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The dynamics of EU decision-making in financial services: The case of hedge fund regulation

By

David Lutton

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Signed:

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Dedicated to the memory of Susan Lutton (1949 -2009)

mum, thank you for the days

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Abstract

This research investigates European Union ('EU') decision-making on hedge fund regulation. It explores, in a theoretical context, the non-decision on regulatory intervention in the 2007 White Paper on *Enhancing the Single Market framework for investment funds*, and the subsequent policy u-turn in 2009 - the Alternative Investment Fund Mangers ('AIFM') directive.

Literature that deals specifically with the EU response to the pressure for regulatory intervention on hedge funds, has to date been limited. The 2008 financial crisis has, however, reinvigorated the debate on the role of powerful financial actors in policy and decision-making, making this contribution to the debate particularly timely.

It is argued that traditional state-led, institutional and interest-based approaches to EU integration provide only a partial explanation of the dynamics of decision-making in this case. The two-stage process of national preference formation and interstate bargaining from the liberal intergovernmental literature has been found to have useful explanatory power. However, member state division over what should replace the status quo has given rise to circumstances in which the institutional context has been particularly important.

The evidence demonstrates that the Commission played a particularly influential role during the early agenda setting and framing stage of the policy debate. The European Parliament was able to leverage institutional opportunities created in the course of four treaty changes. Transnational business interests were also shown to have been able to exploit the institutional context to their sector advantage.

The traditional theoretical approaches are primarily concerned with how EU actors – whether these are state, EU institutions or private interests – solve policy externalities arising out of global financial markets in an EU context, but

it is argued here that in order to fully understand policy outcomes on EU hedge fund regulation, it is necessary to consider the international political and economic context, and its affect on EU decision-making.

The concept of an *international financial regime*, developed in this thesis, addresses the deficiencies of traditional theoretical approaches to EU integration, and offers a more fully rounded explanation of policy outcomes. It is argued that large transnational financial firms, the US authorities and 'transnational governance regimes' (Porter, 2009) together constitute an international financial regime, which has promoted a particular US defined regulatory normative model from which it has been historically extremely difficult for the EU to depart. This international financial regime has acted - and continues to act - as an external constraint on EU decision-making on financial markets generally, and on hedge funds specifically. Therefore EU financial regulation, even post-2008 financial crisis, is a story more about continuity than change.

These themes are explored through policy tracing the key negotiations around hedge fund regulation. This research contributes to the body of literature on the role and influence of 'economic interests' in the politics and political economy of EU financial integration. The findings of the research therefore, have a broader relevance beyond the regulation of hedge funds and contribute to a deeper knowledge of how states and institutions deal with the forces of economic modernization.

To gather the rich empirical evidence required for theoretical analysis a robust methodology has been developed which combines quantitative and qualitative research methods. Social Network Analysis ('SNA'), a technique seldom used in political research, has been utilized to bring quantitative rigour to the selection of candidates for elite interview, addressing a key methodological weakness in elite-based research.

Introduction

By the middle of the last decade the complex financial activities of the hedge fund industry were increasingly attracting the attention of policymakers, academics and the media. The rapid growth of the industry, the changing nature of the investor base and the proximity of hedge funds to financial instability had given European policymakers considerable cause for concern, that this ‘unregulated’ industry posed a threat to the stability of the financial system.

In the context of active support from key member states for regulatory action, and given that the European Union (‘EU’) is the second largest market for alternative assets management after the US, a collective EU response might reasonably have been anticipated.

Yet, in the face of this pressure for regulatory intervention the Commission chose to rule out hedge fund regulation in its 2007 White Paper on *Enhancing the Single Market Framework For Investment Funds*. It focused instead on ‘market-access issues’ rather than the financial stability concerns being raised by public authorities in most member states.

The unprecedented calamity of the 2008 financial crisis changed the political landscape and re-energized EU hedge fund regulation, resulting in the Alternative Investment Fund Managers (‘AIMF’) directive (2009). What had previously been a highly technocratic policy area was suddenly politicized, and hedge fund regulation became part of a much broader debate about how western economies manage state-market relations.

To date, the empirical research and academic literature in this policy area have been limited. Perhaps due to the technical complexity, the study of hedge funds has mainly been confined to economics (Ackermann et al., 1999). Only a few political scientists have considered the sector in a socio-political context (Achleitner and Kaserer, 2005; Grossman, 2004; Harmes, 2002) and even fewer

(Quaglia, 2007; Quaglia, 2009; Quaglia et al., 2009) have explored the EU response to hedge fund regulation.

The paucity of literature is at odds with the importance of this policy area, particularly in the current economic environment. The 2008 financial crisis has reinvigorated the debate on the role of powerful financial actors in policy decision-making, leading some to argue that the structure of the global economic system and future state-market relations are under review (Fioretos, 2010: 383). The contribution of this research is therefore particularly timely.

This research explains EU hedge fund regulation in a theoretical context; not by considering simply one theoretical perspective, one decision or one set of actors, but rather it draws on macro and micro-level theoretical approaches to EU integration, in order to explain in rich narrative detail the dynamics of EU decision-making in this policy area.

In Chapter 1 an analytical framework is developed by contextualising the EU response to hedge fund regulation within traditional theoretical approaches to EU integration. This chapter explores how state-led, institutional and interest-based theoretical perspectives explain the role and influence of economic interests in EU decision-making. However, it also goes beyond the traditional theoretical approaches to European integration and examines the role played by international transnational actors, by drawing on insights from the broader International Political Economy ('IPE') literature.

Chapter 2 outlines the innovative methodological approach used to explore patterns of actor participation around the negotiations on EU hedge fund regulation. Advance quantitative techniques are used to go beyond the measurement of actor participation, and capture the *intensity* of participation.

Social Network Analysis ('SNA') techniques are used to identify *individual* actors within the network with the potential to be more influential than others. This provides a *visual presentation* of the policy network in hedge funds in the form of a 'network graph', which identifies the 'sociometric stars' (or 'network stars') and offers a unique perspective on the connections and patterns of actor participation.

Chapter 3 sets out the key events and market conditions that have given rise to public pressure for regulatory intervention on hedge funds. It is argued that the process of *institutionalization*, the activities of certain ‘activist’ funds, high profile fraud cases and the role of hedge funds in periods of financial instability have driven the pressure for action over the last decade. The hedge fund industry uses complex terminology and financial jargon that to the outsider can make the policy area seem opaque and impregnable, therefore this chapter also provides a definition of the term ‘hedge fund’, and introduces the key activities and market dynamics of the industry that have underpinned much of the debate for greater regulatory oversight.

Chapter 4 considers the EU regulatory response to this pressure. It contains a detailed analysis of the historical and current EU policy initiatives relating to hedge fund regulation. This chapter introduces the key actors and outlines the theoretical ‘puzzles’; why in the context of active support from core member states for regulatory action did the Commission rule out EU intervention on hedge fund in its 2007 White Paper? And, why did the Commission respond to the 2008 financial crisis with a complete u-turn from its earlier inactive stance?

The remainder of the thesis explores the results of the empirical research and analyzes these findings within the analytical framework presented. Hertig (2000) argues that data regarding the role of economic interests in the development of EU financial integration has been very difficult to obtain. By offering new empirical data, this research contributes to the body of literature about the role and influence of ‘economic interests’ on the politics and political economy of EU financial integration.

Chapter 5 considers the dominant ‘state-led’ theoretical interpretation of policy outcomes in hedge fund regulation. It draws on the two-stage process of national preference formation and interstate bargaining in the *liberal* *intergovernmental* (Moravcsik, 1993a, 1993b, 1998; Moravcsik and Schimmelfennig, 2009) literature, as well as the *varieties of capitalism* ('VoC'') literature (Dore et al., 1999; Goyer and Pw, 2006; Hall and Soskice, 2003, 2004; Menz, 2003; Story and Walter, 1997).

In Chapter 6 the EU institutional context is considered. In this chapter it is argued that the EU response to hedge fund regulation needs to be understood as part of a broader policy regime in financial services. This chapter draws on the *historical institutional* literature, in particular exploring the concepts of 'path dependency' (Capoccia and Kelemen, 2007; Mahoney, 2001; Page, 2006; Pierson, 2000; Thelen and Steinmo, 1992) and 'critical junctures' (Collier and Collier, 1991; Levi, 1997; Pierson, 2000, 2005).

Chapter 7 explores the nature of interest group participation; in particular the role played by industry interests, in the formal EU negotiations around hedge funds. It is argued here that industry interests are too often assumed to be homogenous. To better understand which particular private business actors were the most influential, in this chapter the concept of industry interest is unpacked.

Finally, chapter 8 goes beyond traditional theoretical approaches to EU integration, and considers the EU response to hedge fund regulation as embedded in, and constrained by, the international economic and political system. It is argued that to fully understand EU decision-making on hedge funds, alongside state, institutional and interest-based approaches, one must also consider the role of international (rather than EU) state and private actors and their impact on EU public policy.

In the final section, the key findings of the research are summarized. The empirical evidence and theoretical analysis are drawn into a conclusion that highlights the empirical, methodological and theoretical contributions of this research to the study of European integration.

Chapter 1: Analytical Framework

This chapter develops an analytical framework for the study of EU decision-making on hedge fund regulation, as well as outlining the theoretical literature relevant to the research.

In Part I, a review of the current literature reveals that to date, empirical research and academic analysis of hedge funds, and more specifically the EU policy response to hedge fund regulation, has been limited.

It is argued that to develop a theoretical understanding of this policy area, it is necessary to widen the research lens and to contextualise it within broader debates about the role and influence of 'economic interests' in EU financial market integration.

Part II explores how state-led, institutional and interest-based theoretical perspectives explain the role and influence of economic interests in EU decision-making. This section also goes beyond traditional approaches to European integration and considers the influence of the international economic and political context.

These theoretical perspectives are used to develop the analytical framework from which a set of research questions and working hypothecs are developed.

PART I: LITERATURE REVIEW - HEDGE FUNDS IN POLITICAL SCIENCE

Perhaps due to the technical complexity, the academic study of hedge funds has mainly been confined to economics and finance. This literature tends to focus on risk, returns and performance (Ackermann et al., 1999), but a few authors have considered hedge funds in a broader socio-political context (Achleitner and Kaserer, 2005; Grossman, 2004; Harmes, 2002).

Sultz (2007) writes about the extent to which the rapid growth and *institutionalization* of the industry (see chapter 4) has brought hedge funds to the attention of public regulators (Stulz, 2007). Authors, such as Danielsson et al

(2005) and Edwards (1999), have discussed the risks posed by hedge funds to financial institutions and the broader economy, and have considered how policymakers might respond to these concerns (Edwards, 1999).

Only a few political scientists have written specifically about hedge funds (Ghosh and Ek, 1999; Goyer and Pw, 2006; Harmes, 2002; Watson, 2005). Ghosh (1999) presents hedge fund managers as part of an increasingly powerful financial elite class (Ghosh and Ek, 1999). Goyer (2006) documents the failure of public authorities to force greater transparency on the 'secretive' activities of the industry (Goyer, 2006). Harmes (2002) argues that the activities of hedge funds are significant for policymakers because of their role in financial crisis, market volatility and systemic risk (Harmes, 2002: 169).

Watson (2005) provides some theoretical context by relating national responses to hedge fund regulation with underlying state capitalist traditions. He argues hedge funds are inextricably linked to Anglo-American regulatory models. His research looks at how the Deutsche Börse Group affair (See chapter 4 and 5) shaped German national preferences on regulatory intervention (Watson, 2005).

Quaglia (Quaglia, 2007; Quaglia, 2009; Quaglia et al., 2009) has explored the EU response to hedge fund regulation in a theoretical context. She rejects historical institutionalist and interest-based accounts and argues that an essentially state-centric theoretical approach offers the best explanatory power. She argues that the 2008 global financial crisis has allowed a 'market-shaping' regulatory paradigm to gain ground, empowering a Franco-German alliance and silencing the 'market-making' regulatory paradigm advocated by the UK and the hedge fund industry (Quaglia, 2009: 1).

Quaglia's (2009) position reflects a broader narrative that has become the dominant interpretation in the media and academic literature, which argues that the 2008 financial crisis has discredited the 'regulatory-light', or Anglo-

American model of capitalism and forced it into retreat (Costello and Mortished, 2010; Elliot et al., 2009; EurActiv, 2010; Jagger, 2010a, 2010b).

It is argued here that the current literature is missing an important part of the 'story' by focusing too heavily upon recent decision-making, in particular the Alternative Investment Fund Managers ('AIFM') directive (2009). To fully understand the EU response to hedge fund regulation it is necessary to consider the dynamics of decision-making on pre-crisis regulatory initiatives, in this way the importance of sequencing and institutional context is revealed. It is also necessary to draw back the research lens to view hedge fund regulation in the context of a wider policy regime in financial services (Lutton, 2008).

Several authors have argued that the 2008 financial crisis has ignited a debate on the ability of states to effectively manage the process of globalization (see (Fioretos, 2010; Jacoby and Meunier, 2010; Posner and Veron, 2010). European leaders have been particularly vociferous in calling for a 'new' arrangement that redefines the relationship between markets and public authorities.

There is therefore a pressing need to fill the 'gap' in the literature and to develop a theoretical understanding of EU decision-making on hedge fund regulation. When the research lens is drawn back and this policy area is contextualised within broader debates about the role and influence of 'economic interests' in EU financial market integration, it is possible to develop a theoretical understanding.

The governance of banking, insurance and investment ought to be an exemplary case of European integration. After all, the EU has primarily been an economic project, yet Tsoukalis (1997) argues that considerable caution was expressed in the Treaty of Rome (1957) with respect to the objectives of capital liberalization, despite the fact that this was supposed to constitute one of the four fundamental freedoms. Free movement of capital was made a directly applicable right under the Maastricht Treaty (1992) but it was not until 2005 with completion of the Financial Services Action Plan ('FSAP") that a fully integrated market was finally created (Tsoukalis, 1997: 93).

