Media reports
- Stakeholder position documents, not submitted to formal consultation processes

These are described in more detail below.

3.5.1: Data sets and sources

The first data set gathered contained the consultations requests issued by the EBA. The EBA carried out over a hundred consultations over the period studied. In each case, the process began with the publication of a formal request document, explaining the context of the rule or policy being drafted, and containing a set of specific questions. It also specified the duration of the consultation period, and contained details of any scheduled public hearings. The documents covered a range of topics, based around five key policy areas: capital (including definitions of capital and the treatments of exposures), leverage, liquidity, supervision and remuneration. Together these constituted the main pillars of the CRDIV/CRR legislative package. The questions in these documents covered a similarly broad scope, calling for input on high-level points of design, and for more detailed points of calibration. Examples of these sorts of questions are shown in Table 3.2. I gathered these documents – 115 in all – from the EBA’s website, and they provided a canvas on which the research was conducted.

Table 3.3: Examples of questions asked in EBA consultation papers

Type	Example
High-level points of design	<p><i>“Do institutions agree with the use of existing and prudential measures?”</i></p> <p>(European Banking Authority, 2012a)</p>
Calibration	<p><i>“Are there additional sub-categories of inflows and outflows that are consistent with the specification of the liquidity coverage requirement in the CRR and would inform policy options that should be reported?”</i></p> <p>(European Banking Authority, 2012b)</p>

The second data set contained the responses to these requests provided by stakeholders; again, these were made available on the EBA’s website. The response documents ranged from a few paragraphs to over 50 pages, and

contained a wide variety of types of response. Stakeholders took issue with design points, and railed against ineffective calibration; or they behaved far more positively, expressing support for the EBA’s goals and providing constructive input. I extracted all documents submitted by British or German stakeholders: banks, trade bodies and regulators (408 in total). In this sense, beyond this focus on the two case-study countries, no sampling technique was used to restrict the selection of the documents. They were initially used to establish patterns in response rates, and later their contents were more explicitly analysed.

These two sets of textual data led to the third source: I conducted semi-structured interviews with representatives of the institutions identified from the list of documents. These were conducted between March 2013 and January 2015, in person in London and Brussels, or via the telephone or Skype. They were, on average, between 45 and 60 minutes long (although the longest was over two hours), and were conducted in English. I transcribed them all myself. It should be noted at this stage (and the full explanation of this will be covered during the later empirical analysis) that there was a significant imbalance in the *types* of institutions involved. For the UK, responses were spread among prominent banks and a few trade associations, whereas for Germany they were dominated by trade associations. The sources of the interviews are summarised in table 3.4.

Table 3.4: Interviews grouped by type

UK			Germany		
	Institutions	Number of interviews		Institutions	Number of interviews
Banks	7	11	Banks	2	3
Trade bodies	4	7	Trade bodies	3	7
		<i>18</i>			<i>10</i>
Public institutions			Others		
EBA		3	Law firms		1
National regulators		2	Consultants		8
European Commission		1	Third country banks		6
			Journalists		2
			European / other national trade bodies		4
		6			21
<i>Overall total</i>					<i>55</i>

The documents established the initial set of interview targets, and from this I expanded the coverage to other relevant actors. Thus, I also interviewed representatives of professional lobbying firms, consultancies, regulators and law firms. The same snow-balling approach brought me to interview representatives of *other* banks and trade associations (neither British nor German). Across all of these secondary categories interviews often proved very useful: either as general background to the subject, or because the individual interviewed had previously been employed by one of the key stakeholders and so could provide valuable input. The most common person of this type was the ‘poacher-turned-gamekeeper’: an individual who had previously worked for a regulatory authority and was now employed by a bank, trade association or consultancy. In all 55 interviews were conducted.

I also attended a number of events at which I was able to observe lobbying in action in various guises. I was present at nine public hearings convened by the EBA to support consultation processes, where I observed often heated, and extremely technically detailed, discussions between representatives of the private sector stakeholders, the key regulatory institutions and the EBA. I attended round-table fora between banks and regulators hosted by the British Bankers Association, and a briefing session organised shortly before the European Parliament elections in May 2014. I also attended media events, such as the launch of a report on the UK’s role as a European financial centre. At all these events I gathered extensive field notes on what I saw and heard: who was present, what arguments were deployed, and so on.

Finally, I supported these data sources with a range of position papers, or other such documents, written by stakeholders during the period. These often took the form of ‘briefing papers’ written for members of trade associations, or for clients in the case of the consultancies. These were either picked up in hard copy at events, or obtained from the institutions’ websites (or, occasionally, passed to me via email by interview respondents). In addition, I also gathered media reports on the policy discussions, which were useful in providing background information and commentary.

3.5.2: Interview procedure

The procedure by which the interviews were conducted merits some further explanation. Given the overall aim of the project, these had two purposes. First, clearly, the interviews served as a means of gleaning data from respondents regarding the lobbying activities of their institutions. They were used as a source of information about venues targeted, approaches used and informational input deployed; and also information pertaining to the independent variables – such as the human or financial resources committed, and descriptions of the institution's preferences. They also had a second, more inductive purpose, however, in that I used them to gather rich data on the *causes* of these lobbying efforts. Respondents explained to me the detailed processes which sat behind lobbying behaviours: how options were evaluated, how allegiances were forged or broke down, how contacts were established with regulatory institutions, and so on. In this way, the interviews were also extremely valuable in obtaining information on stakeholders' perceptions of the regulatory paradigm, and their preferences.

These twin aims were supported by the protocol which drove the interviews. At the start of the project I obtained the appropriate ethical approval from my university. I then arranged the early interviews by contacting staff at the banks I had identified by reviewing the consultation responses; and in a few cases I was able to approach them personally at EBA hearings. In each interview, I started by introducing myself and my work, and asking for permission to record the interview on a dictaphone. From there, I had two sets of questions prepared. I used 'grand tour' questions (Leech, 2002) as a route into the discussion, asking respondents to describe their 'typical' lobbying efforts. The conversation was then diverted towards specific policy areas – for which I had prepared by reviewing the institutions public submissions (where possible). Secondly, I had a set of structural questions (Leech, 2002: 667), which asked respondents to structure their perceptions of lobbying efforts by describing the venues in order of their 'usefulness'; or tapped into their perceptions of the regulatory paradigm by asking to describe – in order – the priorities of their regulator. A third set, which could not be prepared in advance, comprised the 'probing' questions

(Berg, 2002: 681), which were deployed to steer the discussion into deeper territory. An example of a such a script is shown in Appendix 1.

As I have pointed out, interview respondents (that is, the institutions) were not chosen randomly, but rather, they were drawn from the set of submissions to EBA consultations. In that sense, a form of purposive sampling was employed. This is in line with established practice in the use of élite interview in political science research, where, as Tansey points out:

'the aim is not to draw a representative sample of a larger population of political actors that can be used as a basis to make generalisations about the full population, but to draw a sample that include the most important political players who have participated in the political events being studied.'
(2007: 765)

I also employed a snowballing technique to garner more interview appointments, asking each respondent at the end of our meeting if they could recommend anybody else I should speak to. This was greatly aided, at certain junctures, by having the fortune to recruit a few 'gatekeepers' (Goldstein, 2002): well-connected individuals who were happy to broker further meetings. This meant that only very occasionally did I have to solicit interviews by contacting respondents directly. In arranging meetings I was careful, where possible, to interview individuals who could give a broad range of perspectives. This meant targeting staff at fairly senior levels (often directors and above), and obtaining a balance between those in public affairs or government relations, those in regulatory liaison, and specialists in technical policy. It also involved – as can be seen from the list of respondents in Appendix 2 – interviewing several staff from the same institution in certain cases.

Throughout the entire process I was also greatly aided by own status as an 'insider', arising from the time I spent as an employee of a global investment bank before undertaking my doctoral studies. I was able to pilot, and finesse, my interview script on former colleagues, and several of them also helped arrange interviews at the start of the research. But this position was perhaps most useful for building a rapport with my research participants – a condition seen as vital

for enabling productive interviews (Leech, 2002). It helped 'break the ice' at the start of the interview, meant I was *au fait* with the terminology used, and enabled me to keep pace with technical explanations behind the institutions lobbying positions. My proximity to the industry, and to the subject matter, also helped me to maximise the validity of the interviews, as I was able to see through biased or inaccurate responses and separate genuine data from 'noise.' However, as ever with qualitative research, this advantage brought with it a need for reflexivity, in that I had to be particularly careful not to let my background (and my prior suppositions) influence my data gathering.

3.5.3: Analysis

3.5.3.1: Content analysis

The data were analysed using qualitative content analysis. The documents, interview transcripts, and other textual data were loaded into nVivo, where I used its functionality to conduct two stages of coding. The first was 'closed coding' (Halperin & Heath, 2012: 323), whereby a preconfigured coding scheme was applied to the data. This was used to draw out 'manifest content' (Aberbach & Rockman, 2002: 675): information pertaining to the model's variables which I expected to find in the data. For each submission document, interview or field journal entry I also uploaded into nVivo basic information about the institution, such as its domicile, its size or type, or its business focus. Using the software package's tools, I was able to cross-reference between these piece of information, and establish high-level themes – of the sort "*All small UK banks did x.*".

The next stage took a more 'grounded' approach (Halperin & Heath, 2012: 323). Here I reviewed the individual pieces of data inductively, allowing 'latent content' (Aberbach & Rockman, 2002: 675) to emerge. This second approach was particularly fruitful when gathering findings on actors' perceptions of the regulatory paradigm, and their preferences. It was also used, more generally, to gather subjective, attitudinal information relating to topics such as financial regulation (either national or European), lobbying, or the institutional landscape.

For both stages of coding, the level at which the frames were applied varied, from individual words, to short phrases, to entire paragraphs. Across the two I was able to build a collection of discrete themes: common expressions which arose in several interviews, or similar references to the same position or preference. Examples of these themes – captured through both rounds of coding – are shown in Table 3.5.

Table 3.5: Examples of themes extracted from the data

Theme	Quotes / References
Round 1 (closed): “We lobbied the EBA.”	<i>“So we had the proper formal meeting with the EBA, with all the supervisors there, and the board were there, and we had a formal presentation and then we had Q&A ...”</i> (Interview, 12 th August 2014, London)
Round 1 (closed): “Resources are important”	<i>“We regret we have neither the time nor in-house expertise to provide [such figures] – and believe many of our members are in the same position.”</i> (Building Societies Association, 2010)
Round 2 (open): “Retrenchment”	<i>“And now, it’s one, at most it’s two meetings a year, and all of these meetings, the BaFin has to be forced to make an appointment. So we ask them, ‘Please, it’s time for another appointment, because all these papers, all the EBA papers, all the topics, we need to talk about it.’ They don’t want to talk about it.”</i> (Interview, 17 th September 2014, London)
Round 2 (open): “We don’t lobby”	<i>“Yeah, and that’s the way I would see it, it’s not lobbying per se, it’s more ‘OK, I’ve agreed with the overall direction, but let’s work on the detail, because that’s usually where the problem starts.”</i> (Interview, 14 th August 2014, London)

Combining all of these, I was able to construct a richly-detailed picture of the factors shaping lobbying behaviour. However, my ability to assemble these themes, and interpret their significance, was greatly aided by my insider’s knowledge of the subject matter, and as with the interviewing, this privileged status demanded reflexivity on my part.

A particular area of difficulty came in assessing the ‘type of information’ conveyed in the submission documents. The documents I read often contained both types: a piece of distinctly political argumentation (perhaps referring to national circumstances) would precede an in-depth technical analysis of the rule change. However, although difficult to code on a binary basis, such a document was not entirely problematic from the perspective of my causal model, since the presence of the initial piece of political input in a document submitted to the EBA

was in itself of interest (given our theoretical expectations of the discursive norms of this technical, regulatory venue).

Thus, the documents were not coded as either 'political' or 'technical', but detailed data about their content, and their provenance (British or German, bank or trade association, *et cetera*) were captured. This was used to support the detailed causal narrative laid out in the empirical chapters.

3.5.3.2: Process-tracing

To explore the causal relationships in these patterns I then employed the method of process-tracing. Process-tracing analysis allows the researcher to 'get inside the box' (Gerring, 2008), and to identify the key events and decisions that link the independent variables to the outcome. It was thus deployed for its strength in finding causal pathways: it 'helps us to understand the meaning and role of established regularities, and can help suggest ways to uncover previously unknown relations between factors' (Checkel, 2006; Vennesson, 2008: 234). It is also, as George and Bennett argue, particularly useful when dealing with equifinality: it 'offers the possibility of identifying different causal paths that lead to a similar outcome in different cases' (George & Bennett, 2005: 215).

The method shares some epistemological roots with critical realist approaches to empirical research, which, as Jackson explains, contain the 'notion that valid knowledge-claims reach beyond experiences to grasp the deeper generative causal properties that give rise to those experiences' (2010: 74). Here he refers to the distinct (but frequently unobservable) *properties* of entities which cause outcomes; for our purposes, the equivalent is a focus on the *mechanisms* by which factors (such as resources, or preferences) cause lobbying behaviours. At a philosophical level the concern is similar: in both cases, empirical inquiry is concerned with identifying the intangible and the difficult-to-observe. By deploying process tracing we can step carefully through the data and generate plausible explanations as to causal mechanisms.

The process-tracing exercise was based on specific instances of banks' lobbying. This was done to enable the empirical analysis to be constructed around a causal narrative in a way which linked the variables and the hypotheses to the data. I took the European legislative package (CRDIV/CRR) and broke it down into its main issue areas; at a high level these were capital, liquidity, leverage, remuneration and supervision. Within each of these I then identified discrete instances of regulatory policy change, and looked for references to them in the data sources. For example, the issues represented in the consultation responses of the banks gave an indication of the relative importance of the issues, and I also asked interview respondents – via open-ended questions – which had animated their own banks the most. In this way I was able to inductively build a picture of which areas of change impacted which sorts of banks, and then to focus the process-tracing at uncovering the causal stories behind the resultant lobbying efforts. These narratives form the core of Chapter Six.

In constructing this framework I had two key intentions. First I wanted to portray the breadth of the issues arising from the legislative package, and so to highlight the workings of (and lobbying efforts in) a wide range of policy debates. The second was coherence: I was concerned to explain these complex causal stories in a clear and accessible manner.

3.5.3.3: Summary

The two analytical tools described above are congruent with the aims of the project. The content analysis allowed data to be summarised into themes, which described the regularities in the lobbying behaviour of banks, or certain classes of bank. Next, the process tracing exercise allowed the reasons behind these common behaviours to be extracted, with a particular focus on comparing the operation of resources or preferences across the two country-cases. I was able to see how, for example, a resource shortfall among a set of banks linked backwards into their domestic *milieu*, and forwards into their European lobbying. In this way, the approach adopted by the project follows the lead of

Falletti and Mahoney, who argue forcefully for a balancing of cross- and within-case analysis in examining causal processes (2015).

3.6: Conclusion

The review of the literature in the previous chapter generated the research question, and also provided a theoretical framework with which to account for the ways banks lobby the EBA. This chapter has laid out the research design – or the blueprint by which the thesis sets about answering the question. It explained the choice of the qualitative, case-oriented approach, established with the aim of getting to the causal processes sitting behind banks' behaviours. Next, the various components of the model were outlined: the way in which the two manifestations of national variety were operationalised as variables, and how they were linked to behaviours via a set of hypotheses. Thirdly, the chapter laid out the sources of the data drawn into the study, and described the analytical techniques they were subjected to. By deploying this research design, the thesis aims to contribute to the lobbying literature by developing an understanding of how private actors' national origins shape their behaviours in the emergent European regulatory arena.

Chapter 4: Context

4.1: Introduction

The British and German banking landscapes, and their associated regulatory regimes, vary significantly. Differences in the structures of the banking markets drive the distribution of lobbying resources among banks, and their preferences are conditioned by the prevailing regulatory regimes; under our causal model, both of these factors are then thought to shape lobbying behaviours. To facilitate the empirical analysis of this lobbying, we must first acquaint ourselves with the two national contexts, and the overall European level, in more detail.

This chapter sets out to add some empirical flesh to the theoretical notion of ‘varieties of capitalism’ (P.A. Hall & Soskice, 2001) encountered in Chapter Two, and to lay out the exogenous landscape in which the investigation of banks’ lobbying takes place. It proceeds as follows. I begin by briefly reprising the theory of variation, and by proposing descriptive frameworks to guide our review of the two countries. Then, section three deploys the first of these to the study of the banking landscapes: I outline the current structure of the markets and identify key players, give a short history of their development, and comment on recent developments. In section four I repeat the process for the two regulatory regimes. I examine their underlying paradigms, and review the institutions and practices through which regulation is delivered.²⁶ Next, in section five I turn to the European context, studying the development of its regulatory regime. This aims to provide an overall backdrop: a picture of the European opportunity structure and the body of policy, on which the empirical analysis of banks’ lobbying behaviours will be laid out in later chapters. Finally, in section six I offer some concluding remarks.

²⁶ Across these sections, the focus is on an explicit comparison between the UK and Germany across each dimension; hence the rationale for splitting the analysis into ‘banking sectors’ and ‘regulatory regimes’, rather than proceeding country by country.

4.2: Banking sectors and regulatory regimes: Reprising the theory

In order to facilitate the survey of the two national contexts, we must first briefly revisit the theoretical discussions we encountered in Chapter Two. This section uses these to develop simple descriptive frameworks, which will later be applied to the banking sectors and regulatory regimes. We begin with financial systems, and then turn to regulatory paradigms.

4.2.1: Financial systems and banking sectors

As we saw in Chapter Two, financial systems sit at the very core of economies: they allocate funds among competing users, effect maturity transformation and fuel output and growth. The institutional arrangements through which this is achieved falls into two moulds (Allen & Gale, 2000; Demirgüç-Kunt & Levine, 1999; Story & Walter, 1997; Zysman, 1983), which in turn play a role in determining the structure of banking sectors.²⁷ Banking sectors, or markets, form part of the institutional landscape of financial systems, and they vary alongside the broader distinctions outlined above.²⁸ To accurately grasp the nature of this variation, a simple descriptive framework is needed.

²⁷ A variety of perspectives have been deployed in studying the development of financial systems. One approach has been to ground them in different over-arching legal frameworks (La Porta et al., 1997; 1998). In this analysis, English common law afforded greater protection to creditors than continental civil-law traditions, allowing equity markets to flourish and bringing about a financial system based on arm's-length interactions in capital markets. An alternative view is that financial systems were forged in countries' industrial transformations: thus, British industrialisation was driven by private actors and financed through capital markets, while Germany's was later, more centralised, and financed through the deployment of loan capital co-ordinated by large banks (Deeg, 1999; Geschenkron, 1962; Zysman, 1983). These structuralist and historical institutionalist interpretations are countered by a set which emphasise the role of societal interests. Rajan and Zingales (2003) argued that entrenched élites – both financial and industrial – used their position to forestall the development of equity markets, such that some financial systems remained predominantly bank-based (and thus, that financial power remained concentrated in the hands of these élites). Kroszner and Stahan (1999) took a similar approach – focussing on arrangements of key interest groups – in studying the liberalisation of bank branching restrictions in 20th century America. Finally, Grittersová (2013) found empirical verification of the theoretical link between corporatist modes of interest intermediation and bank-based financial systems: non-market co-ordination mechanisms, which operate to bring about greater social insurance and labour protection, are also strongly correlated with a prevalence of bank-based financial systems, and comparatively under-developed capital markets.

²⁸ Other non-bank, or even quasi-bank, actors are also present: pension and hedge funds, insurance companies, and so on.

The framework comprises two elements. The first is a simple quantitative assessment of the degree of consolidation, or fragmentation, displayed by the sector. A pair of measures is used: the Herfindahl index captures intra-sector competition, and the CR-5 ratio denotes the percentage share of the entire sector's assets held by the five largest institutions.²⁹

The second element is a more detailed qualitative review of the salient features of the sector. This involves categorising the banks, or sub-sectors, into broad groupings based on a combination of services they provide and the form they take. Beginning with the former, we can distinguish between several areas of business. *Retail banking* is the provision of basic services (current accounts, overdrafts, credit cards and mortgages) to members of the public.³⁰ Very similar services are extended to businesses under the banner of *commercial banking*, together with more specialised functions such as trade finance and payroll management. Finally, the breadth of offering opens up when we reach *investment banking*: this includes advisory services on mergers and acquisitions or corporate finance, as well as capital markets activity, such as underwriting bond or equity issuances. The key difference is in the source of revenue, in that retail and (most) commercial banking generates interest income, where as investment banking generates fee income.³¹

²⁹ The Herfindahl index calculates the sum of the squares of all the banks' market shares, in terms of their proportion of the total sector's assets. HI scores range from 0 to 10,000, with low numbers indicating greater fragmentation. Scores above 2,500 are generally taken to indicate 'high concentration.'

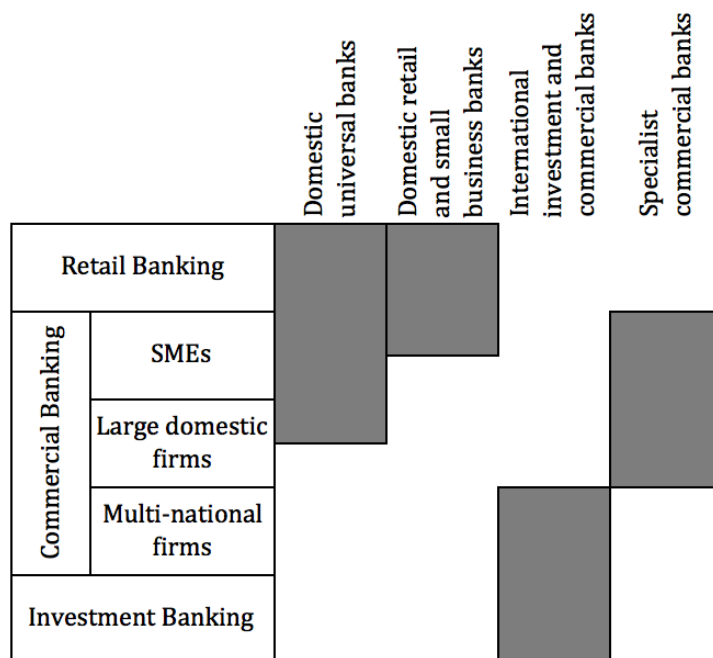
³⁰ Where such services are provided, along with investment advice and portfolio management, to the very wealthy, the business is referred to as *private banking*.

³¹ At a higher level, we can distinguish between these types of business, and the functions a banking system performs as part of the broader economy. The latter can be thought of mechanically. Firstly, in underwriting issuances of securities or extending loan finance, they perform the function of *maturity transformation*: helping firms gain access to long-term financial capital to fund investments while satisfying savers' need to short-term returns. Secondly, banks act as conduits of *monetary policy*, in that the rates at which they can borrow from the central banks govern the rates that they charge for the use of that money, which in turn helps either stimulate or dampen economic activity. Third, they collectively provide a secure and stable *payments system* for the public and for firms; and fourth, they facilitate the *transfer of liquidity* around the economy and the financial system through their interactions in the wholesale money markets (Turner, 2010).

From this we can move to considering banks' forms, captured over the dimensions of *size*, *breadth of focus* and of *ownership*. Size is typically measured with reference to the size of their assets relative to some aggregate total – usually the assets of the entire banking sector.³² Alternatively we can think of the size of the bank's branch network (where relevant), or the number of employees. Next, banks can focus on a particular type of business, or offer a broad range of services (becoming a 'universal' bank). The distinction is often historical: some banks have retained a specialism while others have chosen to diversify. Likewise, they may concentrate on a certain geographical market, or may have an international client base. Lastly, banks may be privately owned, with their equity capital held by individuals or institutional investors. Alternatively, they can be mutually-owned by members (usually staff and depositors) or by the public.

Taking these together we can build a simple graphical representation to describe the features of a banking sector (see Figure 4.1).

Figure 4.1: Categories of bank



³² Thus the ECB establishes classes of bank by size based on three proportions of the total EU banking sector's assets: 0.5% ('large'), 0.5% - 0.005% ('medium') and less than 0.005% ('small' (European Central Bank, 2010a).

4.2.2: Regulatory regimes

Banking markets are subject to state regulation, and our next task is to lay out the framework for studying the arrangements through which this is delivered. Again, we begin by stepping back into the theory momentarily. Regulatory regimes are intellectual constructs used to facilitate the analysis of the regulation of risks in society (Coen & Héritier, 2005; Levi-Faur, 2006). Their exact specification varies depending on the aims of the researcher: the legal scholar may focus on formal rules, or an institutional economist on incentive structures (Hood et al., 2001: 12). However, looking across various instances of their use, we can observe a common approach of distinguishing between an underlying set of beliefs, and their physical manifestation (Hood et al., 2001; S.K. Vogel, 1996). Following this, I adopt a descriptive framework comprising three elements.

At the foundation sits the *regulatory paradigm*. This is the fundamental ideational framework for the entire regime. It contains the beliefs about the risks (and associated impacts) the regime seeks to control, and therefore the societal good it seeks to provide. In doing so, it specifies appropriate 'levels' of regulatory burden, or degrees of intrusiveness, according to a weighting of costs and benefits.

Chapter Two described how, in bank regulation, these *desiderata* are framed around a quartet of beliefs. At the very centre is an ontological belief about markets, as either a natural phenomenon, or as a human construct embedded in a legal framework. Next there is a related belief about the liberty of market actors: whether it is similarly natural, or whether it depends on the state providing a prevailing order. Third is the belief in the status of competition: whether it is the means by which allocative efficiency is achieved, or whether it gives rise to the exploitation of consumers (and perhaps contributes to generating unwanted risk in the banking system), and so should be constrained. These three combine to give a fourth, about the role of public regulation: the degree of intrusiveness in supervision; the degree of 'steering' of banks' behaviours, or lending policies; and the degree of discretion (and thus potential arbitrariness) permitted of the regulator.

Sitting in front of this is perhaps the most visible element of the regime – the *regulatory institutions*. These are the authoritative bodies charged with actualising the paradigm. They can take diverse forms: standalone agencies or commissions, branches of government departments, or even private associations such as guilds or trade bodies. Likewise the terms by which regulatory authority is delegated to them by political principals, and their resulting independence, can vary (Maggetti, 2009; Thatcher & Stone Sweet, 2002). These aspects of their form and function stem from the tenets of the underlying paradigm. The final element is the set of *regulatory practices*. This describes the tools available to the regulatory authority in exercising its designated role: the ability to grant licences, to impose fines, or to pursue legal proceedings. But it also describes the division of labour between the front-line regulator and other bodies. For example, responsibility for *policy-making* can sit with political actors, with the regulator just tasked with implementation; or both can be delegated wholesale to the independent body. Again, these derive from the fundamental ideational framework.

The strength of this framework is in linking the second and third elements back to the first. This resolves a difficulty evident in many extant analyses of the regimes for bank regulation: they tend to focus on the physical manifestations of authority, and to overlook their ideational underpinnings (see Barth et al., 2006; Rosenbluth & Schaap, 2003; Sousa, 2008). However, for the purposes of this study, it is exactly the paradigms which are important: as we will see in the British and German cases, many observable aspects of the institutional apparatus and the set of practices can be traced back to the tenets of the underlying paradigm.

4.2.3: Summary

This section has reprised some of the theory encountered in chapter two. We have looked at how banking systems – as manifestations of the underlying financial system – vary, and how regulatory regimes are structured. We are now in a position to deploy this understanding to the two empirical contexts.

4.3: The Banking sectors

The British and German sectors have long been the most starkly different in Europe. Although both have undergone subtle changes in the recent past – particularly as a result of the crisis – these differences persist. In this section I deploy the descriptive framework laid out earlier to these two sectors, commenting on their characteristics, and roots, in detail. The aim is to draw out key features of the structure of each sector.

4.3.1: The British banking sector

Our study of the British context begins at the level of the overall financial sector, which is said to typify the market-based model (Allen & Gale, 2000; Zysman, 1983). Stock and bond market capitalisations as a ratio of GDP are far higher than most continental European countries (Vitols, 2004), and banks operate as conduits between non-financial firms and these markets. The banking sector, meanwhile, displays a high degree of consolidation: its Herfindal Index score was 467 in 2009, and its CR-5 ratio was 41%. There were 389 banks operating in the UK that year, with 12,360 branches; their total combined assets were €9.4 trillion (European Central Bank, 2010b).

The UK sector is arranged into three distinct layers. At the top it is dominated by a small number of very large (by assets) domestic banks; namely HSBC, Royal Bank of Scotland, Barclays, Lloyds Banking Group, and Standard Chartered (the ‘Big Five’). Of these the first three are universal banks: they offer retail and commercial banking to (mainly) domestic clients, but also have extensive international investment banking divisions. Lloyds focuses on retail and commercial banking – the latter operating internationally as well as domestically. Standard Chartered is a universal bank but despite being based and incorporated in London operates almost entirely in Southeast Asia. The second tier comprises a small set of banks which concentrate more closely on

retail services, such as Santander and TSB.³³ The third contains the mutually-owned building societies providing mortgages and savings products to retail customers. Waves of de-mutualisation and consolidation have reduced this group down to 45 firms – almost all of which are small regional businesses providing mortgage finance and limited savings products to members of the public. The largest of these is the Nationwide Building Society, with assets larger than the rest of the building society sector combined (Building Societies Association, 2013a). Among these various tiers the UK has no public banks, although both Lloyds and RBS were part-nationalised during the financial crisis of 2008-9.

Where the UK banking sector is most remarkable is the extensive penetration of *foreign* banks into its market. Such entities operate either as branches (legal offshoots of their parent bank and not independently capitalised) or as subsidiaries (incorporated and capitalised in the UK). In 2009 46% of the banks operating in London were of one of these types, compared to only 5% in Germany (European Central Bank, 2010b). Overall we can effectively identify two ‘bank circuits’ in the UK: we see the provision of retail and commercial services by domestic banking groups (described above), and of investment and wholesale services by foreign banks (Quaglia, 2006: 10).

The evolution of the UK sector followed two distinct phases. The ancestors of the Big Five, and of the building societies, historically operated as two cartels until the 1970s, dominating the clearing³⁴ and mortgage markets respectively. This arrangement began to fracture with the introduction of credit and competition control by the Bank of England in 1971, which granted access to the wholesale money markets to firms outside these two groups (R. Davies et al., 2010). At the same time, tight regulation by the US Federal Reserve limited the interest rates available on dollar deposits, and British banks positioned themselves to take advantage of this restriction. The City of London became a major conduit for

³³ The former is a UK arm of Banco Santander, a large Spanish universal which bought Abbey (formerly a building society) in 2004. The latter emerged from Lloyds Banking Group in 2014, and in 2015 it was purchased by Banco Sabadell.

³⁴ The clearing banks facilitated cashless payments by processing cheques.

dollars in the global currency markets, and by 1979 British banks held non-sterling assets of around 60% of national GDP (R. Davies et al., 2010: 322).³⁵ Through this exposure to international currency markets the British sector absorbed the policies and behaviours of the American banks – furthering its characteristic capital markets-based arrangement (Story & Walter, 1997).

The next major transition occurred with the end of the Bretton Woods era. The Thatcher government de-regulated British banking in 1986 with the Big Bang reforms, removing the restrictions on capital markets activity (notably the separation of brokering and jobbing). This opened the way for a mass consolidation of the sector, and in particular for the large-scale takeover of many (and eventually all) British investment banks by foreign firms. This solidified London's pre-eminence as an international financial powerhouse: the City became the European centre for dealing in securities, currencies and early derivatives (Augar, 2000).³⁶

Following this period of consolidation and internationalisation, the structure of the British sector stabilised. The changes it has undergone in the recent past have pertained more to the ways in which it provides capital to the real economy. For example, the decades following the mass privatisations of the Thatcher era saw the enormous expansion of the SME sector, which relied on banks for finance, rather than capital markets. To respond to this new demand, the banks began in turn to draw on wholesale money markets, funding these loans with short-term borrowings (Shabani et al., 2015). This has been characterised as a transition towards market-based banking (Hardie & Howarth, 2013): under this interpretation, banks no longer lend on the basis of painstakingly-gathered and privately-held information, but on external signals

³⁵ Indeed, this role began far earlier, as British banks offered depository services to Soviet Bloc governments, who needed to store the proceeds from the export of raw materials (Shabani et al., 2015: 10).

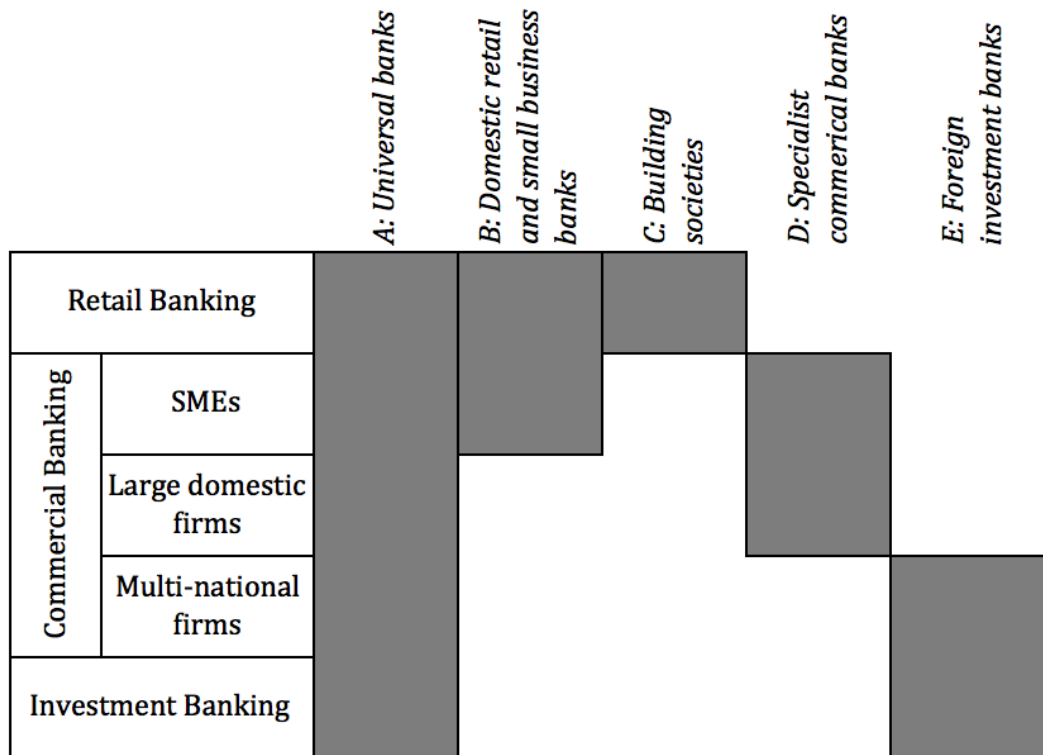
³⁶ In a confluence of these two trends, the (former) clearing banks also acquired investment banking operations in this manner, growing to become the modern universals. Thus: Barclays bought Zoete and Bevan in 1986, and eventually based its global investment bank around the merged entity.

available in the marketplace, such as the standardised measures of default risk in the client's industry or sector.

Furthermore, these various shifts – de-regulation, internationalisation and a turn towards the wholesale markets – came together to constitute an overall financialisation of the UK economy over these decades. This was marked by the increasing complexity, specialisation and interconnectedness, of financial markets, fuelled by the growth in private pension funds. It also featured the decoupling of banks' profitability (and those of other financial firms) from the businesses they served, such that as industrial activity waned through the 1990s, financial sector profits continued to rise. As a result, not only did the absolute size of the financial sector rise (in terms of its net assets, or the number of people it employed), but so did its relative importance to the national GDP – reaching more than 500% in 2009 (R. Davies et al., 2010: 325). Later, in the post-crisis years, analyses of this trend were to expose the fact that much of this rise in profitability was not the result of genuine improvements in efficiency, but of a long-run build-up of leverage and of risk (Haldane & Brennan, 2010).

This review of the British sector has traced its roots into the last century, and shown how it is now a highly concentrated market. A small number of British (in ownership, at least) universal banks match a dominance of domestic retail, commercial and SME markets with extensive international investment banking operations. An equally small number of banks compete with these on all but the investment banking fronts, and alongside these a layer of building societies offer retail banking, savings products and mortgage lending. This structure can be represented in a fairly simple graphical form – see Figure 4.2.

Figure 4.2: Simplified view of the UK sector



Notes:

A: RBS, Lloyds, HSBC, Barclays, Standard Chartered

B: Nationwide, TSB, Santander; and recent new entrants such as Metro, Tesco and Marks and Spencer. Nationwide is included in this category (although it is a building society) to reflect its size.

C: This contains the 45 regional building societies

D: This contains the layer of specialist commercial banks

E: These are the UK branches or subsidiaries of foreign investment banks.

4.3.2: The German banking sector

We now move to the second of our empirical cases. At an overall *financial system* level, Germany typifies the *bank-based model* (Allen & Gale, 2000; Story & Walter, 1997; Zysman, 1983): its banks have close relationships with firms, and provide the majority of their external finance in form of long-term loan capital. Households' financial assets prioritise bank deposits over direct investments in equities (Detzer et al., 2013: 184); a fact reflected in the relatively weak capitalisation of German equity markets – at around 30% of GDP in 2002, compared to over 100% in the UK (Vitols, 2004: 13).

The German banking sector is the least consolidated in Europe. Counts of the population of individual institutions consistently report in the thousands: for example, in 2012 the Bundesbank identified 1,988 banks (Detzer et al., 2013: 75). In 2013 the ECB computed a Herfindahl index score of 266 and a CR-5 ratio of 31% - both of which were the lowest recorded across the EU (European Central Bank, 2014: 61).

Most German banks are universals, offering a range of retail, commercial or investment banking services to clients. They are organised into three distinct – and legally separate – pillars. The first contains the privately owned banks, which operate to a profit-making incentive; they are often (rather confusingly) referred to as the ‘commercial banks’ in official Bundesbank statistics. At the top of this pillar are a small number of very large universals – the *Großbanken* – which serve retail customers through branch networks across Germany. Of these, Deutsche Bank is the largest, with assets of €1.9 trillion, or nearly three times more than the nearest competitor (Detzer et al., 2013: 74). It is an internationally active firm, and an important player on the global market in asset-backed securities. Below this are Commerzbank and HypoVereinsbank³⁷, with assets of €754 billion and €372 billion respectively. Next there are the joint-stock, specialist banks which focus on specific types of lending (such as shipping finance), or certain regions. Lastly there are the branches of the foreign banks, which remain a very small part of the overall landscape; their combined holdings amounted to only 3.6% of the entire banking sector in 2010 (Detzer et al., 2013: 75).

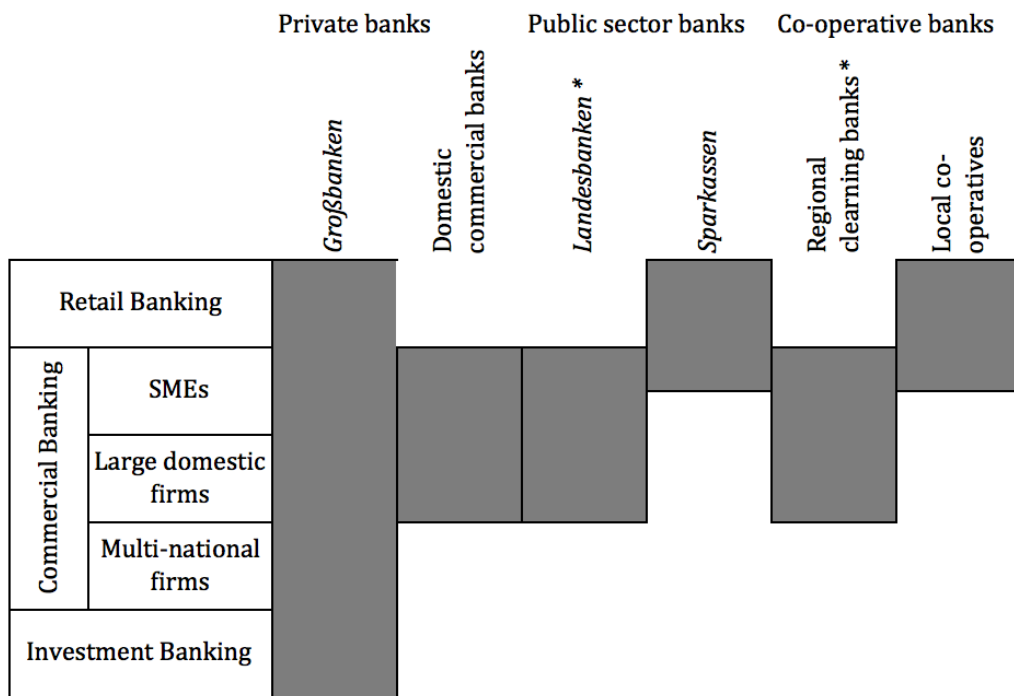
The other pillars are best viewed from the ground up. The second contains Germany’s almost unique public sector banks, and at the bottom are the primary savings banks, or *Sparkassen*. These are owned by local or municipal governments, and are obliged to serve the public interest of their local community. There are several hundred of these, and despite functioning under a common brand name and corporate image they do not operate – or indeed

³⁷ This has been a wholly-owned subsidiary of the Italian UniCredit since 2005.

compete – across state borders. At the federal state level, meanwhile, the *Landesbanken* serve as wholesale banks for the *Sparkassen* operating on their turf. Alongside this role they also undertake commercial lending, and the largest have recently diversified into international investment banking activity. They too have an explicit public interest *raison d'être*, but increasingly compete with the larger of the regional private banks. Across these two groups – the small local and the larger state-level – there were 436 banks in 2010 (Detzer et al., 2013: 75).

The final pillar is the most populous, and contains Germany's co-operative banks. These are mutually-owned by their members and do not serve a profit motive. Again, there are a large number of primary banks – 1,121 in 2010 (Detzer et al., 2013: 75) – which provide various banking services to local communities. Above these sit two regional institutions, which act as central banks for the smaller units: DZ Bank and WGZ Bank. The overall share of the sector's assets held by this pillar stood at around 12% in 2010 (Detzer et al., 2013: 75). The German structure can be represented graphically, using the simple illustration in Figure 4.3.

Figure 4.3: Simplified view of the German sector



Notes:

* The *Landesbanken* and the regional co-operative banks perform clearing services for their smaller constituents, as well as commercial lending.

This arrangement has deep roots. The development of the bank-based model has been associated with Germany's comparatively late industrialisation (Geschenkron, 1962; Zysman, 1983: 72), with large universal banks serving to internalise many of the functions of capital markets. Meanwhile the roots of the co-operative sector lie in the nineteenth century: in the mountainous Rhineland, a local administrator named Freidich Wilhelm Raiffeisen formed rural lending institutions to help local farmers finance their agricultural production, and many modern co-operatives are still called *Raiffeisenbanken*. In the west, a similar initiative – the *Volksbanken* – was launched by Herman Schultz-Delitzsch. His institutions were based in small towns, and existed for the benefit of craftsmen and small traders. Now these banks share a public interest ethos, their fundamental objective being 'to support the economic activities of their members' (Ayadi et al., 2010: 32). Over time firms and banks have come to be joined in a complementary institutional structure, and later path-dependent processes layered other secondary aspects – such as corporate governance arrangements, co-ordination mechanisms and state regulation – atop this set of

stable relationships. Later, during the post-war reconstruction, reform of this structure was consciously eschewed as policy-makers, particularly in the Bundesbank, sought to ensure monetary stability and to use the banking sector to 'steer' Germany growth strategy (Story & Walter, 1997: 162).

The closing stages of the twentieth century saw efforts at reforming the financial sector (Deeg, 1999; Vitols, 2004). The commercial banks sought to diversify away from their heavy reliance on lending activity, as their interest margins were squeezed by the slow economic growth of the 1980s and '90s. Meanwhile policy-makers were anxious about the growing fiscal burden imposed on the German state by the public pension scheme, and were also keen to promote Frankfurt as a financial centre to rival London, Paris or New York. These intentions were partially realised in the modernisation laws of the *Finanzplatz Deutschland* and *Reister Rente* initiatives. The first of these created a single German stock exchange (where several smaller ones had previously existed in each of the *Länder*), loosened regulations around listing, and allowed the public to buy directly into a series of traded investment funds; much later – in 2003 – hedge funds were also permitted to operate. The second focussed on reducing the role of the German federal state in providing public pensions, instead encouraging individuals to save for their retirement via a range of investment vehicles (some administered by employers). Together these policies helped to slightly weaken the bank-based model in Germany, promoting more active and liquid stock markets. However, the model has largely endured, as historic patterns representing the sources of firms' finance, and of household investments, persist (Bijlsma & Zwart, 2013; Detzer et al., 2013; Perez & Westrup, 2008; Vitols, 2004). Finally, despite some consolidations, particularly brought about by the crisis, the sector remains clearly segmented into its three pillars, and densely populated by a great many individual banks.

4.3.3: Summary: National models endure

Looking across the two sectors we can see evidence of subtle changes in recent years. In the British context, these have been focussed on the way banks have

operated, with an observed move towards intermediation reliant on international wholesale markets, and to a steady (and ultimately very dangerous) agglomeration of risk and leverage. In Germany, meanwhile, efforts have been made to stoke up capital markets, and to encourage both savers and users of finance to shift away from banks. However, in both national contexts the structures of the banking markets have remained largely stable, and very different from each other.

The features of these banking landscapes are important for our understanding of lobbying behaviours, as under our theoretical model the condition the distribution of lobbying resources. With this review of the banking sectors in place we can now turn our attention to the regulatory regimes.

4.4: The Regulatory regimes

Just as the two banking markets vary, so too do their respective regulatory regimes – but here the differences in the outward manifestations are perhaps less striking. For example, in both Britain and Germany, regulation is carried out by standalone bodies independent of government, and many of the actual tools they employ are alike. Yet as we dig beneath this superficial similarity distinctions emerge – in the way the independence is constructed, or regulatory authority is exercised. As we will see, these variations are founded on the very different regulatory paradigms, and it is at this fundamental level that distinctions are the most robust and significant.

In this section, I deploy the second descriptive framework developed earlier, in order to shed light on these arrangements. This involves surveying the regimes from their underlying paradigms through to their physical institutions and their regulatory practices.

4.4.1: Comparing the paradigms

The UK's regulatory regime derives from a paradigm of classical liberalism. Markets are thought to exist in a realm separate from the state, and to be natural

phenomena. Market actors are held to be rational, utility-maximising beings who contract freely in open exchange, following economic liberties which mirror established political freedoms. This rationality and freedom, coupled with the pressure of fair competition, allows markets to achieve an equilibrium around a true price, and to be self-correcting (returning to stability after the input of an exogenous shock). In turn, this equilibrium generates an efficient allocation of capital among competing users in the real economy, in a way which is socially optimal. In this schema the regulation of banking markets should be aimed at ensuring that competitive conditions prevail in the marketplace: that information on which decisions are made is publicly available and accurate, that barriers to entry are kept low, and so on. Going beyond this would be to infringe liberty, to cloud the rational utility-maximisation of actors, and to distort the allocative efficiency of markets. Likewise the explicit direction of lending by state authority is out of the question, since that would be to over-ride the accumulated judgement of private market actors. Finally, regulatory power should be vested in an authority independent of government, which is afforded a high degree of discretion in carrying out its duties. This prevents political contestation interfering with the minutiae of regulatory governance.

Various aspects of this paradigm were challenged during, and after, the financial crisis. Thus, for example, prominent regulatory thinkers such as Adair Turner criticised the core assumption of the rationality of market actors, and thus the efficiency of financial markets (Financial Services Authority, 2009). Elsewhere, as the UK reconsidered the relationship between the financial sector and the economy, there were calls for banks – particularly those in public ownership – to be directed towards supporting the national recovery. But as discussions over the reform of financial regulation played out, the paradigm held strong. The belief in the efficacy of competition as a tool for ensuring discipline was retained, and became matched with a more direct and intrusive supervisory approach aimed at ensuring banks were stable and well run. Likewise the belief in the

rationality of market actors was not abandoned wholesale, but softened slightly to allow for their irrational behaviour in times of market stress.³⁸

German bank regulation is grounded in an ordoliberal regulatory paradigm. This can be thought of as a particular expression of a much broader philosophical approach to conceiving of the interactions between the state and the market. It arose from the work of economists and jurists at the university of Freiburg – chiefly Walter Eucken, Franz Böhm and Hans Großmann-Doerth – and later played a central role as the guiding principle behind the post-war economic miracle (*Wirtschaftswunder*) and as the theoretical roots of the social market economy (Bonefeld, 2012; Vanberg, 2004). During this period it had its clearest exposition in the writings of economist and finance minister Ludwig Erhard. Perhaps its central tenet is the importance of *order*: economic success arises from organised competition, integrated with political, social and legal stability. It rejects a separation between state and market, and holds instead that the market is a social construct. Market actors are still rational, utility-maximising beings, but their freedom is *provided* by the state's participation in the marketplace. Similarly, competition is subtly constrained so as to avoid the adverse effects of unfettered *laissez-faire* capitalism, which may disturb the social order. Finally, regulation of banking markets is conducted so as to set the boundaries within which the market is allowed to operate, and to direct bank lending towards predetermined and socially beneficial ends. This task should be separated between the 'guiding' function, which is the preserve of democratically elected political actors; and a purely administrative, supervisory function, which is delegated to a separate body isolated from political interference.

This particular perspective – on the role of the state vis-à-vis the market – has been manifested in several aspects of Germany's actions on the European stage. Thus, for example, as the financial crisis gave way to the sovereign debt crisis in the Eurozone, the problem was constructed (and so the solution specified) in

³⁸ For this, and a broader account of the institutional change which followed the crisis, see Johal *et al.* (2012).

distinctly ordo-liberal terms – focussing on fiscal austerity and strict adherence to rules (Matthijs & McNamara, 2015).

We can capture the differences between these national paradigms in two dimensions. First, for the liberal paradigm, competition is heralded as the ultimate good, and as the condition which arises from the open and fair interaction among free agents. In contrast, Eucken held competition as something to be managed: *in extremis*, it was not compatible with the principle of the rule of law (*Rechtsstaat*), since it had the potential to threaten society, causing social strife among the working classes, or enabling exploitative cartel behaviour among firms (Hutchinson, 1981: 163). The basis for this constraint was a strong legal and institutional framework, which he called *Ordnungspolitik*³⁹, and which exposes the second dimension of contrast. For the liberal regulatory paradigm, the state should exist as a night-watchman, tasked only with ensuring the basic conditions under which competition can operate in the market. Including the later contributions of social market theorists such as Müller-Armack, Röpke and Rüstow, the ordoliberal conception of the state affords it a far greater role. It serves as the ‘guardian of the competitive order’ (Vanberg, 2004: 16), but also interacts with the market, stepping in to provide welfare services in the case of distress.⁴⁰ In this sense, public regulation is thus concerned with the scope of market activity (deciding what can and cannot be traded), and its overall direction (establishing the public good towards which it should be directed); the equivalent metaphor is the state as ‘gardener.’ We now come to the second and third elements of the regimes, and proceed by examining each national context in turn.

³⁹ ‘Ordnung’ and ‘ordo’ are the German and Latin, respectively, for ‘order.’

⁴⁰ This exposes a subtle difference between Eucken and the latter three. For Eucken, the market was an ethical force in itself, and so the state provision of welfare should be avoided since it would interfere with its efficacy. For the later social market theorists, the market was a merely a mechanism for attaining growth, which the state should seek to go beyond – by offering generous public welfare benefits. See Vanberg (2004).

4.4.2: The British regulatory regime

For most of the modern era, bank regulation in the UK operated under a ‘club’ arrangement (Moran, 1991): the central bank kept the sector in check using various ‘soft’ controls, most notably (and probably apocryphally) with the expression of censure through the ‘raising of the governor’s eyebrow.’ After a period of meso-corporatist self-regulation under a set of industry bodies (Moran, 1994: 163), the shift to a formal, statutory regulatory structure came in 1997, when the newly elected Labour government created the Financial Services Authority (FSA).⁴¹ It was established as an integrated regulator (H. Davies & Green, 2008), combining the functional roles of prudential and conduct-of-business regulation, and overseeing banks, insurance companies and securities firms. This new authority regulated the financial sector for around a decade, until its credibility was undermined by the crisis of 2007-9. At that point the existing framework was seen by the incoming coalition government as having been at fault before and during the crisis. In 2013, the FSA was abolished and the Prudential Regulatory Authority (PRA) took on responsibility for prudential oversight – with a separate body handling conduct of business regulation (Johal et al., 2012).⁴²⁴³

Prudential regulation is now clearly delegated to the PRA, under the terms of a revised Financial Services and Markets Act, passed in 2013. This act lays out the objectives of the PRA, and the several principles of good regulation it must to adhere to, including efficiency; proportionality; the desirability of sustainable UK economic growth; the responsibility of firms’ senior management; transparency; disclosure of information; and the general principle of consumers taking responsibility for their decisions (Prudential Regulatory Authority, 2014a). Importantly, the legislation gives the PRA the freedom to largely define its own

⁴¹ For a review of the broader political context of the FSA’s creation, see Westrup (2007).

⁴² The new structure took a ‘twin peaks’ approach: the regulation of the safety and soundness of the sector was placed with the PRA, while the regulation of the conduct of its business was moved into the Financial Conduct Authority. This was in response to a perceived weakness of the FSA regime – that it had struggled to balance the objectives of prudential supervision and consumer protection. See Davies & Green (2008) for a detailed analysis of this regulatory model.

⁴³ This study focuses on the PRA, as it is the body charged primarily responsible for implementing the EU’s legislation aimed at harmonizing prudential regulation.

approach to meeting these principles, and to establish its own tools and regulatory practices. Its features and resources are aligned with this model: it is embedded in the independent central bank, and its management board (along with that of the Bank of England) is accountable to Parliament. It draws its funding from its regulatees (as did the FSA before it) – a design feature intended to secure its political independence. It has a staff of around 1,000, and operating costs of £202m (Prudential Regulatory Authority, 2014b: 46).

Its statutory objectives are to promote the safety and stability of the UK's financial system, and to promote effective competition within it. The PRA's regulatory practices centre on a set of powers it holds: it grants licences to firms and can revoke them, it issues warnings or notes of censure, and imposes penalties; in extreme situations it can also directly intervene in a firm's business, requiring it to cease a certain activity. Its chief regulatory tool is the ability to demand that banks hold high capital: this involves either increasing shareholders' equity or retaining more profits in reserves.⁴⁴

More broadly, the PRA's approach in exercising its statutory duties 'relies significantly on judgement' (Prudential Regulatory Authority, 2014a: 5), in two regards. Firstly, it assesses whether banks are conducting their business in a safe and sound manner, and does so by examining their management and governance structures, internal policies, and the suitability of key staff. It tailors the depth of this examination according to the type, and perceived riskiness, of the firm in question. Secondly, if is not satisfied following such a review, it has the power to require, entirely at its own discretion, that the bank holds higher capital reserves. Importantly, enforcement is oriented to outcomes: the PRA highlights an area of concern to the bank's management but leaves the resolution to them; only where this is later found to be unacceptable are formal measures taken. This arrangement creates a discursive climate between it and its charges, with frequent communication on the fine-tuning of the solutions. Further dialogue is

⁴⁴ For an explanation of the theory of capital adequacy ratios as a regulatory tool, see Barth *et al.* (2006).

conducted via a statutory practitioner panel, as well as through more *ad hoc* consultation exercises (Prudential Regulatory Authority, 2014a: 38).

The overall format of the regime is identifiable as a version of the ‘regulated competitive market’ model (Thatcher, 2007: 151): control over banks’ behaviour is largely exercised by the pressure of private shareholder ownership and competitive market forces, with regulators adjusting capital ratios in specific cases. In these features we see many reflections of the underlying regulatory paradigm. Even with the changes in regulatory thinking following the crisis, the PRA retains as a statutory objective the promotion of competition among banks. Similarly, its approach eschews overt interference in banks’ operations, leaving responsibility for resolving issues with their management. Lastly, the regulatory authority has retained considerable independence and discretion in exercising its statutory duties, commensurate with a paradigmatic belief in the limited role of politics in regulation.

4.4.3: The German regulatory regime

In a broadly similar pattern to the UK regime, German bank regulation has long been practiced through a corporatist arrangement involving the peak associations representing the three pillars. Dating back to the mid-twentieth century, they perform a range of quasi-regulatory and disciplinary functions: shared deposit protection schemes, rescue operations, liquidity management, and so on. They were integrated into the Central Credit Market Committee (the *Zentraler Kreditausschuss* – recently renamed the German Banking Industry Committee), a coordinating body and interest rate cartel (Lütz, 2004). In 1961, a federal banking regulator – the *Bundesaufsichtsamt für das Kreditwesen* (BAKred) – was created, which shared standard setting roles with the ZKA; meanwhile monitoring and enforcement was largely delegated to the peak associations. In 2001, BAKred, along with other bodies responsible for insurance markets and securities firms, was integrated into a single, unified agency – the *Bundesanstalt für Finanzdienstleistungsaufsicht* (BaFin). There followed a turf war between the federal states (the *Länder*) and the Bundesbank – which was

keen to take on regulatory duties having lost control over monetary policy after the adoption of the euro. Eventually a compromise was reached, with the new body issuing licences and the central bank, via its regional branches in the states, carrying out supervision. The BaFin survived the financial crisis: a protracted debate about the reform of the dual-institutional arrangement came to nothing, as the complex nature of German policy-making, with its many veto points and interlocking institutions, frustrated attempts to bring about change (Handke, 2012a; Zimmermann, 2012).

The BaFin was established as a unit of the Federal Finance Ministry. It is monitored by a 21-seat administrative council, comprising representatives from the finance, justice and economics and labour ministries, the parliament, and the financial sector. Furthermore, an advisory board, consisting of representatives of the financial sector, consumer associations, academics and officials from the Bundesbank, provides policy input (Schüler, 2004). Notwithstanding this complex oversight mechanism, BaFin has developed a high degree of functional autonomy (Handke, 2012b)⁴⁵. It has around 2,400 staff, and an operating budget of €191m (BaFin, 2014: 192).

The BaFin's key objective is to ensure the stability and integrity of the country's financial system. The tools available to the BaFin are similar to those of the UK regulator: it has the power to grant and revoke licences, to order special audits, to impose higher capital requirements on individual banks, and to issue fines. In exercising its statutory duties BaFin takes a forward-looking, preventive approach (BaFin, 2014): it seeks to work closely with firms to identify risks in advance, and to implement mitigation strategies. This process is aided by frequent consultation with industry stakeholders: policy proposals are subject to 'notice-and-comment' processes and often discussed at public hearings. However, there is a pronounced division of labour between it and the Finance Ministry. Regulatory policy-making, in a broad sense, is a matter of law, decided

⁴⁵ This has not always been an easy relationship, however. In 2008 the ministry changed the management structure of BaFin from a single president to a collegiate board, to break the dominance of its then head, Jochen Sanio (Handke, 2012b: 243).

upon by legislators. The German Banking Act (*Gesetz über das Kreditwesen – KWG*) lays out definitions of ‘banking business’, but also specifies such details as capital and liquidity requirements, large exposure limits, and banks’ governance procedures. Actual implementation is delegated, within quite narrow bounds, to the BaFin, and the terms of its engagement with the banking sector are defined in the over-arching law.

This time, the format of the regime is akin to the ‘industry model of coordination’ (Thatcher, 2007: 151): discipline is exerted partly through operation of competitive capital markets, but also through consensual and stable discussions structured around cooperation between state actors and industry groups. Again, we can detect signs of the underlying paradigm in this set of institutional structures and practices. To begin with, there is an ordoliberal preoccupation with placing the scoping and direction of markets in the hands of politicians. Thus, the Finance Ministry integrates the banking sector’s performance, and competitiveness, into an overall industrial and economic policy. Public regulation of banks extends to the formal, and legal, separation of the sector into three pillars, and at a state and local level allows public (political) authority to direct bank lending to meet a social benefit. The division of labour referred to above reflects an ordoliberal concern to separate the political business of policy-making (with its distributional consequences) from the technocratic function of supervision (where political intervention is problematic) (Bonefeld, 2012).

4.4.4: Summary: Differences remain

Looking across these two regimes we can see certain similarities. In both cases, an independent authority has a statutory duty to ensure the stability of the country’s financial system: in one, this body is based in the Central Bank, and in the other, in the Finance Ministry. In both cases the regulator is able to take a flexible, judgement-based approach to managing its supervision of banks, scaling the degree of oversight according to its perception of the bank’s riskiness. Both regulators’ primary tools lie in the ability to impose variable capital requirements on banks.

However, in important respects significant differences remain. In the UK, regulation of banks is restricted to ensuring their individual soundness and stability, and that a healthy degree of competition exists among them. In Germany, authority extends to enforcing a legal separation between the sub-sectors of the banking landscape; and political actors at various levels of the governmental hierarchy have the power to steer banks' lending behaviours. So while the 'intrusiveness' of supervision can vary in either context (as both regulators are able to scale up or down the extent of their investigations), German regulation as a whole involves far greater intervention in the banking sector. Secondly, the way in which the two regulators use their primary tool varies. The PRA has complete discretion, under the terms of its framing legislation, in deciding what to impose and on whom; whereas the BaFin must follow guidelines laid down by its political principals. For the BaFin, a certain degree of control over banks' behaviour is achieved not through variable equity capital ratios, but through stable interactions with industry groups.

These features are important for our empirical study of banks' lobbying behaviours. The banks are subjects of these regulatory regimes, each of which is based in a distinct paradigm. These bodies of ideas shape the way banks see regulation: what they understand its objectives to be, how it should be practiced, and how regulatory institutions should be configured. These perceptions influence their preferences over *European* regulation, and it is to a review of this European regulatory context that we now turn.

4.5: The European context

With the reviews of the two countries in place, our final task is to shift the perspective upwards to the European level, in order to provide a picture of the overall opportunity structure in which lobbying takes place. This entails examining the European regulatory regime.

4.5.1: European financial regulation: Legislation

The story of European financial regulation is of two over-lapping strands: the unfolding of successive waves of legislation, and the gradual development of institutional capacity. We begin with the former, and in order to trace the legislation back to its intellectual origins we move up a level, and study the hegemonic discourse which underpins financial regulation at the global level (Germain, 2012).

4.5.1.1: The global level: Regulatory liberalism and the Basel Accords

Global financial regulation represents the output of a dominant paradigm described by the term *regulatory liberalism* (G. Jackson & Deeg, 2012; Major, 2012; Mügge, 2011). This is a concept which, as Major observes, is much misunderstood, implying as it does both *less* and *more* regulation (2012). To unpack it we can review its genealogy in brief.

We begin with the transformation of international financial markets following the collapse of the Bretton Woods system. Here the Keynesian structures of capital controls and managed exchange rates were replaced by free currency markets, and the state began to be extracted from the direct governance of the international financial system. Across Europe this move was paralleled in other sectors with the privatisation of state-owned industrial capacity (Majone, 1997b), and in the US there was an equivalent dismantling of regulation around utilities provision (Derthick & Quirk, 1985). These trends were later reinforced as sets of norms exported by transnational financial powerhouses such as the IMF and the World Bank. It is in this way that we most often connote 'liberalisation' with 'de-regulation.'

Yet moves away from the direct involvement of the state brought about a need to instil a new source – or even form – of regulation. The outcome was a large-scale shift to the depoliticization of regulation, witnessed at the domestic level by the vesting of regulatory authority in agencies isolated from direct political pressure and the associated rise of the 'regulatory state' (Braithwaite & Drahos, 2000b;

Majone, 1994; Moran, 2001). Not only was regulation moved further away from the public sphere in this way, it was also 'de-centred' and reconfigured so as to include a far larger cast list of actors (Black, 2003). This is, manifestly, *re-regulation*, referred to as the 'second face of neoliberalism' (Major, 2012: 541).

These twin transformations came together to form the policy paradigm underpinning global financial regulation. It aims at *liberalisation*, which we often equate with the colloquial aphorism of 'rolling back the state'; and at *regulation* to govern the competitive behaviour of firms. It has a fundamental faith in the efficiency of markets, and calls for the maintenance of systemic stability and the guaranteeing of smooth functioning to be delegated to market actors. Lastly, in a move away from the formal regulatory approach of the Keynesian days of old, the paradigm relies on the use of flexible standards rather than legally-binding rules (Kerwer, 2005), and on implementation through local channels.⁴⁶

This paradigm gave rise to the Basel Accords – the set of soft laws which govern global bank regulation (Mosley, 2010). The work was initiated by US regulators who were nervous of competitive pressures on their domestic market from comparatively lesser-capitalised Japanese banks (Lall, 2012; Major, 2012). Basel I, signed in 1988, based capital adequacy on establishing a minimum ratio between a bank's equity base and a risk-weighted measure of its assets. The fraction was set at 2% for 'Tier 1' capital – corresponding to the purest form of equity issuance – with a further 6% buffer allowable for other forms of capital.

After less than a decade the Asian financial crisis exposed the weaknesses of these risk weighting procedures. The classes of asset were too crudely defined, meaning that banks were incentivised to engage in the riskier end of business within each given band. There was also a secondary motivation to move assets off the balance sheet altogether, by parcelling them up into securities and selling them to institutional investors. In this way the first Basel accord was intrinsically

⁴⁶ As we will see, there is an irony here: the global paradigm calls for flexible standards and national discretions – both of which were eschewed by European legislation.

linked with to the oft-cited structural shift in banking from ‘originate-and-hold’ to ‘originate-and-distribute’ (Major, 2012).

Basel II responded by refining the categories of exposure and adjusting the various capital charges to be taken against each. It also set out three ‘pillars’ of regulatory coverage: capital levels were to be held above a standardised minimum (‘Pillar One’), on top of which local regulators had discretion to apply bank-specific buffers (‘Pillar Two’). In a sign of the continuing faith the underlying paradigm, the strongest regulatory pressure was expected to be exerted by market discipline (‘Pillar Three’): great emphasis was placed on the transparency of publicly available information, which would be digested by a dispersed array of investors who could then punish bad banks in the marketplace.

In 2010 Basel III strengthened the regime yet further. It kept the basic format of three pillars, but increased the overall levels of capital required and created new buffers to allow regulators to counter the pro-cyclical tendencies of banking risks. Additionally it tightened the definition of the instruments that counted as ‘capital’ in the first place. Behind these detailed rules it introduced a ‘rule-of-thumb’ backstop measure based on *overall* (i.e. not risk-weighted) leverage. Finally is set out provisions for the management of banks’ holdings in liquid reserves. Its contents can thus be traced to an incremental adjustment to the previous accords in response to the financial crisis by ensuring better coverage of the specific risks that were seen to have caused it.

4.5.1.2: European Legislation

The EU’s legislative drive in this domain has followed the twin aims of liberalising and regulating. The Banking Directives of 1977 and 1989 removed restrictions on establishing branches in foreign jurisdictions by instituting two principles: ‘home country control’ gave domestic regulators supervisory responsibility over the foreign activities of their banks, and ‘mutual recognition’ required them to observe the equivalence of each other’s rules. Meanwhile the

regulatory aim was met by iterations of the Capital Adequacy Directive (1993 and 1998), which transposed the Basel accords into binding European law – commensurate with the extension and completion achieved in other markets since Maastricht.

The pace of legislative activity accelerated considerably around the turn of the century. A growing sense had emerged among European policy-makers that integration was not taking hold, with the sheer complexity of the policy area stymieing the delivery of workable rules (Grahl & Teague, 2005; Grossman & Leblond, 2011: 416). The Cardiff European Council asked the Commission to draw up a strategy to resolve the problem, and in 1999 the Financial Services Action Plan was tabled. It was an ambitious package of 42 measures intended to integrate financial markets in Europe, covering three topics: the liberalisation of wholesale securities markets, the integration of retail financial markets, and the harmonisation of prudential regulation for banks.

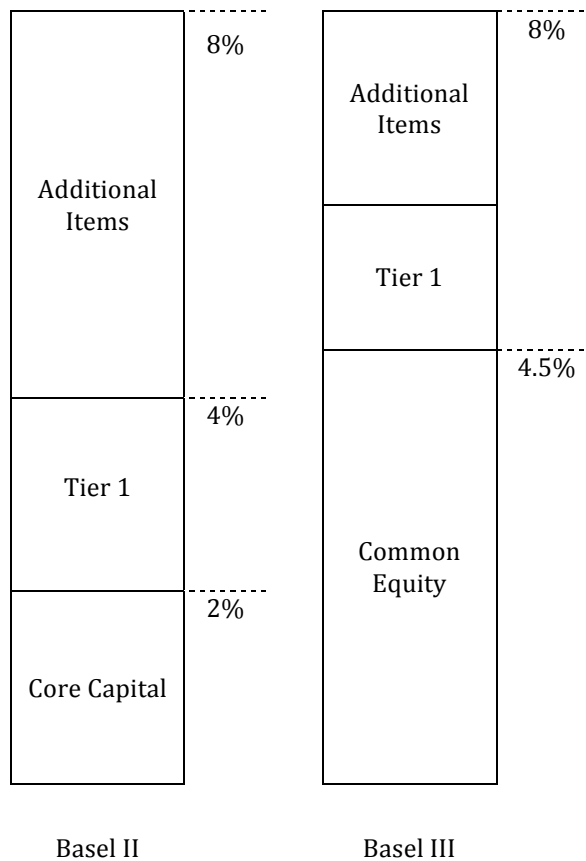
The last of these marked a turn towards not only liberalising and integrating financial markets, but also regulating them more forcefully. Thus, amid a host of other pieces of legislation,⁴⁷ significant efforts were devoted to the task of transposing the newly-minted Basel III into European law. The resulting package took a distinctive form compared to previous pieces of legislation, comprising a fourth revision of the Capital Requirements Directive (European Commission, 2013a) and an entirely new Capital Requirements Regulation (European Commission, 2013b). The combined package covered four main policy areas – capital, liquidity, leverage and remuneration – and a fifth element was more of an implementing approach than a discrete area of policy, but nonetheless proved contentious. These five formed the policy backdrop against which banks' lobbying efforts have been directed, and so we explore them in some detail.

⁴⁷ These included: the Alternative Investment Fund Managers Directive, European Market Infrastructure Regulation, the Deposit Guarantee Scheme Directive, Markets in Financial Instruments Directive II. See Buckley & Howarth (2011), or Buckley, Howarth & Quaglia (2012) for detailed accounts of their passing.

4.5.1.2.1 Capital

In this area, European policy-makers followed the lead of Basel III in three areas. Firstly, the minimum ratio for core capital was raised from 2% to 4.5%, and the additional layers were adjusted such that the overall threshold was maintained at 8% (see figure 4.4). These limits were included in the CRR component of the package.

Figure 4.4: Capital ratios under BII and BIII



The second was a direct response to what had been perceived as an important weakness in the previous definition of capital.⁴⁸ The Commission sought to ‘purify’ capital, and to ban all instruments but the simplest, cleanest form of equity capital from the core layer – including public ownership, and convertible or subordinated debt. The benefit sought through these rules formed perhaps

⁴⁸ Basel II had allowed certain forms of convertible debt (which switches into equity in times of stress) to be classed as ‘core capital’; but the market turmoil of 2008-9 had exposed their ineffectiveness as truly loss-absorbing capital.

the most prominent aim of both Basel III and CRDIV/CRR: to increase both the absolute levels, and the quality, of capital held by the banks.

On top of this minimum level of capital BIII proposed, and the legislation adopted, a pair of additional surcharges. The *capital conservation buffer* (CCB) was a response to problems encountered during the financial crisis, when banks' already weakened capital positions were further undermined by their continued payment of discretionary distributions of earnings – such as bonuses or dividends. Now, banks whose capital ratio fell below 10.5% (the minimum 8% plus a 2.5% buffer) would face restrictions on such payments. The *countercyclical capital buffer* (CyCB) allowed regulators to impose a further 2.5% during periods of 'excessive credit growth' (European Commission, 2013c: 11), which could then be released during times of stress so that the effects of the credit cycle could be smoothed.

4.5.1.2.2 Liquidity

At the Basel level the rules on the management of liquidity represented an addition into the established corpus of the accords.⁴⁹ Banks would now be required to hold pools of readily-marketable assets (such as high-quality bonds) which could be sold off (or placed with central banks as collateral) and converted into cash in order to finance outflows. The *liquidity coverage ratio* (LCR) would ensure that banks had sufficient stocks of such assets to meet all cash outflows over a 30-day period of stress, while the *net stable funding ratio* (NSFR) enforced a longer-term view of the same solution and applied a less granular view of the assets involved. The former was set to be implemented over four years from 2015 to 2019, while latter was due to take effect from 2018.

The Commission moved to soften both ratios in their transposition into the legislative texts. For the 30-day version, the original Basel version had required that assets held were of a particularly high quality – specifically that they were

⁴⁹ These responded to a particular dimension of the financial crisis: a key part of its unfolding was banks' reliance on short-term wholesale money market funding to manage their cash flows. In times of stress these markets seized up, meaning that banks very rapidly became illiquid (even if they were not insolvent).

'low credit and market risk' instruments (Basel Committee of Banking Supervisors, 2010a: 5). However, the European legislation allowed *all* European sovereign bonds to be treated equally, regardless of their underlying quality. An even worse fate befell the net stable funding ratio: the regulation failed to make any commitment other than to make it a 'basic disclosure standard', and to delay even a discussion on full implementation until 2018 (Ayadi et al., 2012).

4.5.1.2.3 Leverage

A particular feature of the period running up to the financial crisis was the build-up of what was seen as excessive leverage in the banking sectors of many advanced economies.⁵⁰ In response to this Basel III introduced a simple, unweighted leverage ratio as a means of identifying the aggregate riskiness of banks. The limit was set at 3%, meaning that a bank would still be able to achieve a leverage of 33 times (Basel Committee of Banking Supervisors, 2010b: 61).

This *leverage ratio* (LR) was adopted into the text of the CRR. However, admitting that this measure was a wholly new regulatory tool, the Commission's text proposed a lengthy phased implementation timetable: a consultation period would first be run, and it would become a binding regulation as of 2018. Until then, firms would merely be required to report their ratios, rather than face sanction for breaching the 3% level.

4.5.1.2.4 Remuneration

The provisions in the European legislation on remuneration were a complete addition to the standards laid out in Basel III. The new rules, included in the directive, built on those introduced in the previous capital requirement directive (CRDIII), which required that a large proportion of the variable element of pay (the bonus) should be in the form of shares (or similar non-cash instruments), and that these be deferred over a period of three to five years. CRDIV added a

⁵⁰ Many commentators traced this back, ironically, to the encouragement given to banks under the previous Basel rules: the boundaries between risk classes and the associated capital charges were being gamed, and banks were gathering vast holdings of certain assets atop ever-narrower capital bases (Major, 2012).

further restriction: that this variable component should not exceed 100% of the underlying fixed element (or the salary). The reach was significant, applying to all staff identified as ‘material risk-takers’, and impacting both banks domiciled in the EU and branches of external banks based in the EEA. The stated intention was to ensure that:

‘... remuneration policies do not give incentives to take risks which undermine sound and effective risk management and which exacerbate excessive risk-taking behavior ...’