Despite extensive market integration in other areas, the regulation of banking and finance has long been a sheltered policy area, which member states have chosen to protect from outside influence and international competition (Hertig, 2000: 349). Grossman (2004: 650) argues that as a latecomer in European integration, financial integration is unlikely to resemble any earlier integrated areas, as far as policy is concerned.

PART II: THEORETICAL PERSPECTIVES: THE ROLE OF ECONOMIC INTERESTS IN EU DECISION-MAKING IN FINANCIAL MARKETS INTEGRATION

There is surprising consensus on both sides of the grand theoretical debate on European integration, on the importance of economic interests in EU decision-making. Both the liberal intergovernmental and historical institutionalist perspectives share a key assumption from international political economy ('IPE') theory. IPE doctrine assumes mobile capital engaged in cross border transactions will generally support increased economic liberalisation (Grossman, 2004: 638).

If the logic of IPE is applied to the EU, then it suggests that economic interests will generally support integration when its primary objective is to progress liberalisation. Multiple and divergent national regulatory regimes within the EU put large economic interests at a disadvantage compared to their American counterparts. This creates a competitive imbalance they that will seek to correct (Wymeersch, 2005). Bieling (2003: 7) argues that the strong support by corporate and business interests for the completion of the Single European Market (SEM) is evidence of this IPE assumption.

The liberal intergovernmental and historical institutionalist approach may share the belief that economic interests matter, but reach very different conclusions about the way in which these interests actually influence day-to-day EU decision-making.

The liberal intergovernmental approach, developed by Moravcsik (1993a, 1998; 2009), describes EU policy output as a consequence of a two-stage process of *national preference formation*, and *interstate bargaining* between rational governments, acting on national preferences and relative power relations (Moravcsik, 1993b: 499). He argues that national preferences arise out of the problem of managing international economic interdependence (Moravcsik, 1993b). They are determined by the restraints and opportunities arising - generally but not always - from the economic interests of powerful domestic constituents (Moravcsik and Schimmelfennig, 2009: 69). Therefore the EU can be thought of as an international regime for the co-ordination of policy responses to economic modernisation (Moravcsik and Schimmelfennig, 2009: 68).

The 'Varieties of Capitalism' ('VoC') literature (Dore et al., 1999; Goyer and Pw, 2006; Hall and Soskice, 2003, 2004; Menz, 2003; Story and Walter, 1997) argues that scholars can predict systematic differences between states in the way they react to global economic pressures, by studying the formal organization of their political economies. The institutions of a nation's political economy are inextricably bound-up in its history and political traditions (Hall and Soskice, 2003, 2004). Systems differ over debt sourcing for the financing of economic enterprises, the role of financial institutions in the process of corporate control and economic restructuring, and the role of the state regulator (Story and Walter, 1997: 150).

Hall and Soskice (2004: 8) draw the core distinction between two types of political economies; liberal market economies ('LME') and coordinated market economies ('CME'); which they describe as representing "ideal types at the poles of a spectrum along which many nations can be arrayed".

The LME model is closely associated with Anglo-American capitalist traditions, in which the primary source of external finance for business is the capital market. The state-market relationship in this mode is characterized by armslength government and the exchange of goods and services in a context of free market competition (Hall and Soskice, 2004: 8).

Strange (1998: 23) argues that the arrangement of the state-market relationship in states implies a certain distribution of power between state and economic actors. She argues that finance - defined in terms of the ability to control or create credit - has risen in importance in the last quarter century more rapidly than any other economic sector. The technological cost of commercial advancement would not be possible without access to credit. Profits need to be accumulated, but credit can be created, and as a result the control of credit has come to be of decisive importance in international economic relations (Strange, 1998: 30-31).

Over the last 30 years, monetary development has accelerated economic growth, but it has conferred power on those able to accumulate capital or with access to credit (Strange, 1998: 91). Transnational financial actors are able to exercise a parallel authority alongside governments in matters of economic management affecting the location of industry and investment and the direction of technological innovation (Strange, 2004: 65). The result is "…a shift in the balance of power between political authority and economic enterprise" (Strange, 1975: 222).

In the CME model, firms depend on non-market relationships and rely on collaborative, as opposed to competitive relations. In this model, the government plays a more 'hands-on' co-coordinating and directive role in the market (Hall and Soskice, 2004: 8). Although there are crucial differences between them, the German and French capitalist models are located closer to this end of the spectrum (Story and Walter, 1997: 143).

Moravcsik (1993, 1998) argues that capitalist traditions determine the way in which states deal with the problem of economic modernization, and therefore underpin national preferences on monetary management (Moravcsik, 1993a, 1998). As crucial determinates of sustained economic growth and stability, Story and Walter (1997: 105) argue that financial markets are "too closely identified with national ambitions and national sovereignty to be lightly tampered with". Grahl et al (2005: 1006) argue that integration in financial services can have spill-over effects into other aspects of a Member State's socio-economic system, such as employment relations and the balance of state-market power in areas such as pensions and health care.

It is therefore perhaps understandable that banking and finance have long been sheltered policy areas, which Member States have chosen to protect from outside influence and international competition. Hertig (2000: 349) argues that as a consequence, unlike most forms of market integration, the regulation of banking and financial markets will always be a sensitive issue for Member States.

However, states engage in *interstate bargaining* when the potential gains from cooperation outweigh its own best alternative policy (Moravcsik, 1993b: 499). State negotiators focus primarily on the distribution of benefits, which Moravscik (2008: 164) argues are decisively shaped by the relative power of national governments. Even in the benign institutional setting of the EU – relative power matters. Leverage in intergovernmental negotiations stems from asymmetries in the relative intensity of national preferences (Moravcsik, 1993b: 499).

However, the more intense a government's desire is for agreement the more concessions and the greater effort they expend to achieve it. Intergovernmental bargaining favours those governments able to remove negative externalities[1] by opening markets to which others intensely desire access. Governments that are less dependent on internal trade than their negotiating partners, i.e. those that have the least to gain, have the greatest bargaining leverage. The need to compromise with the least forthcoming government imposes a binding

[1] Where policies of one nation imposes costs on the domestic nationals of another

constraint, which drives agreements towards the lowest common denominator (Moravcsik, 1993b: 500-501).

The *intensity* of member state policy preferences are predicted by the magnitude, distribution and certainty of net expected costs and benefits to private groups at the national level (Moravcsik, 1993b: 499; 1998: 36). This suggests national economic interest can have an influence on EU decision-making, albeit in the national preference formation. National preferences are driven by issue specific preferences about how to manage globalization, which in the main are generally of an economic nature (Moravcsik and Schimmelfennig, 2009: 70).

Moravscik (2008) argues this explains why economic issues have dominated the EU agenda. The core of European integration to date – tariff reductions, the single market, elimination of customs formalities, industrial standardisation, services deregulation, foreign policy coordination and internal security policy – have been motivated by issue-specific (generally commercial) concerns (Moravcsik, 2008: 162). Scharpf (1997,1999) argues that governments are able to undertake policies at the EU level that they cannot pursue at the national level, where they are constrained by parliaments, courts and corporatist interest groups. Consequently, policy outcomes of the EU decision-making process are usually to the right of domestic policy status-quos. Examples of these policy outcomes include a neo-liberal regulatory framework for the single market, a monetarist framework for EMU and massive subsidies to farmers through the Common Agricultural Policy (Follesdal and Simon, 2006: 537).

Critics have challenged the basic framework of the liberal intergovernmental approach, arguing that rational state actors pursuing nationally defined preferences does not fully capture the institutional complexity of international cooperation. They have argued that state behaviour is not purposive and instrumental, preference formation does not necessarily precede the formulation of strategies, and that national preferences and intergovernmental bargaining are so completely manipulated by within the EU institutional context as to be meaningless categories (Moravcsik, 1993b: 516).

March and Olsen (1998) argue that state autonomy and sovereignty have been compromised as institutional barriers to interaction across nation-state boundaries have weakened or been removed, making integration based on voluntary exchange easier. A number of economic, cultural and intellectual transnational networks have formed to link individuals across state boundaries responding to changes in communications, transactions and travel across nation-state boundaries (March and Olsen, 1998: 946).

This is particularly evident in banking and international finance. Liberalization of capital markets and financial services has been an international trend, evidenced by the continuing internationalization of trade and production, the revolution in communications, financial innovation, and the intensified competition among financial centres (Farrell et al., 2007a: 102).

In the 1940s, the same decade as the first hedge fund was set up, the USA instituted a gold-exchange standard under Bretton Woods rules which consecrated the gold linked dollar as the world's principal reserve instrument and trading currency (Story and Walter, 1997: 33). This system provided the financial world with relative stability; exchange rates were inflexible, interest rates were regulated, and the whole system was anchored by a fixed gold price (Mallaby, 2007: 6).

This paradigm ended in August 1971 when Nixon refused to have the US economy contract and announced the dollar's non-convertibility into gold (Story and Walter, 1997: 36). The global economic environment was substantially altered as currencies and interest rates began to float and from this point forward it became impossible to amass savings without facing financial uncertainty (Mallaby, 2007: 6). Global financial markets have become characterized by increasingly complex and high volume trading strategies. Technological innovation created electronic trading platforms for swaps and futures and “direct market access” (‘DMA’) tools allowed trading in a wider range of financial asset classes and instruments (Farrell et al., 2007a: 102)

This process of global economic change is largely a result of the spread of neo-liberalism - the dominant normative model of economic management of the last 30 years. Levi-Faur and Jordana (2005: 14) argue that while at the ideological level neo-liberalism promotes ‘deregulation’, at the practical level it promotes, or at least is usually accompanied by, regulation.

Cerny (1991: 27) describes the outcome of neo-liberalism as a complex maze, in which there are sectoral, macroeconomic and transnational consequences far removed from the original intentions of policymakers.

From this perspective European financial integration might be thought of in terms of the neo-functionalist idea of ‘spill-over’ (Haas, 1958). Bieling (2003: 9) argues that the integration capital markets has led to further market and competition orientated modernisation, with the consequence that an ever larger group of new actors in the financial field - institutional investors, investment banks and rating agencies – have been drawn into EU decision-making, contributing to a process of financial disintermediation.

The Governance approach has documented this shift from models of state-centric policymaking processes to interactive, fragmented, multidimensional policy-making, involving a range of state and non-state actors (Rhodes, 1996: 308). Across the literature the concept of governance is used in two different ways; one broadly, the other more restricted. In the encompassing sense governance implies every mode of political steering involving public and private actors, including the traditional modes of government and different types of steering from hierarchical imposition to sheer information measures. In the restricted sense it only comprises of types of political steering in which non-hierarchical modes of guidance, such as persuasion and negotiation, are employed and/or public and private actors are engaged in policy formation (Windhoff-Heritier, 2002: 185).

Porter (2009: 3) argues that faced with extraordinary complexity and the need to manage ever changing global markets, public authorities have increasingly shifted from centralised 'command and control' to rely on governance models of decision-making and more hybrid mixes of decentralised public and private regulation.

Majone (Majone, 1996: 61-69) argues that the concept of the *regulatory state* best describes the governance model of advanced democracies facing global constraints on their economic policy. As such the emergence of the regulatory state has been a general trend across EU states.

McGowan and Wallace (1996: 560-576) describe the regulatory state as having a focus on rule making and underlying expertism, aimed at correcting market failures and ensuring fair and open competition, through the allocation of economic efficiency, or *pareto optimality*.

Majone (1997, 2002b, 2006; 1996) argues that the regulatory state has allowed EU institutions to extend their turf and has empowered them vis-à-vis member states. A response to the state-centric perspective, which placed national governments firmly in control, Majone's (1996) approach emphasises the resources at the disposal of the Commission in particular. Majone (1997: 65-66) presents a supply and demand model of EU regulatory state, in which demand can come from member states seeking to reduce regulatory competition, or the activism of powerful actors (primarily economic) seeking to use the EU to avoid the costs of meeting different national standards or avoiding the risk of more stringent regulations of individual member states.

Majone (1996) stresses the Commission's capacity for independent action and its ability to pursue its own preferences even when these diverged from those of the member states, while at the same time highlighting the difficulties faced by these states in maintaining or (re)asserting their authority over it. He draws on public choice theory, the origins of which descend from the work of Tullock (1976), Downs (1967) and Niskanen (1971). By applying neo-classical economic assumptions to the behaviours of bureaucracies, public choice theorists have argued that just as firms seek to maximise profits, rational self-interested bureaucrats seek to maximise budgets and the size of their bureau, resulting in an oversupply of bureaucratic provision.

Majone (1996: 64) argues that given the Commission's limited opportunities for budgetary expansion, it will seek to expand the quantitative scope of its competencies. Majone (2006: 613) describes this as integration by stealth. Control of the policy agenda, and absence of clear accountability standards, has allowed the Commission to pursue objectives of political integration and self-aggrandizement whilst appearing to solve policy problems.

As an agenda-setter, the Commission has the formal right to initiate legislation and is therefore responsible for the drafting of legislative proposals. The drafting of proposals requires a substantial amount of expert knowledge. Particularly in financial regulation, where very specialist expertise is indispensable in proposing legislation (Bouwen, 2002: 379).

The Commission, in particular, is eager to interact because it needs close contacts with the private sector to fulfil its institutional role (Bouwen, 2002: 368). Grossman (2004: 642) argues that the transfer of policy competencies from the national to EU level has allowed the Commission to build up a 'constituency' in financial regulation by contacting interest groups, creating discussion forums and consultative committees(Grossman, 2004: 642).