(European Commission, 2013c: 18)⁵¹

4.5.1.2.5 Maximum harmonisation

An important deviation between Basel III and the European legislation lay in the area of national discretions: the Commission felt that the ability of individual member states to ‘gold-plate’ any capital rules would distort the single market in financial services, and so CRR took a more prescriptive approach and imposed a maximum harmonisation rule. The text also called for the ‘establishment of a European single rule book applicable to all financial institutions in the Single Market’ (European Commission, 2013c: 4). This would contain a standard set of definitions on exposure classes, risk-weightings, types of instrument suitable for liquidity management, and the myriad other detailed rules. This was to be followed by all national authorities, to prevent pockets of risk developing (through more lax regulation or inconsistent application) in certain geographical markets and then being transmitted to others. In this way it removed large areas of freedom they previously enjoyed in establishing such definitions themselves.⁵²

This review has charted the origins of the most recent European legislation, in the Basel Accord and ultimately the prevailing paradigm. It has also given a flavour of the issues which formed the subject of the lobbying activities the

⁵¹ Notably the European Parliament’s press release accompanying the passing of the directive placed the remuneration provisions *above* the rules on capital, liquidity and leverage (European Parliament, 2013).

⁵² For example, national regulators in the UK had previously – in accordance with long-held traditions – not treated retail mortgages as ‘in default’ until the payments reached arrears of 180 days. This meant that homeowners had more grace, but also that banks effectively had a far longer period before they had to write off bad loans and crystallise losses. The single rule book changed this, bringing the ‘in-arrears’ window back to only 90 days (Masters & Barker, 2012).

empirical chapters will focus on. We now turn to the parallel development of the EU's institutional framework through which this policy-making exercise was conducted, and through which the resulting rules are implemented.

4.5.2: European financial regulation: The institutional apparatus

All this legislative activity has occurred in parallel with a steady evolution of regulatory authority at the European level. It is to this institutional landscape that we now turn.

The same concerns over sluggish progress that led to the FSAP inspired the formation of a review panel to comment on the scattered institutional structure, and the associated policy-making process.⁵³ In 2001, the Committee of Wise Men, chaired by Baron Alexandre Lamfalussy, issued a report highlighting the issues: the legislative process was too slow, with too little co-ordination among the various advisory committees, draft texts were becoming over-complicated by a desire to accommodate national positions, and the resulting preference for directives over regulations threatened to cause inconsistent implementation. The report also recommended instead that a novel approach to drafting legislation be adopted for financial sector policy. The Commission, Parliament and Council would issue 'Level 1 texts' which contained the core political principles on the proposal at hand. Meanwhile, the various advisory groups in existence would be formalised into committees over two layers – 'Level Two' and 'Level Three' – with clearly defined responsibilities and procedures linking them back to main policy-making process. These would provide advice on the technical rules to complete the legislation, and the Commission would adopt the finalised text. (Alford, 2005; De Visscher et al., 2007; Moloney, 2003).

⁵³ For the latter part of the last century, the drafting of financial legislation in the EU followed the standard process: the Commission prepared the text, and then technical input was provided by the specialist committees during the comitology stage. To facilitate this a Banking Advisory Committee had been formed in 1978 under the First Banking Directive, with responsibility for supplying expertise and to serve as a forum for exchanging views among national supervisors (European Commission, 2000: 4). It had minimal involvement in issues pertaining to supervision (as opposed to policy advice), and was explicitly not to discuss cases concerning individual banks. The only forum for the discussion of such matters remained the *Groupe de Contact* – an informal network of national supervisors dating back to 1972 with a very weak statutory basis.

Significantly, the consultative stages of this process were to involve extensive engagement with key stakeholders – such as banks and their trade associations – who would provide the expertise necessary for drafting policy in this extremely complex regulatory domain. Although the third-level committee would also oversee compliance at the national level – making sure implementation was consistent – they were still not intended to centralise *supervisory* activity (Grahl & Teague, 2005; Lastra, 2003).

This legislative process was originally intended to apply to the writing of regulation to govern the issuance and trading of securities, and as a result the first groups created were the European Securities Committee (ESC) and the Committee of European Securities Regulators (CESR). Shortly afterwards the Council approved the extension of this approach to the rest of the financial sector, and these bodies were followed by the Committee of European Insurance and Occupational Pension Supervisors (CEIOPS) and the Committee of European Banking Supervisors (CEBS).

The EU was spurred into reforming this institutional landscape following the financial crisis. The unfolding of the events showed how inadequate the home-country-control principle was in action: many of the banks that had failed or needed drastic support measures had been overseen by multiple supervisors, and during the panic co-ordination among them had broken down (Lannoo, 2008). In 2009 the de Larosière report advised that the existing architecture be upgraded, and that new institutions be created at the European level with direct supervisory authority – rather than merely an advisory function. The report noted:

‘we have two alternatives: the first “chacun pour soi” beggar-thy-neighbour solutions; or the second – enhanced, pragmatic European co-operation for the benefit of all to preserve the world economy. This will bring undoubted economic gains, and this is what we favour.

We must begin work immediately.’

(2009: 4)

Acting on this advice a new institutional architecture was implemented by the EU in 2010. A European Systemic Risk Board was created, tasked with macro-prudential supervision of the financial system in the hope of mitigating the impact of future crises. Alongside it, the Lamfalussy Level Three committees were crystallised into European Supervisory Authorities. They retained their roles supporting the legislative process, becoming (for banking, at least) the authors of the Single Rule Book. Importantly, they were also to manage to the coordination among national supervisors of complex, cross-border financial institutions, and assumed binding powers over individual supervisors in cases of disagreement. In other words, through these measures the EU took significant steps towards the *direct supervision* of financial firms – something that had been lacking from the institutional framework at the supranational level for decades.

Under this set of reforms the European Banking Authority was formed in 2011. It is a ‘hub-and-spoke’ body (Enria, 2011) – a model of the institutional form referred to as the ‘agencified network’ (Levi-Faur, 2011) in the earlier theoretical chapter. It has a division responsible for producing regulation, and another for overseeing supervision by national authorities. Importantly, it also has an internal bureaucracy, responsible for procurement, IT, human resources, and so on. This central secretariat supported by a workforce of secondees drawn from national regulators. The EBA has a staff of over a hundred, and an operating budget of €24m (European Banking Authority, 2014). This represents a considerable ratcheting up of resources compared to the previous arrangement: the CEBS had only a minimal secretariat and very few of its own resources.

Its core role is to support the legislative process by writing the technical standards that sit beneath the framework legislation passed by the higher-level supranational bodies. Taking the fourth Capital Requirements Directive (CRDIV), for example, we see frequent instructions to the EBA to “develop draft implementing technical standards ... by 31 December 2014” (European Commission, 2013b: 35). These ‘Binding Technical Standards’ are backed by the legal force of the Commission, and automatically become law in the member states on adoption through a modified version of the co-decision procedure.

Aside from this central rule-making responsibility, the EBA is charged with investigating alleged incorrect or insufficient application of these standards by national authorities, and with improving the consistency of national supervision among member states. It also has responsibility for mediating in disputes between regulators over issues pertaining to cross-border banks. Finally, it provides input to the European System Risk Board's monitoring of aggregate risk in the financial system by performing stress testing exercises.

In carrying out its main role the EBA consults extensively with the financial sectors of the EU's constituent markets. This is done by issuing draft standards and calling for input; some of these requests are discussed at public hearings at the EBA's London headquarters. In addition to this, a statutory stakeholder panel (the Banking Stakeholder Group – specified in the EBA's founding legislation) provides input drawn from a balance of interests: corporate and retail users of financial services, banks and senior academics. Finally, decisions are made by a central committee which comprises the heads of the various national authorities from the member states.

4.5.3: Summary: European intentions

This review has outlined the extension of European financial regulation – both in terms of the body of legislation passed and the development of institutional capacity. This extension has encouraged the development of European markets in financial services, and has also stimulated the import of financial services from non-EU countries (Dür, 2011). The development, invigorated at certain junctures (such as by the Lamfalussy and De Larosière reports) has had the effect of removing national discretion, by centralising the writing of detailed implementing standards at the European level, and by moving towards greater supranational involvement in supervision. The step-by-step transposition of the Basel Accords have been matched by the steady formalisation of European regulatory authority, such that the flexible, pragmatic approach of old has been replaced by tight co-ordination and a strict, almost dogmatic adherence to the underlying policy paradigm (Mügge, 2011). In this sense the EU has acted as a

'hardening agent', embedding the soft law outputs of the global regulatory fora into statute at the supranational level, and from there implanting it into the national (Newman & Bach, 2014).

Looking behind this development it is possible to detect three sets of motivations. The first, clearly, was to respond to the financial crisis: to reduce the risk of future crashes and to reduce the burden of future bail-outs on the public purse (Buckley & Howarth, 2010; Hodson & Quaglia, 2009; Quaglia, 2013). Included in this was an intention, particularly on the part of political actors in the Parliament, to 'punish' those seen to have caused the crisis – those described, for example, as 'vultures' (Buckley & Howarth, 2011). Thus the efforts were directed towards making the regulations tougher, harmonising their application to all market participants, and strengthening the associated institutional architecture.

The second was a deeper-set intention to continue the task of completing the single market in financial services. As we have seen, this was by now a long-running project which had suffered periods of sluggishness, and European policy-makers saw the crisis as a catalyst to reinvigorate integration. Thus the efforts took a more interventionist approach, as Europe moved towards using public authority to manage the risks inherent in financial markets in a more direct way (Posner, 2010). The grand battle between the 'market-making' and the 'market-shaping' coalitions had played out, with the latter apparently claiming victory (Quaglia, 2010; 2012).

Naturally, these two intentions became intertwined as the financial crisis gave way to the later sovereign debt crisis, and as European policy-makers sought to construct the regulatory framework behind the nascent banking union (Howarth & Quaglia, 2013a). Meanwhile, the third intention related to the EU's external projection on the global stage. Here, integration was about creating a strong, stable financial bloc able to play on global capital markets; but also the tightening of regulation was intended to signal to international regulatory fora that the EU would not be embroiled in a global race to the bottom (Mügge, 2014; Quaglia, 2014).

4.6: Conclusion

Chapter Two identified an opportunity to contribute to the lobbying literature by building an understanding of banks' national origins shape their lobbying in the European regulatory arena. It then established two important dimensions of variety in their national contexts: in the financial system and in the associated regulatory paradigm. This chapter has added further empirical flesh to these, examining first the British and German banking sectors and showing how very different structures continue to be present. It also studied the national regulatory regimes, paying particular attention to the differences in the underlying paradigms, and how they are each represented in the institutional apparatuses of Britain and Germany. This has provided us with a clear picture of the two national contexts.

Next, the review turned up a level, and examined the steady development of European financial regulation. The theoretical underpinnings of this were shown to lie in the Basel Accords, and tracing these through the European legislation we saw how the CRDIV/CRR package now contains many areas of policy of which directly impact British and German banks, and their domestic markets.

We also reviewed the gradual, but pronounced, crystallisation of regulatory authority at the supranational level. In the new European regulatory arena, there now sits the EBA: a distinct, rule-making body with a clear mandate from its political principals. It has a set of broad powers (to write rules, to enforce decisions, and so on), and its own resources. In short, this centralised European regulator now represents a prime target for banks' lobbying efforts; it is, to paraphrase Mazey and Richardson, 'where the ducks now are' (Mazey & Richardson, 2015: 419). In the next chapter we turn to the task of analysing how banks' resources shape the way they approach this new body.

Chapter 5: Resources

5.1: Introduction

The recent developments in the EU's institutional landscape have changed the opportunity structure in which banks lobby. The centralisation of regulatory authority has created a standalone institution – the European Banking Authority (EBA) – with its own resources and powers, and which crafts the detailed rules that govern banking markets. Banks, in turn, respond to this centralisation and seek to lobby the EBA. In this chapter I present data which show how the way they do this is shaped by their holdings of information resources. The distribution of these lobbying resources, in turn, arises from the structures of the domestic banking markets; and so, bringing these together, I argue that there exists a link between the lobbying behaviours of banks and their national origins.

This chapter analyses the first element of the causal model outlined in Chapter Two. As an initial premise, we take the notion that the resource distributions reflect the structures of the banking markets, and so the underlying variety of financial capitalism. Second, we can take banks' lobbying behaviour as a dependent variable, expressed as the approach taken (direct or associational) when lobbying the EBA. The independent variable is taken to be the banks' lobbying resources: the capacities to monitor policy-making discussions, gather the required information and represent their interests in the appropriate fora. Finally, we can predict that the larger banks will have the resources to do so directly, and the smaller banks, with weaker resources, will instead fall back on lobbying through their representative associations. This gives us two hypotheses, which are laid out below.

'The resource hypothesis'

H1: Larger banks, with greater lobbying resources at their disposal, will be more likely to lobby the EBA, and to do so directly and independently.

'The associational hypothesis'

H2: Smaller banks, with fewer lobbying resources, will lobby the EBA through their trade associations.

These hypotheses help us understand banks' lobbying behaviours, and also connect this study back to the European interest group literature on which it rests. Thus, several studies have focussed on the resources involved, and highlighted their informational (rather than explicitly financial) nature (Chalmers, 2011; 2013; Dür & Mateo, 2012). Furthermore, our knowledge of the ability of unitary actors to forge coalitions, or operate through associations to overcome shortfalls in these resources (C. Mahoney, 2007) helps us understand how the smaller banks may cope. We thus have an entire chain to examine: from variations in the underlying financial system, through resources, and to factors shaping behaviour taken from the European interest group literature.

This chapter proceeds as follows. Firstly, I briefly review the categories of resources which were described in Chapter Two. Then, in three sections I examine the stories of the large banks (taken as one group), and then the remainders of the British and German sectors. In each case, I examine how the resources are held by the banks, and how these patterns reflect the underlying market structure. I then study how these were put to use in the lobbying over CRDIV/CRR: how efforts were directed at the EBA – as well as other institutional venues in the opportunity structure.

5.2: Resources reprised

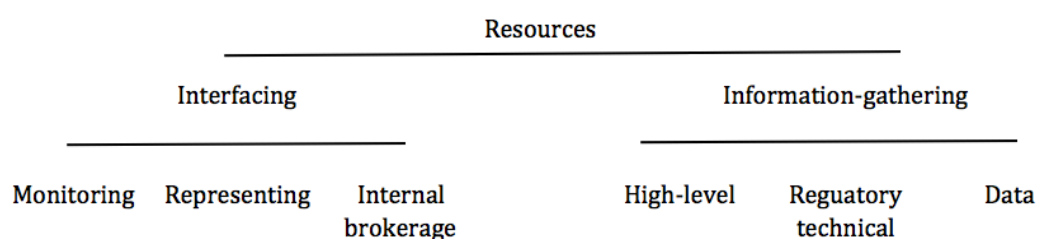
Before embarking on an examination of banks' lobbying activities, it is worthwhile reminding ourselves of the resources. As has been argued in the European interest group literature, the primary resource is essentially financial – running lobbying operations is costly, and requires substantial financial commitment (Beyers & Kerremans, 2007; Eising, 2007a; Klüver, 2010). But looking beyond this, Chapter Two also identified subtler information resources, which banks use to facilitate their lobbying efforts. These separate into two groups.

First are the resources, or capacities, concerned with interfacing with regulatory fora, or policy-making venues more generally. Within this category falls the

ability to monitor goings-on in these fora, and to keep pace with such discussions as they progress. Next is the obverse of this: the ability to represent the bank, and communicate its input into these discussions. This entails having staff to attend hearings and consultations, for example. Finally, there is a capacity for internal brokerage, or an ability to source relevant expertise from within the organisation in order to match the needs of the venue being targeted.

The second category contains the resources dedicated to generating this information in the first place. This can be thought of as staff engaged in research, or as experts across several fields: high-level political or economic analysis; tighter, more specific commentary on issues pertaining to regulatory standards (how they are constructed, problems with implementation, and so on), or on legal aspects of regulation; and finally, the production of data required by authorities as part of the day-to-day business of supervision. The distinction between these categories is drawn from similar classifications elsewhere in the European interest group literature (Bouwen, 2002; Chalmers, 2011; Dür & De Bièvre, 2007; Michalowitz, 2004). These various elements can be brought together into an overall taxonomy, as shown in Figure 5.1.

Figure 5.1: A taxonomy of resources



Cutting across these resources are even subtler factors which are difficult to detect externally, but which we might think are an important element of the causal story behind banks' lobbying behaviours. For example, we should consider their institutional memory – or the degree of expertise they have accumulated from navigating the policy-making processes of European regulatory governance. Likewise, what matters as much as the holdings of the

individual resources is the degree to which banks integrate them into a coherent, structured lobbying operation.

The holdings of these resources, and the way banks organise them internally, shape their lobbying behaviour; in turn, the causal model links these back to the structures of the underlying banking markets. It is to the empirical analyses that we now turn.

5.3: The large banks

We begin the empirical coverage with an examination of the large banks of the British and German sectors. These will be taken together since, as will become clear, they are similar to each other in their resources and their lobbying behaviours.

5.3.1: Resource holdings

The banks in this category are the largest in the two national sectors, and their type and number reflect the layout of the national landscapes. In Britain, the prevailing market-based system has created a small set of very large firms, namely the Royal Bank of Scotland, HSBC, Barclays, Standard Chartered and Lloyds. We encountered these, and their place in the British sector, in the previous chapter. The first four are multi-national and cross-border in several senses: their ownership base extends beyond the UK; they operate in many different national jurisdictions; and they source funding from international wholesale markets as much as they do from domestic retail deposits. The fourth, despite being incorporated in the UK, is predominantly focussed on southeast Asian markets, and the fifth has a much smaller international operation than the others. They are, to varying degrees, universal banks, with activities in retail, commercial and investment banking.

In Germany, meanwhile, the bank-based system has brought about a different market structure. Here, two very large banks sit atop the commercial pillar: Deutsche Bank and Commerzbank. Like the British equivalents these began as domestic institutions, which grew through acquisitions to become cross-border

banks. They are universals, but – owing to the dominance of the public and co-operative banks in their home markets – their retail presence is far less extensive than those of the large British banks. It is also significant to note that there *are* other large banks in Germany: these are the *Landesbanken*, which are the apex of the publicly-owned pillar, and are a fraction of the size of the two privately-owned behemoths. However, as will become clear over the course of the coming chapter, they are far less visible in lobbying activities.

At this first stage, then, we can see the underlying market structures reflected in the characters of these large banks. From this position we can move to examining how these patterns are also evident in the holdings of lobbying resources among these large banks. We now combine our attention onto the banks of *both* sectors.

These large banks have staff dedicated to monitoring the outputs of various regulatory fora, and are constantly aware of what is being discussed and where. One interview subject described an example of such a resource in action:

“I remember meeting somebody from Bank X, and all he did was this one particular topic. It wasn’t particularly a big issue, but they were able to put one person on this thing, who would then be able to go to Brussels, and the regulator, and so on.”

(Interview, 29th January 2015, London)

Highly-experienced regulatory or public affairs functions monitor these processes, and perform an internal prioritising role, helping to establish which concern is the most pressing, or which consultation paper warrants the most immediate attention. Staff in these offices I interviewed also stated that their role involves balancing the bank’s regulatory advocacy work against its *rapport* with supervisors: performing a sort of ‘relationship management’ that sees regulators as stakeholders akin to shareholders or investors (Interview, 27th January 2014, London).

The reverse side of this interfacing activity is representing the bank at the policy-making venues. Many of these large banks have established presences in

Brussels to facilitate contact with the Commission or the Parliament; and the German banks deployed staff to London to handle the relationship with the EBA. One interview subject remarked to me that this work extends to overseeing and managing the quality of the informational product that goes out to the policy-making fora: letters are carefully crafted so as to conform to a 'house style', and in one case a manager was coached in "how to behave in a reg discussion ... how to speak to these people" (Interview, 3rd June 2014, London). The two sides of this extensive capacity have been nurtured over time, as these banks have long been accustomed to operating in several jurisdictions – and so needing to keep abreast of regulatory developments in each of their locations.

Turning to their information-generating capacity, we see a similar sophistication and strength. These banks have teams of specialists in regulatory policy, and in-house lawyers who are experts in the precise details of financial regulation. Beyond this technical regulatory expertise, analysis is often contributed to lobbying papers by staff in the banks' business divisions, who are able to provide substantive input about unintended consequences of proposals. Similarly, further depth is occasionally added by banks' macroeconomic research units (Interview, 23rd April 2013, London).

Aside from this sort of input – about the details and consequences of policy proposals – these large banks are able to contribute to the hugely technical discussions regarding the specification of valuation models. They use these to calculate (for example) their risk-weighted asset positions, and thus their capital adequacy ratios, and, importantly, are developed by the banks themselves. Regulators constantly scrutinise these models to validate their inputs and processes; but since the technical expertise behind their construction and calibration resides with the banks, they play a central role in the discussions.

The large banks, then, have extensive resources for interfacing with public actors, and for generating the information which serves as the key to accessing these fora. But perhaps their most significant capacity is their ability to connect these together into a co-ordinated lobbying operation. Firstly, these large banks

have grown the 'interfacing' function into an internal brokerage, with staff dedicated to bridging between the various departments or divisions involved in lobbying efforts. Thus, it is these staff who source high-quality information from within the bank, located in pockets of the bank's support divisions, or from its business areas. They also serve as gatekeepers into the bank for policy-makers:

"So if I was an MEP assistant and I was going to call JP Morgan, I would know there was about two people I'd go to ... And who we then bring in, the experts in the bank will be wide-ranging, and we're happy to bring in anyone if they know the biscuits."

(Interview, 3rd June 2014, London)

These banks have taken this a step further and implemented strategies referred to as 'three lines of defence' or 'firm management', which seek to integrate the management of all their various risks into a coherent structure. The 'first line' represents the business areas themselves: the trading desks and banking teams are expected to keenly monitor their risks and manage them appropriately. Next, the 'second line' is situated in the bank's over-arching risk-management function, which provides independent oversight of the aggregate positions. Lastly, the 'third line' refers to the internal audit team, which reports on the overall supervision to the senior management board. Importantly, the entire approach embeds regulatory compliance into a consolidated framework which treats regulatory risks (that is, the risk of sanction) as being on a par with credit or market risk. In other words, these large banks are now as careful about ensuring compliance as they are about the credit quality of their clients (for example). As one interviewee put it:

"... it's a bit more than that, because we are creating the framework in which all the functions, the control functions – being operational risk, compliance, legal, etc – will operate, and to ensure alignment with regulation, and also make sure that it's fit for purpose for pure risk management in the firm..."

(Interview, 14th August 2014, London)

This defensive strategy may focus on integrating elements of risk-management into a coherent framework, but it is also significant for the story of lobbying efforts. By taking such a holistic view of their risks, and by including *regulatory* risk in the mix, the banks are able to significantly leverage their lobbying

resources. Thus, in constructing their responses to a given issue, they are able to draw on the connections established by this internal framework to source appropriate expertise, and to aid representation.

From this empirical study, we have seen how the nature of these two domestic banking markets have given rise to different casts of actors representing the 'large bank layer' of the two countries. In the UK we have a set of universal banks with strong domestic roots, and strong international perspectives, which together account for the vast majority of the sector's assets. In Germany, we have just two banks, which together hold a far smaller share of the sector's assets compared to their British counterparts. Next, we have seen, in turn, how these banks have significant holdings of lobbying resources, and how they have worked to integrate them into coherent operations. This has confirmed the initial premise raised earlier, linking resource distributions to underlying varieties of financial system. Our next task is to study how these large banks have put these resources to use in their lobbying efforts in the European regulatory space, and so to examine the performance of the hypotheses against the empirical data.

5.3.2: Testing the hypotheses: how the resources were used

H1: The resource hypothesis

The large banks used these resources to enable their lobbying strategies. Before examining these in detail, however, three themes emerged during the inductive content analysis of the data which are worthy of note, because they gave an overall context to the review of these banks' lobbying activities. Firstly, there was a marked tendency among interviewees to firmly identify their work as *not* being lobbying – indicating a nervousness about being seen to be exerting undue influence over regulators. For instance, one stated that:

"I think the idea, that is actually quite damaging, is that banks lobby because they wake up one day and say 'We want to change this rule because it's not good for us.' It's not that. The first we hear about it, is when I hear somebody talking about it, or I see a white paper, or I see something like that. So we engage at the very first minute that that topic becomes a public dialogue. But again, I think that there's this notion that banks lobby, and all

this stuff – you know, it’s a dialogue, and it’s a dialogue that we do not start.”

(Interview, 4th April 2014 (b), London)

Another, putting it rather succinctly, remarked, “it wasn’t lobbying, it was education” (Interview, 26th March 2014, London). Nonetheless, we can set these objections, or this reluctance, aside, and recall the definition of lobbying established in Chapter Two: for our purposes, this ‘education’ – providing expertise to help craft regulation – is lobbying.

Secondly, respondents were also extremely conscious of the need to maintain a positive image in the eyes of policy-makers, and so to manage their lobbying activities very carefully. Thus, as one commented:

“Because a lot of it comes down to ... people who are in front line in public policy, or government affairs, having conversations with key officials, and if they mess it up, they mess it up for the bank for a while. So you’ve got some very, very high quality people out there, carrying the weight of huge organisations’ ability to be a respected voice, and some of them have messed it up. And don’t ask me to say who, but you know ... some big UK banks messed it up really, really badly, and effectively kind of closed the door for them having any influence ...”

(Interview, 14th May 2013, London)

This built on the previous theme, as respondents stressed how their work with policy-makers constituted ‘constructive engagement’ rather than ‘lobbying.’ Thirdly, when describing how lobbying decisions were made, many alluded to an approach which I labelled ‘following the pen’. For example, when I asked one about the logic behind lobbying choices, he replied:

“Well, you know, one way of answering that is to say ‘It totally depends who’s got the power at the time, and who’s the decision-maker.’”

(Interview, 4th April 2014 (b), London)

As we will see, the large banks were able to track the progress of a particular initiative from its origins in the framework discussion at the Commission, right through to the minutely detailed conversations at the EBA – and to engage in lobbying efforts at each of these steps.

5.3.2.1: European regulatory arena

The large banks embraced the EBA, absorbing it into their roster of regulatory interlocutors. However, the various data revealed that this was not an instant and smooth transition; rather, their engagement rose from an early, and very low, starting point. In its previous incarnation (as the Committee of European Banking Supervisors) it was merely a loose network of national regulators, and so the large banks paid it scant attention, focussing their regulatory lobbying efforts on domestic actors. As the network crystallised, their resources dedicated to monitoring European developments identified its importance. Their perception of it shifted, and though they now recognised its significance as the driver of the standardisation of European rules, they approached it with some trepidation. They understood that it now had a distinct physical presence and that it could now be lobbied directly, but as a new *European* regulator – and as a complex one at that – they were unsure how to do so. A particular issue about which interviewees expressed concern was the various routes they had *into* the institution, and how to cut through its impenetrability:

“... it’s so ... their decision-making process is so opaque. For example, we know that they have working groups on different topics. It’s quite difficult to identify who’s on those working groups, sometimes...”

(Interview, 17th June 2013, London)

Early attempts by the large German banks to forge contact with it – to establish similar relations with it as were enjoyed with the BaFin – were met with a sensitive reaction. As a member of the EBA’s staff put it:

“... they were here even before the paint was dry ... already telling us what to do and how.”

(Interview, 1st March 2013, London)

Later, these perspectives matured, and the large banks came to regard it as vital in establishing the unified market in banking services: in developing the single set of rules and ensuring a level playing field for all European banks.

Almost immediately after its formation, the EBA set to work issuing consultation documents and requesting input from the banking sectors of Europe. Studying

the pattern of responses from the large British and German banks to these requests, we can see a picture of how the engagement grew (see Table 5.1).

Table 5.1: Responses to EBA consultations by large British and German banks, 2011-15

Year	British	German
2011-12	3	1
2012-13	7	10
2013-14	31	22
2014-15	13	14

Source: Documents downloaded from EBA website. Those captured for the purposes of this analysis are from consultations relating only to the CRDIV/CRR package; these declined during 2014.

These rising responses were a reflection of the increasing interfacing resources banks were committing to the task of representation at this new European regulatory venue. They employed staff specifically to manage the relationship with the EBA, bolstering their capacity for horizon-scanning and external representation. The large German firms, for their part, based staff in London to facilitate attendance at EBA hearings.⁵⁴ As well as such formal, public engagement, the banks used these staff to try to replicate the personal contacts they had with their domestic regulators, and were able to broker, with varying success, individual meetings with EBA staff.

Into these consultation exercises the large banks submitted very precise, technical input. The structure of the overall process meant that the high-level points of design were established in the framework texts (at ‘Level One’) and then the EBA would draft the substantive implementing measures. An interviewee gave me a flavour of some typical points raised in this venue:

“What’s the settlement currency of the trade? Is it the trade currency you’ve got? Because that’s not a legally defined term. The trade currency on an FX swap, you’ve got two currencies there. Is it the close-out currency of the ISDA? Is it one of the listed currencies you’re allowed to pledge as collateral under the CSA?”

(Interview, 26th March 2014, London)

This reveals the nature of the informational goods supplied into the EBA’s consultation requests, and so the banks’ use of their information resources in

⁵⁴ Indeed, until recently, Deutsche Bank’s global head of regulatory policy was based in London, rather than at the bank’s Frankfurt headquarters.

their direct lobbying of the EBA. Here, the banks were able to draw on their significant holdings of regulatory expertise: they had technical specialists well-versed in such matters, who provided speedy and detailed answers to the EBA's questions. For example, the CRDIV/CRR text created a new ratio to allow regulators to monitor banks' liquidity: banks now had to hold cash reserves, and pools of assets which could easily be sold to generate cash, to satisfy outflows over various time horizons. But it was up to the EBA to specify exactly *which* assets could be marked as 'readily saleable', and what the conditions of the outflows might be. The holistic, highly integrated approach to regulatory engagement, arising from the 'three lines of defence' programme, meant that such expertise could be drawn in from various areas of the bank, supported with precise data showing the consequences of the rule, and then fed to the outward-facing representatives to be communicated to the EBA. The extract below shows a common example of this input:

'Q3. Do you agree with the list of liquidity metrics under consideration to be used in the EBA assessment, as mentioned in this section?

The EBA should avoid using metrics that are so restrictive that they would eliminate assets which are generally considered liquid in the market, but fail to meet a 'litmus test' of metric compatibility. In particular, those metrics which focus on bid ask differentials will be a useful indicator of asset liquidity for some assets but not others, such as fixed income instruments. We offer the following comments on specific indicators where additional caution may be necessary when drawing conclusions:

Trading volume and turnover: *although the trading volume of a specific security may be a useful indicator of how buoyant asset liquidity might be, it is important that the metric is used in the correct context. For example, a market for which there are 2 sellers and 2 buyers will have a trading volume of 2. A second market for which there are 4 sellers and 4 buyers will have a trading volume of 4. These markets have the same relative liquidity value attributed to that security, yet the absolute trading volumes differ substantially. Furthermore, when calculating the total trading volume metric, the time interval must be appropriately set so as to capture the liquidity effect of quarter end when many banks sell off large proportions of liquid inventory to meet balance sheet constraint requirements.'*

(Deutsche Bank, 2013: 5)

This response shows the technical nature of the information provided by the large banks to the EBA. But equally significant, in this case, was the provenance of this input: it was provided by the bank's head of liquidity management, rather

than a member of the public affairs team. This shows the extent to which the internal recruitment was able to work.

Another area in which the large banks contributed heavily was in the design of the reporting templates, through which information on these new regulatory metrics would be gathered. Draft versions of these were issued by the EBA, and the banks performed an incredibly minute examination of them. They commented on their internal integrity and coherence, their relationship with other templates, and on ambiguity in the language used. For example, in commenting on a template established to gather data on levels of liquid assets, one bank advised thus:

'Q: Are there additional sub-categories of inflows or outflows that are consistent with the specification of the LCR in the CRR?

A: EBA should consider breaking down the categories of outflows and inflows in more detail, for example, Trade Finance inflows, large corporate/small corporate outflows, as well as some of the additional information that is currently submitted as annex to the QIS form, such as information on collateral swaps where different asset levels are exchanged. Above all, the reporting form should be flexible to allow further information to be gathered if deemed necessary as a result of the observation period.'

(Standard Chartered Bank, 2012: 3)

Again, these extracts show the type of technical input these banks were able to marshal, making use of their significant internal expertise.

5.3.2.2: European legislative arena

Although our causal model focussed on banks' lobbying of the EBA, the data revealed that the large banks were heavily involved in activity in the legislative arena. Representatives of all the banks interviewed admitted to extensive coverage of, and contact with, the main institutions at this level. They had long-held connections with the Commission, dating back to its role as the initiator of previous iterations of European financial regulation. More recently, they developed contacts with the Parliament, sensitive to its rise in importance following the Lisbon Treaty: they were easily able to make contact with British and German MEPs, but also forged links with parliamentarians from other

countries, focussing attention on those with significant legislative roles (such as *rapporteurs*), or on whichever country held the revolving presidency (Interview, 29th January 2015, London). Beyond this Lloyds, HSBC, Deutsche Bank and Commerzbank all had staff accredited to enter the Parliament (EU Transparency Register). The approach to targeting this venue also included focussing on specific staff:

“But you know, in terms of who we want to see ... you kind of know who the rapporteur is, the assistant, who can be helpful. But often you know the assistants can be quite good to get to as well, because you kind of know that some of the rapporteurs or MEPs rely on the assistants to help them understand some of these things – they may have some more – maybe not experience but they can maybe get to understand it. The MEPs can’t know everything, so the assistants can be very important to get to, and some of them are quite smart.”

(Interview, 18th March 2014(b), London)

Elsewhere, interviewees explained how the banks specifically sought out MEPs with backgrounds in financial services or law, and directed special attention at them. They also explained how at this stage, their aim was to steer the debate, and so their engagement with these legislative actors naturally involved providing high-level, policy-shaping information. For example, they supplied recommendations on how the legislation should be crafted:

‘We support the direction of prudential reform outlined by the Commission Services in this paper. As we have indicated in response to earlier consultations, we agree with the principle that prudential capital standards for the banking sector needed to be raised. ... [However] the analysis and vision need to consider the conflicting objectives of limiting bank risk, maintaining the supply of credit to the real economy at an acceptable price, and ensuring banks are sufficiently profitable to continue to attract the necessary supply of capital from private investors to meet the new level.’

(Barclays Bank, 2010: 1)

The distinguishing feature of this example, compared to the input to the EBA shown earlier, is a much broader perspective, and in particular the mention of ‘competing objectives.’ It also reveals how the large banks were able to turn their information-generating resources to the production of political input, to support their direct lobbying in the European legislative arena.

5.3.2.3: Domestic venues

The large banks' extensive contacts also enabled them to continue active engagement with domestic actors. The large British banks, for their part, worked their established contacts with the Treasury to arrange frequent meetings with senior staff, and representatives met officials on at least a quarterly basis (Interview, 16th July 2014, London). Part of this focus on domestic venues came from their overall ploy of 'following the pen', and of engaging with the relevant actors in sequence. Thus:

"... we do engage with the PRA, with the Bank of England, with Treasury, depending upon ... what step we're at in implementation, so for ... when you're negotiating we would engage quite a lot with Treasury, and tend to keep them abreast of what we're arguing and vice versa. I mean we have gotten some pretty positive and discursive places on a lot of these things ..."
(Interview, 7th May 2014, London)

The large German banks also conducted a similar lobbying of domestic actors, working with staff in the policy-making departments of the Finance Ministry, and using contact with the supervisory teams as the BaFin to apply pressure. Significantly, Deutsche Bank also extensively lobbied *British* actors – showing the extent of the crossover at this level of the two sectors. Significantly, as we will see in the next chapter, much of this engagement with domestic actors was undertaken with the intention of using them to exert pressure higher up the European chain – rather than to lobby over the domestic implementation of the rules. This reflected a deliberate use of a 'pass-through' strategy, and so an awareness of the structure of the European rule-making institution.

5.3.3: Trade associations

As we have seen, then, the banks made extensive use of their resources to conduct their own lobbying efforts. However, the data revealed something of an oddity, in that trade associations turned out to pay a significant role – against the expectations of the 'resource' hypothesis. The large banks *were* involved in associational activity, but this often represented a more instrumental *use* of the trade association channel than an honest participation.

There were two prominent associations which were involved in representing the banks at this layer, both British and German. The first was the British Bankers Association (BBA), whose primary function was to act as a lobbyist for the London banking community: it established preferences at an aggregate level and communicated them to the relevant policy-makers. In doing so it drew upon the opinions of its 200 or so members, which covered banks of different sizes, types and indeed national origins. The second was the Association for Financial Markets in Europe (AFME), which was descended from the London Investment Banking Association. It was more explicitly international in its membership and its orientation, and represented the largest wholesale, universal and investment banks in Europe. These two associations competed for a finite set of membership resources, but also – more importantly – for the attention of domestic and European regulatory policy-makers. Importantly, the large German banks – especially Deutsche Bank – routed much of their associational activity through these two London-based groups.