Moravcsik and Schimmelfennig (2009) have challenged Majone's (1997, 2002b, 2006; 1996) work, arguing that 'ideational entrepreneurs', such as the Commission, are usually not required to reach efficient interstate agreements, because they rarely process 'expert knowledge' which is unavailable to national governments (Moravcsik and Schimmelfennig, 2009: 71). However this is challenged by theoretical perspectives that emphasis the institutional context and limitations of state-power and authority in EU decision-making. Many of these draw on a school of thought called 'historical institutionalism'; 'historical' because politics needs to be understood as a process that unfolds over time, and 'institutional' because political implications of the temporal process are embedded in institutions (Pierson, 2000: 264-265).

Historical institutionalism is an attempt to understand how politics are mediated by the institutional setting in which its takes place (Thelen and Steinmo, 1992). Where to draw the line on what counts as an institution is a matter of some controversy in the literature. However, in general historical institutionalists work with a definition of institutions that includes both formal organizations and informal rules and procedures. Thelen and Steinmo (1992) argue that what is implicit and crucial in most conceptions of historical institutionalism is that institutions constrain and refract political behaviour.

Capoccia and Kelemen (2005: 2) argue that 'path dependence' is a crucial causal mechanism in historical institutionalism. Pierson (2000) argues that the sequence in which events happen is critical, because earlier events matter much more than later ones. Each step along a particular policy path produces consequences, which make that path more attractive (Pierson, 2000: 262-263). Levi (1997: 28) argues that there will be other choice points, but entrenched institutional arrangements make the costs of reversal from the initial choice very high.

Pierson (2000: 253) describes this phenomena as the 'logic of increasing returns'. Once a process is established it creates an 'equilibrium' which can be very resistant to change, often resulting in an institutional bias towards the status-quo, which reinforces the established path (Pierson, 2000: 262-263). Institutional constraints are ubiquitous in politics and institutions are prone to increasing returns, or institutionally induced self-reinforcing processes that make reversal from an established path increasingly unattractive over time. (Pierson, 2000: 260).

However equilibriums can be 'punctured', often by externalities to the system which can cause decision-makers to deviate from the established path (Capoccia and Kelemen, 2005: 5). Pierson (2005: 135) argues that these 'critical junctures' are important because these may set institutional arrangements down new paths or trajectories. The critical juncture constitutes a situation that is qualitatively different from the "normal" historical development of the institutional setting (Capoccia and Kelemen, 2007: 348).

Collier and Collier's (1991) landmark work did much to focus scholars' attention on critical junctures, and Mahoney's (2001) contributions have done much to clarify the concept and emphasize the power of agency during critical junctures. Capoccia and Kelemen (2005) define 'critical junctures' as situations in which the structural (that is, economic, cultural, ideological, organizational) influences on political action are significantly relaxed for a relatively short period, with two main consequences; the range of plausible choices open to powerful political actors expands substantially and the consequences of their decisions for the outcome of interest are potentially much more momentous (Capoccia and Kelemen, 2007: 343).

Scholars of the liberal intergovernmental perspective have criticized theoretical approaches that emphasize the institutional constraints on state authority. Moravcsik (1993a, 1998; 2009) argues that while it might be possible for the Commission to influence the policy agenda, legislation to regulate markets still requires the explicit political legitimacy of member states. The influence of national interests prevails in the Council. As the EU's supreme decision-maker, it is the forum for reconciling the distinctive purposes and powers of the member states.

Scharpf (1997) argues that this has led to the *deregulatory nation-state*, rather than an EU regulatory state. National regulatory authorities implement almost all EU regulation, which allows continued scope for national differences in style and substance.

The development of the regulatory state legitimizes and formalizes the role of private interests in European decision-making, but the literature on EU lobbying (see Bouwen 2002, Hertig 2000, Grossman 2004, Bieling, 2003, Mazey and Richardson, 1993) suggests that only large corporate interests have the capacity to access institutions in a meaningful way. Applied to the context of financial integration, this suggests that large financial interests appear to have an enormous advantage, particularly in the early policy formation and agenda-setting phase of the policy-making process when the drafting of legislative proposals requires a substantial amount of expert knowledge.

Bieling (2003) argues that the policy agenda and the network of communication which surrounds it has become reconstituted in favour of these transnational business interests. A transnational alliance, consisting of national governments, big banks and investment banks, institutional investors, think tanks and economic scientists, press insistently for ever new measures, to maintain the process of economic liberalization (Bieling, 2003: 15).

Streeck and Schmitter (1991) argue that since a classic representative chamber is not the dominant institution in EU governance, private interest groups do not have to compete with democratic party politics in the EU policymaking process. Concentrated interested such as business interest and multinational forms have a greater incentive to organize at the EU level than diffuse interest such as consumer groups or trade unions. These features skew the EU policy outcomes towards the interests of the owner of capital more than is the case for policy comprise at the domestic level in Europe (Follesdal and Simon, 2006: 485).

There is a broad body of literature on EU lobbying and several empirical studies in the field of European interest politics have been undertaken (Bouwen, 2002; Greenwood et al., 1992; Mazey and Richardson, 1993). The focus in much of the literature is on how interest groups gain access to EU institutions, but in particular the Commission, and translate this advantage into concrete policy outcomes (Greenwood et al., 1992: 300; Hooghe and Marks, 2005: 6).

Bouwen (2002) has researched the EU financial services sector. He conceptualizes the ability of actors to gain access to and influence EU institutions in terms of a theory of supply and demand of *access goods* (Bouwen, 2002: 365). This research is interesting because it explores individual firm action, not just collective private action. Individual political action on the part of financial interests is analyzed much less and almost never studied in relation to the collective action organized by firms (Grant et al. 1989; McLauglin et al. 1993; Coen 1997).

EU institutions, in particular the Commission, create demand for resources that are crucial for their own functioning. The crucial resource required by private actors is *access* to decision-makers, therefore they respond by providing the supply of these access goods (Bouwen, 2002: 328-329). Since the Commission lacks the resources necessary for highly technical regulation in many policy areas, the provision of 'expert knowledge' is its principal access good (Grossman, 2004: 646). Particularly in relatively new legislative areas, very special expertise is indispensable in proposing legislation. Expert knowledge is therefore the critical resource for the Commission's legislative work, but the Commission is dependent on external resources in order to obtain the necessary expertise (Bouwen, 2002: 379).

Schmitter and Streeck (1985: 76) argue that the more layers involved in the provision of access goods, the slower and less flexibly access goods can be supplied. Individual firms are very efficient in the provision of access goods, because the hierarchical decision-making structure within firms guarantees the efficient provision of these access goods (Bouwen, 2002: 376).

Bouwen (2002: 376) argues that the consistent provision of high-quality access goods by private interests over time, facilitates and improves efficient resource exchange with EU institutions. British lobbying, specifically the US-imported style of British lobbying, which is heavily expertise-driven has proved successful in developing long-term contacts with EU officials (Grossman, 2004: 645).

However, the ability to supply access goods to the Commission does not apply equally to all private interests. Grossman (2004: 645) argues that the capacity of private interests to lobby EU institutions is determined by their financial, organizational and intellectual and/or linguistic resources. Equally, Bouwen (2002: 273-275) says only large private interests have sufficient resource to establish a representative office in Brussels and develop the direct lobbying strategies that have proven successful in gaining access to EU institutions.

By exploiting the need for expert knowledge, there is a risk that private interests will influence public policies to their own advantage, adjusting them to meet specific sectoral needs over public interest (Windhoff-Heritier, 2002: 194). Regulatory processes may become 'captured' by the very private actors they are supposed to regulate (Porter, 2009: 3).

Offe and Preuss (2006: 8) argue that public policy reflects only the pretension of technical and economic efficiency. Rather, the search for *pareto optimality* has lead to increased liberalization (or 'negative integration'), which benefits some economic actors whilst damaging others. Hertig (2000: 352-366) argues that business interests have lobbied the EU for the removal regulatory barriers to cross-border activities, without an increase in the net regulatory burden. Majone (2006: 7) argues that the asymmetric treatment of positive and negative integration has been a long-standing feature of European integration.

Grossman (2004) discovered that representatives of German public banks, although rich in terms of finance and human resource, have had major difficulties in accessing Commission services in both DG Internal Market and Competition. The Lander-owned regional banks have been worried about the evolution of EU state aid polices and principals. More generally the Savings Banks Association ('DSGV') has proven to be a rather reticent supporter of further liberalisation (Grossman, 2004: 645).

On the other hand, Grossman (2004: 654) argues that the specialists who are regularly consulted, or who participate most in expert groups and hearings come from the London offices of US banks, especially Solomon, Smith Barney, Morgan Stanley Dean Witter and Goldman Sachs. He also found it was a committee of City lawyers set up by the City Committee on EMU, which drafted a first version of the regulation on the legal statute of the euro (Grossman, 2004: 645).

Mazey and Richardson (1993: 10) argue that cases of 'agency capture' are rare exceptions in European politics, as it is virtually impossible for any single interest or national association to secure exclusive access to the relevant officials, let alone to secure exclusive influence. The mere plurality of actors and the complexity of the decision-making process can be serious obstacles for private interest groups as well. Grande (1996: 322) argues it is unrealistic to assume that private interests can manage to influence European policies in the same way and to the same extent they can policy-making at the national level.

Although financial interests have a considerable advantage over public authorities particularly in the early issue generation and agenda setting stage of the policy process the ‘agency capture’ perspective assumes a passive role for national governments, and indeed institutions. Majone (1996: 71-72) argues that theoretical approaches that stress the disproportionate advantage of economic interests and agency capture, overstate the importance of economic actors because they render the EU institutions as passive actors.

Grossman (2004) argues that it is a mistake to regard business lobbying as a unidirectional activity of private actors vis-à-vis the EU institutions. The participation of private interests in the policy process along with the development of European resources, such as employing specialized personnel or opening a Brussels office contributes to the institutionalization of EU governance in a given policy domain. This transfer of policy competencies from the national to EU level means that a specific part of the EU polity will deal with this area and itself build up a ‘constituency’ by contacting interest groups, creating discussion forums and consultative committees (Grossman, 2004: 642).

The Commission, in particular, is eager to interact because it needs close contacts with the private sector to fulfil its institutional role (Bouwen, 2002:

368). Scharpf (1999: 268) argues that the Commission will ensure it provides both input and output legitimacy - output legitimacy concerns the EU's general efficiency and effectiveness in dealing with problems and input legitimacy concerns democratic decision-making at the EU level through the participation of citizens and interest groups. Scharpf (1997) says the Commission is primarily concerned with output legitimacy, but it cannot leave input legitimacy to other institutions (i.e. Council and Parliament) and therefore seeks as wide a representation of interests as possible - even creating them where necessary (Grossman, 2004: 646). The inclusion of as large a sample as possible into the consultation procedures can be seen on one hand as seeking to attract maximum 'expert knowledge', or as a means of mobilizing national and European encompassing interests, as a means of legitimizing its proposals with regards to the Council and the Parliament (Grossman, 2004: 646-647).

Grossman (2004) also argues that the two-level character of decision-making back to national governments remains a constant threat to interest groups and the worth of their privileged position with the Commission. Domestic considerations, such as the sudden *politicalization* of a policy issue in the domestic context, may force the final outcome to diverge strongly from the Commission's (potentially interest group influenced) proposals (Grossman, 2004: 649). As a result of a crisis an apparently stable and integrated area may suddenly be destabilised and re-politicized.

This fragmented decision-making and political instability are institutionalised features of the EU polity, which renders long-term relationships between interest groups and the EU institutions very difficult. Any type of agency capture is therefore highly unlikely. As a result, interest groups strengthen their links to familiar political actors and institutions such as national governments, agencies and other national interest groups (Grossman, 2004: 650).

The governance literature also challenges the idea that policy is manipulated to meet the narrow sectoral interests of business over public interests. Governance approaches describe the EU polity as a non-hierarchical regime responsible for mobilizing networks of public and private actors into formal and informal institutions (Pierre and Peters, 2000: 83-91).

Windhoff-Heritier (2002) argues that no single actor, public or private, has sufficient potential for action, or sufficient power to solve the problem of economic interdependence on its own, nor can a single actor have all the knowledge or information required to solve complex, dynamic and diversified problems (Kooiman, 1993: 4).

Interdependencies creates incentives to cooperate, so the very potential to mutually obstruct solutions promotes the willingness to come to agreements (Van Vliet, 1993: 110). Public and private interests have to rely on each other. Governments cannot govern without the assistance of organized interests, because they are dependent on private interests for expertise and the implementation of policy. Equally, private actors need public institutions to grant them 'access' to enable them the opportunity to turn sectoral interests into public policy (Greenwood et al., 1992: 8).

Consequently, a *mutual dependency* relationship exists. The exchange relation is only likely to be durable when the exchange is reciprocal and both sides receive benefits from the interaction (Bouwen, 2002: 328). Power, in this sense, is not the property of a single actor, but rather a property of the relationship between the actors in a network. The result is that the relations between actors create a 'balance the power'. An important consequence is that organizations become interdependent with the public institutions with which they interact (Bouwen, 2002: 328).

This idea is known as *resource dependency*, which conceives the relation between private and public actors as an exchange relation between two groups of interdependent organizations (Bouwen, 2002: 368). In this way, the interaction of private organizations and public institutions is conceptualized as a series of inter-organizational exchanges.

The resource dependency literature recognises that business and economic interests can assume a significant role in issue identification and policy formation, but this advantage is balanced by the need for an element of hierarchy in order for policy initiatives to be brought in the first place (Greenwood et al., 1992: 244). In practice, even self-regulatory measures are either initiated or guided by the Commission (Windhoff-Heritier, 2002: 202).

There is surprising consensus across state-led, institutional and governance/ interest-based politics approaches on the important role economic interests play in determining policy outcomes. However, they diverge when it come to explaining how the influence of economic interests is *constrained*.