The interview data showed that a key factor which drove the extent of banks' involvement with these two groups was a consideration of the issue at stake. First was the 'common and minor problem': an issue which effected many peers, and did not have a significant impact on the bank itself. For example, as one subject put it:

"I think, first of all, there's a view on sensitivity: 'Do we think that it is particularly sensitive?' If not then, then our reaction would be 'Do we think it's something that the BBA would want to get involved in? Do we think that they think that there would be sufficient interest around the industry?' In other words, do we think it's going to impact everybody, or is it a specific thing for us? Because if we were the outlier ... there may be little point in raising it at the BBA."

(Interview, 18th March 2014 (a), London)

This concern for 'sensitivity' was echoed elsewhere, and a common view among interview respondents was that banks had to be careful when participating in such channels in case certain specific information regarding their own position became public. For example:

"Although clearly the banks themselves are only able to share a certain amount at AFME and BBA. Certainly if it gets into the specifics of the impact

on our bank people can sometimes be a bit cagey about sharing too much of those details ..."

(Interview, 18th March 2014 (a), London)

In this situation involvement was minimal, perhaps only extending to dialling in to conference calls, contributing loosely to a discussion and signing up to a joint response. Instead, the associations bore the brunt of the work in establishing the common position and co-ordinating the response. A similar approach characterised responses to problems which were less common in their impact: minimal engagement, matched with higher individual activity. Thus:

"If you look at something more like fundamental review of the trading book, there's a lot less industry consensus. So you'll support what you can support via the industry, but you'll make sure you get your messages in bilaterally as well."

(Interview, 26th March 2014, London)

The banks increased their involvement in cases where the problem was common and more individually harmful. Staff were sent to working groups or discussions, and resources committed to providing material to aid decision-making or support a combined response. Where appropriate, staff were also sent to help present the response to policy-makers, often taking part in road shows in Europe. Importantly, in working on such issues the major banks often drew on their extensive personal networks and met *outside* the trade association forum, in order to 'pre-cook' an initial position:

"... there are quite regular get-togethers, mainly over the phone, where, it's really kind of 'open agenda', anyone can ask any questions, firms can chose to answer it, sometimes we'll speak bilaterally to other firms, you know – if we've got a particular concern on something, or if we're not too sure, or whatever it is – there's almost too big a range to even think about it – we'll always speak to."

(Interview, 18th March 2014(b), London)

This meant that when it came to preference-forming discussions back at the association, a set of already-congruent opinions were presented, and taken forward. This tactic was deployed in order to reduce the time spent discussing the issue in the formal venue, and to decrease the volatility in the discussion.

Through such active participation – more active, at least, than simply signing up to a letter – banks helped in the position-shaping and communicative activities of the associations. Papers were submitted by the two main associations to the early legislative discussions; but they also provided extensive input into the EBA’s later technical rule-making procedures. In this second venue, such associational channels were used rather deliberately by the banks to amplify the strength of their concerns over certain issues. Indeed, this brings us to an important qualification about banks’ participation in trade association lobbying: there was often a *quid pro quo* motivation at play, with banks consciously trading the commitment of resources to one discussion in return for the extraction of a private gain in another.

Thus, banks often used trade associations to convey a message that was somehow politically awkward, or to overcome reputational damage sustained in the public domain (Interview, 3rd June 2014, London). For example, during the discussions on remuneration, the banks routinely chose to work through trade associations, in order to cleanse or anonymise their message:

“All of the remuneration stuff was ... because we didn’t want to come out ... you know, we always go through trade associations if, if there’s something we don’t want to stand up and say ourselves, we’re not going to be popular.”
(Interview, 7th May 2014, London)

Here, the ‘pre-cooking’ of positions was particularly common, as banks wanted to avoid the difficulty caused by uncomfortable disagreements during position-forming workshops hosted by the trade associations.

Elsewhere, a use for the associational channel was to help broker meetings with otherwise inaccessible European actors. For example, a British bank sent staff to join a trade association delegation to an MEP specifically to foster an initial contact, so that the bank could later follow it up on a personal, one-on-one basis (Interview, 26th March 2014, London).

The large banks’ engagement with trade associations shows a distinctly selective, and often rather selfish, use. This tendency towards rather bad behaviour in turn

reduced the ability of the associations to produce co-ordinated and coherent responses. For example, a representative of the BBA remarked to me that Deutsche Bank staff in London frequently blocked the association's letters and joint positions, causing delays in representation and an inevitable diluting of the message. Similarly, one described the chaos that often characterised these attempts to forge common priorities:

"So it'd be like, 'Well we've got a meeting with the Irish finance minister next week – what should our priorities be?' and all hell breaks loose – should it be pre-trade transparency, should it be x, y or z; on CRDIV, then it was like 'Well what about the bonuses, do we mention that?' some people would say 'Yes, absolutely,' some would say 'No – it's too technical.' It was hard to get agreement. I have great sympathy for trade associations in trying to get that consensus."

(Interview, 3rd June 2014, London)

So overall, then, we return to a recognition of the importance of resources as drivers of their lobbying behaviour: these large banks had sufficient holdings of resources to run their own work, and only deployed any effort towards associational contact when they needed to.

5.3.4: A review of the large banks

How does the story of the large banks stand up against our theory of lobbying behaviours? As we saw at the start of this section, the structures determined by the national modes of financial capitalism were indeed reflected in the resource holdings of the banks. Hence, there were more large British banks than large German banks present in this top layer, and between them they all had significant endowments of lobbying resources. This satisfies the initial premise, linking underlying national contexts to resources.

Next, *H1* performed well. The large banks' view of the EBA developed from early hesitation to a clear recognition of its role as a centralised rule-making body, and having seen this crystallisation of regulatory authority, they used their extensive resources – the ability to monitor developments in European regulatory governance and to generate technical information – to lobby the EBA. Their engagement with it rose from a halting start to a near-constant interaction by the

middle of 2013. In this sense, the theorised causal process has been borne out: the structures of the national banking markets drove the resources towards two very different sets of banks, who then used them to direct regulatory lobbying at the EBA.

However, in two important regards this story takes us *beyond* the 'resource hypothesis.' The large banks were almost as active in other arenas as they were at the EBA: they lobbied European legislative actors, directing effort at Commission staff and MEPs; and continued to target domestic regulators. That this occurred in parallel with their lobbying of the EBA perhaps shows the fractious and complex natures of this policy dossier. Furthermore, the large banks *did* employ associational approaches – not to overcome a resource shortfall, but rather to help cleanse, or anonymise, politically-awkward message and to help penetrate European venues.

Nonetheless, bringing all these various findings together, the key implication of *H1* still stands: the large banks had the ability to generate informational goods (the precise, detailed technical input) required by the new regulatory venue, and the interfacing resources to penetrate it. This chimes with key implications of the European interest group literature. First, this has shown that holdings of informational resources are key determinants of lobbying behaviours (Chalmers, 2011; 2013; Dür & Mateo, 2012); and we have seen how banks' extensive resources enabled them to absorb the EBA as a target. Second, despite extending further than our causal model, the revealed patterns of lobbying in the legislative arena and on the home front themselves support a wider theme in the literature: namely that private actors are able to run extensive lobbying strategies targeting several venues concurrently (Mazey & Richardson, 2006). But overall, the empirical analysis of the large banks' lobbying also provides important support for the central argument of this thesis: the lobbying behaviours of the large British and German banks reveal the role played by their respective national contexts – specifically, their financial systems – in shaping their resource holdings. In other words, the way these banks lobbied the EBA was related to features of their underlying national contexts.

5.4: The British sector

At this point we move from a combined review of the two sectors, to a more specific examination of the British context. Here, as we saw in Chapter Four, a market-based financial system has long prevailed, with banks providing credit into the real economy chiefly by acting as facilitators of capital market transactions. The nature of this business has put the sector under a consolidating pressure, and historical processes of amalgamation have reduced the population of banks down to three distinct layers. The five banks at the very top (Royal Bank of Scotland, HSBC, Barclays, Standard Chartered and Lloyds) have already been covered. Below these a set of more 'pure' retail banks, such as Nationwide, TSB and Santander compete on the domestic market.⁵⁵ At the very bottom sits a layer of often very small building societies, whose business models concentrate on mortgage lending and retail banking. This section examines each of these tiers in turn.

5.4.1: The domestic retail banks

Here, we examine the resources and lobbying behaviours of the domestic retail banks, which we can think of as 'mid-tier' institutions.

5.4.1.1: Resource holdings

Despite being far smaller than the major universal banks, these banks have sufficient material resources to finance fairly well developed lobbying capacities. They have moderately strong monitoring and external representation capacities, and are able to keep abreast of developments in regulatory discussions on their own – rather than relying on second-hand information from a trade body. Several have an 'EU Affairs' team, which is responsible for watching policy-making activity at the European level. However, these are often very young teams: Nationwide, for example, only established a specific European policy function in 2012, and it continues to be under-resourced compared to the public

⁵⁵ Even this roll-call demonstrates the difficulty in categorizing the UK's banks. Nationwide is a large building society; TSB is the recently-floated element of Lloyds; and Santander is the UK-based retail unit of a Spanish firm which includes an investment banking arm.

affairs team that conducts equivalent work on the domestic scene (Interview, 12th August 2014, London). Domestic engagement, meanwhile, is handled by established public and government affairs teams, and by groups of regulatory specialists. The former are often (as in the case of TSB) combined with the more generic public relations function.

These banks have information generating capacities, albeit with a limited focus. Their strengths lie in a rather specific area: they have particular expertise in the UK retail market, and so are equipped to provide information on the impact of regulatory changes on domestic lending, but not on larger issues pertaining to the functioning of wholesale markets. Their regulatory policy specialists are similarly focussed primarily on domestic rules, and on ensuring compliance with the PRA's regime.

Overall, a key distinguishing feature between these banks and their larger cousins is the lack of integration in their lobbying capacities. The engagement with European actors is handled separately from similar interactions with domestic policy-makers, with different staff looking after each. The ability to recruit expertise and input from various pockets within the institutions is also less; as one subject put it, staff beyond the core public affairs and regulatory policy functions are simply not thought of as sources of expertise (Interview, 2nd October 2014, London). This rather disconnected approach reflects a material resource constraint: they simply do not have the financial resources to develop a sophisticated, integrated lobbying machine. A representative of one of these firms described their European engagement thus:

"... at board level it had been quite broadly felt that [we were] very reactive ... when it came to issues coming from the EU. So they thought there was an urgent need for us to feel much more on top of ... that. Before that we were just engaged in a very reactive way."

(Interview, 12th August 2014, London)

As with the larger banks, we see support here for the theoretical expectation linking structures of the national markets to the resources. These smaller firms occupy a tier below the universals, and tend to operate with far more of a

domestic focus. They have less to devote to supporting lobbying resources, and – perhaps more significantly – simply do not integrate what they do have into a coherent operation.

5.4.1.2: Testing the hypotheses: how the resources were used

H2: The associational hypothesis

Like the larger banks, the British banks in this tier were aware of the workings of the European policy-making process, and so knew how to conduct their lobbying strategies according to a sequence. However, the implication of the ‘associational hypothesis’ – and a key theme of this section – is that these smaller firms engaged with the EBA via their representative bodies. Again, to make sense of their activities we trace their efforts across the institutional venues, showing how their resource constraints shaped their behaviour.

5.4.1.2.1: European regulatory arena

Like the large banks, these firms quickly became aware of the important role played by the EBA in writing implementing standards. One respondent explained how the new European regulator was seen in her organisation:

“... relationships with the EBA are really important, and will be increasingly so. So, in the past year, we’ve had a lot of engagement with the EBA, at all sorts of levels. Starting at the top with Andrea Enria, and working level meetings, so quite a few. Quite a few.”

(Interview, 12th August 2014, London)

However, examining their input into consultation exercises we can see a far lower level of engagement over the period:

Table 5.2: Responses to EBA consultations by British mid-tier banks, 2011-15

Year	British retail banks
2011-12	1
2012-13	
2013-14	4
2014-15	

Source: Documents downloaded from EBA website

Into these open events the mid-sized banks supplied technical information in support of the rule-making process. For example, one firm advised:

'Q4b) Are the thresholds set in the criterion appropriate?

A: A threshold of EUR 75 000 represents a comparatively small amount in the context of typical practice amongst UK financial institutions and so is not considered a helpful way of identifying risk takers. If a monetary threshold of this type is included within the final regulations, it would be helpful if national regulators were able to set an equivalent level in their applicable currency to avoid year on year fluctuation in the level of this threshold due to exchange rate movements.'

(Nationwide Building Society, 2013a: 2)

This example represents a wider set of such responses, and overall they show how these banks put their internal capacities to use in delivering regulatory expertise. However, looking across their responses, what was significant was the narrowness of their input: they restricted their participation to a small set of discussions, demonstrating how their internal expertise was focussed on a certain policy areas. This limited engagement is significant, given that across this time period many issues were being deliberated over at the supranational regulatory level which directly effected such banks. Similarly, the interview data indicated that the frequency, and richness, of their input was very weak in comparison with their larger British cousins, and this was related to the difficulty they had in marshalling the detailed technical expertise required by the EBA. What was happening was that on many issues pertaining to retail banking – such as the minute rules around liquidity metrics – the conversations were dominated by the larger universal banks (RBS, HSBC, Barclays, *et cetera*). Within these larger banks, staff from the retail units were able to make use of the entire firm's lobbying resources, and so had access to far greater information-gathering capacity.

For the mid-sized banks, perhaps the key problem was the lack of integration in their lobbying activities. What in-house expertise they did have could not be as effectively recruited (compared to the larger banks), and the segmented approach to interfacing meant that representation on the European regulatory stage was hampered:

“... we have a special regulatory liaison team, and they deal with the FCA and the PRA, they own the relationship, they manage it, they ... supervise it as well. The EBA is different, and I think this goes back, I guess, to the newness of our EU team ... and so a lot of it is actually done through me, when dealing with the EBA, but that’s I guess, just ... it’s an ad hoc thing that’s just arisen, it’s not anything that was planned out.”

(Interview, 12th August 2014, London)

Likewise the EU Affairs teams had their time divided between the EBA and the other, more established European venues. This meant that shifting interfacing resources towards the EBA had to be based on a careful consideration of costs and likely returns:

“We have to make sure we’re focussing our attention where it’s going to have the right impact, with the resource we have available to us. With the volume and pace [of regulatory change] the resources are spent on reacting. To add resource to be pro-active, in relationship management at that level, that’s another hit to the bottom line.”

(Interview, 2nd October 2014, London)

This also affected the banks’ ability to broker consistent, stable relationships with EBA staff, as the European affairs were under-resourced and frequently over-committed to the lobbying European legislative actors.

The mid-tier banks sought to overcome these weaknesses by delegating lobbying efforts to the domestic trade bodies. The key group involved was the BBA (which we have already encountered), and it contributed to several EBA consultations over the period:

Table 5.3: Responses to EBA consultations by the British Bankers’ Association, 2011-15

Year	British Bankers’ Association
2011-12	3
2012-13	8
2013-14	20
2014-15	14

Source: Documents downloaded from EBA website

However, the diluting effect of this channel on the quality of the informational input was problematic for the banks. An EBA representative explained to me that while it appreciated hearing a unified voice, it really prized clarity and precision;

however, like these banks' individual efforts, their associational activity lacked the detail and high-quality expertise which could be marshalled by the larger universals. In combining industry positions to prepare consultation responses, the BBA frequently struggled to attain consensus among its diverse membership, and so could only produce rather generic input. One respondent outlined his view on the situation:

“And you’ll say ‘That bit there is not something that we can sign our names to. As members that pay you a lot of money we want it removed.’ And I think everyone does the same. It seems like it’s a miracle these documents ever say more than the bare minimum...”

(Interview, 11th March 2014 (a), London)

Indeed, this weakness reveals a further important dynamic relating to the associational activity, as indicated by a statement made by a representative of one of the banks in this layer:

“And Nationwide is quite unique, as you probably know, in financial services, because we compete with the big banks but we’re very different, with the way we’re governed and how we’re financed, the way we’re funded ... so we’re not properly represented neither by the British Bankers Association – which we’re members of – neither by the Building Societies Association – which we’re also members of...”

(Interview, 12th August 2014, London)

As the largest building society by far, Nationwide found itself caught between two groups: the Building Societies Association often felt that it was ‘large enough to fight its own battles’ (Interview, 4th June 2014, London), while the fact that Nationwide was mutually-, rather than privately-owned, meant the BBA’s support was similarly muted. Likewise, Santander had difficulty drawing on the active support of the BBA in European discussions – the problem coming from its ownership and history.⁵⁶ Such factors combined to weaken the associational representation of these mid-tier banks at the EBA.

5.4.1.2.2: European legislative arena

Like the larger banks, the data for this layer showed the extensive lobbying of legislative actors. During the earlier development of the CRDIV/CRR package

⁵⁶ See previous footnote.

these banks were well-connected to the European policy-making machinery. Their European teams were used to monitor the outputs of the Commission during the early stages of the drafting of the legislation. At this level they provided input into consultations on the universal application of European rules to national banking sectors: both the Co-Operative Bank and Nationwide submitted responses to the Commission's consultation exercise of February 2010. The latter, discussing proposed changes to the definitions of allowable capital instruments, remarked that:

"Neither of these options is palatable and both raise fundamental questions in relation to the on-going viability of an important sector within the UK financial services market place."

(Nationwide Building Society, 2010: 4)

This typifies the input deployed by the banks at this legislative level: they were arguing forcefully for national derogation to the proposed legislation, in order to protect certain features of the domestic regime. The same activity was continued in the Parliament, and several of the banks established independent access to European actors: Nationwide, for example, had good relations with the representative for the south-east of England, Kay Swinburne (Interview, 12th August 2014, London).

However, it should be noted again that at this level their involvement was less extensive than that of the larger UK banks. With their limited capacity for external representation they often had difficulty balancing attendance at various European fora. As at the EBA, their strategy for overcoming this weakness involved relying on the support of trade associations. This marked them out compared the larger banks, who, as we have seen, used the trade bodies more selfishly than out of necessity. However, just as with the larger banks, their engagement was also fairly rather issue-driven; for example, one responded stated:

"... a lot of the issues we had concerns about were common throughout the industry, so we'd be very confident in engaging with the BBA and then feeding into the BBA's position, et cetera. But one or two issues were effecting us in a very different way, so ... from that perspective, there was quite a bit of push back from some of the bigger banks..."

(Interview, 12th August 2014, London)

To counter this, several of the retail banks in this layer turned to a more transnational approach: Nationwide, for example, worked heavily with the European Association of Co-operative Banks, where it found stronger allies among the similarly-sized continental European mutual firms, such as the Dutch Rabobank (Interview, 12th August 2014, London). It used these channels to strengthen its lobbying efforts directed at the Commission or the Parliament.

5.4.1.2.3: Domestic venues

With resource constraints holding them back at the European level, the mid-sized banks focussed their lobbying efforts on the domestic scene. Their local interfacing resources – in particular their staff dedicated to government affairs and regulatory liaison – were more far more developed than the European equivalents, giving them far greater ability to contact domestic actors. Thus, for example, they held frequent meetings with senior Treasury staff, and had strong relationships with the PRA.

In this lobbying of domestic actors, there was a subtle difference in intent compared to the larger banks. Where the latter explicitly sought to engage the PRA (for example) as a mouthpiece on the European stage, the mid-sized banks sought to eke out pockets of implementation by the British regulator in ways which supported them. This meant convincing the PRA to use what remaining discretion it had under the European legislative framework to allow certain interpretations in favour of the domestic banks. Indeed, this represented the distinctive *national* self-image of these banks: they saw greater advantage in lobbying the PRA over discretionary treatment than in engaging with the EBA over the writing of the rules:

“The view is it’s directives and regulations in which we have no choice. And so we ... are not looking influence decision-makers in Europe ... but not to work at home.”

(Interview, 2nd October 2014, London)

5.4.1.3: Summary: The mid-tier banks

At this juncture we can review the story of these mid-tier banks in the light of the overall theory. First, the effects of the structure of the British sector can be seen in these banks' resources holdings: they are weaker, and less organised, than their larger cousins. This confirms the initial premise, linking national contexts with resources.

Next, *H2* performed well. Their lack of resources, and more importantly their segmented approach to managing their resources, left them over-shadowed by the large banks when lobbying the EBA. For the middle tier, lobbying was a question of making up for such resource shortfalls by delegating representation to trade bodies – which confirms the implication of the 'associational hypothesis.' However, the tensions in the domestic associational landscape meant these trade bodies struggled to match the informational needs of the EBA; so overall, the mid-tier banks' representation at this venue was weak.

5.4.2: *The building societies*

Next, we turn to the building societies, which constitute the 'long tail' of the sector. There is a significant and rapid drop-off in size across this group, with the largest accounting for more in assets than the rest of this layer combined.

5.4.2.1: Resource holdings

The larger players in this sub-sector have sufficient financial resources to sustain the capacities required for lobbying. Thus, the Yorkshire and Coventry building societies, have staff engaged in 'regulatory policy', who monitor outputs of policy-making fora. While these are primarily focussed on the domestic scene, they have recently turned their attention up to the European level, and so such staff have been partially reassigned to representing the societies at European policy- or rule-making discussions. However, unlike the retail banks, these societies have no specific teams solely dedicated to European lobbying:

"... the majority can't afford to employ somebody whose basic job is to keep to track of the cascade of [European] regulation, and interface with the regulators. That's part of somebody else's job.

I think, unless you're large you don't have the time to think about Europe independently, because ... you've got a business to run."

(Interview, 11th January 2015, London)

The smaller societies, below this threshold, have virtually no interfacing capacity at all. As one interviewee put it:

"[these firms have] assets of a few hundred million and pre-tax profits of a few hundred thousand, or the low millions. The amount of spare cash that the Loughborough Building Society has for their European lobbying is zero."

(Interview, 9th July 2014, London)

Any monitoring of regulatory developments these firms manage is performed by the staff responsible for compliance and reporting, and their perspective is limited to interpreting and implementing the rules, rather than contributing to discussions in order to shape them. These firms' engagements with regulators are therefore essentially *reactive*.

However, examining the information-generating capacities of the sub-sector as a whole tells a subtly different story. Naturally, the larger ones have more staff capable of opining on regulatory policy at a high level, across several issue areas. Yet across the board, these societies have strong capacities to produce detailed technical input on matters pertaining to retail and commercial mortgage lending. This is a result of the focus of their business: their operations require them to know their markets, their products and their borrowers in great detail. As one representative explained it to me:

"On the information, typically it has been good, because they all have to have, because they're basically a 'factory' type business – when you're doing retail banking and retail savings, you have large numbers of smaller transactions, compared with a corporate business, where you might have a few big loans. So you've got to have good IT that deals with all of that. So that's really important."

(Interview, 11th January 2015, London)

This business activity gives an extremely strong knowledge of the operation of these markets, and so an ability to provide detailed input on the impact of rule changes. Thus, the interviewee went on to explain that some building societies

had powerful internal models, with which they could precisely quantify the impact of regulatory changes on lending activity.

5.4.2.2: Testing the hypotheses: how the resources were used

H2: The associational hypothesis

These firms' minimal lobbying resources meant that their efforts were both far narrower in scope, and far less co-ordinated. Through their representative association they had a good awareness of the European policy-making process: of the need to track issues through successive fora, and of the rise in importance of the EBA. But in practice their ability to translate this into a coherent strategy was very slight. Again, we can trace their activities through the venues.

5.4.2.2.1: European regulatory arena

Across the interviews I saw how impressions of the EBA among the building societies varied. For the larger ones (such as Nationwide, as we have seen), there was an acute understanding of the EBA's role, and its significance in the overall European regulatory process. For example, one commented that:

"... the primary setting where the actual rules are settled is Europe, and whatever happens in the UK is mostly minor. So I think the understanding that the big stuff is happening in Europe, if not in Basel, and the Basel stuff is given effect in Europe, and then there's not much left to argue about in the UK – is absolutely taken on board."

(Interview, 11th January 2015, London)

However, the smaller ones continued to retain a distinctly national perspective on the regulation, seeing the main players in their players as domestic. As one representative explained it to me:

"They depend heavily on their trade bodies, what their peers are doing, and chatting to each other at conferences, and then following what Nationwide or Yorkshire do, or Coventry do, and just copying it."

(Interview, 9th July 2014, London)

He then went onto to label managers of such firms as having a 'survival and golf' mentality:

“Yeah – they want the society to survive and they like playing golf.”
 (Interview, 9th July 2014, London)

Connected to this lack of awareness on European regulation, and their individual resource weaknesses, the building societies effectively delegated their lobbying to their representative association. Looking across the period, we can see very weak levels of response to consultation exercises.

Table 5.4: Responses to EBA consultations by British building societies and the BSA, 2011-15

Year	Individual societies	Building Societies' Association
2011-12		1
2012-13	3	6
2013-14		8
2014-15	1	3

Source: Documents downloaded from EBA website

The BSA sent staff to hearing and participated in consultations, but, as a representative explained to me, the association was very careful about what it involved itself in:

“We’re selective. Because you have to think there are well over a hundred sets of text come out, just on CRDIV. There’s so much that we have to be very selective.”

(Interview, 4th June 2014, London)

Thus, for example, the BSA took part in discussions over retail banking, commenting on rules regarding the treatment of retail deposits in the calculation of liquidity ratios. One piece of input began with a note of caution:

‘However, in the very short time available, we have not been able to secure much detailed input from our members, consequently our response remains general, and high level.’

(Nationwide Building Society, 2013b: 1)

It then went on to argue that retail customers with deposits at building societies (rather than ‘proprietary banks’) were more loyal, and less likely to withdraw their funds in the event of market stresses. Overall, what was significant about the BSA’s regulatory lobbying was how its informational resources constrained the quality and breadth of its input: in rule-making discussions it was often out-done by both the mid-tier retail banks and the large universals, who simply had

far more precise information and far stronger ability to provide input on a range of topics. Just as problematic was the issue of interfacing: although the BSA had staff committed to representation, they were usually focussed on the legislative arena, and could not cover this emerging regulatory venue as well. Hence, the association also struggled to build personal, individual contacts with the EBA.

5.4.2.2.2: European legislative arena

It was the larger societies were able to track the discussions over CRDIV/CRR among the legislative actors, and to follow the progress of the drafts. However, their weak representation resources meant that they were effectively closed out of legislative lobbying.

For the remainder, again, the effort was delegated to the BSA. This body, as we have seen, was not without its own resourcing problems. It remarked in a consultation response to the European Commission in 2010:

‘We regret we have neither the time nor in-house expertise to provide [such figures] – and believe many of our members are in the same position’
(Building Societies Association, 2010: 1)

Notwithstanding these difficulties it did manage some penetration of the discussions in the legislative arena. The association relied on the services of another trade body:

“we belong to the ... it’s called the BBB – the ‘Britain in Brussels Bureau’ – it’s the CBI outpost in Brussels. They’re like, they’re a listening post, they’re on the ground, and they’re keeping us in the picture of what’s happening.”
(Interview, 11th January 2015, London)

Through this link it established contacts with the Commission, and was able to use them to raise concerns over the direction of the legislation. In particular, attention was focussed on attaining victories at this framework level, in order to set the boundaries of future debates. As one interviewee remarked:

“We ... so we could see which way the wind was blowing, but we were clear that ultimately the thing that would determine the maximum of what was possible was the CRDIV text – so everything else was secondary. The key thing was to get the right stuff in the CRDIV text ... and so going there we

first of all talked to the people in the DG – we happened to know one or two people there, some of them were FSA secondees and so on, so that was the obvious place to start.”

(Interview, 4th June 2014, London)

Meanwhile the lobbying of the European Parliament was often conducted in tandem with the European Association of Co-Operative Banks, with whom it found a great deal of common cause. Indeed, it was through its links with the EACB that it achieved much of its access to the Parliament, and later was able to gain accreditation for its own staff. Overall, then, in this arena we can read the BSA's efforts as being characterised by a need to extract maximum return from scarce lobbying resources: hence the focus on collaborative work with the EACB, and hence the explicit targeting of effort at this framework level.

5.4.2.2.3: Domestic venues

Instead, both the individual societies and the BSA focussed their regulatory lobbying efforts on the home front. They lobbied the PRA directly, re-deploying staff used to managing supervisory relationships to more specific lobbying roles. The BSA also held bilateral meetings with Treasury staff on behalf of the mutual sector.

In these domestic discussions, their rather specific domestic role showed through. British regulators, and particularly Treasury officials, were very keen to monitor the health of the UK retail mortgage market, and the societies were well-placed to provide expert input on this subject. They supplied a huge amount of technical expertise and data, advising domestic policy-makers on the impacts of various European rules on lending activity. In particular, they often sought to influence British regulatory actors' implementation of these European rules. For example:

“The BSA continues to support a suitably differentiated leverage ratio framework, as clearly envisaged by Article 511 of the Capital Requirements Regulation (CRR), as a supplementary tool to the risk-based capital framework of CRR, which should remain the primary regime. The Capital Measure must remain total Tier 1, as already specified in CRR Article 429.

Reasoned contributions to the debate on use of a leverage ratio are to be welcomed. But the [British] leverage framework marks a fundamental departure, even from what has so far been agreed and published by Basel or in the EU, and – in effect – abandons the primacy of risk-based capital adequacy in favour of a more primitive approach, as an over-reaction to the problem of model risk. In short, we regret the regulator appears to have come up with the wrong answer.'

(Building Societies Association, 2014: 1)

At stake here was the domestic implementation of the European leverage ratio rules (themselves derived from Basel III). The BSA argued forcefully for an approach that remained true to the European plans, rather than the intended British approach – which would enforce tougher rules on the national sector.

5.4.2.3: Summary: The building societies

At this point, we can review the building societies' story against the predictions of the theory. As before, the theoretical expectation linking the structure of the market to the resources is borne out: these small firms had very little capacity for individual lobbying. Furthermore, the patterns of engagement in the regulatory arena support *H2*, in that what little lobbying of the EBA took place, was conducted via the Building Societies Association. However, the BSA's own resource weakness meant it could not meet the European regulator's need for precise technical input, and so the societies representation was weak.

5.4.3: A review of the British sector as a whole

Having examined the entire sector, we are now in a position to consider the performance our theorised causal model. Firstly, the initial premise linking the variety of financial capitalism to the resource distribution has stood up well. The market-based system is represented by a banking sector spread across three tiers, each of which is marked by a high degree of concentration (Allen & Gale, 2000; Shabani et al., 2015; Zysman, 1983). At the top, five very large universal banks have extensive lobbying resources. They hold significant interfacing capacities, with staff dedicated to monitoring policy-making processes, and to representation in the various fora; they also have huge amounts of expertise

spread across many policy areas, and so an ability to provide a wide range of informational input. Most importantly, these banks have integrated their resources into coherent operations, placing regulatory lobbying on a par with commitments to risk management.

Below these, a number of smaller firms continue to have resources, but these lack sophistication or strength. Thus, the banks have interfacing staff, but they are often separated across venues (domestic and European) or functions (public affairs and regulatory liaison). Likewise they have in-house expertise, but this is of a far narrower focus; and overall their lobbying capacities are simply not as well integrated as their large cousins. Finally, the majority of the 45 building societies have virtually no proprietary lobbying resources. They may have outward-facing staff, but these are usually dedicated to managing the firms' relationship with supervisors, rather than lobbying over rules. As for information generating, they may be specialists in British mortgage lending, but are rarely able to marshal expertise on other areas of regulatory policy. In this way, looking across the entire sector, we can see the lobbying resources reflecting the structures defined by the underlying market-based financial system.

From this starting point we can move to the performance of the hypotheses. *H1* linked resources with direct lobbying of the EBA, and was borne out. The large British banks, with the most extensive resources, were the most active lobbyists in the European regulatory arena. They used their interfacing resources to penetrate the new venue, and had the internal ability to generate the technical input the EBA required. Through their interactions, they were heavily involved in the process by which the EBA crafted its rules supporting the CRDIV/CRR package, and in fine-tuning the reporting templates. All of this activity was buoyed by an astute perception of the importance of the EBA's rule-making authority, and the effect that had on the locus of regulatory power in Europe.

As we go down the sector we turn to the second hypothesis, linking reduced resources to greater associational activity. Again, this was supported by the

empirical patterns: the mid-tier banks and the small building societies relied extensively on delegating lobbying efforts to either the BBA or the BSA. For the mid-tier banks, the problem was perhaps a lack of integration of their resources, rather than a real weakness of resources *per se*; while for the small societies, the inability to represent themselves at this new venue, or to generate relevant expertise, was harmful. It was thus through the BBA and the BSA that the bulk of these banks' European regulatory lobbying was achieved.

However, there were several aspects of the British story which take us beyond the hypotheses, and which merit some analysis. First, both *H1* and *H2* examined regulatory lobbying of the EBA, yet the data showed how all three tiers of the British sector pursued extensive lobbying in the legislative arena. This was perhaps habitual: they were simply more used to engaging with the European Commission and the Parliament, as this was where previous activity had taken place. But it also reflected the essential complexity of the Lamfalussy process, as for much of this period the EBA was engaged in drafting specific rules while the higher-level legislation had not yet been passed. In such a situation, it seems natural for banks (of whatever stripe, and using whatever means they could) to target their efforts at the legislative arena, where useful compromises could potentially be achieved.

Secondly, and similarly, all the banks continued to use their contacts on the domestic front, and to maintain distinctive national elements to their strategies. The difference was in the relative weightings, and in the intention. For the large banks, lobbying of the PRA was simply a component of a much larger portfolio strategy – and one which was pitched towards Europe. Furthermore, their aim was to garner support among domestic actors, so that they could be put to use lobbying for the banks in either the political channel (the Treasury representative working in the Council) or the regulatory channel (the PRA staff working in the EBA). In contrast, for the rest of the sector, domestic engagement remained more of a priority, and was undertaken more with the intention of gaining favourable implementation (where possible) on the national level.

Thirdly, running against the implications of *H1*, the large banks *did* participate in associational approaches. However, this was a highly instrumental, and often selfish use of this channel: they used the trade bodies to garner access to venues (and particularly to individual MEPs), or to cleanse politically awkward message on topics such as remuneration. Finally, continuing this theme, the associational representation of the remainder of the sector was rather weak. Several of the mid-sized banks found themselves too big to rely on effective representation by the BBA or the BSA, yet too small and under-resourced to really lobby themselves. Meanwhile the BSA, when lobbying on behalf of the building societies, was itself constrained by a shortfall in resources – especially in the ability to produce the required information input. These findings are summarised in Table 5.5.

Table 5.5: Summary of British banks' engagement across the arenas

	European Regulatory arena	European Legislative arena	Domestic scene
The large banks	Initially cautious and awkward; engagement improved with time. Became adept at regulatory lobbying – providing detailed technical input and data to help rule-making.	Extremely well-connected: used established contacts with the EC and EP to gain access to policy-making discussions. Excelled at legislative lobbying: had the resources to generate high-quality information. Used trade associations strategically, to broker access or to cleanse awkward messages.	Continued active engagement with domestic actors, often with the explicit purpose of using them to lobby further up the European chain.
The domestic retail banks	Poorly connected. Struggled with representation; the larger UK banks were able to dominate the technical discussions. Participated in associational activity, but struggled to achieve effective representation because of difficulty in establishing consensus positions.	Connected: able to monitor outputs, but struggled with individual representation. Relied on (often European) trade associations. Skilful at legislative lobbying on issues pertaining to <i>retail</i> banking, but unable to contribute to wider discussions.	Remained strongly connected to domestic regulatory actors – out of a distinct 'national' self-perception. Lobbied for favourable implementation of European rules.
The building societies	Poorly connected. Struggled with representation; and with providing technical input beyond mortgage issues. Delegated to associations, but struggled to achieve effective representation because of resource weaknesses.	Able to monitor discussions, but only by re-directing staff away from domestic coverage. The smaller societies relied extensively on the BSA. The BSA was able to achieve some representation – but only by allying with the EACB.	Remained strongly connected to domestic regulatory actors – out of a distinct 'national' self-perception. Lobbied for favourable implementation of European rules.

However, the findings also serve to support the central theoretical argument of this thesis, linking lobbying behaviours to national origins. In the British sector, direct lobbying of the EBA by the large banks ran alongside the weak associational activity of the smaller banks. This arose from the distribution of the lobbying resources caused by the structure of the domestic market, which centralised resources in the hands of a small number of large firms and left the remainder of the sector impoverished. In this sense, the theoretical model has

indeed allowed us to link the lobbying behaviours of the British banks back to the market structures defined by underlying variety of financial capitalism. It is to a very different variety that we now turn.

5.5: The German sector

Moving from Britain to Germany takes us from the most consolidated sector in Europe to perhaps the most fragmented. But as we saw in Chapter Four, the difference between these two national contexts runs far deeper: it rests on a very different mode of financial capitalism. In Germany, historical patterns of institutional development have created a financial system in which banks play a role as stable, long-term intermediaries (Allen & Gale, 2000; Geschenkron, 1962; Zysman, 1983). Credit is provided to the real economy predominantly via bank loans, rather than through the operation of dynamic capital markets. In this climate, banks derive distinct advantages from remaining small, local and – crucially – close to their customers.⁵⁷ As a result, there is a far lesser pressure, compared to the British system, towards consolidation, and so we see a banking landscape populated by a great many individual firms.

In the coming section, we investigate how this underlying structure impacted the lobbying behaviour of these banks. As with the coverage of the British sector, this is performed in the light of the overarching theoretical framework, with data presented to support the analysis.

5.5.1: The German sector and its resources

The fragmentation of the German sector is arranged around three pillars. The first contains the so-called ‘commercial banks’: privately-owned firms which operate for profit. The next contains those banks incorporated under public law, which operate mainly at the state level and which are often integrated into regional government structures. Last is the co-operative pillar, in which reside the many mutually owned banks which are active in the communities and towns

⁵⁷ This proximity helps them banks manage the additional informational burden brought about by this mode of intermediation.

across Germany. These three have separate but intertwined histories, and are now kept apart by the German regulatory framework.