The liberal intergovernmental literature argues that interstate bargaining ultimately determines policy outcomes therefore domestic state-market relations act as a constraint. The historical institutional school argues that the institutional context and policy equilibriums constrain the ability of economic interests to mould public policy. The network governance literature argues that *mutual dependency* relationships balance power in any network.

Although the liberal intergovernmental literature claims to explain the underlying domestic and international forces that shape national preferences and power, it is primarily concerned with the domestic context (Moravcsik, 1993b: 519). The lobbying literature is concerned with how economic actors gain access to, and influence, decision-making in EU institutions. The historical institutionalist literature is also focused on EU institutions, in particular the Commission.

However, Tsoukalis (1997: 267) argues that EU integration takes place within the context of international economic interdependence, and nowhere is this more evident than in the case of financial markets. The EU represents the largest share of world GDP (30 per cent) and trade (18 per cent), but there are significant limits to its ability to exercise Europe's collective economic power. Not least the fact that the EU's joint economic power requires agreement among its major member states - a reality that has often proven elusive (Fioretos, 2010: 384).

Levi-Faur (2005) applies the concept of the regulatory state specifically to the international financial system. He argues that the governance of capitalist democracies is best described by, what he calls *regulatory capitalism*, which is characterised by increasing delegation and formalisation of regulation in the hands of experts, especially international networks of experts (Levi-Faur and Jordana, 2005: 201).

Porter (2005) argues that the governance of global finance has become well established and extensively institutionalized in *transnational governance regimes*. Faced with the need to manage ever-changing global markets, public authorities have come to rely on hybrid mixes of decentralised public and private regulation, though international forums such as the Financial Stability Forum ('FSF'), the Organization for Economic Co-operation and Development ('OECD'), or stand-alone formal organizations such as the International Organization of Securities Committees ('IOSCO') (Porter, 2009: 6).

These *transnational governance regimes* have allowed large international firms to become key sources of private authority in the international system. Porter (2009) recognises the challenge for private sector governance regimes is for these international institutions to avoid 'capture' by powerful private interests.

The immensely technical character of the work of the regulatory groupings, the high cost of acquiring expert knowledge and the mobility required to participate meaningfully in discussions, all contribute to the likelihood that regimes can be skewed toward the interests of large financial interests at the expense of the public interest. The frequent tendency of elite individuals to move between public sector and private sector positions in global finance increases the risk of 'agency capture' (Porter, 2009: 7).

Porter (2005) stops short of identifying exactly whose interests are, and are not, served in the emerging regime of governance in international finance, but clearly economic interests will have a considerable advantage. On the other hand, authors such as Posner and Véron (2010) and Strange (1997) have argued that these international financial forums primarily reflect the state preferences of the United States ('US'), the dominant player in the international system.

Strange (1997; 1995) argues that the international financial system reflects US domestic monetary preferences. The US influences ideas about how a market economy should be managed, consequently the liberal ideology of a market-orientated economy in which economic enterprise functions free of government interference became the dominant normative model of international finance (Strange, 1995: 64; Strange, 1997: 23). Posner and Véron (2010) that international financial bodies, long dominated by US officials, *transmit* the principles of self-regulation, private authority and other governance modes used in the US.

Strange (1997: 30) argues that no change in the collective management of international finance can take place that is not initiated - or sanctioned - by the US authorities. When the dominant state does not want to act, the most likely outcome at the international level is a 'non-decision' on market intervention (Strange, 1997: 26).

Posner and Véron (2010) argue that EU policy-makers have been drawn to regulatory principles developed within these international financial forums. Consequently, the EU regulatory regime in financial services has historically reflected international practice, or rather Anglo–American regulatory models, as established in US-dominated international financial forums. This has allowed large financial services firms a considerable degree of international authority (Posner and Veron, 2010: 400). Hertig (2000) describes the EU as "...both a regulatory colossus of worldwide stature and as an entity that is more or less irrelevant in the area of banking and financial services, its choices being dictated by either global international organizations, or powerful member states".

PART III: DEVELOPING AN ANALYTICAL FRAMEWORK

The research questions addressed in the following chapters reflect the key theoretical assumptions of the traditional approaches to EU integration; therefore it is asked whether it is the state-led, institutional or interest-based theoretical approach, which best explains policy outcomes in the case of hedge fund regulation.

It is not the intention of this research to generate a new theoretical explanation of the European policy process. Rather the goal is to contribute to the development of *better* theory; that is to understand which theoretical approaches to European integration best explain decision-making in the case of hedge funds, and in doing so reveal the conditions under which particular actors play a determining role in shaping policy outcomes at the EU level.

Research Questions

State-led Approach

Are the specific policy outcomes in relation to EU hedge fund regulation best explained in terms of interstate bargaining, and the changing intensity of core member states' preferences towards regulatory intervention at EU level?

Institutional Approach

Are the policy outcomes in question determined by the institutional dynamics of the EU? To what extend do path dependency and critical junctures explain the non-decision on hedge fund regulation in 2007, and the about turn in 2009?

Interest-based approach

To what extent have highly resourced private business interests gained access to EU institutions, in particular the Commission? How successful have such actors been in translating their preferences into policy outcomes?

It is argued here that to fully understand EU decision-making on hedge funds, alongside state, institutional and interest-based approaches, one must also consider international financial regimes;

International Financial Regimes Approach

To what extent do policy frameworks established by international financial regimes, constrain EU decision-making in relation to financial regulation?

Working hypothesis

Before the 2008 financial crisis, it is argued, regulatory solutions promoted in international financial regimes reflected neo-liberal ideas about monetary management, creating a strong international bias towards a 'hands-off' approach to hedge fund regulation.

The highly complex nature of financial policy created demand for specialist knowledge and expertise, especially in the early agenda-setting phase of the policy process. This gave considerable advantage to financial actors, allowing them to be highly influential in the initial framing of the policy debate, explaining the Commission's decision not to intervene in the 2007 White Paper.

It is hypothesized that, the 2008 global financial crisis represented a 'critical juncture' that re-energized the issue of hedge fund regulation and intensifying the national preferences of member states towards regulatory intervention, forcing the Commission to reverse its earlier inactive stance, and bring forward the Alternative Investment Fund Managers ('AIFM') directive (2009).

Conclusions

Literature that deals specifically with the EU response to the pressure for regulatory intervention on hedge funds, has to date been limited.

Only a few political scientists have written on the topic (Ghosh and Ek, 1999; Grossman, 2004; Harmes, 2002; Harmes and Ze, 1998; Watson, 2005), but only

Quaglia (2009) has applied traditional European integration theoretical frameworks to the issue, although she has focused mainly on AIMA, the most the recent policy response (Quaglia, 2009; Quaglia et al., 2009).

Banking and finance have long been sheltered policy areas, which Member States have chosen to protect from outside influence and international competition. Some authors have argued that as a latecomer in European integration financial integration is unlikely to resemble any earlier integrated areas, as far as policy is concerned (Grossman, 2004: 650).

However, this chapter has demonstrated that it is possible to understand financial integration in a theoretical context, when it is viewed within wider debates about the role and influence of 'economic interests' in European decision-making.

Particular attention has been given to traditional state-led, institutional and governance/interest-based theoretical approaches to EU integration, but is it also suggested there are constraints on decision-making arising from the international political and economic context. Therefore to fully explain EU decision-making on hedge funds this international dimension must also be taken into account.

Chapter 2: Methodological Approach

The research adopts a policy tracing approach. A case study is presented with a specific emphasis on extensive examination of the pattern of actor participation around key policy negotiating events concerning EU hedge fund regulation, between January 2004 and May 2009.

This research offers a robust and innovative methodology for the identification of key actors in a given network by combining quantitative analysis of actor participation with Social Network Analysis ('SNA') techniques.

This approach goes beyond simply mapping actor participation, but rather offers a greater understanding of the dynamics of a policy network by taking into account the *intensity* of participation, as well as identifying the actors whose position within the network allows them a structural advantage to influence others. The methodological approach facilitates greater accuracy and precision in the selection of candidates for elite research, thus addressing a key methodological weakness in much of elite qualitative research.

This chapter details the methodological approach used to collect the empirical evidence used in later chapters for theoretical analysis (see chapters 5,6,7 and 8). Part I explains the methodology developed for measuring not just who participated, but also the level and intensity of actor participation. Part II discusses how SNA techniques can be used to produce a *visual presentation* of the policy network in the form of a 'network graph', and to identify the 'network stars' by considering the 'relational' ties between participating actors.

Defining the 'case' of EU hedge fund regulation

Feagin et al. (1991: 6-8) argue that the case study permits a more holistic study of complex social networks, because it renders social action in a manner that comes closest to the action; that is the understanding of the participating actors themselves. Context-dependent knowledge and experience are at the very heart of expert activity and such knowledge and expertise also lie at the centre of the case study as a research method (Flyvberg, 2006: 222).

Flyvbery (2006: 219) argues that social science may be strengthened by the execution of a greater number of good case studies. The case study facilitates the investigation of complex sets of decisions in order to recount the effect of these decisions over time. This is particularly important in political science because it reveals a considerable amount about the character of power and influence.

In political science major works such as that of Robert Dahl (1961) on New Haven, have been particularly important in the generation of new ideas and theories. Dahl's (1967) classic study became the basis for constructing a theory of urban polity and for much methodological debate over the best way to conduct research on urban power structures.

Case study research explores a single entity, or phenomenon, ('the case') which is bounded by *time* and *activity* (Creswell, 1994: 12). The activity studied in this case is the influence of key actors in relation to the decision-making process on EU hedge fund regulation.

The 'time' boundary begins with the European Parliament's resolution on 'The future of Hedge Funds and Derivatives' in January 2004 and ends with the publication of the proposed Alternative Investment Fund Managers ('AIFM') directive in May 2009.

Defining the 'policy-network' in hedge fund regulation

This research explores which of the traditional theoretical approaches to European integration best explain decision-making in the case of EU hedge fund regulation. It seeks to reveal the circumstances, or scope conditions, under which particular actors play a determining role in shaping policy outcomes.

It is necessary therefore to gather empirical data that gives insight into which actors participated in policy decision-making, and which of these participating actors was the most influential.

One measure of an actors influence over policy decisions is the degree of *access* that an actor has to the EU institutional structure. Much of the interest-based empirical work is concerned with measuring access to EU institutions (Hertig, 2000: 365). Bouwen (2002: 366) recognizes that access does not necessarily mean influence. Ineffective political actors might gain access to an institution without being able to translate this advantage into concrete policy outcomes. Gaining access to the EU institutions is, however, an important condition to exercise influence in the EU legislative process. Access is therefore likely to be a good indicator of influence.

By measuring who participated in negotiations around hedge fund regulation it is possible to develop an understanding of the policy network. However, it is argued here that a more robust understanding of the functioning of the policy network can be achieved by measuring, not just access, but also the frequency, effort and exclusivity of actor participation - in other words to develop a measure of the intensity of participation.

To achieve this it was necessary not simply to consider one decision, but rather to trace the evolution of EU hedge fund policy from its initial roots all the way through to the proposed directive. By viewing hedge fund regulation in this holistic context, it has been possible to determine which actors were important during different stages of the policy process. Keating (2009: 311) argues that to fully explain the dynamics of policy decision-making it is vital to ensure that research incorporates "…context, time and place".

Fig. 1: Key Decision-Points

CODE	Description	CODE	Description
DP01	EP Resolution on Asset Management	DP08	Alternative Investment Expert Group: Open Hearing and Consultation
DP02	Financial Integration Monitor	DP09	White Paper
DP03	Expert Group on Asset Management [Reports and Consultation]	DP10	EP Rasmussen and Lehne Report and CEC response
DP04	UCITS Review by ESC	DP11	PWC Report: The retailisation of non-harmonised investment funds in the European Union
DP05	Green Paper	DP12	Lorosiere Group; the High Level Group on Financial Services in the EU
DP06	Green Paper Consultation	DP13	Public Consultation and High-Level Conference on Hedge Funds
DP07	EP Klinz Report	DP14	Directive on Alternative Investment Fund Managers (AIFM)

Fig. 2: Operationalized Participation Events ('PE')

CODE	Short Name	Description
EG AM 01	AMEG	Asset Management Expert Group
EG AM 02	Meeting of the AMEG	Expert Group Meeting on Asset Management, 3rd February 2005
GP 01	Green Paper Open Hearing	The UCITS review Open Hearing, 13 October 2005
GP 02	Green Paper Consultation	Public Consultation on the Green Paper, contributions authorized for publication
EH AI 01	Nominating Organisations for HFEG	List of eligible nominating organisations for Expert Working Group on Alternative Investment Fund
EH AI 02	HFEG	Members of Expert Working Group on Alternative Investment Funds: Sub Group on Hedge Funds
EH AI 03	Open hearing on HFEG Reports	Expert Group Reports on Investment Fund Market Efficiency, Hedge Funds and Private Equity, 19th July 2006 (Session I: Hedge Fund Expert Group Report)
EH AI 04	HFEG Consultation	Public Consultation on Expert Group Reports
LG 01	Member of Lorosiere Group	Members of the Lorosiere Group; the High Level Group on Financial Services in the EU
LG 02	Oral evidence to LG	Organisation giving oral evidence to the Lorosiere Group; the High Level Group on Financial Services in the EU
HF PC 01	High Level Conference on HF	European Commissions Conference on Private Equity and Hedge Funds, 26 February 2009 (Hedge Funds Session)
HF PC 02	HF Consultation	Consultation on Hedge Funds

This process of policy tracing revealed 75 official documents[2] relating to EU decision-making on hedge fund regulation, between January 2004 and May 2009. Each of these documents was analyzed in forensic detail to extract information on participating actors and to determine the *key decision-points* relating to hedge fund regulation (see figure 1). Key decision-points were policy events with an outcome that drove the policy initiative forward.

Fourteen key decision-points were identified, as detailed in figure 1. The formal policy decision-making opportunities around each of these was analyzed and found to be as follows:

1. Participation in the Asset Management Expert Group ('AMEG'), Hedge Fund Expert Group ('HFEG') or the Lorosiere Group as either a group member or observer
2. As a nominating organization for the HFEG
3. Submitting a written response to the public consultation of the AMEG report or the Green Paper
4. Being called to give evidence before the Lorosiere Group
5. Attending the Open Hearing on the AMEG report, HFEG report or the Green Paper or High Level Conference on Hedge Funds ('HLC') as a chair, speaker, panelist or audience member

The participation opportunities were then operationalized into 12 *participation events*, detailed in figure 2. The formal *participation events* around each *key decision points* were reviewed and the participating actors at each event recorded.

Participants were recorded in two ways; firstly at the individual level and secondly at the organizational level. This was necessary because in some

[2] Appendix 1 lists the available documents and secondary sources relating to hedge fund regulation at the EU level in a chronological sequence. The type of document available is indicated in the column title 'Doc. Type' along with a web hyperlink to the original document.

Fig. 3: Categorization of participating organizations

Classification	Description
Citizens	citizens, authors, researchers or research centres or universities
Public authorities	market regulators, prudential supervisors, ministries of finance, Member states' parliamentary groups or individual MEPs, European parliamentary groups and the European Central Bank
Industry (Financial Actors)	companies involved in asset management and their professional associations, or service providers to the sector such as fund administrators, prime broker and banking associations, consultants, lawyers, pension funds and their professional associations, institutional investors
Other stakeholders	labour representatives, consumers and their associations, trade unions and trade unions associations, business and industrial associations

circumstances individual representatives of organizations changed over time. Also, not all consultation responses are attributed to one single individual, in which case only the participation of the organization was recorded. In total 123 individuals and 263 organizations[3] participated in the formal decision-making opportunities on hedge fund regulation (See Appendix 2 and 3).

Participating organizations were also grouped into categories – citizen, public authorities, industry and other stakeholders (see figure 3). The typology used was adapted from a method used by the Commission to classify respondents to the *Public Consultation on Hedge Funds* (Commission, 2009b: 5). Whilst the Commission applied this classification of organizations to only one of the formal decision-making opportunities, in this research it was applied to all participation events equally.

PART I: BEYOND ACCESS – MEASURING THE INTENSITY OF ACTOR PARTICIPATION

A list of participating actors is not in itself particularly revealing, other than suggesting that a large policy network was involved in the decision-making process on hedge fund regulation. To reveal which participating actors mattered more than others, it was necessary to develop an understanding of the *intensity* of each actor's participation. A scoring system was devised that measured each organization's[4] participation level by capturing frequency, effort and exclusivity.

First, a *frequency of participation* ('P.Fr') score was calculated by scoring each organization 1 for participation, and 0 for non-participation at a *participation event*. The maximum score achievable was 12 and the minimum one. The data sets for this calculation are detailed for each *participation event* listed above, in Appendix 5 through to 16, under the column titled 'P.Fr'

[3] Figures include Commission as a participating organization, and Commission officials as participating individual (total 13).

[4] As the originators of these participation event the Commission was excluded from this part of the analysis

Fig. 4: Calculation of total participation level (P.Lvl) scores.

Possible forms of Participation	P.Lvl (I)		P.Lvl (II)		P.Lvl
Submitted a written response to a consultation	Low	1	Low	1	**= 1**
Acting as a nominating organisation for an expert group	Low	1	High	2	**= 2**
Attending an open hearing/ meeting	Medium	2	Low	1	**= 2**
Acting as a Chair, Panellist or Speaker at an Opening Hearing/ meeting	Medium	2	Medium	2	**= 4**
Participating in an Expert Group, but as an observer	Medium	2	High	3	**= 6**
Participating in an Expert Group	High	3	High	3	**= 9**
Participating in a high-level group	High	3	High	3	**= 9**

Fig. 5: Summary of participation calculations

Measurement	Short	Description
Frequency of participation	**P.Frq**	Organisation or individual given a score of [1] for participating in a single event
Level of participation	**P.Lvl**	is a measure of 'effort' and is a multiplication of P.Lvl (I) and P.Lvl (II)
(I). Level of commitment required	***P.Lvl (I)***	
(II). Level of exclusivity	***P.Lvl (II)***	
Total participation	**PT**	is P.Frq x P.Lvl

Second, a score for *level of participation* ('P.Lvl') was calculated. The *level of participation* was conceptualised as consisting of two components; the level of commitment, or action required, ('L.lvl (I)') and the level of exclusivity ('P.Lvl (II)').

The methodology used to calculate a score for *level of participation* ('P.Lvl') is detailed in figure 4. To illustrate, a written submission to the consultation process was given the lowest score as this represents the minimum level of action required to participate in the decision-making process. The ability to submit a written response is not restricted to any particular groups therefore it also scores low on exclusivity.

On the other hand, participation as an Expert Group member scores highly on the first measure because it involves a high level of commitment by the organization as participants were asked to attend four formal meetings and formulate a report. Participation as an expert group member is also highly exclusive because membership is restricted to individuals put forward by nominating organizations, which are themselves selected by the Commission.

The scores for level of commitment ('P.Lvl (I)') and level of exclusivity ('P.Lvl (II)') were multiplied together. Multiplication is generally favoured over addition when all the elements are required to form the concept. The data sets for this calculation are detailed in Appendix 5 through to 16 under the column titled 'P.Lvl' for each of the *participation events* listed above.

Finally, a total participation score ('PT') was calculated by multiplying the *frequency of participation* ('P.Fr') score by the *level of participation* ('P.Lvl') score. A summary of the participation calculations is detailed in figure 5. The summary data set for all organizations in the network, sorted in decreasing order of PT score is detailed in Appendix 4. This data set was used to generate tables and graphs about the composition, traits and features of the hedge fund policy network used in the theoretical analysis (see chapters 5 to 8).

PART II: ELITE QUALITATIVE INTERVIEWS – SOCIAL NETWORK ANALYSIS

Keating (2009: 300) argues that political research is often reduced to a dualist choice between 'quantitative' and 'qualitative' 'methods' He argues for 'methodological pluralism'; a pluralism of approaches where each methodological choice informs the other (Keating, 2009: 311). This research is cognizant of Keating's (2009) critique of political research and as such has focused on gathering the broadest and richest empirical data possible, rather than being constrained by a dualist methodological choice.

The qualitative focus of this research was elite interviews. The innovative qualitative methodology for measuring level and intensity of participation outlined above provided a more developed and nuanced understanding of the policy network, however in order to fully understanding the functioning of the network it was necessary to combine this data with qualitative material collected in elite interview.

The goal of the elite interviews in this research was to corroborate the findings from written accounts and secondary documents, but more importantly to allow the story of hedge fund regulation to be reconstructed, or understood from the perspective of the key actors involved in the decision-making.

Zuckerman (1974: 324) argues that it is commonplace to view societies as characterized by an asymmetric distribution of political power. The study of elites throws light on the inner workings of a network; how it is stratified, how rewards are shared out; the criteria on which privilege is accorded and most importantly how power is exercised and by whom. Crew (1974: 34) argues that no satisfactory theory of elites is possible without a prior theory of power. In other words, the significance of studying elites is that it helps to explain why policy moves in one direction rather than another.

Elite interviews can shed light on the hidden elements of political action that are not clear from an analysis of documented outcomes or other primary sources. Written accounts and secondary documents often only represent an official version of events, which may conceal the informal processes and considerations that preceded decision-making; they also sometimes imply consensus and agreement where there is none. While documents and other sources may provide detailed accounts, there is no substitute for talking directly with those involved (Tansey, 2007: 767).

Through direct and focused questioning, researchers can reconstruct political events on the basis of the respondents' testimonies, stitching together various accounts to form a broader picture of a complex phenomenon (Tansey, 2007: 767).

Elite interviewing is a very powerful tool, but techniques used for the selection of candidates often do not stand up to methodological rigor. Moyser and Wagstaffe (1987: 14) argue that while quantitative research is increasingly associated with precision and sophistication, elite level research is characterized by ad-hoc procedure.

The study of elites is related to power and influence, therefore the selection of candidates for interview is dependent upon choosing appropriate indicators of social, economic and political influence. Moyser and Wagstaffe (1987) argue that in many cases the selection of candidates comes down to the judgment of the researcher. Too often the methodology adopted in elite interviewing is arbitrary and highly subjective. They argue that significant work needs to be done in the development of a robust method for elite identification (Moyser and Wagstaffe, 1987: 14).

It is argued here that using Social Network Analysis ('SNA') techniques addresses some of the challenges of elite interview candidate selection. SNA can identify candidates whose position in the network affords them greater opportunity to influence others. Elite interview candidate selection is then based on an informed and systemic choice, grounded in quantitative analysis, rather than subjective ad-hoc procedure.

SNA is seldom used in political science, most of the texts on research methods and data collection give little attention to SNA, concentrating instead on the use of variable analysis for the investigation of attribute data (Scott, 2000: 4). However, SNA allows the researcher to analyze the social configuration of a network and identify *dominant individuals* in the group structure (Bronfenbrenner, 1943: 3). Moreno (1960: 479) argues that an individual's group relations can be thought of as serving both as a limitation and an opportunity for social action. Power can be explored by measuring an actor's positions within a network.

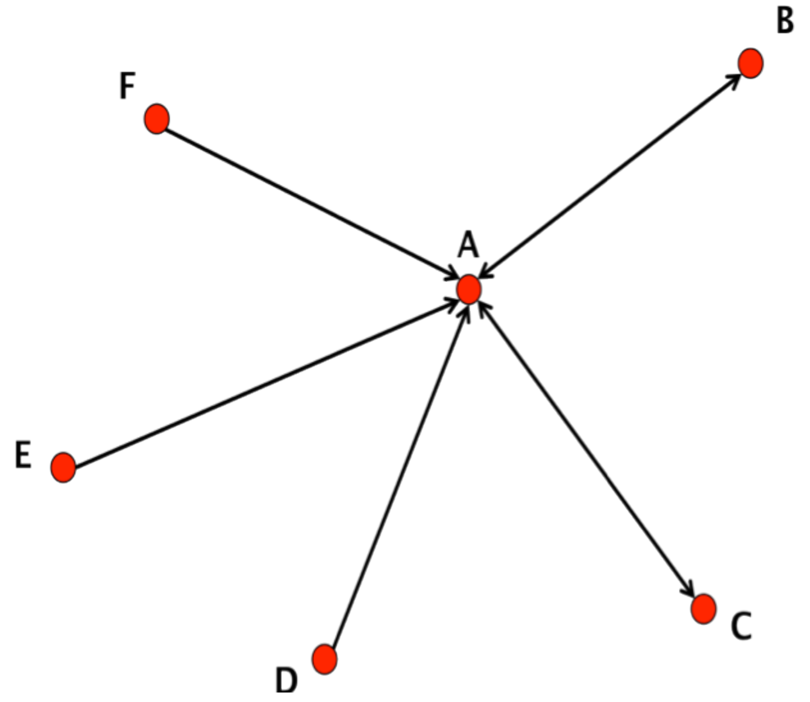
Many of the advanced statistical methods employed in SNA are beyond the scope of this research. The purpose of SNA in this research has been to provide a *visual presentation* of the policy network in hedge funds in the form of a 'network graph' and identify the 'network stars' – actors whose position in the network affords them greater opportunity to influence others. Identification of these 'network stars' was then used to create the 'target list' of candidates for elite qualitative interview. In this way empirical evidence gathered during elite interviews came from key actors at the centre of the policy network working at the highest level in the institutional, industrial and national organizations from which they were drawn.

Social Network Analysis – key concepts

SNA is not a specific body of formal or substantive social theory, however, *sociometric analysis* and *graph theory* form the core traditions (Scott, 2000: 37). Sociometric analysis came from the 'gestalt' tradition in psychology, which stresses that organized patterns need to be regarded as 'wholes'; these systems have properties that are distinct from 'parts', which furthermore determine the nature of those parts (Scott, 2000: 8-9).

The key concept that emerged from this tradition is the 'sociogram', invented by Austrian sociologist, Moreno (1934). A sociogram visualizes the channels

Fig. 6: A sociogram: the sociometric star



(Scott, 2000: 10)

through which one individual might influence another and allow researchers to identify leaders within the network.

Moreno's (1934) principal contribution was the concept of the 'sociometric star'. In sociometric analysis the recipient of numerous and frequent choices from others in the network, is an indication that that person holds a position of great popularity, or leadership (Moreno, 1934, 1960).

The phenomenon is illustrated in figure 6. The 'points' in the sociogram represent individual persons, while the 'paths' represent the interactions that connect them. Person A is the recipient of friendship choices from all other members of a group, yet A gives reciprocal friendship choices only to persons B and C. A is therefore the star attraction within the group

The sociogram represents the network of actual interpersonal relations among group members, which can then be analyzed using 'graph theory'. Graph theory consists of a body of mathematical axioms and formulae that describe the properties of the patterns formed by the lines (Scott, 2000: 13). Cartwright and Harary (1956) applied mathematics to the structure of group relations and developed powerful models of a group's cohesion, social pressure, cooperation, power and leadership (Scott, 2000: 13).

EU Hedge Fund Regulation: Undertaking a Network Analysis

SNA requires the collection of 'relational' data about the 'bonds' or 'ties' between actors, in order to see how the actor is embedded in the network. In this case, the ties between actors are participation in policy decision-making events relating to hedge fund regulation.