At the top of each sit a number of large institutions. The private pillar has its *Großbanken* – firms such as Deutsche Bank and Commerzbank. These may have extensive international businesses, but their presence in the domestic market is actually rather small. Next, the *Landesbanken* sit atop the public pillar, and operate as clearing banks for the smaller publicly owned firms; similarly, regional co-operative banks organise the activities of the community-based mutuals.

We examined the lobbying resources of the *Großbanken*, and their consequent behaviours, earlier in this chapter, and so they can now be set aside. The remaining two classes of large bank do have some of their own resources: for example, the *Landesbanken* have staff committed to engagement with public actors at home and in Europe, and are able to maintain an awareness of regulatory developments at various levels. They have individual accreditations to enter the European Parliament (EU Transparency Register), and a great deal of experience in policy advocacy work.

Below these large banks, the individually-held lobbying resources fall dramatically. A very few private banks have begun to invest in developing their own government relations teams, such as Aareal Bank (Interview, 13th February 2015 (a), Brussels). The vast majority of the smaller banks, across all three pillars, lack the financial resources to support lobbying efforts. As it was explained to me at one point:

“Small savings banks with, I think, 50 staff! 50! So how on earth should they apply all these things? Read 1,000 pages of legislation, sometimes not even, let’s say, being provided in time for discussion – at least not for discussion in German, it’s all in English. They can’t cope with that. They are not able to do that!”

(Interview, 11th June 2014 (b), Brussels)

Looking at the resource distribution, then, we can see the underlying structure of the market showing through. There are a very small number of large firms with

some holdings of their own (occasionally very extensive – as in the case of Deutsche Bank), and then a vast swathe of banks across all three pillars who are simply too small to sustain such resources. This supports our initial premise: the bank-based financial system has generated a fragmented banking landscape, which has in turn driven the holdings of the lobbying resources among the constituent banks.

In such a situation it is perhaps unsurprising that lobbying efforts are organised almost wholesale via representative bodies. Yet perhaps we should not think of this as ‘delegation’ so much as ‘organisation’: the peak associations representing the three pillars organise the lobbying responses of the German banks so they themselves do not have to. More importantly, the small banks – particularly in the public and mutual pillars – co-operate in dense networks which are marshalled by their associations, which in turn perform a variety of functions beyond simply lobbying. It to these bodies that we now turn.

5.5.2: The German peak associations

Each of the three pillars is represented by a trade association: the *Deutscher Sparkassen- und Giroverband* (DSGV) for the public savings banks, the *Bundesverband der Deutschen Volksbanken und Raiffeisenbanken* (BVR) for the co-operatives, and the *Bundesverband deutscher Banken* (BdB) for the private banks. These three are all long-established entities, either dating far back into the 20th century (as in the case of the DSGV) or having been reconfigured during the post-war period (as in the case of the BdB).

They are federal bodies, comprising smaller sub-units which operate at the regional level. At ground level these regional associations mirror the local focus of their constituent banks, helping to integrate them with local political channels. The peak associations also have strong, hierarchical internal structures; the BdB, for instance, has a Members’ Assembly which meets every year and elects the Delegates’ Assembly, and this, in turn, elects the Board of Directors, who appoint a President. The leadership bodies are structured to create a deliberate balance between types, or sizes of member (Interview, 13th February 2015 (a), Brussels).

Thus the BdB's board has four members for the large banks, three for regional banks, two for the private-client banks, and one for the foreign banks.

All three associations represent the views and concerns of their respective sub-sector of German banking. However, as well as this lobbying function they also provide a range of other services. They advise their members on practical issues of banking policy, and on implementation of new regulations. The DSGV and the BVR operate joint liability and deposit protection schemes, which bring vital stability to their (often very small) members. The BdB runs a financial ombudsman scheme. These extra services – on top of pure representation – give the groups a very strong hold over their members, which in turn helps stabilise collective decision-making.

5.5.2.1: Resources and inner workings

These three associations have extensive resource endowments. They all have large numbers of staff dedicated to monitoring policy-making processes at various levels; these have been established in Brussels for over a decade, and all three associations have staff accredited to enter the Parliament (EU Transparency Register). These staff are also responsible for external representation, and have amassed a great deal of experience in interacting with European policy-makers. In a move to embrace the regulatory arena, the DSGV transferred staff to London in 2014 to manage the relationship with the EBA.

These strengths are matched by extensive holdings of resources for generating high-quality information. Their internal structure enables the associations to efficiently draw on expertise from their membership base:

“We have working groups where we integrate all the different levels of the association and the organisation. Below us there are local associations on state level ... and we are connected to them very closely and they are sending their specialists into our working groups so that we have some sort of fora where we can discuss all the different issues.”

(Interview, 20th August 2014, London)

The same professionalization also extends to strong internal brokerage: the highly developed internal structures are extremely useful in sourcing expertise (and data to support this expertise) from within the organisation. The overall outcome is, across all three associations, substantial strengths in generating expertise and communicating it to policy-makers.

Equally noteworthy are their internal decision-making arrangements. For example the BdB's hierarchical structure grants banks of all sizes an opportunity to provide input into its position-taking process:

"Yes – so we are not also driven by the interests of the larger national banks. Someone said ... in German our name is Bundesverband Deutsche Banken, and some guy said 'Often you are Bundesverband Deutsche Bank aren't you?' That's not true. We have over 200 members in our association, and also the interests of the smaller banks are important for us ..."

(Interview, 18th December 2013, London)

The BVR, meanwhile, consciously works to pitch itself towards its smaller, weaker members when establishing its position on an issue:

"And when we have to find a position for the co-operative group in Germany ... then our focus is always on the situation of these small- and medium-sized banks, because we have responsibility for our members, and if there is ... not a common side to some problems, then ... the interests of the small- and medium-sized banks is always the leading aspect."

(Interview, 20th August 2014, London)

Similarly the DSGV places great reliance on dialogue with its regional units, who in turn work closely with the local savings banks to garner consensus. These preferences are then filtered up through the organisation's tiers. These approaches, in all three associations, act to ensure that the positions taken in their lobbying efforts represent as broad a base as possible.

These associations therefore have significant holdings of lobbying resources, and are able to handle engagement on behalf of their members effectively. They have staff dedicated to monitoring regulatory discussions, and to representing the associations in the various fora, and their internal structures mean they are able

to draw on the expertise and manpower of their membership and their regional sub-units.

5.5.2.2: Integration into domestic structures

Importantly, the three associations are brought together in the *Deutsche Kreditwirtschaft* ('DK' – the German Banking Industry Committee). This umbrella body represents the entire German banking sector, and works to forge consensus positions among the three sub-sectors. The three share the presidency on an annual rotating basis. This has long been a central component of the German regulatory machine: it was formerly part of an 'interest-rate cartel' which worked with the Bundesbank to set and disseminate bank rates (Lütz, 2004: 174), and now remains the key conduit through which engagement between the banking sector and the public actors is structured.

As well as this formal combined arrangement, the three peak associations are also separately integrated into the domestic regulatory apparatus. Despite essentially being a regime centred on an independent statutory body, German financial regulation has long included a neo-corporatist style almost akin to industry self-regulation. Under this scheme certain key regulatory tasks, such as the monitoring of behaviour, or the setting of standards for processing card payments (Deutscher Sparkassen und Giroverband, 2013), have been delegated to the peak associations. As a result they have become established regulatory actors in their own right, and are very active players in domestic policy discussions.

5.5.3: Testing the hypotheses: how the resources were used

H2: The associational hypothesis

The peak associations put these resources to use in the lobbying over CRDIV/CRR. The very different arrangement of the activity gave rise to a far stronger engagement than the medium-sized and small British banks. As with the large banks at the very start of this empirical analysis, the data showed how

these German peak associations were able ‘follow the pen’ effectively. References to this theme, gleaned from the interviews, are shown in Table 5.6. A second theme, which we will see evidence of in their regulatory lobbying, was a distinct cynicism directed at the EBA – and its working practices, resources and structure.

Table 5.6: References to a ‘staged’ approach to lobbying

ID	Quote
(Interview, 31 st July 2014, London)	<i>“So we do this, I would say, at each ... at first we start with the Commission, then we have the Council, that means we try to talk with our national government, our representatives of the national government in the Council, and then our procedure how we do this, so they know what our concerns are and they can assess if they are valid or not, and can bring in our concerns in their discussion.”</i>
(Interview, 11 th June 2014 (b), Brussels)	<i>“We know how the legislative process works. Usually, of course, it’s the best thing that you are in touch already with those guys from the Commission who are drafting ... that’s if ... if you can convince them already to take on board certain issues – wonderful, great. Then, of course, you have to address Parliament, so of course, we address especially the German MEPs, but not exclusively – it can happen that we get in touch with the non-German ones as well. And of course, then, the Council – and that means the government in Berlin.”</i>
(Interview, 20 th August 2014, London)	<i>“So we do this, I would say ... at first we start with the Commission, then we have the Council, that means we try to talk with our national government, our representatives of the national government in the Council...”</i>

5.5.3.1: European regulatory arena

The representatives of the associations I interviewed all expressed a clear understanding of the importance of the EBA as a regulatory lobbying venue. However, they also admitted to not having matched the attention they paid it to that given to the legislative arena. Thus:

“Oh, I think that ... we are not well organised in this. We are trying to catch up a bit in this respect. So with the EBA ... I have the impression it’s not yet so intensive as it should be. We are now focussing, I think we have reached a defined and performing infrastructure dealing with Level One, with Level Two we are still ... trying to find what is the best. Do we need to send someone to London? For instance – is that something to do?”

(Interview, 11th June 2014 (b), Brussels)

Nonetheless, the associations’ combined engagement with the EBA began far earlier than the British associations, and rose far faster:

Table 5.7: Responses to EBA consultations by German peak associations, 2011-15

Year	DSGV	BVR	BdB	DK
2011-12	1			1
2012-13	4		2	8
2013-14	3		1	26
2014-15	1		1	20

Source: Documents downloaded from EBA website

The German peak associations were able to comment on a wide range of issues. Where the large private banks naturally dominated discussions on the regulation of wholesale markets, the groups representing the smaller banks contributed to consultations on rules for retail markets. They also provided input on certain ‘cross-over issues’: new rules which affected the large international firms and the small regional lenders alike. Thus, for example, they submitted guidance on the specification of the liquidity rules – relating to the outflow risks associated with retail deposits:

[The] information that is available, however, generally shows that compared to many other funding sources, retail deposits are one the most sticky forms of unsecured financing for a bank, and outflows within a period of 30 days of severe stress are contained to 10%-15% at maximum. The EBA referenced analysis of outflows from 25%-100% in certain deposit products is not recognized by the information available to us.

(Deutsche Kreditwirtschaft, 2013: 4)

This example shows the technical detail typical of their submissions to the EBA, which the associations were able to generate using their highly developed internal processes. However, also evident is a hint of the negative perception of the European regulatory, shown in the criticism expressed in the final sentence.

These information-generating abilities were supported by the associations’ significant interfacing resources. They established outposts in London to facilitate engagement with the EBA, and these staff then co-ordinated the shuttling back and forth of regulatory policy experts from Germany.

“... it’s being done by our experts. We are – none of us is an expert in the area of capital requirements. When it’s getting to the Level Two, it’s getting more technical, usually, so you need, let’s say, a lot of background on a

specific file to deal with the questions then. Well, this knowledge, this know-how, we don't have here – we have it in Berlin. So we are here, with our representatives, who are, let's say, generalists in their approach – can cover different areas, and if you need to fly in a real expert you fly him in.”

(Interview, 11th June 2014 (b), Brussels)

These experts, in turn, were sourced from the working groups – occasionally from the regional sub-associations, or the banks themselves where necessary. It was this ability to integrate the outward-facing representative capacity with the internal expertise which accounted for the strong presence of the German sector in the European regulatory arena. Importantly, much of the activity was also structured at an even higher level via the DK, which meant the associations presented a single, unified voice when delivering their input.

The staff in these outposts also strove to establish connections with members of the EBA's secretariat. At times this was constrained by what they perceived as the EBA's opacity, and the difficulty caused by its policy of convening working groups which were then disbanded once a certain rule, or template, was finalised. At outcome of this was a chaotic approach to gathering data:

“... all the time they're asking for data that they already have, in one way or the other they can use what they asked for a year ago. But instead, then they draw it up anew ... because the way they work is they form a working group, from scratch, and people sit there, and they ... start discussing 'How could we do this? What do we need for it?' And suddenly you have new requirements that are not ... consolidated with what the EBA did before. There's no history, or there's no-one who has the good view of everything that's happened, because they always start from new, they always start from scratch.”

(Interview, 17th September 2014, London)

In general, however, interview subjects from the peak associations often indicated that the strength of their representative activity – the way they marshalled input and presented unified messages – afford them a privileged position in European regulatory discussions.

5.5.3.2: European legislative arena

In discussions on the contents of the framework legislation, the German associations, and the plethora of banks they represented, were very quick to engage with policy-makers. This activity began with the submission of responses to consultations issued by the Basel Committee (Interview, 31st July 2014, London). In Europe, the associations held regular meetings with representatives of DG MARKT, using their lengthy experience in such dialogues to broker access. Likewise they soon established contacts with MEPs: beginning with German representatives, they then extended their coverage to MEPs from other member states. These contacts were possible because of the associations had long kept staff specifically dedicated to engaging with these legislative actors:

“... we have increased staff here in Brussels significantly. I’m working for the DSGVO since 1990, and since 1995 I was already in charge here of our office, in Brussels.”

(Interview, 11th June 2014 (b), Brussels)

Similarly, interviewees often explained how their experience at this process meant they were able to follow the progress of the CRDIV/CRR package from the outset. For example:

“... of course, it’s the best thing that you are in touch already with those guys from the Commission who are drafting ... that’s if ... if you can convince them already to take on board certain issues – wonderful, great. Then, if that doesn’t work, of course, you have to address Parliament, so of course, we address especially the German MEPs, but not exclusively – it can happen that we get in touch with the non-German ones as well. And of course, then, the Council – and that means our member of the Council means the government in Berlin.”

(Interview, 11th June 2014 (b), Brussels)

The length of this European engagement gave the peak associations considerable experience in lobbying at this level, which was not matched by the associations representing the smaller UK banks. As a result, the medium- and small-sized German banks (those beyond Deutsche and Commerzbank) had far greater representation in those fora than what had been achieved by their British counterparts.

Interestingly, a great deal of this work was facilitated via the three parallel *European* trade bodies: the European Savings Bank Group, the European Association of Co-operative Banks, and the European Banking Federation. However, in all three cases, their ability to work with these bodies was far stronger than that of the BBA or the BSA, as their greater ability to generate information, and their stronger experience in associational representation, made their transition upwards to European engagement far smoother. The engagement extended beyond simply participating in discussions and contributing to joint papers: the German associations loaned staff upwards into these European bodies to lead position-taking processes. For example:

“... we are very active at the European Banking Federation level, we have three colleagues who chair working groups at the EBF level. I chair the Market Risk working group at the European Banking Federation, and another guy here, another colleague at my association is the chair of the Own Funds working group, and another one is the chair of the Large Exposures working group.”

(Interview, 18th December 2013, London)

Similarly, the associations forged close links with other national bodies. For example, the DSGV co-operated extensively with its Austrian counterpart, and even sought to work further afield:

“... we did manage to establish a very good working relation between Mr Cameron Fine, the head of ICBA [Independent Community Bankers of America] ... and we are trying to co-ordinate our efforts.”

(Interview, 17th September 2014, London)

5.5.3.3: Domestic venues

Running in parallel with this European engagement came a very strong lobbying effort directed at domestic authorities – chiefly the BaFin, but also the Bundesbank and the Finance Ministry. Some respondents commented on how these engagements actually outweighed their European regulatory lobbying. For example:

“Yeah, there is, there are much more direct meetings with BaFin and Bundesbank, if I compare the number with EBA. We are we are also on a bilateral basis in much closer contact to BaFin.”

(Interview, 20th August 2014, London)

Here, again, the associations made use of their extensive resources: particularly significant on the home front were the strong bonds they had with the regulatory regime. This had long integrated associational representation into German policy-making, and so these bodies naturally drew on these connections to now discuss the implementation of European policy. However, the deeply embedded structures, with engagement routed through the DK, were also adapted to discuss strategies for shaping European rules. This represented a deliberate aim to have the BaFin echo the sector's concerns upwards into the European regulatory arena. The peak associations were acutely aware of this 'second path' into the EBA:

"We have, of course, discussions with the BaFin. The BaFin is also part of the EBA, because it's on the board of supervisors, so the national supervisors are very much involved in the work of the EBA ... [We] also try to talk with the EBA on the secretariat level about our concerns, so we approach the EBA from two sides, I would say."

(Interview, 31st July 2014, London)

A similar approach was used to garner support from domestic political actors. As a representative of one association put it:

"Our impression is that also members of the Bundestag, for example, come often to Brussels to have meetings. We try and get them involved in the debate, and to have positions on the legislative dossiers, and to get more and more engaged."

(Interview, 13th February 2015 (a), Brussels)

5.5.4: A review of the German sector as a whole

Looking across the entire German sector, we can now review its story in the light of the theoretical model. First, the initial premise was supported by the review of the landscape. The heavily bank-based financial system has given rise to a fragmented sector arranged over three distinct pillars; within each of these there are a few large banks and a great many smaller institutions (Allen & Gale, 2000; Detzer et al., 2013; Zysman, 1983). Certain members of the former category – notably Deutsche Bank – have significant resources of their own, but for the vast majority the proprietary holdings of lobbying resources are almost negligible.

Thus, we can connect the structure of the underlying variety of financial capitalism to their lobbying resources.

As we saw earlier in the chapter, the extensive resources of the large commercial banks enabled them to lobby the EBA directly, albeit as part of a larger effort which saw them behaving in line with the large British banks. This finding served to support the 'resource hypothesis' (*H1*).

Meanwhile, as a result of their weaker individual resources, the small German banks did indeed delegate their regulatory lobbying of the EBA to the representative bodies – meaning that the implication of the 'associational hypothesis' (*H2*) stood. These groups had long been integrated into domestic policy-making structures, and so had a smooth transition into the European regulatory arena. In this new space they made use of the extensive lobbying resources that they had historically deployed on the domestic scene. They established outposts in London to manage the relationship with the EBA, or else re-assigned staff from aspects of European policy work to make frequent trips there. These staff were then able to call on the deep holdings of expertise residing in the working groups, and to make full use of the associations' federal structures. Most importantly, it was the organisation of lobbying effort into a coherent operation, and the strength of this internal brokerage, which led to the extensive representation of the small German banks in the European regulatory arena.

However, as ever there were certain complexities to the German story. Through their associations the German banks made heavy use of lobbying in the European legislative arena. Again, this was a mix of conscious choice – pursuing an arena where compromises could still be won – and habit – engaging with a more familiar set of institutions.

Likewise, they engaged strongly with domestic actors. This was no doubt inspired by their embeddedness in national decision-making structures, which had long served to bind them into relationships with the Finance Ministry, the

Bundesbank and the BaFin. But perhaps what marks this out compared to the equivalent actions of the small *British* banks was its intent: this was deliberately undertaken in the hope of recruiting these public actors as supporters in Europe, whereas the British banks tended to use the domestic channel to win favourable implementation at home. Their engagements over these levels are summarised in Table 5.8.

Table 5.8: Summary of German banks' engagement across the arenas

	European Regulatory arena	European Legislative arena	Domestic scene
The large (commercial) banks	<p>Quick to realise the new venue's potential.</p> <p>Became adept at regulatory lobbying – providing detailed technical input and data to help rule-making.</p>	<p>Extremely well-connected: used established contacts with the EC and EP to gain access to policy-making discussions.</p> <p>Excelled at legislative lobbying: had the resources to generate high-quality and high-level political and technical information.</p> <p>Participated in associational activity with the BdB, but preferred to rely on their own efforts.</p>	<p>Engaged with the BaFin, but also with <i>British</i> regulatory actors.</p>
The three pillars	<p>Operated exclusively via the peak associations, and via the DK.</p> <p>Quickly embraced the EBA.</p> <p>Skilful at regulatory lobbying: able to garner information and communicate effectively.</p> <p>Matched their European regulatory lobbying with equal efforts pitched at domestic actors.</p>	<p>Extremely well-connected: experienced lobbyists on the European scene, with extensive access to the EC and the EP.</p> <p>Excelled at legislative lobbying: had the resources to generate high-quality and high-level political and technical information.</p>	<p>Closely integrated into domestic regulatory fora (particularly via the DK). Used these discussions to transmit lobbying pressure further up the European chain.</p>

This leads us to consider why the German associations were better at lobbying in the emergent regulatory arena than their British equivalents – and thus how the small German banks were better represented. The German bodies' strength arose from three important features, or areas of difference. First, each one's membership comprised a homogenous set of banks, with similar business models and concerns, which made establishing common positions far easier.

This was reinforced by the second: these groups had internal structures which meant that lobbying efforts were far more disciplined, and so there was far less rogue activity from German banks. Third, the organisations themselves had far greater lobbying resources, and in particular had integrated these into the kinds of coherent operations we saw run by the large universal banks (both British and German). In combination, these features enabled the German peak associations to provide a clear, unified and above all strong voice to the EBA.

Importantly, these features also all relate to the structural patterns in the German banking market. Overall, what we see is far less individual direct lobbying of the EBA than in the British context (really carried out by a single bank); instead the sector lobbied the EBA very effectively through its peak associations. These behaviours arose from the way the fragmented market dispersed lobbying resources across the entire sector, and allowed the associations to play a strong role in lobbying on behalf of the German banks. In this way, we can in turn relate the way the German banks lobbied the EBA back to the features of their national context (or their financial system) – and so we see support for the central theoretical argument, linking lobbying behaviours to national origins.

5.6: Conclusion

Overall, then, how have the expectations derived from our theorised causal model fared? The distribution of the lobbying resources have indeed followed the structures of the markets, and so of the two different financial systems (Allen & Gale, 2000; Demirgüç-Kunt & Levine, 1999; Zysman, 1983). In the UK, the market-based system has generated a consolidated sector, in which the resources are held by a cluster of banks in the top tier; meanwhile those in the second and third layers have far fewer proprietary lobbying resources. Conversely, the German bank-based system has given rise to a fragmented sector in which informational resources are dispersed among a larger number of players; these resources are then gathered, and consolidated and put to use, by the peak associations which represent the three pillars of the sector. In this way,

we can establish the link between the underlying variety of financial capitalism and the lobbying resources.

Secondly, analysis of the 'resource' and 'associational' hypotheses (*H1* and *H2*) enabled us to further link these varieties of financial capitalism through to lobbying behaviours. We saw how increased informational resources did indeed translate to greater direct engagement with the EBA, and how for the smaller, impoverished banks, associational representation was instead the norm. The findings also reveal two patterns taking us *beyond* the model's focus on the European regulatory arena. Many interviewees, representing banks from both countries and all sub-sectors, reported that they continued to engage with *legislative* actors over broad principals, in parallel with their lobbying of the EBA. Secondly, they all also retained a focus on domestic regulatory actors, directing various degrees of lobbying effort at national authorities.

Taken together, these findings support key implications of the European interest group literature. A prominent strand in this highlights the importance of informational resources as determinants of lobbying behaviours (Chalmers, 2011; 2013; Dür & Mateo, 2012); and we have seen how the banks' holdings of such resources shaped the way they engaged with the EBA. The literature also demonstrates how unitary actors cope with resource weaknesses by participating in associational activity (C. Mahoney, 2007); in this chapter, we have seen how the smaller banks in both national contexts relied heavily on their representative bodies. Along similar lines, studies of information provision (Bouwen, 2002; Dür & De Bièvre, 2007; Michalowitz, 2004) have shown how unitary actors are more effective at marshalling precise technical expertise – a finding echoed by the informational weaknesses of the British trade bodies. Finally, an implication common to the literature is that private actors are able to run complex, dynamic strategies using multiple venues and approaches (Alter & Vargas, 2000; Beyers & Kerremans, 2011; Guiradon, 2000; Holyoke, 2003; Mazey & Richardson, 2006); this has been supported by the banks' (of all sizes) engagement with venues beyond the EBA.

The analysis also showed important variations in the behaviours of the two sets of banks when lobbying the EBA. For the British, direct engagement by the large banks ran alongside the weak associational activity of the smaller banks and the building societies – which was itself undermined by the problems experienced by the associations. These patterns arose as a function of the distribution of lobbying resources (related to the structure of the banking market), which were heavily pitched towards a few very large banks, with the result that the rest of the sector – and its representative bodies – remained impoverished. Conversely, the German sector saw far less individual, direct lobbying (being essentially dominated by one bank); instead, the sector lobbied through the peak associations, which were able to draw upon significant lobbying resources and engage with the EBA far more effectively than their British counterparts. Again, this behaviour arose because of the way the structure of the vastly more fragmented banking landscape dispersed lobbying resources across the sector, and afforded the peak associations far greater strength. The losers, overall, appeared to be the medium-sized and small British firms.

Viewing the empirical findings in this way, we can see how they support the central theoretical argument of this thesis: that banks' lobbying of the EBA was shaped by their national origins. The analysis has given us an understanding of how banks' resources – and their resultant lobbying behaviours – are themselves rooted in the structures of their domestic financial systems. The market- and bank-based arrangements gave rise to very different distributions of resources among the banks, in turn shaping very different sets of behaviours.

This chapter has focussed on the approaches British and German banks took when lobbying the EBA, and examined how their resources shaped whether they lobbied alone or via an association. In the next chapter, we pick up on a particular element of the empirical story identified here: the continued focus on domestic regulatory actors. We consider why this was, and examine how banks' preferences over European financial regulation shaped their selection of venue.

Chapter 6: Preferences

6.1: Introduction

When lobbying over European financial regulation, banks now face a new, supranational body – the European Banking Authority (EBA). This has a novel institutional form: as an ‘agencified network’ (Levi-Faur, 2011: 810) it has a central secretariat, but relies heavily on input from the regulatory authorities which exist at the national level. Their continuing role gives banks a choice of paths in accessing the EBA, in that they can either lobby it, or their own national authority. In this chapter I present data which show that selecting between these targets is shaped by the perceptions banks have of European financial regulation, and the preferences that these generate. Both of these, in turn, derive from the regulatory paradigms on which rest their domestic regulatory regimes. Bringing these intuitions together, I argue that there exists a link between the lobbying behaviours of banks and their national origins.

This chapter analyses the second element of the causal model outlined in Chapter Two. The presumption that banks *necessarily* seek to lobby the EBA is relaxed, and we allow them to deliberately target their domestic regulator. As an initial premise, we took the notion that the preferences of banks, and of regulatory actors, derive from the paradigm which underpins their domestic regulatory regime. The causal model gave us a set of hypotheses, which have as their dependent variable banks’ lobbying behaviours – expressed as a combination of the venue selected (domestic or European) and the informational input supplied. The first hypothesis predicted that the alignments between the preferences shape lobbying behaviours, with banks directing efforts at the venue whose preferences are closest to their own. The mechanism operates thus: a bank, in deliberating over where to lobby, scans the preferences of its various possible targets and acts accordingly. The second hypothesis predicted that the banks would shift the input they employed in either venue to suit its distinctive rules – while all the time retaining an expression of their regulatory paradigm. These are laid out below:

'The alignment hypothesis'

H3: Banks will lobby their domestic regulator, or the EBA, based the alignment of their preferences over a given issue. The greater the alignment, the greater the likelihood that a particular venue will be targeted.

'The informational matching hypothesis'

H4: Banks will be sensitive to the demands of the various regulatory venues, and will adapt their input accordingly.

Next, the chapter examines the third and final element of the causal model. It analyses the interaction between the preference-based factors shaping behaviour and the consideration of banks' lobbying resources, thereby bringing together the two alternative explanations. Again, the model gave us an hypothesis, which is laid out below:

'The interaction hypothesis'

H5: The greater a bank's resources, the more likely it is to able to lobby according to its preferences.

These hypotheses enable us understand banks' lobbying behaviours, and also to connect the findings back to the underlying European interest group literature on which this study is founded. Thus, the tenets of the theory of venue-shopping (Baumgartner & Jones, 1991; Mazey & Richardson, 2006) inspire the notion of banks' flexibility in navigating their complex environment; while implications of studies of informational lobbying (Baumgartner & Leech, 1998; Bouwen, 2002; Dür & De Bièvre, 2007; Michalowitz, 2004) are represented in our expectation that banks adapt their input according to the tastes of the institutional audience being targeted. We thus have an entire theoretical chain to examine: from the variations in the underlying regulatory paradigm, through preferences, and into the factors shaping lobbying behaviour taken from the interest group literature.

I test the hypotheses using a series of examples drawn from the many problematic areas of regulatory change over which British and German banks lobbied. As was discussed during the Research Design chapter, these were selected so as to give a broad coverage of issues arising from the European legislative package, and to allow the analysis to be framed around a coherent empirical narrative. In this chapter, I begin by presenting a brief review of the

two national paradigms, in order to situate them afresh in the European and national contexts. Then, across two sub-sections, I present data on these areas of regulatory change, and on the associated lobbying behaviours. As with the previous chapter, I distinguish between 'large banks' and 'the rest.' Section five discusses the findings in the light of the overall theory, and of the underlying literatures.

6.2: Paradigms reprised: liberalism, ordo-liberalism and regulatory liberalism

The national regulatory paradigms contain core beliefs about the relationship between the state and the market, and about how banking should be regulated. As we saw in Chapter Four, the British regulatory model rests on a liberal paradigm: markets are thought to exist separately from the state, and to be populated by rational, utility-maximising private actors. Regulation by public authority is directed towards ensuring that competition prevails, since that is the mechanism through which efficient allocation of capital is achieved. Accordingly, regulation should not involve itself in the inner workings of banks; rather, responsibility rests with management to run their own affairs. Going beyond this threshold would impinge on the liberty of market actors, and undermine the efficient operation of the banking system. In turn, this paradigm underpins a broader regulatory model described as 'managed competition' (Thatcher, 2007). For our purposes, the salient feature of this regulatory edifice is that it rests on the private ownership and management of banks, and so uses competitive market forces to exert discipline on actors.

In contrast, the German model rests on a set of paradigmatic beliefs based on ordo-liberalism. Competition is still valued, but seen as a feature of financial markets to be managed; these markets are seen to exist in a legal framework created by, and governed over by, the state (Bonefeld, 2012). Financial regulation is integrated into an overall economic structure of co-ordinated capitalism (P.A. Hall & Soskice, 2001). Again, the salient feature for us is the presence of very different forms of ownership: there are large banks which operate through a joint-stockholder model, but there are also a great many

which are publicly- or mutually-owned. This leads to a regulatory regime with a lesser focus on competitive pressures in equity markets as a means of exercising regulatory authority. Instead, the system affords a much greater and more direct role for the state; thus, for example, lending activities are directed towards certain pre-defined ends, and banks are legally required to limit their activities to certain geographical regions. The overall result is a regulatory regime with a circumscribed view of equity capital ratios, which instead seeks to shape behaviour through carefully managed interactions with banks. These are structured through the corporatist patterns which pervade German policy-making – and so we have an example of broader ‘industry-led’ regulatory model (Thatcher, 2007).

With this in mind, we can view the British and German models described above relative to the ideational structure of European financial regulation, which is grounded in a global paradigm of ‘regulatory liberalism’ (Lall, 2012; Major, 2012). This paradigm holds that financial markets should be free from state control – hence the break from the Keynesian structures of the Bretton Woods era. Meanwhile, regulatory efforts should be aimed at handling the negative externalities which may arise in financial markets, and at ensuring the stability and soundness of banks or taming their occasionally egregious behaviour. Again, however, the encouraging of competition is a primary regulatory goal, as competition brings efficiency and discipline. The regulatory aims are achieved by imposing minimum capital requirements on banks, and this tool reveals an important element of the paradigm: regulatory control is exercised using the pressures of equity markets to shape behaviour. European bank regulation derives fairly cleanly from this framework, consistent with a long-run inclination towards opening up markets and fostering competition under the banner of establishing the single market (Grossman & Leblond, 2011; Mügge, 2013).

In this sense, we can situate the British, liberal paradigm closer to Europe than German *ordo-liberalism*: although they share a faith in competition, the latter’s pre-occupation with a strong *directing* role for the state sets it apart. Furthermore, so too does its lesser focus on equity capital, and the pressure of

competitive capital markets, as regulatory tools. The relative positioning of the three sets of beliefs has important consequences for the British and German perspectives on European financial regulation.

Next, we can also draw out from the two national paradigms some beliefs about the institutional manifestation of regulatory authority. In the British liberal tradition, authority is vested in an institution which enjoys a high degree of independence and discretion in exercising its duties. This is seen as an important feature to ensure its credibility, which in turn generates a broad trust among market actors in the efficient and technical pursuit of regulation. The same trust also means that the discretion practiced by the regulator does not shade into arbitrary behaviour. In the British perspective, the financial regulator is an independent actor embedded in the market it seeks to regulate.

The German version takes us to a similar end-point, but via a different route. Here, the focus is still on a regulator which is independent of government control; again, this feature is important in fostering a trust in the credibility of the overall regime. However, this time there is a preoccupation with separating the political role of policy-making from the technocratic business of implementation. Thus, the discretion available to the regulator in exercising its duties is less, as it must follow procedures laid down by its political principals. In this context the regulator is an independent actor, but at an arm's length remove from the market it oversees, and subject to a smaller zone of discretion.

This brief review has served to remind us of the tents of the two national regulatory paradigms. Placing each in a wider domestic context, and viewing each in relation to European financial regulation, helps sketch a holistic view of the national environments. We can now explore how these drove lobbying behaviour in more detail, and so the remainder of this chapter will examine a set of problematic areas of regulatory change which animated the British and German sectors.

6.3: The British sector

In what follows I present data pertaining to the instances of regulatory change faced by the British sector. These are used to examine the empirical validity of the initial premise, and then of the ‘alignment’ and ‘informational matching’ hypotheses.

6.3.1: The British perspectives on bank regulation

We begin our study of the British banks’ lobbying by establish a high-level view of the various actors’ perceptions of bank regulation. Over the course of my research, many interviewees made remarks revealing such perceptions, and these can be drawn into four themes: the liberal nature of British bank regulation; its consistency; its basic congruence with European regulation; and the retrenchment of key regulatory actors.

First, several spoke of aspects of the domestic regime, or of their experiences in dealing with its institutions, in ways which referred to the underlying liberal paradigm. For example, the discussions often turned to the topic of how British regulators focussed on reviewing banks’ internal processes and management structures, rather than the substance of individual decisions. Thus, a former member of the Bank of England commented:

“It’s always been quite ‘high-level’; they’ve always resisted the assertion that it’s ‘light-touch’ or ‘soft-touch’. They’ve always tried to describe it as ‘principles’, and now ‘judgement-based’ – that’s the big thing. In other words, what this is trying to do is to take a broad view of the firm, get an understanding of its strategy, its systems, its people, and at a top level try and make a judgement about whether that adds up. And that whole approach, is a big contrast with the ‘examiner’ approach, that happens in the States – where you have hundreds of embedded examiners looking at loan books, particular decisions, approvals, and so on and so forth.”

(Interview, 4th November 2014, London)

This perception of a ‘high-level approach’ was echoed by a representative of one the banks:

“... they were really overseeing the governance around [the firm], and who was doing what in the decision process, and oversight. Yes, there was some

modelling things, but their main point was 'You do not do any quant stuff until you actually get the governance right.'

(Interview, 14th August 2014, London)

In terms of consistency, respondents referred to the remarkable steadiness of this approach through the years of the financial crisis. For example:

"The emphasis on the move away from talking about 'principles-based', as opposed to rules, tick-box, which was the FSA line, to now Andrew Bailey talking about being judgemental ... is a change in tone, but it's recognisably got the same idea about what the supervisor's doing - namely, the supervisor is exercising an oversight over the bank; it isn't minutely examining all its works."

(Interview, 4th November 2014, London)

Here, the respondent's phrase 'the same idea' was echoed by several other mentions of an essential consistency in the regulatory approach, which was perhaps remarkable given the change in the institutional landscape during the period.

Third, these extended into expressions regarding the congruence of the British, liberal approach with the principles behind European bank regulation. Respondents often explained how much of the European legislation was aimed at established a 'level playing field', on which banks could compete fairly. For example, one remarked that:

"And I think, you know, be really clear about this: firms and banks want a single rulebook, it makes everyone's life a lot easier, and so that mandate that the EBA has is broadly very, very supported."

(Interview, 4th April 2014 (b), London)

This indicates the feelings of support I came across for a common, harmonised regulatory framework. Arising from this were observations of the centrality of the EBA in the process of implementing these rules - and in particular as a bulwark for British interests against a powerful block of Eurozone countries. For example, one respondent explain that:

"... and then I think you get to the particulars of the role of the EBA, [and] that's a really difficult mix to stir properly. I mean it's essential from the UK perspective that the EBA works, because it's sort of the 'referee' [laughs] ... It has a role ... but increasingly it might entirely depend on the way the

Eurozone – non-Eurozone relationship goes. You know, so if we stay connected but not in the Eurozone, then the EBA will continue to have an important role and a really difficult one...”

(Interview, 7th July 2014, London)

Fourth, notwithstanding the affinity with the domestic regime, there were frequent mentions of a distinct retrenchment on the part of the British regulator. Although the banks still felt they and the PRA were cut from the same cloth, a clear impression arose from my conversations with bank representatives that the regulator was pulling back from open and frequent engagement with the sector. Examples of these references are shown in Table 6.1.

Table 6.1: British interviewees references to ‘retrenchment’

ID	Quote
Interview, 14 th May 2013, London	“So to be honest they went from being a very dominant force: they used to hold big round tables in their building with great big seminars and awareness sessions and a lot of engagement, very good engagement, between them, the Treasury, the Bank of England representatives and the industry, both in London and in Brussels. <u>All that completely stopped, literally completely stopped.</u> ”
Interview, 18 th March 2014, London (a)	“Yes, certainly under Basel II there used to be a lot of the credit risk working groups, and the market risk working groups, and ... my impression is that they [are now] less active.”
Interview, 18 th March 2014, London (b)	“So things like, in the very early days of the PRA, you used to have close and continuous meetings – C&Cs – the word ‘close’ was dropped. <u>It was intentional by them.</u> ”
Interview, 26 th March 2014, London	“There’s eleven pages of questions on three pages of rules, because there’s so much unanswered. Now the PRA aren’t really looking to engage on any of that stuff. They kind of said ‘Take your best step, tell us what you’re doing’ Or even, ‘You tell us, and unless we come back and shout at you about it, or until we do, keep doing it.’”

This withdrawal was the result of a conscious policy decision taken by the Bank of England on forming the PRA. A member of staff explained that:

“Yeah ... so ... I mean, Mervyn King, when we became the PRA, set very much the tone about lots of things we do as an organisation, as the PRA, which was along the lines of ‘We do not negotiate with industry.’ I always thought that was something like ‘We have a view on what we want, and if industry don’t like it, then bad luck.’”

(Interview, 15th July 2014, London)

Importantly, as we will see, this retrenchment did not effect the extent to which the banks and their associations continued to direct lobbying efforts at the UK regulator.

In these various perspectives, as they were articulated to me during the interviews, we can see evidence of the liberal paradigm. The banks were embedded in a construct which called for high-level, principles-based regulation, and one which prioritised open competition with consistent rules regulatory goal. This showed through in the way they described both the British and the European regulatory landscapes. This serves as a high-level validation of the initial premise: the positions of the British banks were rooted in the national regulatory paradigm.

6.3.2: The large banks and remuneration

With this general picture of the various actors' positions in place, we can now move to examining the lobbying behaviours of banks over specific instances of regulatory change. In each of the following examples, I study the behaviours in the light of the 'alignment' and 'information matching' hypotheses (*H3* and *H4*).

The CRDIV/CRR legislative package, and the ensuing rule-making, contained a great many aspects which animated the UK banks. Among the most prominent, however, were the new policies on remuneration.

6.3.2.1: Prelude: The European rules and the British preferences

The provisions of the CRDIV/CRR package covering remuneration originated in an amendment tabled by a Belgian Green MEP, Phillippe Lamberts (Barker & Schäfer, 2013). This imposed a cap on the ratio – of 1:1 – between bank employees' fixed salary and their discretionary bonus; banks could raise this to 2:1, but only with the explicit approval of their shareholders. The legislation also imposed significant reporting requirements on banks, as they would now be obliged to disclose, among other things, the numbers of staff to whom they paid more than €1 million. In the end, the matter became something of a *quid pro quo*: the Parliament demanded that it be carried, in return for its approval of the rest of the CRDIV/CRR package.

Looking at these new rules it was possible to detect two sets of intentions. At one level was a fairly basic, politicised desire to ‘punish’ the banks: to bring to account the institutions, if not the individuals within them, which had caused the financial crisis. At a deeper, perhaps more considered level was a distinct intention to reconfigure the incentive structures operating within banks, to restrict short-termist, overly-risky behaviour on the part of the bankers and traders. There was thus a genuine concern for the stability of the system behind these rules.

This issue primarily impacted the five universal banks at the top of the sector, who had large numbers of highly-paid staff. However, the structure of the British market meant that there were also mid-tier banks (such as Santander, and TSB) which were effected; though in reality, the lobbying efforts were dominated by the large banks. Their perceptions of this issue were clear, and one representative described it thus, rather bluntly:

“And then remuneration. That was a real slap in the face.”

(Interview, 7th May 2014, London)

Their preferences, arising from this basic perception, were across two dimensions: for both less regulation and less harmonisation. On the first, they felt that the cap was just not ‘right’ in some way. One respondent stressed:

“I think remuneration is seen as just being troublesome really in the UK, I think that’s seen as being a political, rather than really a than a good risk-based piece of regulation. But caps and all that sort of stuff, I think it’s just not our way.”

(Interview, 7th July 2014, London)

He went to explain how as a tool to control banks’ behaviour it was misguided, and more fundamentally, it ran against the principle that responsibility for managing such issues squarely with the firms themselves. On these grounds, appeal to ‘less regulation’ meant no statutory restrictions on pay. Meanwhile, on the second dimension, the banks had a distinct preference for local flexibility in administering whatever cap was decided upon – and so less harmonisation. This, they felt, could at least ensure that certain employment practices could be protected. In these preferences the large banks were not simply acting out of

self-interest; they were also essentially vocalising a preference based on the distinctly liberal conceptions of how the regulation of private market actors should work.

The official British position – that of the Treasury and the PRA – was aligned with these banks. While officials recognised the importance of aligning pay with risk attitudes, and were broadly in favour of restrictions on up-front cash bonuses and of claw back mechanisms (Barker & Parker, 2012), they were highly sceptical of the imposition of a statutory cap on the remuneration ratio. Andrew Bailey, the head of the PRA, was reported to have said:

‘Let me be blunt, the bonus cap is the wrong policy, the debate around it is misguided.’

(Fleming et al., 2014)

Again, the official perspectives on the remuneration policies can be linked back to the underlying paradigm: like the banks, British regulators felt that these rules went against the tenets of their fundamental beliefs in how market actors’ behaviour should be controlled.

On this issue, then, we can see the combined preferences of the banks and regulators drawing on the British liberal paradigm. The opposition to the cap, and the calls for flexibility in implementation – at the very least – echoed the principles in the paradigm of freedom for market actors and discretion for regulators. This serves to further support our initial premise. The preferences against the

6.3.2.2: Testing the hypotheses against the lobbying behaviours

H3: The alignment hypothesis

We begin our review of the lobbying behaviours with the examination of their venue selection, and so of the ‘alignment’ hypothesis. On this issue the large UK banks concentrated their efforts on the domestic scene: as we saw in the previous chapter, they had strong links with British political and regulatory actors, and used these extensively to lobby over remuneration. On a day-to-day

level they made use of their supervisory relationships with the PRA to push against the new rules, and further up the organisation they were able to use personal contacts with senior staff, both in supervision and in policy, to arrange direct and private meetings. Similar approaches were deployed to lobby officials in the Treasury, where the large banks frequently met senior figures such as Sir Nicholas Macpherson and John Kingman (the first and second secretaries to the Chancellor, respectively). They were able to contact certain key MPs, such as members of the Treasury Select Committee and successive City Ministers Sajid Javid and Nicky Morgan.

Importantly, the process-tracing exercise showed that this domestic activity formed the core of a wide-ranging strategy. Examining the efforts of the banks, and using material from interviews, it was clear that they approached actors on the home front with the deliberate intention of having them pass the lobbying effort further up the European chain. One respondent commented that:

“... if you’re trying to lobby the EBA over [this], one of the pipes up to that is to work with your domestic regulator and get them to back you.”

(Interview, 3rd June 2014, London)

Another referred more explicitly to the way banks sought to engage the support of the national authority:

“... they target the PRA, and use them as a lobbyist in Europe, co-opt them...”

(Interview, 29th January 2015, London)

Similar pass-through approaches employed a political route, with banks exerting pressure on domestic actors in the hope of gaining support in other European domains. Part of this involved broadening the lobbying efforts to include a legal challenge to the proposals, and one bank obtained a formal opinion from its lawyers to the effect that the proposed cap ‘contravened EU law’ (Barker, 2013). Others soon fell in behind this strategy, and although the public salience of the issue chilled the support of the Treasury for such an action, chancellor George Osborne was eventually persuaded to launch a legal challenge to the bonus rules in the European Court of Justice (Barker et al., 2013).

Secondly, the banks also undertook a degree of lobbying in Europe on their own behalf: they engaged with the EBA through its public channels, attending consultation hearings on the subject and submitting written responses to rule-making procedures. They also worked beyond the EBA, and lobbied legislative actors. Through their pre-existing contacts they approached key parliamentarians – Lamberts himself, naturally, but also the *rapporteurs* on the dossier. One bank managed to bring Lamberts to its London offices, and take him on a tour of their trading floor – as part of a pitch which stressed the problems with his suggestions (Barker & Schäfer, 2013).

However, the data revealed several distinct themes surrounding this example of regulatory change which hampered the banks' lobbying efforts. Firstly, they only appreciated its significance *very* late on in the legislative process: they had been digesting the new rules pertaining to the capital and liquidity ratios imposed under CRR, and had only been vaguely aware of the proposals to cap pay. As one interview subject put it to me:

"... fairly early on there was an event which [Philippe Lamberts] spoke at in London, which I went along to ... would have been mid-way through 2010 ... and ... there was five of us showed up to this Belgian, who I knew was a co-rapporteur on CRDIV ... Hardly anyone showed up to it, I think there was someone from a university, there was me, one of the US banks, certainly none of the UK banks bothered to go to it."

(Interview, 14th May 2013, London)

The second was the salience of the issue: in the heated public discourse following the financial crisis remuneration became an emotive topic, and disapproval of bankers' bonuses was high. The chief executive of RBS, for example, bowed to media pressure and declined the bonus his board had awarded him (Moore, 2012). This controversy constrained the banks' ability to discuss the topic with political actors, particularly as it became bound up with partisan positioning among the parties:

"Remuneration, of course, is highly politicised. It's a fairly simple and straightforward topic, but it has these political connotations, and these have huge ... implications as to how one actually goes about communicating ... and with the election here coming up [next year] it'll become even more so."

(Interview, 13th May 2013, London)

Furthermore, the Treasury officials whom the banks were lobbying were well aware of the dangers of being seen to be siding with the banks. As one representative explained:

“... [discussions] suddenly became focussed around the remuneration side. And again, then we entered the sort of ... the weird situation of debates of ‘Well how much does a bank like us actually want to lobby on bonuses?’ We don’t want to be seen to be doing that, and ... the Treasury was trying to – bless them – not be seen to be ‘We’re all about banks.’ So they were taking it easy.”

(Interview, 3rd June 2014, London)

The third difficulty arose the public actors’ own positioning on the issue. During this period regulatory officials and Treasury staff were still working on constituting a new domestic institutional landscape, as the FSA was being dismantled and re-created as the PRA and the FCA. Later, once the new landscape had been established, differences in positioning between public actors and the banks emerged. Although intuitively aligned with the banks, the PRA pressed back against their efforts on remuneration, because of the lack of constructive engagement they had shown on *other* topics. The same was true of the Treasury, and in conversations the bonus cap almost fell victim to horse-trading between the two parties:

“And so ... when it came to issues like the bonus cap, what ended up happening was that the industry started getting very concerned, it then started trying to have a dialogue with the UK government, again, and the Treasury team was saying ‘Yeah, but you’ve been arguing against what we’ve been trying to achieve.’”

(Interview, 14th May 2013, London)

These difficulties led the banks to structure their engagement from 2013 onwards through trade bodies – principally the British Bankers’ Association (BBA) and Association for Financial Markets in Europe (AFME). Many of the responses to consultations on remuneration hosted by the PRA were provided by the BBA on behalf of the banks, while AFME took a more European role and contacted MEPs (Barker, 2012). The latter, for its part, often found working on this issue rather awkward, since its membership included several European wholesale banks whose position on the issue differed from the British. A representative of the association explained that

“... however you look at it it’s really a UK issue, and ... it’s ... we ... I know we’ve tried to do some work with the BBA but it’s really quite a different focus because the BBA will talk about the city’s competitiveness and the UK economy, and we can’t really say those things, because we’re a European organisation.”

(Interview, 17th June 2013, London)

Notwithstanding these difficulties, the banks pursued lobbying efforts which placed domestic engagement at the core of the strategy. This supports *H3*: the broad, general alignment between the banks and the domestic actors led the former to concentrate their efforts on the domestic scene. Such efforts were undertaken in the hope of using these domestic alliances to exert pressure in Europe; these were often successful, even if the second-order approaches to have the rules changed pursued by public actors failed. However, the public salience of the issue, and the PRA’s wider strategic thinking, served to constrain the banks’ lobbying.

H4: The informational matching hypothesis

Beyond these considerations of the venues targeted we can also focus on the input supplied – and so examine the ‘informational matching’ hypothesis. In their domestic engagements, the large British banks, and their associations, deployed distinctly ‘national’ arguments. From the data, two parallel complaints to the PRA can be identified, regarding the likely harm caused by the rules to the stability and soundness of the sector. The first part of the argument ran thus: to maintain overall levels of pay, the banks would have to raise fixed salaries. This would harm their flexibility to reduce outgoings in times of stress, and mean that an increasing proportion of earnings would have to be spent on fixed costs, rather than being put into reserves as retained earnings. This would have the perverse effect of actually making them *less* safe. The *Financial Times*, citing banks’ arguments on the topic, commented that:

‘... the European rule changes could restrict banks’ ability to keep costs flexible. Instead of cutting bonuses in cyclical downturns, they will have to go through the disruptive and expensive process of cutting more jobs.’

(Jenkins, 2012)

Secondly, the banks argued that remuneration was meant to be used to incentivise good behaviour, but the more it was fixed (as base salary), the more that effect would be dulled. If *all* behaviour was to be rewarded with the same level of pay, then at best bankers would have no reason to take risks – which would have a knock-on effect on lending. At worst, they would be under no incentive to behave well, and so would actually run *greater* risks. When deploying such arguments to domestic regulatory actors the UK banks firmly pushed the impact the rules would have on the *systemic stability of the British sector*.

Meanwhile to other domestic actors, and in the public domain, the UK banks argued strongly that the rules would have negative effects on the *competitiveness of the British sector*. The higher cost base would make them less attractive to investors, and more worryingly, high-paid staff would desert the banks in favour of employers beyond the reach of European bonus cap rules. Both of these would harm the banks' ability to compete with other global banks, and undermine the competitive position of what was an industry of vital strategic importance for the UK. Moreover, the argumentation drew on beliefs in the liberal regulatory paradigm, under which such a heavy-handed measure was deemed inappropriate. Their opposition, couched in terms of a discussion on the inadvertent harm to systemic stability, showed an expression of the principle that responsibility for performance, and for risk-management, lay with the firms themselves, and should not be interfered with by outside agents.

When lobbying the EBA their input differed slightly to what had been deployed on the national scene. As the EBA's intention was to create a level playing field by enforcing this rule on all banks in the EU, the large UK banks realised that complaints about the impact on competitiveness would gain little traction. Essentially, the EBA was creating a competitive landscape in which this cap existed and applied to *all* banks – and so insisting that it would harm the competitive position of the British sector would just seem to be special pleading. Instead they focussed on specifying the technical details through which the cap

would be applied; concentrating, for instance, on the definition of the staff impacted:

EBA Question: 'Staff shall be identified as having a material impact on an institution's risk profile if they are awarded variable remuneration that exceeds both of the following amounts:

75% of the fixed component of remuneration;

ii. EUR 75 000

Is this criterion appropriate to identify risk takers?

Bank Answer: 'This criterion does not relate to risk taking so it cannot be considered directly appropriate for identifying risk takers. As a backstop criterion for use in certain types of institution, it may be appropriate. However, at this level of remuneration, the percentage part of the criterion is very sensitive to small changes in fixed remuneration. The list would therefore be quite volatile annually. It would not be appropriate for an institution such as Barclays, where a variable award of EUR 75,000 is not considered large.'

(Barclays Bank, 2013: 3)

Similar flexing was evident in their lobbying of European legislative actors. Here, again, they *downplayed* the impact the rules would have on their competitive positions vis-à-vis other banks, as, like with the EBA, that was seen to be too obviously a self-serving case to be making. Again, therefore, the banks tried to explain the technical deficiencies of the policy. For example, a position paper targeted at MEPs raised the following objection:

'... a metric to determine the ratio of fixed to variable remuneration may result in reduced bonuses but increases in salaries and other allowances to keep the total compensation package the same. This consequent reduction in variable compensation would reduce firms' ability to apply risk adjustment measures as well as decrease the opportunity to reduce total compensation where performance of the employee or the business is below expectations. This potentially pays for poor performance and gives less flexibility to the business, paradoxically reducing one of the interventions available in a stress situation as it reduces the flexibility to reduce costs, perhaps also in response to lower revenues. As a result returns and thus retained earnings would most likely be lower, reducing retentions available to bolster capital and so presenting risks to both stability and growth.'

(British Bankers' Association, 2012: 14)

The significance here is the careful avoidance of *national* argumentation, and instead the focus on technical language highlighting unintended consequences. The variation between this, the argumentation used at the EBA, and at home,

show an acute flexing of input according to the tastes of the venues being targeted.

6.3.2.3: Summary: Remuneration

In summary, we can make some observations about the lobbying surrounding the bonus cap in the light of the theoretical model. First, the premise connecting the regulatory paradigm and the preferences is supported: the banks' opposition was grounded in a belief that such a measure was inappropriate, as it trampled on the separation between the state and the private affairs of market actors. Secondly, the implications of the 'alignment hypothesis' (*H3*) were borne out, in that the banks' selection of primary lobbying venues reflected the fundamental, if slightly fractious, congruence of their preferences and those of the PRA. The extent to which they were able to actually penetrate these venues and achieve any traction was conditioned by factors beyond their control, such as the salience of the issue and those bodies' own desire to maintain a suitable distance from the banks. Nonetheless, our theorised causal mechanism stands: the large banks' preferences were rooted in their belief in the British regulatory paradigm, and their choice of lobbying venue reflected a decision based on the alignment of these preferences.

Third, the 'informational matching' hypothesis (*H4*) was supported by the data. The banks flexed the presentation of their input in different venues, stressing elements such as systemic stability or national competitiveness as appropriate. This showed a following the rules of the very different discursive venues. Overall, though, their efforts were framed around a fairly consistent message referring to the harm the restrictions would have on the free operation of competition in the marketplace. This, in turn, reflected the strength of their paradigmatic belief in competition.

6.3.3: The building societies and capital

A second major area of contention between Europe and the British sector was on the definitions of instruments allowable as capital. This particularly troubled the

building societies. In the coming section we review the lobbying activities of the key actors: the larger societies, the smaller firms, and their representative association.

6.3.3.1: Prelude: The European rules and the British preferences

The 'CRR' component of the legislative package purified the types of instrument financial institutions could hold as components of their 'core' capital layer. As part of the overall drive to bolster the equity levels of European banks, this outlawed the use of any instrument which bore fixed, non-discretionary payments. There was a clear linkage between this intention and the liberal aspect of the European regulatory paradigm, with the emphasis it placed on the role of shareholders in absorbing banks' losses – and its use of the pressures of equity capital markets as a mechanism for exerting discipline on financial institutions.

For the UK building societies this move posed significant problems. As mutually-owned entities they had no equity share capital in issue, and a large part of their buffers was composed of retained earnings. They *did* have securities in issue - Permanent Interest-Bearing Shares ('PIBS') – but these fell precisely into the category CRDIV/CRR sought to eliminate. Over the course of 2008-10, several building societies came into great difficulties with their capital ratios; later, an examination of the Co-Operative Bank's balance sheet conducted by British regulators exposed a £1.5bn shortfall. With these on-going capital problems, and with revenues squeezed by stubbornly low interest rates and sluggish business levels, the sector was firmly opposed to the banning of these instruments.

British regulators, meanwhile, had rather nuanced preferences on the issue. They had some sympathy with the building societies, and had previously worked with them to design instruments which complied with earlier versions of the European capital adequacy laws. Similarly, they had often sought to work closely with the societies to safeguard the systemic stability of this sub-sector – recognising, in particular, its importance in domestic mortgage lending.

However, over this issue the regulators were keen to implement CRDIV/CRR as closely as possible. The reasoning was two-fold. First, there was a distinct tendency among British regulators to question the soundness of the building societies, and the wisdom of their expansion strategies and capital management. This was no doubt borne of the many problems the societies had suffered during the crisis, during which the sub-sector was rocked by bail-outs (such as of the Dunfermline Building Society) and mergers – the Derbyshire, Cheshire, Scarborough, Chesham, Chelsea and Norwich and Peterborough societies were all taken over in the years following the financial crisis (Moore, 2014). This scepticism shaded into a desire for these firms to de-mutualise, and to open themselves and allow market forces – that is, equity capital markets – to exert some discipline. In this sense it was the *regulators* who took a position more easily identifiable as in line with the British liberal paradigm. Meanwhile, their siding, albeit subtle, with European actors on this showed their preference for extending the reach of equity into the co-operative sector.

The second reason was rather more practical. As with remuneration, this issue was seen as part of a larger packet of strategic thinking, where the UK regulators sought to make gains over European actors by winning the ability to gold-plate regulations. In this context, the changes to mutuals' capital needed to be implemented cleanly, so that the PRA could then safely over-shoot on other elements of the rules (for example, by exceeding the leverage ratio rules).

Taking these positions together, we can see the beginnings of a rather fractious relationship between the societies and both European and British regulators. The legislation sought to remove a central component of their balance sheet, and the EBA, as ever, sought to draft the rules such that this was achieved. The PRA, meanwhile, may have been sympathetic to the societies' concerns, but nonetheless stuck to its liberal, pro-competition principles and sought to transpose this part of the regulation as cleanly as possible.

6.3.3.2: Testing the hypotheses against the lobbying behaviours

H3: The alignment hypothesis

The building societies focussed their lobbying efforts on this issue on the domestic scene. The engagements were divided into two broad groups: the larger societies (such as Nationwide, Yorkshire and Coventry) were able to make direct contact with domestic public actors on their own behalf, while the remainder routed their work through the Building Societies' Association (BSA). In fact, there was also a degree of overlap between these, in that the larger societies also participated in BSA discussions and contributed to its positions papers.

The societies lobbied the PRA: they began by directing lobbying efforts at staff in its supervision function, hoping to use established contacts to open lines of communication with the regulator. This was only really viable for the larger societies, since only they had individual supervisory relationships; many of the rest were under joint supervisory arrangements and so had little direct access. The BSA, meanwhile, had more of a focus on staff in the PRA's policy unit, where it was able to engage in early conversations over the impact of the new European rules.

Elsewhere, the building societies sought to move beyond this explicitly regulatory venue. The intention was to play a 'divide-and-conquer' game in the regime's institutional structure, making up for weakness in one area with strengths in another. Thus, they lobbied officials in the Treasury – making contact with senior civil servants and advisers. They even, to an extent, managed to prize apart the relationship with the Bank of England, by targeting lobbying efforts beyond the PRA and directly at the divisions responsible for monitoring the health of the UK mortgage market (and reporting into the Bank's Monetary Policy Committee). Straddling all of these were efforts directed at key parliamentarians, such as Mark Hoban and Andrew Tyrie (both on the Treasury Select Committee).

They also worked further afield, and lobbied in Europe over this issue. However, three important themes emerged from the analysis of the data which qualify their work at this level. First, they weighted their European engagement towards the legislative arena:

“We were particularly engaged ... I went and saw people in the relevant unit in the Commission, we saw various people in the Parliament, on the ECON committee...”

(Interview, 4th June 2014, London)

They worked these contacts they had in order to try and influence this policy at a very high level early on in the period, and once the legislative drafts were seen to be completed, their activity declined. Second, the interactions they had with the EBA were weak and fragmented – inspired by negative perceptions of this regulatory venue. I came across several expressions of this view, such as:

“... dealing with the EBA is a little different ... the people who own the relationship with the domestic regulators don't own the EBA. I don't think they even treat it as a 'proper' regulator.”

(Interview, 12th August 2014, London)

This quote indicates the impression these firms had of the EBA, but also reflects their approach of keeping regulatory lobbying efforts in distinct silos; as a result, their engagement with the EBA was harmed by the lack of integration in their efforts. What little they *did* do was concerned with gaining approval for their new capital instrument, rather than attempting to influence the design new policy as it developed. Third, all their European was distinctly subordinated to their domestic lobbying; and, unlike the large banks before them, they did not seek to recruit British public actors to lobby on their behalf further up the European chain (Interview, 9th July 2014, London).

Interestingly, the data show that the overall focus on the domestic arena did not wholly stem from an alignment of preferences. Granted, the PRA was sympathetic to the plight of the building societies, but this was perhaps only a superficial sympathy. The British regulators saw a need to build a practicable replacement for the existing capital instrument – the PIBS – but were also concerned to tighten the discipline of this sub-sector and to show a

determination to deal with the various scandals and crises that had rocked it. Rather, the focus on the domestic arena was linked to a theme which emerged from the data showing these firms' 'national' self-perception. For example:

"... and I think, if we're honest, I think we probably, I think we've understood how to ... get on with our national regulator better, and we have been playing that game longer."

(Interview, 11th January 2015, London)

These were British firms, embedded in a British regulatory regime, with distinctly national business models. Although they identified the new capital rules as essentially a *European* issue, this rootedness led them to focus on the national scene. Likewise, the detailed rules implementing the change were seen as closed off: the societies saw no benefit in lobbying the EBA to influence their writing, nor to engage the PRA as a representative and use a 'pass-through' approach to exert pressure on the EBA.

H4: The informational matching hypothesis

Examining the second hypothesis leads us to consider the input deployed in the various venues targeted by the buildings societies. The process-tracing exercise revealed how the societies' efforts on the home front fell into two distinct phases. The first involved running a set of consequential arguments aimed at the regulatory and political actors. To the PRA, through bilateral meetings or open consultation processes, they stressed the impact the ban would have on their capital positions, and drew attention to their likely response:

'So, alongside earnings retention, the immediate adjustment to the demand for higher [capital] is more likely to have to be met from deleveraging than is the case for proprietary banks. And it is in this context that the sudden and unforeseen implementation of the [changes] on 1 January 2014 is particularly objectionable. As our members have explained at a face to face meeting with PRA policy staff, a sudden step change of this nature cannot be coped with by extra earnings retention (remembering that mutuals, unlike proprietary banks, already retain, rather than distributing, their earnings), leaving in the short term some severe deleveraging as the only alternative.'

(Building Societies Association, 2013b: 12)

The BSA also stressed the significant departure in approach between the PRA and its predecessor (the FSA) which had earlier suggested a more phased implementation schedule:

'However, the unexpected proposal to bring in almost all [the changes] immediately, 100%, on 1 January 2014 is extremely unwelcome. We are clear that these need to be implemented in due course, but we are equally clear that for good reason both Basel III and CRDIV outlined a very modest glide path, beginning in 2014, but only at 20% a year. And FSA committed in October 2012 not to accelerate this transition path.

This general position was reaffirmed in FSA's last statement on CRDIV in February 2013. PRA has now without warning reneged on that clear commitment, causing extensive detriment to our members.'

(Building Societies Association, 2013b: 5)

Meanwhile, to domestic *political* actors, the societies pressed the consequences of the change on their capacity to maintain growth in mortgage lending. A press release by the BSA detailed the various areas of growth the sub-sector had enjoyed (mortgage lending, current account, *et cetera*), ending with a comment that:

'Mutuals have increased their lending across the spectrum to all types of borrowers including first time buyers and those with small deposits. In fact lending to first time buyers accounted for almost a third of all lending by the sector in the year to June, helping 38,000 people take the first step on to the property ladder. This has been achieved ahead of the launch of the Government's Help to Buy: Mortgage Guarantee Scheme, demonstrating that mortgage finance for those with lower deposits is already available at a building society.'

(Building Societies Association, 2013c: 1)

This was designed to play alongside the government's aim to use a buoyant housing market to encourage the country's economic recovery: such a strategy would be harmed, or even derailed, if the societies were not helped in resolving the problem of the banned capital instruments. These arguments were thus deployed as part of their 'divide-and-conquer' approach, which saw them push domestic institutions against each other in the hope of gaining a favourable outcome. Across these submissions, however, we can see how the societies and the BSA were careful to frame their input around technical issues – such as implementation timelines – when addressing regulators; and broader, more 'national' themes when dealing with political actors.

The next phase came later on, once the PRA had acknowledged the problem and stepped up to help design a CRDIV-compliant capital instrument. Now, the input shifted in line with the new demands of the situation: the societies began to lobby these domestic actors on more precise points of design. A particular issue was whether the new securities could be sold to the general public, or if – as the regulators preferred – they should be restricted to institutional investors. Here, the BSA met regulators’ calls for input with suitably technical expertise, helping to specify the legal form of the new instrument:

‘We agree that CCDS should be capable of being issued, subject to the proposed safeguards, to retail investors who are not high net worth or sophisticated. The principal safeguards - a specific risk warning that the client must sign to acknowledge, and an undertaking to limit investment to a small percentage of net investable wealth, provide the additional consumer protection that is needed.

We expect that the effect of the proposals would be that consumers who decide to invest in these securities would have at least a basic awareness of the risks involved, and would only invest money they could afford to lose.’

(Building Societies Association, 2015a: 2)

So the societies showed an ability to subtly shift their input on the domestic scene, stressing different aspects of their argument to different audiences. But interestingly, the themes gleaned from the data showed how their efforts were also often explicitly framed around references to ‘competition’: the societies were not seeking to isolate themselves from competitive pressures, but instead emphasised the importance of competition in bringing about efficiency and lowering costs for borrowers. In the interviews I held with representatives of these firms, they explained how they had appealed to a respect for diversity, and had called for a set of rules which sustained the various legal forms of banking institutions present in the British market. Such diversity, they insisted, made for more effective competition, by offering the consumer a wide range of choice. Examples of this consistent line of argumentation can also be seen in the various consultation documents and press releases issued on the domestic scene; these are summarised in Table 6.2.

Table 6.2: References to diversity and competition

ID	Quote
(Building Societies Association, 2013d)	<i>'A fall in the diversity of the financial services sector is potentially both damaging the resilience of the financial system and reducing effective competition for consumers.'</i>
(Building Societies Association, 2015b)	<i>'Market resilience and consumer choice will be improved if regulations are required to encourage and foster different business models as well as broad product ranges as they design new regulation.'</i>
(Beale, 2012)	<i>'The UK needs a retail banking sector characterised by strong competition, a diversity of business models and a focus on meeting the needs of the real economy.'</i>

These mentions of 'competition' are significant, as they show how these societies, in their opposition to the capital rules, continued to run arguments that were framed around a core tenet of the underlying liberal paradigm.

In their European lobbying, meanwhile, the building societies gently shifted their input again. They realised that arguments based on the impacts of the rule on the domestic market would have little traction in European circles, and so they made appeals to a broader principal. To the Commission and the Parliament, where their energies were focussed, they again called for a set of rules that they could adhere to, and which were practicable and appropriate. The move to restrict the capital instruments, they argued, originated in a policy enshrined in the Basel texts, which had themselves been written with private-owned 'PLC banks' in mind.⁵⁸ Purifying the types of capital held by those firms was perfectly sensible, but applying those new definitions to co-operative banks was deeply misguided:

"[CRR] fetishized common equity ... it regarded it as the only possible form of loss-absorbing capital. And if you apply that logic to building societies you get a category error: we just aren't configured that way."

(Interview, 4th June 2014, London)

They also pushed this a little further. The BSA, for instance, argued that European actors were using CRDIV/CRR to punish the entire sector for its role in causing the financial crisis. Instead, it argued that the building societies had been

⁵⁸ Recall the discussion in Chapter Four: the conceptual framework on which Basel III rested included a strong role for equity capital – as both a means of constraining banks' behaviour and absorbing their losses. It was European legislative actors who decided, when translating the Accords into legislation, to apply this principle to *all* financial institutions.

largely blameless in causing it (and indeed were victims of its effects) and so punishing them by forcing these rules on them was inappropriate. As one interviewee put it to me:

"... part of the persuasive narrative is that all the problems that those directives are designed to solve are problems of 'large, bad banks', so of course the biggest push back on all of this will come from the large, bad banks; so we say 'Look we buy into all of the rest of the stuff, but when you do these bits, just don't screw us up.'"

(Interview, 11th January 2015)

Finally, the societies, and the BSA, continued to argue for proportionality and for a respecting of diversity when lobbying the EBA. For example, a consultation response commented that:

*'We also recognise that the cooperative and mutual sectors in particular are diverse: there is no harmonisation at EU level, and differences owe much to national and even local traditions. It is not clear that it is possible to devise additional criteria related (for instance) to access to reserves, or to the redemption of shares, that apply to, or cater for, **all** existing bona fide cooperatives or mutuals.'*

(Building Societies Association, 2012: 1)

Interestingly, these examples – the interview quote and the extract from an EBA submission – show a consistent line of argument framed around specificity, or a separation in the European rules between the large banks and the mutual sector. The societies, and the BSA, avoided direct mention of the *British* market, and broadened their response to supporting all European mutuals. But at the same time, these arguments did not challenge the notion of competition being sought as a regulatory goal. So embedded were they in the British liberal paradigm that they actively supported competition, but insisted on appropriate, relevant and practicable rules.

6.3.3.3: Summary: Building societies' capital

Overall, we can review these lobbying behaviours, and their causes, in the light of the theory. First, the initial premise stands: the basic positions of the various actors derived from the tenets of the liberal regulatory paradigm. For the societies, the objections were about the harm to their viability, but they did not

challenge the notion of competition being a key regulatory good. For the PRA, the preferences derived from a desire to see CRDIV/CRR implemented cleanly (so that it could then be safely exceeded in certain key respects) and the particular preferences regarding building societies' capital constituted a response to the sub-sector's problems during the crisis.

The two sets of preferences may have shared common roots in the liberal paradigm, but they themselves did diverge: the building societies stood to be harmed by the change to the definition of capital, while the regulator was closer to the European thinking on the issue. Nonetheless, the eventual need to bring about a practicable solution did bring the two sides together, but this was not a clear, unquestioned alignment. As a result, the focus of the societies on engagement on the British scene came not from a conscious recognition of aligned preferences, but from an intuitive embeddedness in domestic structures. This gives us a rather circumscribed support for *H3*, as the societies lobbied their domestic public counterparts more through force of habit than as a result of an alignment of preferences.

Meanwhile, we found similarly contingent support for *H4* in the data. The presentation of their message varied between venues, on both the domestic and the European fronts. To national regulators, they stressed the impacts of the rules, and how it could bring about significant adjustment costs; to political actors, and even to components of the central bank *other* than the new regulatory authority, they argued that the rule would constrain their ability to lend, and to maintain the growth in the UK mortgage market. In Europe, they dropped these 'national', and consequential lines, in favour of arguments about the application (as a punishment) of rules designed for a different class of bank onto a largely innocent mutually-owned sector. This flexing supports the implication of *H4* – namely that they were sensitive to the discursive rules of the various venues, and the tastes of the various audiences, and altered their input accordingly.

The slight exception to this was their activity in the European regulatory arena. While they certainly provided technical expertise, and some data, into the EBA's rule-making processes on this issue, their regulatory lobbying was rather weak. More significantly, they had a tendency to view this body as an extension of the legislative apparatus, and to use the sort of 'suitability' arguments that they had previously directed at the Commission and the Parliament. This represented a possible mis-reading of the rules of this new venue, which was explicitly regulatory, precise, and technical.

6.3.4: A review of the entire UK sector

Having now reviewed issues effecting the whole of the sector, we are in a position to connect the story back to our causal model, and to make some general observations. Firstly, the initial premise linking the positions and preferences of the actors to the underlying regulatory paradigm stood. For the large banks, the objections to the remuneration rules were based not only in a practical concern for the costs involved in compliance, but also in a deeper feeling that this was an illiberal move: pay levels were the concern of the banks' management, and should not be the subject of regulatory control. Similarly, they feared the effect the rules would have on their ability to compete with other banks not under the reach of European legislation. The building societies, for their part, felt that the restrictions on the types of capital they could use threatened the diversity of the UK's financial sector, which in turn harmed competition and reduced consumer choice. In both cases the preferences were for less regulation and less harmonisation: the European rules should not impinge on free competition, and domestic authorities should be able to adjust their implementation to suit local needs. These various preferences all drew on the tenets of the British liberal paradigm, with its focus on private management, limited regulatory reach, and competition as a key policy goal.

In the case of the British regulator, the linkage to the fundamental paradigm was perhaps a little more complex. Like the banks and the building societies, the PRA had a key concern to ensure conditions under which competition could prevail:

hence its opposition to the remuneration rules (on the grounds that they weakened the British sector's ability to compete on the world global stage), and hence its support for the purifying of building societies' capital (on the grounds that more 'equity-like' capital could help strengthen corporate control and so improve discipline in the sector). But cutting across this was a desire to go far *beyond* CRDIV/CRR, and to set a tough regulatory framework for the UK sector. This was borne of a distinctly new element of its mandate (compared to its predecessor, the FSA) – to safeguard the stability of the financial system. It was acutely aware of the costs a collapse would bring to the national finances, and was constantly minded to prioritise tough regulation.

Turning to the 'alignment hypothesis' (*H3*), we see a good performance mixed with some qualifications. The large banks were aware of the preferences over the remuneration rules that they shared with the PRA, and so directed their lobbying on the domestic scene. For the building societies, the data show that *their* focus on British – rather than European – venues was driven more by an intuitive sense of rootedness than by a conscious choice based on an awareness of alignment. A key difference in these various domestic engagements was in their intent: the large banks sought to use their lobbying of domestic actors to transfer pressure upwards in the European chain, while the building societies simply sought to negotiate a workable implementation of European rules. Furthermore, for the larger banks, domestic lobbying was matched by European activities, including contacts with legislative actors, other member states, and – crucially – the EBA. In contrast, the building societies' domestic lobbying took priority over any European engagement, and what little they did was focussed on the legislative arena – they failed to match the larger banks' regulatory lobbying efforts at the EBA.