This very basic SNA analysis therefore identifies 'interlocks' between participating individuals. In line with SNA theory, it is assumed that the more individuals interlock with others at the policy participation events, the more opportunity they have to influence others in the network (Hanneman and Riddle, 2005; Scott, 2000).

Fig. 7: *Participation events* included in the SNA analysis

CODE	Short Name	Description
EG AM 01	AMEG	Asset Management Expert Group
EG AM 02	Meeting of the AMEG	Expert Group Meeting on Asset Management, 3rd February 2005
GP 01	Green Paper Open Hearing	The UCITS review Open Hearing, 13 October 2005
EH AI 02	HFEG	Members of Expert Working Group on Alternative Investment Funds: Sub Group on Hedge Funds
EH AI 03	Open hearing on HFEG Reports	Expert Group Reports on Investment Fund Market Efficiency, Hedge Funds and Private Equity, 19th July 2006 (Session I: Hedge Fund Expert Group Report)
LG 01	Member of Lorosiere Group	Members of the Lorosiere Group; the High Level Group on Financial Services in the EU
LG 02	Oral evidence to LG	Organisation giving oral evidence to the Lorosiere Group; the High Level Group on Financial Services in the EU
HF PC 01	High Level Conference on hedge funds	European Commissions Conference on Private Equity and Hedge Funds, 26 February 2009 (Hedge Funds Session)

Not all of the *participation events* (listed above) can be linked to individual participation. For example, the Green Paper (2005) on the *Enhancement of the EU Framework for Investment Funds* consultation was responded to at an organizational level. The participation events that were recorded at an organizational level were excluded from the analysis leaving eight events (see figure 7).

Confidentiality

Moyser and Wagstaffe (1987) argue that unlike mass data, elite information tends to make the identification of the individual names an easier matter. This delicate and potentially explosive situation imposes important obligations on the researcher. As such there is a need to reconcile the guarantees given to respondents with the legitimate interests of fellow researchers who may wish to check findings or conduct secondary analysis (Moyser and Wagstaffe, 1987: 20).

The participation of individuals in the policy process on EU hedge fund regulation is a matter of public record. Nevertheless, candidates for elite interviews were selected from the list of network actors and these individuals were guaranteed confidentiality (see later).

Therefore the SNA data was 'anonymized' to ensure it is not possible to infer the identity of a single participating individual from the research. However, to retain a level of differentiation between individuals, which is useful for later analysis, a categorization method based on the Commission typology outlined earlier in figure 3 was developed.

Each classification was given a prefix code. Actors drawn from 'Public Authorities' were given the prefix 'PA'; 'Industry' actors were prefixed 'IND' and 'Other Stakeholder' were prefixed 'OSK'. Those actors that fell under the 'Citizens' category were prefixed with 'CIT'. The list of participating individuals was sorted by this classification code and a *unique reference code* allocated to each. Elite interview respondents are referred to by these codes in the data analysis chapters (for example IND08, PA19 etc). The complete anonymized data set of participating individuals is detailed in Appendix 2.

Data Preparation

In SNA the first step of data preparation is to produce an *incidence-matrix*. This is known as a two-mode, or rectangular matrix because the rows and columns refer to different sets of data. It is the convention of an incidence matrix to place the cases (individual actors) in rows and the affiliations (*participant events* attended) in columns (Scott, 2000: 40).

Where an individual actor participated in an event, 1 was recorded in the corresponding cell of the matrix; non-participation is shown by a 0 entry. Matrix are described in rows (m) x columns (n); the incidence matrix for this research is a 123 x 8 matrix (see Appendix 17 for the full data set).

An initial assessment of the relationship between actors can be determined from the incidence-matrix, for example the incidence-matrix in appendix 17 shows that actor IND35 has an interlock with actors IND62, PA22, PA19 etc. at event EG AM 02.

The data is 'undirected' because the relations between the actors are the same - the relation of actor IND62 to actor PA22 is assumed to be identical with the relation PA22 to IND62. This occurs in this research data because actors have a common involvement in the same activity.

Network Analysis

In a large network, it is impossible to draw a network graph using manual methods. The complexity of connections between multiple actors means that any visual appreciation of the structure will be lost.

The solutions most widely adopted by SNA is to produce a case-by-case, or *adjacency-matrix*. Nothing is added to the original data, the production of the two squares is a simple 'transformation' of the data (Scott, 2000: 40).

Fig. 8: Adjacency Matrix I: Affiliation-by-Affiliation

	EG AM 01	EG AM 02	GP 01	EH AI 02	EH AI 03	LG01	LG02	HF PC 01
EG AM 01	-	19	7	0	1	0	0	0
EG AM 02	19	-	7	0	1	0	0	0
GP 01	7	7	-	2	3	0	1	1
EH AI 02	0	0	2	-	5	0	0	2
EH AI 03	1	1	3	5	-	0	0	3
LG01	0	0	0	0	0	-	0	0
LG02	0	0	1	0	0	0	-	0
HF PC 01	0	0	1	2	3	0	0	-

Two square (or one-mode matrices) *adjacency-matrices* were generated from the *incidence-matrix*. All subsequent network analysis techniques involve the direct manipulation of the adjacency-matrix so this is a critically important step. The transformation of the data can be a difficult and error-prone process, particularly in large networks, therefore UCINET[5], a specialist SNA software package, was used to convert the data and carry out all the subsequent calculations discussed below.

In the case-by-case matrix both the rows and the columns represent the participating actors, and the individual cells represent whether or not particular parts of actors are related through a common affiliation, in this case attendance of a *participation event*.

In a square matrix the diagonal cells show the relations between the particular case and itself, this is redundant information and therefore represented in figure 8 and appendix 18 with '-' (dash) in the relevant cells. Also in an 'undirected, network - the relation of A to B is the same as B to A, therefore information is contained in the bottom half of the matrix alone; the top half is largely redundant data (Scott, 2000: 47).

Events x Events Matrix

The first adjacency matrix illustrates the relations, or ties, between policy decision-making events on EU hedge fund regulation. The individual cells show where particular pairs of events are linked through common actors (see figure 8). This 8 x 8 matrix reveals some important characteristics about the network. The significance of this matrix is discussed in more detail in chapter 4.

Actors x Actors Matrix

The second adjacency matrix illustrates the relations, or ties, between *actors*. Given that this research is interested in identifying influential actors for elite interview, then actors x actor matrix forms the based of the network graph. This

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[5] For further details see http://www.analytictech.com/ucinet/

Fig. 9: Calculating the size of a network ; 'K' = number of actors

$$\frac{k \text{ x } (k\text{-}1)}{2} \left\{ \frac{123 \text{ x } (123\text{-}1)}{2} \right\} = 7{,}503$$

(Hanneman and Riddle, 2005: 6)

is a 123 x 123 matrix and too large to include alongside the text, therefore a copy can be found in Appendix 18.

The cells contain actual values, rather than simple 1 and Os, this is because individuals may have more than one individual event in common. In SNA the strength of a relation can be measured by the number of interlocks that it involves (Scott, 2000: 44). There is for example a stronger relation between actors IND19 and IND01 who potentially interlocked at three separate events, than there is between actors IND62 and IND35 who have only a single event relation. Actors with fewer interlocks are thought to be more 'peripheral' to the network (Scott, 2000: 44).

Given that there are 123 actors there is a large number of potential ties within the network. Usually the size of network is indexed simply by counting the number of actors (nodes) and ties (lines) that connects them (see figure 9). In total there are 7,503 potential ties between members.

Size is critical to the structure of social relations because of the limited resources and capacities that each actor has for building and maintaining ties. Therefore as well as the size of the network it is also necessary to consider the *density*.

Density is a measure of the completeness of the network, specifically the extent to which all the possible connections are present (Scott, 2000: 32). It is calculated by counting the number of ties, expressed as a proportion of the maximum possible number of ties.

The measure of density can vary from 0 to 1, the density of a complete graph being 1 (Scott, 2000: 70). The density of the hedge fund network calculated using UCINET software is 0.2582. This means that 26 per cent of all possible ties are present in the network.

Actor Degree and Mean Averages

The *degree* and *mean* of the actors is a technique used in SNA to identify potentially important actors within a network. An actor's degree is the role that the actor plays as a source of ties. It is the sum of the connections from one actor to all others. This can be expressed as a mean by representing the figure as a proportion of all the elements in each row. For example, an actor sends ties to *x* per cent of the remaining actors (Scott, 2000: 82-83).

Actors with many ties (at the centre of a network) and actors at the periphery of a network (few ties) have patterns of behaviour that are more constrained and predictable. Having the most connections to other members of the network, actors with many ties have the biggest opportunity to influence other members (Hanneman and Riddle, 2005: 8). The complete data set of participating actors mean and degree score is available in Appendix 19, and is discussed in more detail in chapter 4.

Elite interviews

When selecting candidates for elite interviews priority was given to actors demonstrating a high score for intensity of participation in decision-making events, and actors with higher degree and mean scores at the centre of the network. This generated a target list of 66 actors. The target list has not been included in the Appendix data sets. Respondents were guaranteed confidentially, therefore no documents that reveal the names and personal details of participating individuals have been provided.

A formal letter was issued to each candidate (see Appendix 20) explaining the purpose of the research, along with an "Information Sheet' providing participants with anonymity and confidentiality (see Appendix 21).

The challenge in using this SNA approach to candidate selection was that it was necessary to target particular individuals rather than simply those available, or willing to be interviewed. Also some actors had moved on to new roles. On

Fig 10: Network Interviews

Order	Interviewee	Type	Date of Interview
Interview Transcript: A	IND08	Q2/ Network Actor	22.10.2009
Interview Transcript: B	IND13	Network Star	04.11.2009
Interview Transcript: C	PA08	Network Star	22.10.2009
Interview Transcript: D	PA10	Q2/ Network Actor	21.11.2009
Interview Transcript: E	PA18	Network Star	21.11.2009
Interview Transcript: F	PA19	Q2/ Network Actor	21.11.2009
Interview Transcript: G	PA33	Network Star	24.11.2009
Interview Transcript: H	PA37	Q2/ Network Actor	06.11.2009

several occasions when organizations were approached alternative individuals or personnel currently working in vacated roles were offered. However to ensure the integrity of the approach they were respectfully turned down.

Nine interviews with network actors were successfully undertaken, allowing rich qualitative data to be collected on top of the extensive quantitative data collected from official documents. A consequence of the robustness of the identification methodology was that actors interviewed were drawn from the highest levels of EU and national institutions as well as senior industry participants. All actors interviewed proved to be extremely influential players in the EU policy process on hedge fund regulation.

Interviews were conducted between October and December 2009, either face-to-face in London and Brussels, or over the telephone[6]. One key actor refused to undertake a full face-to-face interview but agreed to complete a questionnaire on his relations to other network actors, which in itself provided significant inside into the relations between high scoring degree and mean network actors[7].

Each interview lasted between 45 and 60 minutes. Notes were taken during the interviews, but each interview was recorded with the consent of the respondent. Abridged transcripts of the interviews are included with the appendix of this thesis (see figure 10). The interviews took an *unstructured* format, using only a few open-ended questions, whose wording and order were changed according to each interview. The aim was to create an open exchange, or conversation, in which respondents talked about his, or her, own experiences of participation in the EU policy process, but specifically around the *participation events*.

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[6] One interview was conducted via email, after an appointment to meet with the respondent was cancelled

7 This material has not been included in the transcripts as it contains confidential material about the interpersonal relations between this actor and others in the network.

External and Internal Validity

One of the key questions in case study research, on which there has been a great deal of discussion, centres around *external validity*, or 'generalizability'. A dominant tradition in political science is the search for a positivistic and universal form of understanding (Keating, 2009: 297), but how can a single case possibly be representative so that it might yield findings that can be applied more generally to other cases?

As Stake (1995) observes, case study research is concerned with the complexity and particular nature of the case in question. A research question is a 'puzzle', which creates a need for general understanding. Studying a particular case in an in-depth manner may bring greater insight. As such, one does not study a case primarily to understand other cases ('generalisation'). The first obligation is to understand this one case in order to maximise learning and understanding (Stake, 1995: 3).

Yin (1984) argues one technique that can be used to achieve this is *pattern-matching*, which compares empirically certified data with patterns and outcomes predicted at the outset of the study from the analytical framework (see chapter 2). It is argued that if predicted and observed patterns coincide, then the findings have strong internal validity (Yin, 1984). Therefore, as Satantakos (2005: 214) argues a single case study can be seen as establishing limits to grand theoretical generalisations.

Consideration to *internal validity* was also given throughout the research. When the results of the participation scoring methodology and the SNA were compared, each was found to corroborate the findings of the other (see chapter 5). During interview, respondents frequently identified participating actors who they felt were important and influential. For example, PA19 was identified as an important actor by PA18, IND08 and IND13. PA18 was described as the most 'significant' actor by IND08 and PA37.

The evidence suggests that many of the high scoring *degree* and *mean* network actors, are known to one another and there are bond and ties which link them beyond this particular policy area. IND08 said he knew the participants on hedge fund regulation, "…not just in this process but beyond and out with…some I still see and have contact with regularly" (IND08, 2009).

Network analysis based on actor participation at policy decision-making events is not in itself a valid measurement of the most influential actors in any given network. However, SNA can identify which actors' position within a network affords them greater *opportunity* to influence others. When this information is combined with quantitative analysis of actor participation it provides a methodology, which moves beyond simple mapping of actor participation, and allows the measurement of intensity of participation.

Conclusions

This research offers an extensive examination of the pattern of actor participation around key policy negotiating events concerning EU hedge fund regulation, between January 2004 and May 2009. Rather than focus on one decision, the entire policy process has been traced, revealing how different actors have influenced the policy process in different ways at different times.