The 'informational matching hypothesis' (*H4*) performed rather better. The larger banks shifted the presentation of their input across all their various audiences. At home, they stressed the impact the bonus cap would have on the competitiveness of the UK sector, or on its systemic stability (when addressing the PRA). In Europe, and especially at the EBA, they switched from this into

technical arguments, highlighting flaws in the cap's design, and in the rules by which it would be implemented. The building societies showed the same flexing: at home, they ran variations on a consequentialist theme, altering it for either regulatory or political interlocutors; and in Europe they instead focussed on the inappropriateness of using these rules to punish the mutual sector. The exception for them was the failure to adapt this message when targeting the EBA. Overall, these subtle shifts by the various private actors display a conscious and deliberate alteration of their input according to the rules of the various venues – and so supports *H4*.

To help make sense of this complexity we can turn to the final hypothesis: it is the interaction between these preferences over European financial regulation, and the resource holdings of the financial institutions involved, which best explains their lobbying behaviours. For the large banks, their extensive resource holdings enabled them to engage in domestic lobbying as part of a far larger portfolio strategy, which also saw them engaging with legislative actors and with the EBA. In their regulatory lobbying at this venue, they could generate and deploy the sort of input that enabled them access to, and a prominent role in, the EBA's rule-making procedures. Conversely, for the building societies, far weaker resources left them focussing on the domestic scene as their priority, with the engagement with the European bodies subordinate. Similarly, their resource constraints meant they were not able to provide the sort of precise input required by the EBA, leaving their regulatory lobbying of it very weak.

The crucial difference among these firms was, as we saw in Chapter Five, the sophistication of their lobbying operations. The large banks had extensive interfacing resources spread across all fronts: contacts with domestic actors, European legislators and latterly the EBA. They had the internal capacity to generate the many different kinds of information – and importantly, the supporting expertise – which they could then feed into these various lobbying venues. Significantly, they had integrated these into coherent operations, enabling them to select venues, and alter input, in line with preferences. The much smaller building societies lacked all these capacities, and so struggled. In

this sense, we can appreciate how variations in their national contexts shaped the way banks lobbied the EBA.

6.4: The German sector

We now turn to the second empirical context, and in what follows I present data on the areas of regulatory change which impacted the German sector. Again, these are used to examine the initial premise, and then the ‘alignment’ and ‘informational matching’ hypotheses.

6.4.1: The German perspectives on EU bank regulation

Our first task is to establish an overall contextual picture, bringing out the high-level perceptions on bank regulation of German actors. During the research patterns emerged from the various sources of data, which can be grouped into four themes: a defence of the German banking model; a scepticism of European financial regulation; and of its institutional apparatus; and the retrenchment of the BaFin.

First, many interview subjects articulated a clear defence of the unique German banking system. They described, for example how the three-pillar system supported the *Mittelstand* – the vibrant small- and medium-sized enterprise sector which contribute so much to Germany’s economic success. One respondent explained how the small banks in the public and co-operative pillars were vital parts of community life, and how they supported local enterprises:

“So this is a completely different situation, and our economic structure, which is ... very much dominated by small- and medium-sized enterprises, very healthy small- and medium-sized enterprises, that have a very ... close relationships to local savings banks, to local co-operative banks. For example, because the ... they’re very close locally, geographically, but also with respect to the mental surroundings – and ... so I think local savings banks and local co-operative banks understand very well the needs of small- and medium-sized enterprises in our regions, so we have no one strong economic centre in Germany that dominates on a national level.”

(Interview, 11th July 2014, London)

Respondents also explained how this arrangement also found support from domestic regulatory actors:

“With the BaFin, usually, they – of course, we have a long-lasting relationship with them, so they understand. And most of them will be, I think, staunch supporters, for instance, of our three-pillar system. Whereas some European guys will say ‘Well, OK, this three-pillar system belongs to the past and should be scrapped in Germany.’”

(Interview, 11th June 2014 (b), Brussels)

This perspective was strongly connected to the second theme, which described an intuitive scepticism of European financial regulation. Opinions here often revolved around the incompatibility between European rules and the unique German landscape. Thus:

“So ... the savings banks ... they are working on a decentralised, on a local level. So the so-called ‘regional principle’ is applied, so they are not allowed to do business, core business outside their region. So you have high decentralisation, [and] public law status, and all that is something that, well, where we were at loggerheads with European policies for quite a long time. Because Brussels had completely different ideas of what the European banking industry should look like. They were, let’s say, very much in love with the shareholder value oriented approach – so, of course, banks who are public do not serve, primarily, shareholders, they are so-called ‘mission-oriented banks’ ... of course they have to earn money, but the first goal is not to maximise profits but to serve their local communities.”

(Interview, 11th June 2014 (b), Brussels)

Another interviewee objected to the harmonisation pursued by European financial regulation, which had been designed with large, internationally-active banks in mind

“... the problem is that this is a very general attitude at the European level, if you talk to European officials there, because they always say ‘That is our mission. That is our mission. That is our charter. We have to create the internal market’ and ... there is always the idea to make cross-border activities easier, and we always say ‘We are not interested in cross-border activities.’”

(Interview, 11th July 2014, London)

A similar objection inspired the third theme, which was an equivalent scepticism of the institutional apparatus of European financial regulation. The domestic arrangement allowed for a clear separation between ‘policy’ (which was the

preserve of the political system) and ‘regulation’ (which was technocratic, and delegated to independent actors). In Europe, German actors saw these roles blurred in the EBA: its complex structure and opaque processes left it exposed to being manipulated to distinctly political (that is, policy-making) ends by powerful actors. This perspective was evident in speeches and other public pronouncements by German actors I examined. For example, the BaFin’s annual report of 2011 made very strong comments about the EBA:

‘... the EBA has come up with a new definition of capital that simply ignores both the current legal position and the transition periods agreed by the Basel Committee for Basel III – with consequences that no one can foresee. The general public is not privy to how this decision was reached. People would be rather perplexed by the considerable lack of clearly defined corporate governance structures – such structures being the only way of ensuring that the processes have legitimacy. This throws up a number of concerns for the future. It would be unfortunate if the European Banking Authority were to fall into disrepute right at the start of its activities.’

(BaFin, 2011: 5)

The key element of this extract in support of this theme is the reference to ‘corporate governance’ and ‘legitimacy’: the German regulator was here raising important – and deeply principled – questions about the EBA’s functioning.

The final theme sits as a parallel to the UK regulatory context: like the PRA, respondents explained how the BaFin had responded to the move towards centralised European financial regulation (and in particular, the move from directives to regulations) by pulling back from engagement with the sector. The traditional structures of domestic regulatory lobbying, arranged through the peak associations, were under pressure. Examples of these references are shown in Table 6.3.

Table 6.3: German interviewees references to 'retrenchment'

ID	Quote
Interview, 17 th September 2014, London	“... we used to have three to four meetings a year. And now, it's one, at most it's two meetings a year, and all of these meetings, the BaFin has to be forced to make an appointment. So we ask them 'Please, it's time for another appointment, because all these papers, all the EBA papers, all the topics, we need to talk about it.' They don't want to talk about it...”
Interview, 11 th June 2014 (b), Brussels	“... this is a complaint coming from my Berlin colleagues, that, [the BaFin] keep their distance, and maybe they have to keep their distance in order to avoid criticism that they are too close to the banks.”
Interview, 11 th July 2014, London	“Basel II was transferred at the national level into our German banking act, and this ... this process of national transfer and national implementation was very ... closely accompanied by different working groups that contained supervisory representatives, industry representatives, but also some academics, or auditors. So that was, I think, really, really fruitful. It has changed. If you look at CRDIV and CRR, [that] has to be transferred into national law, and there now we have realised that the co-operation in drafting the legislation is much, much less open, much less close with the industry, [and] sometimes we have one week for large, comprehensive ... draft legislation. So this is, sometimes it's really a joke.”

Again, these quotes show the strength of feeling captured by this theme. They tell a story of a purposeful and thorough retreat from interactions with banks and their associations.

Across these four themes, we can see evidence in the data of both the link between the ordo-liberal regulatory paradigm and the actors' perspectives, and the pressure the domestic regulatory construct was under from Europeanisation. From this general starting point, we can now move to two particular instances of lobbying in more detail, in order to examine the hypotheses.

6.4.2: The large banks and the leverage ratio

With this general picture in place, we can now move to studying specific instances of lobbying over areas of regulatory change. In each of the following examples, I analyse the behaviours in the light of the 'alignment' and 'informational matching' hypotheses.

We begin with an issue which impacted the large German banks, and study their preferences and associated lobbying behaviours. For these large, internationalised players an area of particular difficulty was the new leverage ratio.

6.4.2.1: Prelude: The European rules and the German preferences

Among the new tools for regulating banks created by the Basel III Accord was the leverage ratio. Other such ratios used to govern behaviour took a fine-grained approach, applying different risk-weightings to different classes of asset and comparing them to often quite nuanced readings of the bank's capital position. The new ratio, however, offered regulators a means to cut through the complexity of the banks' asset holdings and capital structures: the ratio of their equity capital to their *total unweighted assets* could not exceed 3%. This policy represented an example of regulatory liberalism in action, as it offered a new regulatory tool which essentially made use of equity capital ratios as a means for controlling banks' behaviour.

It was thus intended to be used as a backstop, behind the other limits imposed on capital adequacy. As a crude measure it could not (in theory) be manipulated by the banks, and so could serve as a simple indicator of their overall riskiness: essentially, where a regulatory authority was not entirely certain of a bank's capital position based on the more nuanced calculation, this could be used to give an alternative perspective. European actors envisioned that it would be applied uniformly across Europe's banks – an important consideration given its intended use as a clear, consistent indicator of risk. However, they were sensitive to the adjustment costs the measure imposed on banks, and so built in a lengthy implementation period.

The large German banks were opposed to this new ratio. At a high level we can relate their nervousness and opposition to the leverage ratio to a practical, or material, self-interest: the large German banks had among the worst leverage ratios of all the large European banks, which meant that they would bear the brunt of the impacts to their balance sheets. Firms such as Deutsche Bank also had complex balance sheets with large derivative positions and holdings of trading, rather than banking, assets, which had arisen from their activities on global financial markets; others had significant holdings of low-risk loans provided as trade finance. Both of these asset classes would be disproportionately punished by the leverage rules, as they did not distinguish

between different risk profiles. They were thus concerned that the ratio's implementation as a regulatory tool – with sanctions for non-compliance – would trigger adjustment costs, in re-shaping balance sheets and in investments in the necessary reporting capability. They had clear preferences for its implementation to be delayed, and for national authorities to be able to alter the way it was to be implemented to suit specific markets.

The regulatory preferences were broadly in line with the objections of the large banks. German officials were afraid of the banks' possible response to the rules, which could see them reducing their asset bases by cutting back on lending, which would harm the tentative recovery Germany was constructing in these post-crisis years. In particular they were concerned about the impact of such a scaling back on the vital provision of trade finance to German firms (Interview, 22nd May 2014, London).

So both banks and regulatory officials shared a practical opposition to the leverage ratio. Yet looking more deeply into this objection we can see the effects of the ordo-liberal regulatory paradigm showing through. For example, in adjusting their balance sheets to respond to this new rule, they could either reduce their asset base by reducing lending, or boost their equity capital. Both sets of actors – the banks and the regulators – knew this second would be especially difficult for German banks, because the overall scarcity of equity capital in the banking sector as a whole, relative to other national contexts. This, in turn, was a consequence of the German regulatory regime and the broader economic model, which featured a lesser role for equity and competitive capital markets. In short, they feared that it was going to be harder for German banks to issue more equity capital simply because there would be less domestic demand for such shares.

6.4.2.2: Testing the hypotheses against the lobbying behaviours

H3: The alignment hypothesis

We start with an analysis of their venue selection, and so of the ‘alignment hypothesis’. The large German banks worked heavily on the domestic arena when lobbying over the leverage ratio. Deutsche Bank and Commerzbank had particularly close relationships with the BaFin, and held numerous high level conversations about how to manage their problems arising from the implementation of the ratio (Interview, 13th July 2014, London; Interview, 22nd November 2014, London). These focussed on two topics: how to adapt their balance sheets in order to comply with the new ratio, and – more importantly – how to oppose the ratio in European circles. The two became intertwined as the banks used domestic actors to press the case for certain elements of netting to be allowed, which would help them reduce their asset base and improve their ratios without having to raise fresh equity. Later, in 2013 and 2014, both banks did manage to issue large tranches of equity capital – partly overcoming the perceived problems of a lack of demand for such shares among the German public. In practice, sizeable portions of these new issuances were purchased by large institutional investors, and by Middle Eastern sovereign wealth funds (Ross & Schäfer, 2014). These issuances had to be carefully stage-managed, as the banks concerned had been identified as ‘systemically significant’ by regulators and so were under close scrutiny by the EBA (and other national regulators, such as the SEC and the Federal Reserve in the US). The banks’ closeness to the BaFin was motivated by the alignment of the perspectives, and by a sense of its continuing institutional importance on the domestic scene. As one representative stated:

“It’s like, I guess, having your parents: ‘They say this, but they say that’ ... but then also ... I guess it’s also then making this calculation: ‘You’re the one that can take away my pocket money.’”

(Interview, 14th August 2014, London)

The domestic engagement was matched with lobbying on the European scene. The large banks targeted efforts at the Commission and the Parliament, where they sought to exploit their strong connections with staff to press their

opposition to the leverage ratio. The target of these engagements later switched to the EBA, where they participated in the many consultation sessions aimed at specifying the precise implementing rules. These dealt with issues such as the supervisory regime which would support the new ratio, and the disclosure standards covering the leverage metric in published accounts.

In the analysis of these lobbying efforts two clear themes emerged from the data. The first was just how integrated the aspects of the strategy were: the large banks may have directed a focus on the home front, but they were also conscious of connecting these to European engagement. In particular, they aimed to win support from key domestic actors, convincing them of their case and using them to amplify their message. Second, and running slightly *against* this, was a prevailing frustration at the BaFin's withdrawal from day-to-day regulatory discussions. One respondent explain that:

"... going back to our earlier point: they have a rule-book to hold us to, and their role is to see 'Have we done this, have we done that, have we done x, y, z? If we haven't – have they clamped down on us?' It's not to help us."

(Interview, 14th August 2014, London)

He also explained that this retrenchment was at least partly founded on the BaFin's own self-perception as a strictly neutral implementer of European financial regulation:

"BaFin, in general, take a very ... 'This was the rule that was agreed, and it's not our place to complain.' So that's ... why we struggled to know what they thought. We felt they didn't have a strong policy position. They just tell you 'We take the rule as it's written, and we make sure you're compliant to the letter of the law.'"

(Interview, 22nd November 2014, London)

H4: The informational matching hypothesis

Examining the second hypothesis leads us to consider the input deployed in these various venues targeted by the large German banks. Interestingly, the argumentation run by the German actors in the various venues held to a consistent theme, attacking the leverage ratio's central logic on two fronts. First, they argued that it would be counter-productive as a regulatory measure, since it

would direct banks towards riskier lending. Second, they argued that complexities lurking behind the calculation meant that it could never give *truly* comparable figures – and so its implementation should be flexed and altered by national authorities at their own discretion.

On the domestic front the large banks ran a range of consequential arguments, highlighting the damage the leverage ratio would do to their business activity – and in particular their lending. These were explicitly ‘national’, and stressed the resulting harm to the German economy. Meanwhile the line of attack focussing on national discretion were echoed by German public actors, who argued that, given the varying accounting conventions at play across the single market, such a ratio could never give comparable figures in a meaningful way. For example, Sabine Lautenschläger – a Bundesbank deputy president and board member of the European Central Bank – made a speech in 2013 in which she commented that:

‘Why isn’t it comparable? Banks use different accounting standards. For example, it is well known that the netting rules for derivatives under IFRS are much more restrictive than under US GAAP putting banks reporting under IFRS at a comparative disadvantage.

The lack of comparability has implications: comparing the leverage ratios in the United States with those in Canada, Switzerland or with the Basel III leverage ratio is like comparing apples with oranges.’

(Lautenschläger, 2013)

Notwithstanding the awkward retrenchment of the BaFin from day-to-day regulatory discussions, this extract is indicative of the domestic support the banks had on this issue.

These arguments were also paralleled in their lobbying further afield, in the European legislative arena. For example, through the BdB, the German banks pointed out many unintended consequences of the leverage ratio, and under a heading of ‘Macroeconomic Implications of the Proposals’ they warned of higher borrowing costs for users of banking services:

‘As a result, an adequate and stable supply of credit to private households, businesses and the public sector is endangered. Sustained negative macroeconomic effects (adverse impact on macroeconomic growth due to

less consumer and investor demand, higher unemployment, less public revenue, etc.) are the consequence.

As a consequence of the foreseeable capital formation squeeze, banks will have to respond by cutting back their lending and other assets. A marked shortage of credit would be the result, as the cutback required to comply with the regulatory ratios would be considerable. For example, the additional capital required would be equivalent to a cutback in the volume of housing finance of around €2 trillion. According to the Bundesbank, this is almost double the existing volume of private housing finance in Germany.'
(Bundesverband deutscher Banken, 2010: 2)

The argumentation focussed on the harm the ratio could cause to economic conditions, and brought up specific impacts to the German economy. They also brought up local specificity, arguing that if the ratio was to be used its calibration, and the definition of its terms, should be subject of significant discretion by national authorities. Similarly, in this high-level, policy-shaping venue, the large banks were confident enough in their case to directly challenge the European actors on the fundamental concepts of the leverage ratio. They argued that it was misguided, in that being so insensitive to risk profiles of different asset classes it would cause tensions with other policy objectives. For example, a respondent recounted a discussion with the Commission:

"... because regulators will say that it's about simplicity and comparability. And I guess that's an attractive proposition, but I give you another example. How does that interact with other financial objectives? For instance, around the objective of moving to central clearing. The LR works on the basic premise that it's simple, and it ends up disincentivising central clearing, because of the treatment of the central counterparties."

(Interview, 13th July 2014, London)

He also explained the many elements to these banks' legislative lobbying:

"I think it's multiple strands. The 'unintended consequences', if you consider the clearing example, that's ... that's a good unintended consequence. Then we also argue that it doesn't make sense in Germany because of the structuring of the economy. Then there's the one about the fact that it wasn't meant to be a binding constraint, and it's become that. So not necessarily challenging its use, or on its own terms. Saying 'I accept it as an idea, but don't use it as a front stop, don't make it the binding constraint.'"

(Interview, 13th July 2014, London)

When lobbying the EBA, the banks consciously kept their involvement to the finer points of constructing the accompanying rules. In this area, they were heavily involved in helping draft the reporting templates through which data on leverage positions would be gathered. One submission highlighted inconsistencies in the calculations being applied:

'First, the formula for calculation of the leverage ratio differs from that proposed under Basel III and CRD 4. Both Basel III and CRD IV state that "Institutions shall calculate the leverage ratio as the simple arithmetic mean of the monthly leverage ratios over a quarter" (cf. paragraph 416(2) of the draft CRD IV). This rule is reiterated in paragraph 18 of Annex II of the ITS, however followed by a statement that 'Reporting should therefore be based on quarterly averages of monthly measures [...]'. As such, the entire template is designed to cover quarterly averages of both exposure and capital measures, based on which a leverage ratio is calculated (leverage ratio = average capital over average exposure). That approach is mathematically different from the average of the respective monthly leverage ratios within the given quarter. We believe the CRD IV, Basel III formulation should be used.'

(Deutsche Bank, 2012: 4)

This example shows the contrast between their input at the EBA, and the broader political argumentation used in the legislative arena. At this regulatory venue they focussed on specific technicalities, rather than using the 'national' arguments they had used elsewhere, or highlighting unintended consequences and tensions with other objectives.

6.4.2.3: Summary: Leverage

In summary, we can make some observations about the lobbying surrounding the leverage ratio in the light of the theoretical model. First, the premise connecting the regulatory paradigm and the preferences is supported: the opposition may have had distinctly practical overtones (reflecting the high leverage ratios of the large German banks), but it also had deeper roots. Indeed, these banks' high leverage ratios (relative to those of other national sectors) was in a sense a consequence of the lower levels of equity capitalisation in the German economy – itself intrinsically linked to the underlying ordo-liberal philosophy.

Secondly, the implications of the ‘alignment hypothesis’ (*H3*) were borne out, in that the banks’ selection of primary lobbying venues reflected the congruence of the various actors’ preferences on this issue. On this issue the large banks felt intuitively close to domestic regulators – and the central bank and the Finance Ministry – and so directed their efforts there. However, as a result of (in particular) the BaFin’s withdrawal from direct and open engagement with the banking sector the firms often felt frustrated, and so matched their domestic efforts with wider approaches involving European actors.

Third, the ‘informational matching’ hypothesis (*H4*) was supported. The large banks pursued distinctly ‘national’ arguments when lobbying domestic actors, and shifted these to suit the different rules of the European venues. When submitting input to the EBA they were careful to pare down the German aspects of their argumentation, instead focussing on precise, technical detail.

6.4.3: The small banks and SME lending

We now turn to the last of the four examples of lobbying behaviour. Here we move from the large banks to the plethora of smaller firms in the long tails of the German sector.

6.4.3.1: Prelude: The European rules and the German preferences

One of the most significant battlegrounds was the issue of the new capital rules, with Basel III, and the European institutions, seeking to overhaul both elements of the capital ratio. As we have seen, on the denominator the new legislation only allowed the purest forms of equity capital to be included in the core capital layer. Meanwhile, the rules pertaining to the numerator continued the approach of Basel II of standardising procedures for assigning risk-weightings to assets. The intent behind this was to ensure that the treatment of assets across the single market was harmonised, and so prevent banks potentially manipulating their balance sheet values.

These were specific changes to the capital adequacy ratio *per se*. However, applied alongside other changes – such as the imposition of a countercyclical capital conservation buffer⁵⁹ – the net outcome was a second-order effect: although the individual risk-weightings of certain asset classes were not being changed, the amount of capital banks would have to hold against them increased. In particular, as a consequence of the layering of capital increases, additional buffers and the application of risk-weightings, loans to SMEs would now have to be backed by higher levels of capital.

This move posed difficulties for the small German banks. A core part of their client base were the local SMEs, the layer of small firms comprising Germany's *Mittelstand*. As one interviewee explained, this issue quickly became a priority for the representative associations:

“So that was the first concern, that [the rules] would not kill the ... the SME financing. Where, let's say, we have differences in the approach between continental Europe and Anglo-Saxon economies: continental Europe, and especially in Germany, we have 75-80% of finance for SMEs coming from the banks as intermediaries – in Anglo-Saxon economies it's usually the other way round, it's usually the capital markets oriented. Nevertheless we wanted to defend our system, and therefore we wanted to keep the capital requirements for SME loans as low as possible.”

(Interview, 11th June 2014 (b), Brussels)

The significance here is the mention of the very different economic structure in Germany, compared with the financing arrangements of the Anglo-Saxon economies – echoing the general theme identified in the overall contextual picture outlined earlier. Along similar lines, respondents also spoke of the integration of small banks in the local economy:

“... so in Germany you have this bunch of decentralised local banks taking in money from the local population, reinvesting immediately in the small- and medium-sized enterprise sector – symbiosis, as I said. So both institutions – the local banks and the SMEs – they depend on each other. You have this local flow of money – local deposits being reinvested 80, 90% into local economies...”

(Interview, 20th August 2014, London)

⁵⁹ These additional buffers were examined in Chapter Four.

Raising the capital charge on loans to these firms would make them more expensive, constraining lending and raising costs for borrowers (or both). Stemming from this the preferences of the small banks centred on the application of an additional scaling factor, to restore the capital charge against SME loans back to the *status quo*: an example of how preferences can form around a specific change to a rule, rather than referring more generally to ‘more’ or ‘less’ regulation. Fundamentally, this was founded on a principled objection: the small banks played a vital social function in Germany by channelling savings towards these local enterprises, and the new standardised European rules threatened the viability of this role.

German public actors shared this stance, also supporting the vital economic role of the *Mittelstand*. The BaFin, for example, emphasised the distinctive character of the national financial model, and its integration in a larger economic strategy.

In the roots of these preferences we can see signs of ordo-liberal philosophy at work. Firstly, this paradigm called for banking markets to be subordinated to a broader economic strategy, and, importantly, for banks to be put to use furthering distinct social ends – such as supporting local enterprises. The threat to this posed by the SME treatments inspired the opposition of the various actors. Secondly, the paradigm, and the wider regulatory model, called for close co-operation among domestic actors in the setting of policy. Such structures were being circumvented by the centralisation of regulation in Europe, and this observation inspired the opposition of the various actors.

6.4.3.2: Testing the hypotheses against the lobbying behaviours

H3: The alignment hypothesis

We begin with the examination of their venue selection, and so of the ‘alignment’ hypothesis. First, we should note that the lobbying efforts on this issue were organised by the peak associations representing the small German banks – as we saw in Chapter Five. Their working groups, and their federal structures, were used to assemble the input of the banks across the three pillars, from specialised

commercial banks to local co-operative institutions. The subsequent coordination work was then undertaken by the overall umbrella organisation, the DK. This was an example of the normal pattern of interest representation in Germany in action.

Through these associational channels the small banks focussed their lobbying efforts on the domestic scene. One representative explained to me that:

"... we are primarily focussing on the national level and so ... the main communications take place on the national level with the national bodies, with the BaFin, with the Bundesbank, with the Federal government here in Berlin, and I think the Ministry of Finance especially..."

(Interview, 20th August 2014, London)

The peak associations opened dialogues with the BaFin over the impact of the new SME weightings, and submitted input to its domestic consultation processes. Further afield, the peak associations also engaged with other key regulatory actors, such as the Bundesbank and the Finance Ministry. The associations cooperated with the central bank in writing a report on the default rates of firms in the *Mittelstand*, highlighting how robust they were compared to the other European SME sectors. An interviewee described the process:

"... we had a huge discussion about the SME risk weights, and we worked together with the Bundesbank, and the Bundesbank did a study on the appropriateness of the new risk weights. It's a very, very interesting study. The Bundesbank's finding was that the Basel II risk weights, without the Basel III increments, even the Basel II risk-weights are too high for German SMEs, when you look at all the default data for the past 15 years."

(Interview, 17th September 2014, London)

Notwithstanding the strong domestic engagements, the small banks and their associations also pursued lobbying efforts in Europe – as part of a deliberate strategy of ‘following the pen.’ They tracked the issue from the early discussions in the legislative arena to the later, more precise, deliberations in the EBA. As with the interactions with national bodies, much of this effort was co-ordinated by the DK, which helped to present a unified and clear voice in opposition to the changes in SME capital.

During the research two distinct themes emerged regarding this focus on the domestic arena. First, as well as the obvious alignment between the sector and the public actors over the difficulties arising from the regulatory change, several respondents indicated that they felt an intuitive closeness to the BaFin (in particular), and almost *expected* its support. For example:

“Yes, we’ve a very close relationship to our BaFin, and ... so we think ... we have the idea they ... not only in a literal way, they understand our language.”

(Interview, 11th July 2014, London)

In this context, the frustration about the regulator’s retrenchment (outlined earlier) came through, as representatives of the associations felt they were not being sufficiently supported.

Secondly, there was a clear integration of their domestic lobbying in a broader strategy encompassing European venues. The BaFin and Bundesbank were approached with the explicit intention of engaging them to lobby on the sector’s behalf in Europe. One interviewee explained that:

“... we have, of course, discussions with the BaFin. The BaFin is also part of the EBA, because it’s on the board of supervisors, so the national supervisors are very much involved in the work of the EBA because most of the working groups comprises national supervisors, and so we have usually one national supervisor in one working group.”

(Interview, 31st July 2014, London)

H4: The informational matching hypothesis

From this examination of the venues targeted, we now turn to the variation in input across the audiences (and so to the testing of *H4*). Naturally, in discussions with domestic actors, the lobbying efforts were often framed around consequential arguments, stressing how the increased capital charges would constrain lending and so harm the growth achieved by the SMEs. But the input developed into a more pragmatic form, with the associations advising on how the European capital rules could be adjusted to minimise this impact (Interview, 20th August 2014, London).

At the EBA, the peak associations obeyed the discursive rules of the supranational regulatory venue, and provided detailed technical expertise. For example, the input provided by the DK described the impacts of the changes:

'By increasing the capital conservation buffer (2.5%) as well as the countercyclical capital buffer (up to 2.5%), the capital backing increases by 31% to 63%. For the standardised approach (SA), this translates into a capital adequacy requirement for such exposures between 8% and 9.75% pursuant to Basel III (the exposures' risk weight multiplied by the total capital ratio plus capital buffer). Under the present rules, this would correspond to an increase of the respective risk weight from 75% to 100% – 150%'

(Deutsche Kreditwirtschaft, 2012: 9)

The paper was very careful to explain the cumulative effects of the changes in highly precise terms, avoiding mentions of the specificities of the German sector.

However, it is also interesting to note the degree to which the regulatory lobbying of the EBA was marked by distinctly *national* overtones. Later in the same paper, the DK went on to analyse the recent health of the German SME sector in detail, examining the insolvency rates and the losses incurred by German banks as a result of SME defaults. It concluded that:

'The review demonstrates that the capital adequacy requirements in the SME segment clearly exceed the underlying risks. What is more, we should like to note that there have not been any skyrocketing risks during the time of the economic and financial crisis, either. Hence, the existing capital adequacy requirements are very fit for purpose when it comes to SME loans.'

(Deutsche Kreditwirtschaft, 2012: 16)

We would expect to see such distinctly national arguments were used in the legislative arena. Indeed, one respondent explained how he had argued with a member of the Commission's staff:

'I'm not so interested in the question if the rule is also fitting the Austrian or the ... Dutch market, or the Danish market – I'm interested in the question 'Is the rule fitting to the situation which we find in our market?''

(Interview, 20th August 2014, London)

Running through these arguments, whether at home, at the EBA, or in wider European circles, was a consistent appeal to *proportionality*. Respondents explained how they had had to push hard to achieve a workable set of rules:

“...the principle of proportionality is something that everybody is committed to, but that’s only theory. That’s only theory. We have it always in the recitals, for example, of every legislative package, that the ‘principle of proportionality shall be applied’, in that way the rules ... can cover different types of institutions, different sizes, different business models, different risk profiles, and should be applied in a proportionate way to take these different types of institutions into account. But we see ... in many areas it’s a ‘one-size-fits-all’ approach, and if we talk to the officials of the EBA they always say ‘Our main objective full harmonisation, full harmonisation. That’s our mission.’ And we ... we don’t find it very funny.”

(Interview, 11th July 2014, London)

Through the interview it became clear that ‘proportionality’ meant not applying rules designed for large multi-nationals to the very small, regional banks; but it also meant respecting the specificities of the German economic model and the approach to banking.

6.4.3.3: Summary: SME lending

Overall, we can review these lobbying behaviours, and their causes, in the light of the theory. First, the initial premise connecting the regulatory paradigm and the preferences is supported: the positions of the German actors drew explicitly on the terms of the *ordo-liberal* paradigm – in particular in focus on a social role for banking and on close relationships between banks and the regulatory regime.

Secondly, the ‘alignment hypothesis’ (*H3*) found support: the small German banks lobbied their national authorities extensively over the issue. However, as with the larger banks, this was qualified slightly: the small banks stayed at home out of an intuitive sense that the structures of domestic representation would continue to serve them, and found themselves frustrated by the retrenchment of key regulatory actors.

Third, the ‘informational matching’ hypothesis (*H4*) had limited support. The banks *did* vary their input across the venues, and provided technical expertise

where it was required (such as in the regulatory arena). But their input was also consistently built around an appeal for specificity, and marked by frequent mentions of the harm the change would do to *German* lending. The use of this approach at the EBA, in particular, seems to indicate a perception of it as an extension of the legislative apparatus, rather than a supranational, technical body where national arguments are unwelcome.

6.4.4: A review of the entire German sector

Having now examined two instances of regulatory change which together impacted the whole of the sector, we are in a position to connect the story back to the theory and make some overarching observations. Firstly, the initial premise was supported. The distinctive ordo-liberal philosophy, with its emphasis on ‘managed competition’, social banking and tight structures linking banks and the regulatory regime played a key role in shaping the various actors’ positions. In particular, this translated into a rather sceptical perception of the EBA, and of the way its structure left it open to being manipulated into playing a para-political role. For the large banks, the objections to the leverage rules had shades of practicality and self-interest to them, but ultimately their relative lack of equity capital reflected a feature of German capitalism, and of the associated regulatory regime. Meanwhile the small banks’ opposition to the changes impacting SME lending arose directly stemmed from what they saw as a direct clash between the German banking model and the European vision of ‘shareholder banks.’

Turning to the ‘alignment hypothesis’ (*H3*), we saw a mixed performance. Its key implication was borne out: both sets of banks found themselves closer to the preferences of the national regulator than Europe, and so directed their lobbying efforts at the home front. However, investigating the motivations further seemed to show that, rather than being borne of a conscious appreciation of the alignment, these domestic foci arose from an intuitive sense that the domestic patterns of interest representation, and of integration into a domestic regulatory structure, would continue to apply. Hence the frustration at the BaFin’s

retrenchment, and hence also the extensive use of lobbying efforts at the European level.

Finally, the ‘informational matching hypothesis’ (*H4*) also had qualified support. The banks, large and small, flexed their input according to the venue – in that they recognised the EBA’s need for technical expertise and were careful to direct the appropriate material at it. Meanwhile, they ran variations of ‘national’ arguments on the domestic front, flexing the level of detail for different audiences. But again, looking closely at the content of their argumentation at the EBA, we saw in both sets of lobbying distinctive national overtones to their input. This seems odd, as our expectation was that this venue, with its supranational role and requirement for clean, neutral input, would not be targeted with such material.

To help make sense of this complexity we can turn to *H5*: it was an interaction of the preferences (generally in opposition to) European financial regulation and the lobbying resources the actors could call upon which best explained their behaviours. All the banks had distinct preferences which put them *at odds* with Europe – and so pushed them to lobby at home – but at the same time their resource endowments enabled them to broaden their lobbying efforts beyond the domestic arena and into European venues. There was little disparity between the large and the small banks – in terms of the venues they were able to target – because the organisational strength and significant resources holdings of the peak associations meant that smaller banks could match the breadth of the larger banks’ engagement. As we saw in Chapter Five, both the individual large banks and the German peak associations had highly sophisticated lobbying operations, with significant informational resources and an integrated approach to their management and use. This enable all the German banks to achieve effective representation at the venues they targeted.

6.5: Conclusion

What conclusions can be drawn from this analysis, across the four instances of regulatory policy change? The initial premise of the model was broadly supported: the elements of the underlying regulatory paradigms did indeed shape the positions and preferences of the various actors – linking the beginnings of the lobbying back to the organising theory of variation (P.A. Hall & Soskice, 2001). For the British, a perhaps superficial congruence with European regulatory liberalism gave way to principled objections to specific elements of the new framework (the remuneration and the capital rules); while for the Germans, an intuitive scepticism of European regulation was reflected more directly in their opposition to the leverage ratio and the impacts to SME lending. These same underlying paradigms featured later heavily in the cores of the various banks' arguments: calling for competition (for the British) and specificity (for the Germans).

Meanwhile, the analysis of the 'alignment' and 'informational matching' hypotheses allowed us to link these fundamental differences in the national contexts to the lobbying behaviours. We saw how, across all four examples, there were alignments between banks and regulatory actors over the area of regulatory policy change. However, the *strength* of this alignment varied, as regulators took their own practical or strategic positions on the issues. We also saw how these alignments (however fractious) came with a domestic focus in the banks' lobbying efforts; and how the banks integrated (to varying degrees) their efforts across the domestic and European levels. Although this offers a support for the 'alignment' hypothesis (*H3*), we are also left with the impression that this domestic regulatory lobbying was often driven by a sense of embeddedness in the national regime, rather than a conscious awareness of an alignment. Indeed, this embeddedness even helped over-ride the retrenchment of the PRA and the BaFin: although the regulators were pulling back from engagement, the banks continued to see them as primary targets for their regulatory lobbying.

Secondly, our examination of the 'informational matching' hypothesis (*H4*) showed how the banks varied their input according to the venue they were

targeting, but also how they also kept a clear theme to their message. The consistency of these messages shows the continuing strength of the domestic regulatory paradigms; but it also reveals – perhaps – a deliberate use of inappropriate argumentation in the supranational regulatory arena.

Third, as we saw when considering *H5*, the combination of resources and preferences was key in shaping how banks navigated this complex opportunity structure. The significant resource holdings of the large UK banks, driven by the structure of their consolidated, market-based system (Allen & Gale, 2000; Shabani et al., 2015; Zysman, 1983) enabled them to pursue a dynamic and complex strategy – embracing several venues and delivering appropriate informational input. Conversely, the weaker resources of the building societies, and then of their representative association, restricted their flexibility and left them pursuing a narrower strategy. For the German sector, the more fragmented, bank-based system (Allen & Gale, 2000; Detzer et al., 2013; Zysman, 1983) dispersed resources far more widely. The large individual banks had resources that set them apart from the rest of their sector, but also enabled them to lobby in a manner similar to the large British banks. Finally, the associational strength of the smaller banks enabled them to lobby more effectively than their British equivalents.

Overall, the patterns in the observed lobbying behaviours chime with key elements of the European interest group literature. The flexibility and dynamism displayed by the banks echoes previous works on venue-shopping in the EU (Guiradon, 2000; Holyoke, 2003; Mazey & Richardson, 2006), which have stressed the ability of private actors to negotiate a complex and changeable opportunity structure. Furthermore, the importance of *resources* in determining the reach of these strategies – with the small British banks in particular being disenfranchised by their weakness – reminds us of aspects of the literature highlighting the central role of informational resources in shaping lobbying behaviours (Chalmers, 2011; 2013; Dür & Mateo, 2012; Klüver, 2010).

Yet cutting through these dynamic strategies was, as we have seen, a clear prioritisation of domestic engagement – which seems to have been present regardless of the resource capacities of the banks. This behaviour arose from the banks’ embeddedness in domestic regimes, which even endured in the face of the retrenchment of the national authorities. This reminds us of the robustness of the relationships in the domestic regulatory communities, linking together private actors and national authorities (Ayers & Braithwaite, 1992; Coen, 2005).

This brings us to the central theoretical argument of this thesis, linking lobbying behaviours to national origins. The stance of both banks and regulators in opposition to the various aspects of CRDIV/CRR reviewed in this chapter serves to show the endurance of national regulatory paradigms. Next, when selecting between the EBA and continuing to lobby their national authorities, British and German banks chose the latter. In other words, their venue selection in the complex European regulatory arena reflected the strength of their roots in their national regimes – showing how their lobbying behaviours were shaped by their origins. Finally, the extent to which they were then able to diversify beyond their domestic prioritisation was shaped by their resource holdings, which in turn were a function of the structures of their national markets.

Chapter 7: Conclusions

7.1: Introduction

This project set out to examine the factors shaping the lobbying behaviours of private actors in a distinctive, new setting: the emergent European regulatory arena. A great deal is known about how such lobbying is directed at established legislative actors, such as the Commission and the Parliament (Bouwen, 2002; 2004; Coen, 2007; Dür & Mateo, 2012; Eising, 2007b; Klüver, 2012; Rasmussen, 2011); and about a subtly different form – referred to as *regulatory lobbying* – which takes place on the domestic scene. Recent changes in the EU’s institutional capacity have created a new venue in between these two (Levi-Faur, 2011; Thatcher, 2011); indeed, the move to crystallise regulatory authority at the supranational level has begun the process of usurping these national contexts. The institutions in this new layer thus represent an important new target for the lobbying efforts of private actors, and two features of this crystallisation combine to create an area for research where current theoretical coverage is underdeveloped. First, the bodies in the supranational regulatory layer have a novel institutional form – hybrids of networks and agencies – and this creates a complex landscape in which private actors operate. Secondly, and more importantly, their role signifies a move by the EU into the (previously national) business of market delivery, or the writing of specific rules by which regulation is achieved. This, in turn, presented a question: what shapes the way private actors lobby in this new arena? This thesis approached the question by focussing on a particular domain, the banking sector, and so on a certain institution: the European Banking Authority (EBA).

The central argument the thesis explored was that behaviours in the new European regulatory arena were shaped by the national origins of the private actors involved. This is because the features of their national contexts have conditioned the way they engage with domestic regulatory actors, and such patterns then feed through into their European regulatory lobbying activities. The ‘varieties of capitalism’ (P.A. Hall & Soskice, 2001) approach was used to focus on two specific manifestations of national variety – the structure of

banking market (as determined by the prevailing variety of financial system) and the contents of the paradigm sitting behind the regulatory regime.

From this theoretical starting point, the thesis developed a causal model to examine and explain banks' lobbying behaviours. The dependent variable was taken to be their behaviours: the approach taken, the venue targeted, and the informational input used. The independent variables derived from the two aspects of national variety, and the overall model was constructed over three elements, each containing hypotheses which linked the behaviours back to the national contexts. In the first element, banks responded to the centralisation of regulatory authority at the EBA and so sought to lobby it. The 'resource' and the 'associational' hypotheses (*H1* and *H2*) drew on the tenets of the European interest group literature – particularly on the strand focussing on the importance of informational resources (Chalmers, 2011; 2013; Klüver, 2012), and on associational activity (C. Mahoney, 2007). They posited that greater resource endowments would lead to direct and individual lobbying of the EBA; and that weaker resources, conversely, would lead banks to lobby it using associational approaches. The distribution of these lobbying resources was theorised to be connected to the underlying variety of financial capitalism (Allen & Gale, 2000; Demirgüç-Kunt & Levine, 1999; Zysman, 1983).

The second element recognised that the novel institutional form of the EBA allowed banks two paths to reaching it: lobbying it, or working via their national authorities. Thus, the 'alignment' hypothesis (*H3*) drew on the studies of venue-shopping in the EU (Beyers & Kerremans, 2011; Guiradon, 2000; Holyoke, 2003; Mazey & Richardson, 2006), and examined how the banks' preferences over European financial regulation shaped their choice of venue. These preferences were theorised to derive from the underlying regulatory paradigms in their national contexts. Coming from these preferences were the types of input used, which were the subject of the 'informational matching' hypothesis (*H4*): the information provided would vary according to the discursive rules of these venues. Finally, the third element examined the possible interaction between the

resource- and the preference-based explanations, with *H5* seeking to link them together.

7.2: Findings

In the following section I present the findings of the study, laid out across two layers. We begin with themes found in the empirical context, which set the overall picture; and then move onto those findings pertaining specifically to the theoretical model.

7.2.1: Contextual findings

7.2.1.1: Regulatory retrenchment

The data gathered from the interviews showed how the national authorities involved in bank regulation dramatically pulled back from engagement during the period. The two regulators – the PRA and the BaFin – continued to hold consultations to gather input from their charges over the EBA proposals, but these became largely routine exercises – and declined in frequency and quality. In certain areas the European standards still allowed some measure of national discretion in implementation, but in these instances both regulators only conducted minimal consultation exercises, and indeed published their intentions as more or less completed articles.

Furthermore, under previous iterations of the European financial legislation, the national authorities had provided guidance to banks on how certain policies would be implemented, and used in the day-to-day business of regulation. Now, with CRDIV/CRR, both the PRA and BaFin stopped this entirely, advising banks to obtain their own guidance from their lawyers, or to approach the EBA directly. This may be understandable, given the new rule-making framework, but the banks found it immensely frustrating.

The key reason for this retrenchment lay in the shift in approach from Europe. Now that the writing of the rules had moved upwards into the single rulebook,

the national authorities felt they had no space to provide guidance on implementation. Worse, doing so would place them on a very dangerous legal footing, as the EBA had the authority to examine, and remedy, any inconsistent implementation brought about by the interference of national regulators. But this retrenchment was also the result of a distinct attitudinal shift on the part of the national authorities themselves: the PRA, in particular, was acutely aware of the potential danger caused by being seen to 'negotiate' with banks (even if 'negotiation' actually meant productive and useful consultation). Interview respondents also reported that there was a distinct sense, among the banks, that the national authorities felt side-lined – that the EBA had reduced their role to simply being implementing agents.

7.2.1.2: Negative perceptions of the EBA

Across the research many of the individuals I spoke to expressed varying perceptions of the EBA. Representatives of the large British banks often saw it as a vital bulwark of the integrity of the single market, or a guarantor of British interests against the possibility of caucus voting by the Eurozone members. Others – particularly representatives of the German banks – viewed it with suspicion, cautious of the way its complex structure left it open to being pulled in distinctly 'political' directions by powerful national actors.

Yet cutting through these varying perceptions was a basic frustration with the EBA. Respondents frequently stressed its lack of resources, and how its rule-making role was compromised by a scarcity of manpower. Likewise, they complained about the weakness of its working practices: the approach of convening a working group to deliver a certain standard, and then disbanding it, meant that the EBA had a very shallow institutional memory. This resulted in significant duplication of work across standards or reporting templates, and contributed to an overall lack of credibility.

In turn, this extended into a clear criticism of its role. Firstly, while the framework legislation dragged on and was delayed by intergovernmental

battling in the Council, the EBA came to be defining standards against as-yet-unfinished legislative texts. Secondly, more fundamentally, respondents expressed a frustration with the idea that truly harmonised regulatory standards could be achieved that would still allow banking markets to function. For example, they explained to me how the EBA had the unenviable (if not impossible) task of defining 'a residential mortgage' and its associated regulatory treatment in a way which could respect the diversity of home ownership practices, and lending, across Europe.

7.2.1.3: Weak interdependence

The theme of 'negativity' gave way to the third contextual finding: the relationship between banks and the EBA was fractious and contingent, regardless of the latter's role as the European rule-making authority. The ways in which banks lobbied the EBA varied significantly, as did the nature and quality of the information they provided (as will be shown in the later research findings). This suggests a rather weak, unstable interdependence between the banks and their new supranational regulator.

There were several possible reasons behind this. One is, perhaps, a standard story of institutional development: such bonds of interdependence take time to develop. But equally, we are reminded again of the enduring (and in-built) complexity of the Lamfalussy process, by which texts are passed from the 'framework' stage in the legislative arena to a 'regulatory' stage at the EBA. Delays in the first obviously hampered the stabilisation of relationships in this new regulatory community.

Secondly, there was an extent to which the development of an interdependent relationship was undermined by the EBA itself – more specifically, in terms of what it could provide to banks in return for their attention. Studies of such symbiosis at the European level have stressed the provision of an 'access good' in exchange for expertise: thus, legislative actors provide privileged access to future decision-making fora, or a form of precious 'insider status' (Broscheid &

Coen, 2003). Likewise, on a national level, regulators are able to offer the opportunity to shape market delivery through shared rule-making, or to participate in a flexible, responsive regulatory regime (Ayers & Braithwaite, 1992; Coen, 2005). The EBA was only weakly able to offer either of these.

These contextual findings provide the backdrop of the institutional landscape: retrenchment on the part of the national authorities, over-ride negative perceptions of the EBA, and a weak, contingent and fragmented relationship between the banks and the European regulator. With these in place we can turn to the findings which relate to the causal model.

7.2.2: Research finding 1: Resources matter

The first element of the causal model examined varieties of financial capitalism and resources. The initial premise linked the underlying variety of financial capitalism to the distribution of lobbying resources; and the hypotheses then predicted that the holdings of these resources would shape whether banks lobbied the EBA directly, or via an association.

The study showed that the structures of the national banking markets were represented in the distributions of the lobbying resources. These national markets were themselves manifestations of fundamental varieties of financial capitalism (Allen & Gale, 2000; Demirgüç-Kunt & Levine, 1999; Zysman, 1983): the British sector was structured around three layers, where the consolidating pressures of a market-based financial system reduced the population of banks and building societies. In Germany, meanwhile, the bank-based financial system featured a far greater number of far smaller firms. The lobbying resources – the ability to interface with venues and generate the required information – were distributed accordingly, concentrated in the hands of the large banks with the smaller banks having little or no proprietary resources.

Building on this, the study showed how the way that banks approached the EBA was shaped by these resource holdings, and so the patterns of lobbying reflected

the structures of the two national markets – supporting the ‘resource’ and ‘associational’ hypotheses (*H1* and *H2*). In Britain, the five large banks lobbied the EBA directly; the mid-tier banks mixed weak individual lobbying with associational activity; and the building societies at the bottom relied almost entirely on their trade body. In Germany, one large bank lobbied directly, and the engagement of the rest of the sector was structured through the domestic peak associations. In other words, the *way* banks lobbied the EBA was shaped by their national origins – and so we can link lobbying behaviours with underlying varieties of financial capitalism.

This finding accords with several elements of the European interest group literature, which has stressed the importance of informational resources in shaping lobbying behaviours. Rather than being specifically financial, these are resources which describe private actors’ abilities to monitor discussions, and gather and disseminate appropriate informational inputs (Chalmers, 2011; 2013). As this study has shown, such capacities played a central role in determining which banks were able to directly engage with the EBA. Secondly, the literature has shown how, for associations, the ability to marshal such informational resources (and so to lobby) is driven by their internal coherence, organisational structure and specificity (Klüver, 2012). In the present study this is supported by a comparison between the German peak associations and the trade bodies representing the British banks: the former’s far greater endowments of lobbying resources were a function of their very different internal structure, and the homogeneity of their membership. However, this consideration of the German peak associations also reveals a finding which runs slightly *against* an early implication of the literature: that unitary actors are better able to provide technical expertise, and so are more effective lobbyists (Bouwen, 2002; Dür & De Bièvre, 2007; Michalowitz, 2004). The decentralised structure of the German associations, and their ability to garner input via their working groups, enabled them to match the precise technical expertise provided by the large banks.

The analysis of these hypotheses also revealed two oddities, however. First, all the sets of banks surveyed lobbied extensively in the European legislative arena, often in parallel with their activities at the EBA. Again, we are reminded of the enduring complexity of Europeanised financial regulation: both in terms of its institutional apparatus and its policy-making process. Second, the study revealed how, despite extensive lobbying resources, the large banks across both sectors engaged in associational lobbying – both at the EBA and in the legislative arena. The decision to employ such channels was often based on a consideration of the issue in question (its public salience, perhaps); and so this finding connects to a theme in the interest group literature on the importance of issue dynamics in shaping associational activity (Baumgartner & Mahoney, 2008; Coen, 2007).

Overall, the findings of this element of the causal model align well with the European interest group literature. But they also support the central theoretical argument of this thesis: that the way banks went about lobbying the EBA was shaped by their national origins, reflected in their resource holdings.

7.2.3: Research finding 2: Preferences matter

The second element of the causal model examined varieties of regulatory paradigm and preferences. The initial premise linked the fundamental paradigm behind the national regulatory regime to the perceptions and preferences of various actors over European financial regulation. The hypotheses then predicted that the alignment between banks and either the national regulator or the EBA would shape banks' selection of their lobbying target; and that they would alter their input according to the discursive rules of the venue selected.

The study showed that the national regulatory paradigms shaped the actors' perceptions and preferences, both at a high level and over specific instances of regulatory change. For the large British banks, the pro-competition tenets of the liberal paradigm influenced both their intuitive support for a harmonised European regulatory framework (which would foster fair competition on the European scene), but also the principled objection to the remuneration rules

(which threatened their ability to compete with non-EU banks on the global scene). The latter also harmed the freedom of private market actors to set pay levels, and so extended the reach of regulatory authority unacceptably. For the British building societies, a European regulatory framework which promoted competition was welcomed, as long as it clearly differentiated between 'PLC banks' and those structured around other forms of ownership model.

In Germany, the ordo-liberal paradigm enshrined a more nuanced view of competition, and of the use of competitive equity markets as a regulatory mechanism for controlling behaviour. It also allowed the direction of banking activity by the state towards a clear social end. These elements shaped the sector's intuitive scepticism of European regulation, and of the EBA. The opposition to the leverage ratio revealed a critical perspective of standardised capital metrics as a regulatory tool, while the small banks' opposition to the changes impacting SME lending arose from their perception of the importance of the 'regional principle' – which specifically restricted competition in the name of providing 'mission-oriented banking.'

The study showed how, to a certain extent, the alignment of preferences with regulatory actors over these instances of regulatory change shaped banks' venue selections. Across the board, banks found themselves positioned closer to their national authorities than to Europe, and directed their efforts at these domestic bodies. What varied was the extent to which the preferences of the regulators (and the resulting alignment) were 'clean' (as in the example of the PRA on remuneration), or were pragmatic and circumscribed (as in the example of the PRA and building societies' capital). Similarly, what varied was the extent to which domestic lobbying arose from a conscious awareness of alignment, or from an almost habitual expectation that the national authority was the first port of call. These findings supported – albeit conditionally – the 'alignment hypothesis' (H3).

The study also showed that, along with this domestic lobbying, the banks also targeted efforts at the EBA, and at the Commission and the European Parliament. Across these various venues they did indeed flex their argumentation and

informational input – providing support for the ‘informational matching hypothesis’ (H4). They used national rhetoric at home, running consequential arguments stressing the impact of rule changes on competitiveness (the large banks on remuneration); their livelihood (the British building societies on capital); their adjustment costs (the large German banks on leverage); and their ability to lend to SMEs (the small German banks). They then used less partial, more technical input at the EBA; indeed, they largely switched their input at the supranational regulatory venue from ‘argumentation’ to ‘expertise.’ However, we also saw how – particularly in the example of the German banks – they continued to apply distinctly *national* overtones to their input to the EBA, seemingly treating it as an extension of the legislative arena.

These various findings chime with elements of the EU interest group literature. Firstly, according to the theory of ‘venue-shopping’ (Alter & Vargas, 2000; Beyers & Kerremans, 2011; Holyoke, 2003; Mazey & Richardson, 2006), private actors are adept at selecting between alternate venues in their opportunity structure, according to an internal rationale which includes a consideration of which audience is likely to be the most receptive. However, many of these studies deal essentially with a static opportunity structure, whereas this thesis has shown how banks were able respond to a *change* in their environment: to absorb new venues as they arose, and to run dynamic, multi-pronged strategies which target several venues. Secondly, a subtle expectation of this theory, and one given further flesh in studies of informational lobbying (Bouwen, 2002; McGrath, 2007) is that private actors must meet the tastes or informational requirements of the venue being lobbied. This found some support in the examples reviewed in Chapter Six: the banks were careful to deliver technical input to the EBA (responding to its specific requirement), but also often overlaying this expertise with distinctly national argumentation.

The almost instinctive focus the banks had on domestic actors also connects to a theme in the regulatory governance literature. Although this sits rather awkwardly against the retrenchment of the national authorities (as we saw in the earlier contextual finding) the banks’ domestic lobbying reminds us of the

institutional interdependence which emerges between those on either side of the regulatory relationship (Ayers & Braithwaite, 1992; Coen, 2005). This embeddedness in the domestic regulatory regime helps us explain how, even in the face of withdrawal by the PRA and the BaFin, the banks continued to direct lobbying efforts at them.

Overall, the findings of this element of the causal model, albeit rather contingent, align well with the European interest group literature. They also support this study's central theoretical argument: that banks' relative prioritising of domestic and European regulatory venues was shaped by their national origins, reflected here as the paradigmatic frameworks behind their domestic regulatory regimes.

7.2.4: Research finding 3: Interaction effect matters

Finally, we come to the third element of the causal model, which considered the interaction between resources and preferences in shaping lobbying behaviours. The central finding here is that it was increased resources which enabled more complex and extensive lobbying strategies, and which allowed banks to lobby according to their preferences. Thus, for the large banks in both sectors, their ability to monitor proceedings and generate expertise (their informational resources, in short) enabled them to deliver powerful domestic lobbying efforts, but also to match these with direct engagement with the EBA. In particular, it was the integration of these resources into a structured operation which meant they could move nimbly between regulatory venues, and provide appropriate technical expertise where it was required. It also enabled them to move *beyond* regulatory lobbying, and to target legislative actors. These significant resources enabled them to lobby on their preferences, and to mount powerful challenges to the remuneration and leverage rules.

For the small German banks, the extensive resource endowments of their peak associations, and the similar integration of these into coherent operations, which enabled them to match the representation of the large banks across the various venues. These bodies could use long-established (albeit fracturing) connections

with domestic actors; but could also use their extensive expertise-generating resources, based around their decentralised working groups, to match the informational requirements of the EBA. These resources also equipped them well to engage with the Commission and the European Parliament, where they could deliver legislative lobbying. Overall, the resource endowments meant they could act on their preferences and lobby powerfully – across several venues – in opposition to the SME lending changes.

The British building societies had a very different story. For them, a paucity of resources meant associational activity via the BSA was the norm; and *its* own deficiency, and the lack of coherence of its lobbying operation, meant its efforts were circumscribed. It engaged with the domestic regulator out of necessity – even though the PRA was only grudgingly supportive on the issue of capital, at best. Further afield, the BSA lacked the interfacing resources to handle both the European legislative arena and the EBA, and so pitched its efforts towards the former; and it lacked the expertise-gathering resources to match the EBA's specific requirements. This meant the societies, ultimately, could not lobby on their preferences.

Together, these findings connect the study back to the underlying EU interest group literature. But they also combine to provide a distinct contribution: the way banks lobbied was shaped by the features of their domestic contexts. The study operationalised these features as variations in the prevailing mode of financial capitalism, and in the fundamental paradigm sitting behind the regulatory regime. The contribution is significant, because thus far our understanding lobbying has focussed on the established *legislative* arena, while this study has shed light on activity in the *regulatory* arena. Here, the novel institutional form of the EBA, and its role in seeking to integrate the deep cores of national political economies, kept domestic authorities at the centre of banks' European regulatory lobbying. Meanwhile, the way they operated in their new opportunity structure – how they selected and approached their target, and what informational goods they provided – were shaped by factors deeply rooted in their national environments. The institutional aspects of the regulatory arena,

and the robustness of the national environments shown by the study, suggest that European regulatory lobbying will continue to be distinctly *national* in character.

7.3: Broader implications

As well as these findings, the study raises several implications which can be connected to a broader set of literatures, and to discussions about the prospects of financial integration in Europe.

7.3.1: European regulatory governance

The findings of the study focussing on the interactions between banks and the EBA, and the functioning of the EBA itself, resonate with themes in the European regulatory governance literature. Studies at the time of the crystallisation of the networks into standalone bodies raised various concerns about their capacities, structures and roles. Thatcher identified the European regulatory agencies which emerged from this evolution as ‘weak’, commenting that the EU had adopted the ‘agency form, but not yet the reality of agency governance’ (2011: 806). Similarly, Egeberg and Trondal examined the contingent and complex autonomy of these agencies, noting how they could potentially be controlled by either their political principal (the Commission) or by powerful member state governments (2011). The issues raised by these studies have been borne out by this thesis: the engagement between banks and the EBA remained fragmented and contingent; and banks continued to see the EBA as weak – both in its resources and working practices, and in its role the overall process relative to powerful national authorities and European legislative actors. Similarly, with national regulators playing a central role in the EBA’s decision-making process, we have a ‘regulatory actor’ version of Egeberg and Trondal’s ‘national control’ thesis. Overall, the implications are that the European approach to regulatory governance, via hybrid institutions combining elements of networks and agencies, will continue to struggle to achieve its aim of harmonised market delivery.

7.3.2: European financial sector committees

Similar connections, and conclusions, can be made with reference more specifically to European financial sector governance. For example, early studies of the regulatory networks (as they were at the time) concluded that although they nominally had a ‘technical’, supranational regulatory role, they were often pulled into ‘para-political’ activities either by private actors (chiefly banks) or by powerful national regulators (Quaglia, 2008b). As we have seen, the use of distinctly ‘political’ argumentation by banks when lobbying the EBA, and the co-opting of national regulators to push for changes which seek to protect national banking markets from Europeanisation, show the continuing political role of the EBA. Meanwhile, Newman and Bach have examined the role of the EU as a ‘hardening agent’ (2014), translating soft-law frameworks agreed upon by transnational networks into national law, using both the legislative process and the newly-centralised regulatory capacity. The complexity of the behaviours at the example studied in this thesis – the EBA – somewhat challenge this: their argument that the supranational regulatory arena translates these soft-law frameworks *cleanly* into harmonised European regulation sits against the evidence we have seen of complex alliances of private and public actors cooperating to stamp distinctive national imprints on the end product.

7.3.3: Factions in European financial regulation

Finally, scholars have identified distinctive factions present in European regulation discussions, both before and after the crisis. Such factions formed around either ‘making’ or ‘shaping’ markets; roughly equivalent to the UK and Germany (Quaglia, 2010; 2012). Implicitly, sitting behind these rival coalitions were two different paradigmatic frameworks, defining the way the various actors viewed financial markets and their regulation. The same approach was applied to understanding the positions of governments over CRDIV/CRR (Howarth & Quaglia, 2013b), or global financial regulation more generally (Zimmermann, 2010). The reflections of the underlying regulatory paradigms in the positions and preferences of banks over European financial regulation, revealed in this study, accord with these works. Indeed, the study has shown

how such a macro-level, comparative approach (using ‘governments’ or ‘states’ as the unit of analysis) can also be applied to individual banks, and how their attitudes and lobbying behaviours actualise the underlying paradigms.

Studies have also examined, more explicitly, the ‘nexus’ between financial actors and public actors, and its role in influencing the progress of European financial integration (Grossman & Leblond, 2011; Mügge, 2013). These have highlighted how such interconnections are extremely durable, and how we continue to see different arrangements which appear to be resisting integration. This study has supported this: the positioning of the actors (both private and public) *away* from Europe on the issues examined in Chapter Six and the extensive and deliberate use of domestic lobbying venues, has confirmed this resistance to convergence and integration of regulatory models, and so the continued survival of distinctive forms of the ‘finance-government nexus.’

7.4: Limitations, and opportunities for future study

Like most qualitative projects, this study took a narrow perspective and strove for analytical generalizability. That is to say, its findings can be generalised – moderately – to other aspects of the empirical landscape which are somehow theoretically similar to that which the study examined. This may be, in a sense, a limitation of the present study (in that conclusions may not ‘travel’ far), but at same time this presents two areas of opportunity.

First, this study focussed on how banks have lobbied the EBA – but banks are just one class of financial actor, and the EBA just one of three bodies responsible for the supranational regulation of the financial sector. Similarly, there are cross-cutting elements to European financial regulation which mean that banks participate in the lobbying over the design of securities markets, or their own interactions with hedge funds. These complexities present opportunities to apply the approach of this study to other, similar contexts, and examine how national origins continue to play out.

The second area comes from a similar perspective. The study set out to examine how national origins shape the lobbying behaviours of private actors in the European regulatory arena, and the case of banks and the EBA was chosen because of the features of that particular regulatory relationship. But the rise of ‘agencified networks’ in the single European regulatory space has impacted many other domains: Levi-Faur surveyed 36 regulatory regimes (from drug addiction, to chemical and product safety, to utilities) and found some form of agency / network arrangement present in 29 (Levi-Faur, 2011). This affords an opportunity to test how well the theory – that features of national markets and regulatory regimes shape how private actors lobby their new *European* authorities – stands up in other domains. This would also allow one to examine afresh how national varieties of capitalism, or regulatory paradigm, endure in domains which are perhaps more easily integrated than banking (sitting as it does at the deep core of the national political economy).

Meanwhile, the empirical landscape in which this study was conducted itself presents further areas for research. Late on in the period of the study, the EBA found itself under threat of being eclipsed by the European Central Bank, which took on direct supervision of the systemically-significant Eurozone banks in November 2014. This has a two-fold importance. First, Europe is moving towards integrating, and harmonising, *supervisory practices*, on top of the centralisation of *rule-making* it has achieved to date with the EBA. Second, around 120 of Europe’s largest banks now face yet another interlocutor, the ECB – and so may see the standing of their own national authority diminish further. These developments offer another fruitful avenue: one can explore how national regulatory regimes fare when supervision – which is itself a feature of deep-rooted practices, and a manifestation of the regulatory paradigm – is centralised across Europe.

Finally, following the appointment of the Junckers Commission in 2015, a proposal was tabled to forge a ‘capital markets union.’ The banking union had arisen, in part, as an immediate crisis response, and this new project had similar roots: it was hoped that by harmonising the standards surrounding the issuance

of, and trading in, securities, bank lending could be circumvented and capital-hungry European firms could gain access to funds through capital markets. Yet looking at this to only a superficial depth, we can see how the proposal challenges the variations in financial systems across Europe, with their distinctive market- and bank-based arrangements. This offers an opportunity to explore how banks – and perhaps other financial actors – lobby over this newest piece of European financial integration.

7.5: Practical implications

As it has generated some important implications for our understanding of European regulatory governance, so this study also suggests a set of practical implications for practitioners and policy-makers.

The study has shown the role in European regulatory policy-making of the EBA in a clear light; where the higher-level legislation sets out broad principles, the EBA adds minutely-detailed rules. These rules have full legal effect and are often binding in national markets; and because the EU's intention in this domain is to achieve maximum harmonisation, they apply almost uniformly to all credit institutions in the single market (regardless of structure, business model or ownership type). For banks, this means any attempts at retaining national specificities must be directed at this European supranational body – since in most areas of financial policy national discretion is scant.

However, a very small step away from this central role of the EBA is the realisation that it is part of a complex institutional landscape. National authorities remain 'spokes' to its 'hub' (to paraphrase the chairman, Enria), with significant potential for shaping its outputs. Simultaneously, the 'legislative' phase of the process has actually pushed further into specifying details (while avoiding the rules themselves), as the Commission and the Parliament have grown active in adding flesh to the high-level frameworks. This means that while national discretion resulting in a locally tuned implementation can no longer be relied upon, there are still a multitude of access points open for banks and their

representative bodies to lobby. Indeed, this complexity presents just as strong an opportunity for *national regulators* to pursue their distinctive agendas, and so for policy-makers to stamp their preferences on the outputs of European regulatory governance.

Secondly, the study has demonstrated the importance of lobbying resources in shaping banks' ability to operate in this complex opportunity structure. Individual institutions wishing to lobby effectively must develop strong capacities for external representation, so that they can maximise their presence across these venues. They must also devote internal resources to generating policy-relevant expertise, and to delivering it in a manner which matches the norms and tastes of the venue they are targeting. Just as importantly, perhaps, banks should move to integrate these dual capacities into a coherent machine, so as to allow them to run complex strategies spanning multiple venues, and to leverage their internal sources of information and expertise fully. Indeed, the experiences of the British mid-tier banks and the building societies – or more precisely, their associational activity compared to that of the German banks – shows that these considerations are just as important for representative bodies as they are for individual banks. Improving both the capacities and their integration will be key in helping banks lobby across their many access points over the many items on the European legislative agenda for financial services – spanning issues such as centralised supervision, bank resolution, and the capital markets union.

7.6: Concluding remarks

This project set out to examine how private actors operate in the emergent European regulatory arena, using the case of banks and the EBA. It has contributed to the theoretical literature on lobbying by showing how the financial systems of two case-study countries, and their banking markets, structure the distribution of lobbying resources among banks – which then shape how they approach the EBA. This connects our understanding of varieties of financial capitalism (Allen & Gale, 2000; Demirgüç-Kunt & Levine, 1999; Story

& Walter, 1997; Zysman, 1983) to our knowledge of lobbying behaviours in the EU.

It has also employed the 'regulatory paradigm', not in the sense in which Hall used it – to explain policy change (1993) – but to provide a framework for understanding banks' lobbying behaviours. These paradigms influence banks' preferences over European financial regulation, and so shape their selection between European and domestic venues; their contents also shape the informational goods the banks deploy. This serves to connect both our knowledge of lobbying in the EU, and our thoughts on the futures of European regulatory governance, to the deep-rooted philosophies which exist at ground level, and through which actors (private and public) perceive and interpret financial regulation.

Appendices

Appendix 1: Interview script

Below is a sample of the semi-structured script I used for the interviews. The questions would be altered slightly depending on the type (and national origin) of the institution in question. Not all the questions would always be used, and they would not necessarily flow in the order presented here.

Intro:

I'm researching the patterns of interaction between banks, trade associations and policy-makers, and in particular how they've shifted as financial regulation has become increasingly Europeanised in recent years. I'm focussing on five policy areas of CRDIV: capital, liquidity, leverage, remuneration and supervision.

Industry preferences:

What would you say were the preferences of the British banking sector with respect to these policy areas?

Did 'British' and 'foreign' banks have different preferences?

What were the concerns of your firm in these areas?

National / regulatory preferences:

What were the preferences of the British government? What were the 'official' preferences?

And what about those of the FSA / PRA? Did they differ?

[Note: If so, why?]

Influence approaches:

How did your bank / UK banks go about communicating these preferences?

Who was contacted, and how? Who was contacted most often?

Under what circumstances were trade bodies used, as opposed to 'individual' approaches?

What sort of information was being conveyed through each of these channels?

Was there any variation in these approaches by policy area? Or with time?

How harmonious or co-ordinated were these efforts? Did anyone break rank?

Regulatory relations:

What's your impression of how UK banks liaise with the PRA over the development of these rules? Did they actively engage with it in the hope of shaping policy outcomes? Why / why not?

How have they embraced the EBA as a venue for trying to exert influence? How have trade associations done so?

Regulatory cultures:

In the last part I just want to get your thoughts on the 'regulatory culture' in the UK. By that I mean aspects of the way the regulatory regime works, like its

- *Approach to policy-making*

- *Attitude to dialogue with firms*
- *Use of standing committees / working groups*
- *Application of 'principles' or 'rules'*

What are your initial perspectives on this?

How did this change with the transition from FSA to PRA?

What has been the impact of this change on firms' engagement with their national regulator?

Has it dulled the use of the 'domestic strategies' you described earlier? Or effected your domestic focus?

And what has been the effect of the rise of the EBA?

How has the regulator's European engagement changed over the years? Does it try to guide European policy? Or to reduce the impact of it at ground level?

In general, how well do you feel British banks have adapted to this new landscape?

How do they view the EBA? And the PRA?

Appendix 2: List of Interviews

1st March 2013, London: Director, Prudential Regulation, European Banking Authority.

23rd April 2013, London: Head of Prudential Regulation, Association for Financial Markets in Europe.

13th May 2013, London: Director, Prudential Regulation, Association for Financial Markets in Europe.

14th May 2013, London: Head of Financial Services Public Policy, KPMG.

17th June 2013, London: Director, Prudential Regulation, Association for Financial Markets in Europe.

16th July 2013, London: Executive Director, Prudential Regulation, British Bankers' Association.

18th December 2013, London (via telephone): Director, Banking Supervision, Bundesverband deutscher Banken (BdB).

27th January 2014, London: Head, Regulatory Policy, Royal Bank of Scotland.

4th March 2014, London: Director, Regulatory Affairs, Credit Suisse.

11th March 2014 (a), London: Head of Public Affairs, Nomura.

11th March 2014 (b), London: Head of Regulatory Policy, EMEA, Nomura.

18th March 2014 (a), London: Vice-President, Regulatory Reporting and Projects, Barclays Bank.

18th March 2014(b), London: Managing Director, Regulatory Affairs, Morgan Stanley.

26th March 2014, London: Head of Prudential Regulatory Policy, Barclays Bank.

27th March 2014, London: Director, Finance Regulatory Policy, Barclays Bank.

28th March 2014, London (via telephone): Frankfurt Finance Correspondent, Financial Times.

4th April 2014 (a), London: Senior Policy Advisor, European Banking Federation.

4th April 2014 (b), London: Director, Public Policy & EU Affairs, HSBC.

22nd April 2014, London: Seconded, Prudential Regulation, European Banking Authority.

1st May 2014 (a), London: Head of Research, TheCityUK.

1st May 2014 (b), London: Independent consultant on EU affairs; former MEP.

7th May 2014, London: European Policy Manager, Financial Sector Policy Unit, HSBC.

9th May 2014, London: Director, Regulatory Affairs, Credit Suisse.

12th May 2014 (a), Brussels: Head of Department – Banking Supervision and Economic Affairs, European Savings Banks Group.

12th May 2014 (b), Brussels: Spokesman for Commissioner Barnier, Commissioner for Internal Market and Services.

12th May 2014 (c), Brussels: Consultant – Financial Services, Brunswick.

21st May 2014, London: Senior Associate, Financial Services, Clifford Chance.

22nd May 2014, London (via telephone): Partner, Financial Services, KPMG Frankfurt.

3rd June 2014, London: Vice-President, Government Relations & Public Policy, Barclays.

4th June 2014, London: Director, Public Affairs, Building Societies Association.

6th June 2014, London: Seconded, Prudential Regulation, European Banking Authority.

11th June 2014, Brussels (a): Senior Advisor, Regulatory Policy, Bundesverband Öffentlicher Banken Deutschlands.

11th June 2014 (b), Brussels: Head of EU Affairs, Deutscher Sparkassen- und Giroverband (DSGV).

7th July 2014, London: Partner, EMEA Financial Services, Ernst & Young.

9th July 2014, London: Partner, Financial Services, KPMG.

11th July 2014, London (via telephone): Director, Banking Supervision, Deutscher Sparkassen- und Giroverband (DSGV).

13th July 2014, London: Director, Public and Government Affairs, Deutsche Bank.

15th July 2014, London: Manager, Prudential Policy Directorate, Prudential Regulatory Authority.

16th July 2014, London: Head of Regulatory Policy, Lloyds Banking Group.

31st July 2014, London (via telephone): Managing Director – Banking Supervision, Bundesverband deutscher Banken (BdB).

12th August 2014, London: Policy and Public Affairs Manager – EU affairs, Nationwide Building Society.

14th August 2014, London: Director, Regulatory Risk and Reporting, Deutsche Bank.

20th August 2014, London (via telephone): Policy Advisor – Banking Supervision, Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR).

4th September 2014, London: Financial Policy Correspondent, Financial Times.

17th September 2014, London: Senior Advisor, European Banking Supervision, Deutscher Sparkassen- und Giroverband (DSGV).

2nd October 2014, London: Head of Prudential Regulation, TSB.

21st October 2014, London: Senior Advisor; KPMG. Formerly Managing Director of the Financial Services Authority.

22nd October 2014, London: Head of Regulatory Policy, Wolters Kluwer.

4th November 2014, London: Deputy Governor, Bank of England (Retd.).

22nd November 2014, London: Vice-President, Public and Government Affairs, Commerzbank.

10th January 2015, London: Head of EU Public Affairs, Standard Chartered Bank.

11th January 2015, London: Director, Regulatory Policy, Building Societies Association.

29th January 2015, London: Director, Regulatory Affairs, Wells Fargo.

13th February 2015 (a), Brussels: Director, EU Affairs, Bundesverband deutscher Banken (BdB).

13th February 2015 (b), Brussels: Senior Advisor, European Regulatory Affairs, Austrian Savings Banks Association.

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