The research uses quantitative methods to inform qualitative research, and in doing so the overall quality of the empirical data is improved. A robust and innovative methodological approach to the identification of key actors in any given policy network has been presented. The approach attempts to move beyond asking simply who participated, but seeks to discover who mattered. This methodology measures not just access, but also, crucially the *intensity* of actors participation, and in so doing offers a more developed understanding of the functioning of a policy network.

Qualitative research has been used to apply a further layer of deeper understanding over the substantial empirical evidence collected using forensic analysis of official documents, with the aim of constructing a rich narrative of what *really* happened based on the understanding of the key actors. Methodological rigour has been applied to the process of selecting these candidates for elite interview.

Moyser and Wagstaffe (1987) argue that there is a need for a robust method of elite identification. It is argued here that using Social Network Analysis ('SNA') in preliminary research, addresses some of the methodological weakness of elite qualitative research. SNA techniques have been used to identify the actors whose position within the network allows them a structural advantage to influence others. The methodological approach facilitates greater accuracy and precision to the selection of candidates for elite research.

However, to fully understand the policy outcomes at EU level, it is argued, the international political and economic context needs to be taken into account. Policy solutions established in 'international financial regimes' have historically constrained, and continue to constrain EU decision-making on hedge fund regulation.

Chapter 3: Hedge Funds

Definitions, Terminology and Pressure for Regulatory Intervention

By the middle of the last decade, the activities of hedge funds were increasingly attracting the attention of policy-makers, academics and the media. This chapter sets out the key events and market conditions that have given rise to public pressure for regulatory intervention on hedge funds.

The hedge fund industry uses complex terminology and financial jargon that to the outsider can make the policy area seem opaque and impregnable. This chapter provides a definition of the term ‘hedge fund’, and introduces some of the key activities and market dynamics of the industry.

It is argued that the process of *institutionalization*, the activities of certain ‘activist’ funds, high profile fraud cases and the role of hedge funds in periods of financial instability have driven the pressure for action over the last decade.

However, it is also shown that investor protection concerns, and the role of hedge funds in financial crisis have often been overstated. Hedge funds play an important role in providing liquidity and market efficiency, which has obstructed attempts to introduce tougher regulation.

It is argued that although hedge funds give rise to some very real financial stability concerns, these are not unique to hedge funds. The hedge fund regulatory debate touches on broader issues about how states deal with the problems of economic interdependence.

PART I: DEFINITIONS AND TERMINOLOGY

The diversity of the industry renders generalizations difficult, but hedge funds do share some broad characteristics. Analysis of these characteristics provides a general overview of the key terminology, as well as exploring some of the structural features of the industry that have underpinned much of the debate for greater regulatory oversight.

There is no comprehensive, uniform or universally accepted definition of a hedge fund (Commission, 2006b: 10). Broadly speaking, hedge funds are private investment vehicles, in that they are financial intermediaries that collect money from participants ('investors') and reinvest that money in a portfolio of investments in order to produce a profit ('return') (Pallesi, 2007: 95).

The term 'hedge fund' originated in an editorial published in the US magazine *Fortune* in 1966. The article referred to a fund run by a Columbia University sociologist named Alfred Jones, who in 1949 had formed a general partnership company to take long positions in what he considered as undervalued securities (or 'assets') thus creating an exposure that was 'hedged' (Edwards, 1999: 190).

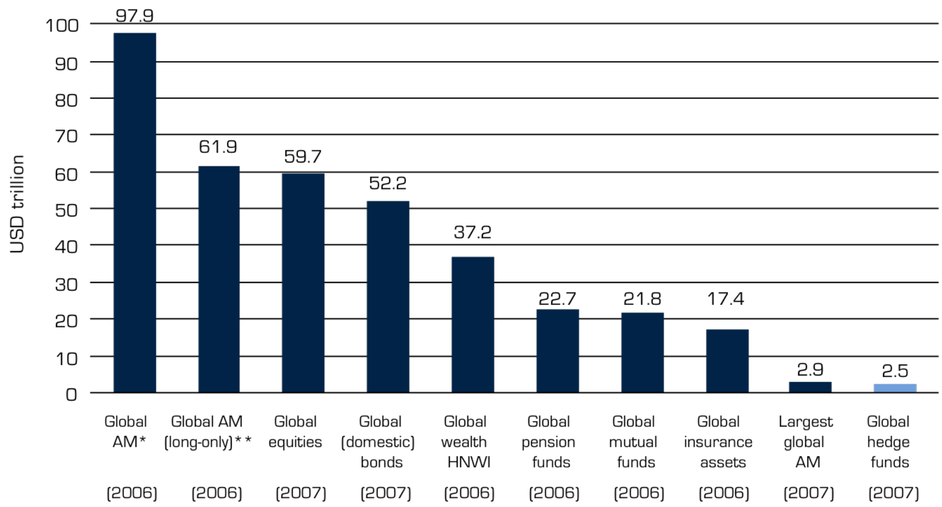
Jones himself never used the term 'hedge fund' to describe the investment vehicle but rather referred to his fund as a 'hedged' fund. The use of hedge as an adjective rather than a noun was intended to distinguish Jones' fund from other 'un-hedged' funds (Alexander, 2008: 10).

A hedge fund therefore describes an investment vehicle where the risk against loss is 'hedged' – or offset – by making compensating contracts or transactions. However, there are no hedge funds that 'hedge' all risk, which has lead many to argue that the term is a misnomer (Edwards, 1999: 190).

Alexander (2008: 10) argues that risk taking is a function of good performance, in other words adding value in investment management, by definition means to take some risk. Edwards (1999: 190) argues that 'speculation' on the performance of one type of security relative to another while attempting to protect the portfolio from general movements in the market better describes the term.

A hedge fund can be a 'single manager' fund, or a 'fund of hedge funds' (FoHFs). A 'single manager fund' adopts its own investment strategy, which determines the type of assets it will trade. A single investment management firm (or 'fund manager') executes the strategy. FoHF simplify the process of choosing a hedge

Fig.11: Hedge fund assets relative to other pools of assets



Reproduced from (AIMA's Roadmap to Hedge Funds: p 17) fund by blending together different funds to meet a range of investor risk/ return objectives (Alexander, 2008: 52). FoHF managers monitor these investments, thereby providing investors with a diversified portfolio, risk management services and a way to share the due diligence costs with other investors (Stulz, 2007: 180).

Farrell et al (2007b: 107) argues that over the last fifty years 'hedge fund' has developed into a catch all label that describes an extremely broad range of investment strategies. The diversity of the industry renders generalizations difficult, but hedge funds do share some broad characteristics.

Hedge funds are for 'qualified investors', not ordinary investors

Traditional investment vehicles such as pensions and mutual funds are designed for 'ordinary' or 'retail' investors. Ordinary investors are protected from what might be considered excessive risk by regulations common in most markets.

When banks, investment firms or other financial intermediaries distribute (or 'market') these funds, they are subject to rules which typically include minimum levels of disclosure of information to investors, appropriateness or suitability assessments, and measures which regulate the investment activities and legal structure of the funds (Commission, 2009a: 74).

Traditional investment funds generally trade in a limited number of assets; mainly equity and bonds, and adopt a single 'buy and hold', sometimes described as a 'long-only', investment strategy (Farrell et al., 2007a: 107). The funds must be 'liquid', in other words, the assets in the portfolio can be quickly purchased, or sold, with no negative price impact (Pallesi, 2007: 96). The 'return' profile' or the profit returned to investors, is broadly in line with the general performance of stock markets.

Traditional investment vehicles are the most common type of investments. Figure 11 illustrates that in comparison to these pools of assets, the hedge fund industry is relatively small, representing less than 2.5 per cent of total investments.

Unlike pensions and mutual funds, hedge funds are not designed for ordinary investors; rather they are targeted at 'qualified' investors (Parliament, 2005: 8). The terminology used to describe these investors varies across jurisdictions and markets, with 'qualified' investors also commonly referred to as 'sophisticated' or 'professional' investors (Commission, 2005: 13).

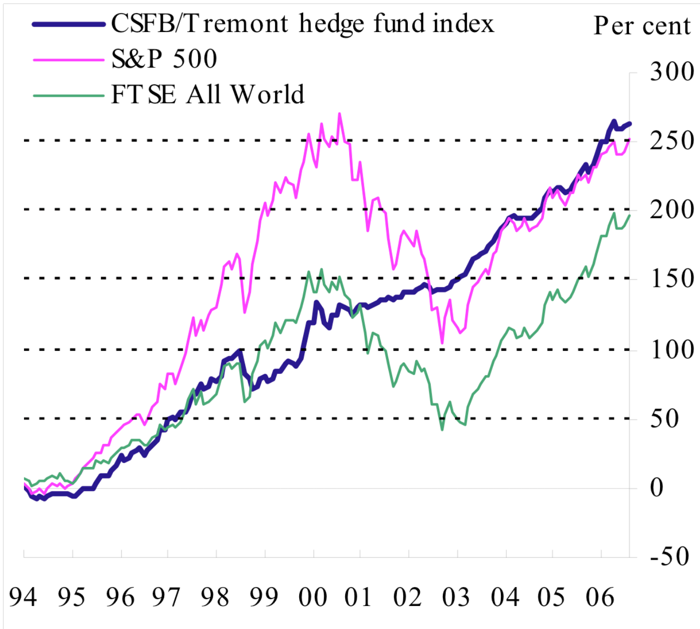
Qualified investors are broken down into two types of investors - High Net Worth Individuals ("HNWI") and 'Institutional Investors'. HNWI are wealthy private individuals, and are the type of investor that has historically been most commonly associated with hedge funds. Institutional Investors are, as the name suggests, financial institutions, such as pension funds or insurance companies, or indeed other hedge funds (i.e. in FoHF).

There is no common legal definition of qualified investors, but the purpose of the distinction is to determine the level of investment experience of the investor. Most EU member states have in place legislation that enforces high minimum investment threshold and/or restricts distribution and marketing to qualified investors (see chapter 6).

It is assumed in most jurisdictions that qualified investors are capable of 'self-directed investment' – that is they can assess risk and absorb any associated losses (Edwards, 1999: 192).

When funds are distributed directly to qualified investors, the disclosure of investment information comes largely through voluntary disclosure. The amount of information provided by the fund depends on what its investors demand, and on the relative bargaining power of the hedge fund manager vis-à-vis his investors (Commission, 2006a: 6).

Fig. 12: Cumulative returns 1994-2006



Reproduced from (Hedge Funds and Financial Stability: p 10)

Hedge funds are expected to deliver better returns, than traditional investment funds

The price of stocks and shares go up as well as down, therefore the returns of traditional investment vehicles fluctuate in line with general stock market conditions; this is know as 'volatility'. Hedge funds aim to deliver to their investors a return that is not dependent on the performance of the broad markets or the economy (Farrell et al., 2007a: 107).

Known as the 'absolute return[8]', this is the rate of return above the baseline rate that would have been achieved by making the same investment in traditional investment strategies such as stocks and shares (see figure 12). The ability of hedge funds to achieve absolute return over time is not universally accepted, but broadly speaking they have been successful in delivering average returns comparable with investing in stocks and shares, but without the associated volatility[9] (Gieve, 2006: 4).

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[8] A fund's return is expressed as its performance and this is usually measured in terms of the net asset value ("NAV"), which is the total value of a fund's investments less its liabilities. To realize his return the investor will redeem (or cash-in) his interest in the fund at the NAV price prevailing at the time of redemption (Commission, 2009a).

[9] If money was placed with a representative group of hedge funds in 1994, and allocations regularly switched across different hedge funds exactly to follow that of the sectoral composition, then the return would have matched the cumulative appreciation of the world equity index but in a way that largely avoided the collapse in equity prices in 2000-02. However, in practice achieving this ideal result would have been extremely difficult because it is not possible to invest in an index of the hedge fund universe. Money can only be invested in individual hedge funds, but on the other hand investing in a portfolio that replicates the S&P 500 over the same period would have been straightforward. For example, Vanguard has offered an S&P 500 index fund since 1976 (Stulz, 2007; 175-194).

Hedge funds manage complex investment strategies, and trade in a broad range of assets

Whilst traditional investment vehicles generally operate a single 'buy and hold' strategy on a limited number of assets, hedge funds are involved in complex methodologies to extract higher returns from a diverse range of traded assets. As the industry has matured, investment strategies have become increasingly complex, often relying on statistical models, or 'black-boxes', which analyze market inefficiencies to identify unique profit opportunities[10] (Farrell et al., 2007a: 107).

The investment strategies of hedge funds are numerous and complex, but a few have become particularly relevant to the regulatory debate. These are worth considering in more detail as the terminology is referred to in later sections:-

Long/short Equity Funds

The 'long-short' equity fund is the most common, and well-known type of hedge fund. The strategy is essentially stock picking; the manager selects a portfolio of assets, some he believes to be undervalued ('long') and some overvalued ('short'). This means that if the market falls by 15 per cent, it is possible that the 'longs' only fall by 10 per cent, or out-perform the market, while the shorts can fall by say 20 per cent, therefore underperform favourably (AIMA, 2009: p 148).

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[10] This business model is most associated with arbitrage funds. These funds exploit price anomalies in financial markets – for instance, a pricing mismatch between two related bonds. An arbitrage fund manager uses his knowledge and experience to gain a competitive advantage when analyzing market conditions and exploits inefficiencies left behind by less informed investors. Some use computer models to identify these opportunities and these are called quantitative or "quant" funds. Many of the arbitrage strategies require a high level of 'leverage' (Alexander, 2008)

Long/short equity funds, while dependent on the direction of markets, 'hedge' out this market risk through short positions that provide profits in a market downturn to offset losses made by the long positions (Stulz, 2007: p 182).

Short-selling

Short-selling, is an investment technique heavily, but not exclusively, used by hedge funds (Commission, 2009a: 75). Not to be confused with 'going short' in long/ short strategies, short selling requires a different skill set from buying and holding stocks.

To sell an asset short, an investor borrows the asset and then sells it. The investor closes the short sale when he buys the stock back and returns it to the lender, profiting from the transaction if the asset falls in value (Stulz, 2007: 176). Uncovered, or naked short selling is where an investor has not confirmed the availability of an asset to borrow, which may lead to the investor failing to deliver the asset on its settlement date (Commission, 2009a: 73).

Private Equity Funds ("PEF")

PEF acquire equity stakes ('shareholdings') in companies listed on public stock exchanges. Returns on private equity investments are created from debt repayment, cash accumulation through cash flow from operations, operational improvements that increase earning, or selling the business for a higher multiple of earnings than was originally paid. Often termed 'activist' hedge funds, these funds require the fund managers to be actively involved with the operations of their equity stakes in order to structure and monitor the investment (Commission, 2009a: 75).

Hedge funds use leverage to amplify returns

When investors borrow funds to increase the amount that they have invested in a particular position, this is called leverage (Alexander, 2008: 72). Investments are partly financed by credits, or loans, from banks or other financial institutions in addition to the money provided by the fund. In 2007 it was estimated that the industry was around three to four times leveraged (Farrell et al., 2007a: 107).

Leverage is most extensively (but not exclusively) used by hedge funds, particularly those employing arbitrage strategies (Commission, 2009a: 64-65). Arbitrage funds exploit market inefficiencies, but these inefficiencies are often too small to be economically meaningful without the use of leverage (Alexander, 2008: 147). Therefore, hedge funds use leverage in order to amplify investment returns, as it allows funds to take positions in financial markets that are many times the size of their own capita base (Farrell et al., 2007a: 107).

To illustrate, if a hedge fund starts with equity of U$100 million invested in a strategy that earns U$5 million, its return on equity is 5 per cent. However, if the fund borrows an additional U$300 million to take advantage of three similar strategies and the cost of borrowing is U$2 million per U$100 million, its return on equity becomes 14 per cent on the original U$100 million invested (the income becomes U$14 million, or U$5 million + 3 x U$3 million) (Stulz, 2007: 182).

Compensation for hedge fund managers is considerably higher than traditional asset managers

When Alfred Jones reorganized his fund in 1952 as a limited partnership he instituted the rule that the general, or managing partner, would keep 20 per cent of the profits generated by the fund as an incentive fee (Stulz, 2007: 178). Today, incentive fees range between 15 to 25 per cent of net new profits generated (Edwards, 1999: 191).

The fee structure means that compensation of the fund managers can be extremely high if they deliver high returns, as a consequence hedge funds have come to be associated with 'million dollar bonuses' (Ewald et al., 2008: 615).

The 2005 Hedge Fund Compensation Report states that the average 'take-home pay' of the top 25 hedge fund managers in 2004 was over U$250 million" (Stulz, 2007: 178). In 2006, James Simons, founder of Renaissance Technologies, topped the table with an income estimated to be U$1.5 billion (Farrell et al., 2007a: 102). The use of such incentive fees is restricted in traditional

investment funds, for which the common structure is a flat 'fraction-of-funds' fee (Edwards, 1999: 191).

Hedge funds are unregulated investment vehicles

The perception that hedge funds are entirely unregulated has been a crucial driver for those seeking regulatory intervention. Although this is commonly argued it is not strictly correct. In general, hedge funds are legally established (or 'domiciled') in one jurisdiction, while being managed from another. Around half of all hedge funds were registered offshore at the end of 2007. The most popular offshore location being the Cayman Islands (57 per cent of offshore funds), followed by British Virgin Islands (16 per cent) and Bermuda (11 per cent) (Commission, 2006b: 14).

The US is the most popular onshore location (with funds mostly registered in Delaware), accounting for nearly two-thirds of the number of onshore funds, with European countries (mainly Ireland but also Isle of Man and Channel Islands) accounting for most of the remainder (Alexander, 2008: 18; PSE, 2007).

Offshore centres have always played an essential role in the world of investment funds, principally because they offer, either the fund itself or its investors, zero or low tax obligations (Pallesi, 2007: 121).

However this is coming under increasing international scrutiny. At the London G20 summit on 2 April 2009, countries agreed to define a 'blacklist' for tax havens, to be segmented according to a four-tier system, based on compliance with an "internationally agreed tax standards' (Watt et al., 2009). Most offshore jurisdictions have already developed their own regulatory rules governing hedge funds, but it is fair to say they are generally light-touch in style (Morgan and Knights, 1997: 34), Although the funds themselves are only 'lightly' regulated, the hedge fund managers are subject to a 'patchwork' of national regulatory regimes. There is

considerable national variation (see chapter 5) but these rules generally oversee the registration of managers and limit access to qualified investors. (Commission, 2006b: 16).

PART II: PRESSURES FOR REGULATORY INTERVENTION

In the popular narrative the term 'hedge fund' has come to be associated with secrecy, million dollar bonuses, and pejorative terms such as 'locusts', 'spivs' and 'gamblers' (Ewald et al., 2008: 615). Hedge funds are often presented as a threat to financial stability, and therefore to the savings and prospects of real workers and ordinary investors (Gieve, 2006: 2).

Whilst traditional investment vehicles, like pension and mutual funds, operate on the basis of transparency, hedge funds have only a very limited regulatory obligation to disclose information to the public about their activities, portfolio holdings or trading strategies (Edwards, 1999: 192). When investors entrust money to hedge fund managers they are investing in the skill of the investment manager to identify profit opportunities. It follows that the manager has an incentive not to communicate too much information, otherwise the investor might decide they do not need the manager (Stulz, 2007: 181).

Consequently, hedge funds are often seen as secretive and opaque, which has resulted in an "aura of mystery" developing around the sector (Mallaby, 2007). Although the mechanics of the hedge fund industry are largely mysterious to the general public and most policymakers, a series of high profile financial stories in which hedge funds have been presented as causing or exasperating financial instability have thrust the industry into the light. These events have contributed to a growing sense of 'public alarm' about hedge funds, and created a general perception amongst some policy makers that regulatory intervention is required (Lutton, 2008: 167).

It is argued here that pressure for regulatory intervention has been driven by four factors. First, the rapid movement of large amounts of capital into the industry in recent years, as a result of the process of *institutionalization*, has changed the nature of the investor base, giving rise to concerns that retail investors are being exposed to hedge fund risk without the necessary regulatory safeguards.

Secondly, as a result of the activities of certain 'activist' hedge funds which have attracted adverse publicity. Thirdly, high profile fraud cases have highlighted the potential for fraudulent practice in the industry. And finally, the continued presence of hedge funds across a series of financial turmoil events – starting in the mid-1990's and culminating in the 2008 global financial crisis - in which hedge funds have been presented as causing, or exasperating financial instability.

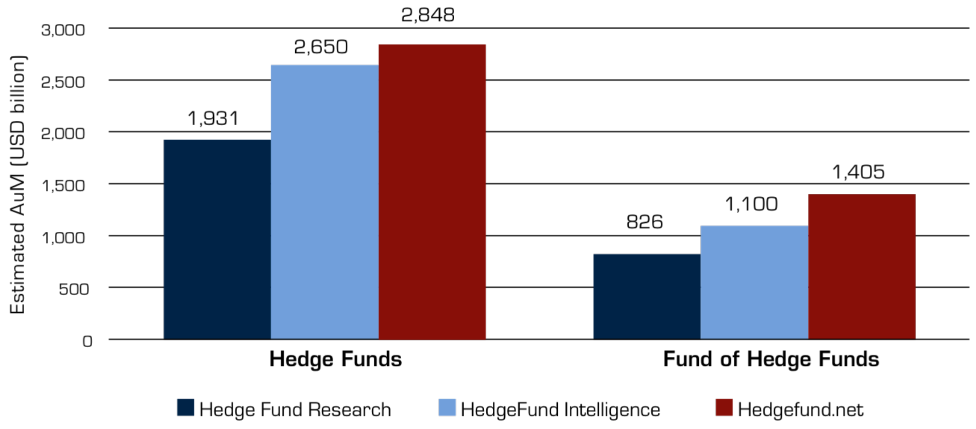
These factors have contributed to a growing pressure for regulatory intervention and fuelled 'enthusiasm' for the regulation of hedge funds amongst a growing constituency of national regulators, academics, the media and campaigning politicians.

'Institutionalization' and 'retailization'

Hedge funds date back to the 1940's, but it was not until the early 2000s that substantial capital started to flow into the sector. In 1971 there were just 30 hedge funds in existence. The total aggregated assets of the hedge fund industry were estimated to be less than U$300 million. Only a modest number of new hedge funds were established during the 1980s, and by the end of the 1990s total assets under management ('AUM') in the sector had grown to around U$450 billion (Alexander, 2008: 134).

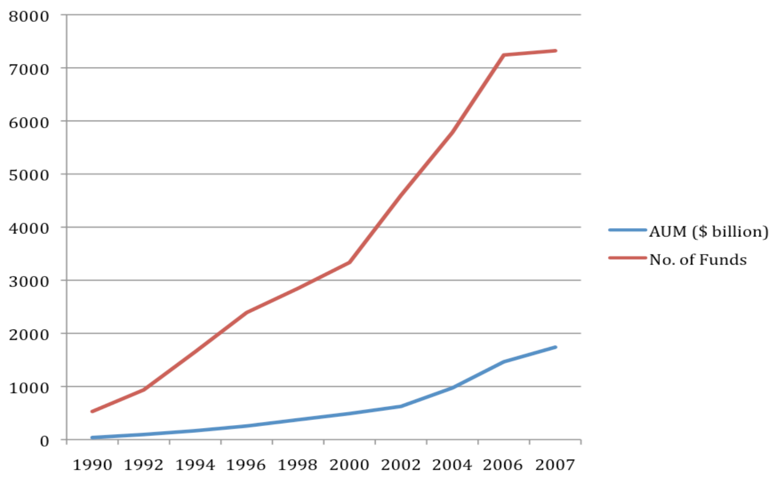
There are several different estimates as to the current actual size of the hedge fund industry. The Bank of England reports the global assets under management to have grown from U$200 billion in 1998 to U$1.25 trillion in

Fig .13: Assets under management in global hedge fund industry



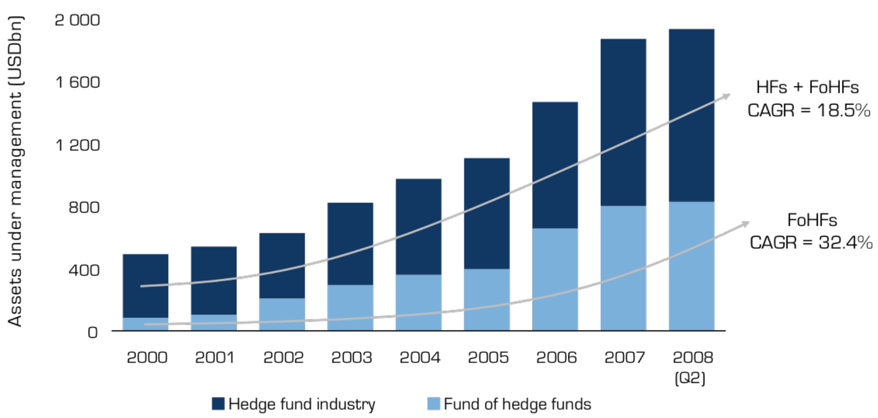
Reproduced from (The New Power Brokers, 2007a: p 98)

Fig.14: Growth in assets and number of funds



Reproduced from (The New Power Brokers2007a: p 98)

Fig.15: Growth of assets under management (2000 – 2008)



Reproduced from (AIMA; 17)

2006 (Gieve, 2006: 3). Figure 13 shows estimates by three different leading industry data providers.

Total AUM of the overall hedge fund industry grew by U$403.9 billion to U$1.875 trillion from quarter two 2006 to quarter one 2008, according to estimates from Hedge Fund Research (Alexander, 2008: 98). Prior to the 2008 global financial crisis, hedge fund assets were predicted to climb to U$3.5 trillion by 2012 (Farrell et al., 2007a: 104). However the industry is reported to have lost 9 per cent of its total value during the crisis (Alexander, 2008: 8).

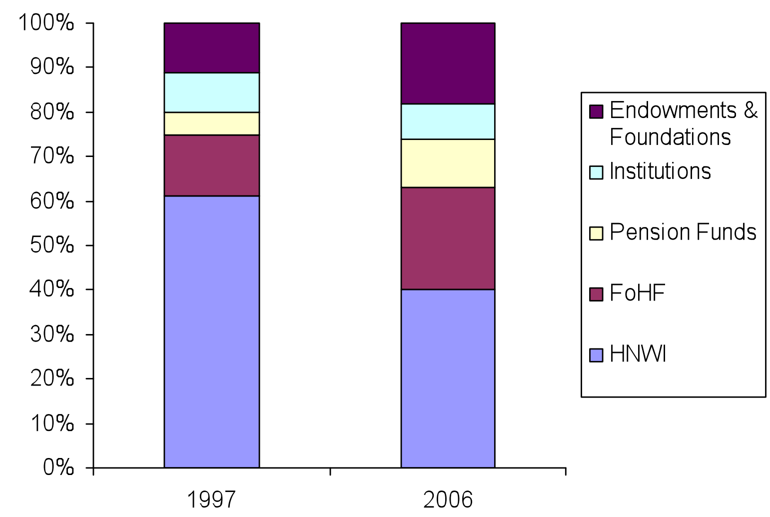
The number of hedge funds has increased in line with the flow of assets (see figure 14), although assets are concentrated at the top with 390 hedge fund firms each managing more than U$1 billion and together controlling 80 per cent of total AUM. The largest 100 hedge funds account for three-quarters of all industry assets (Alexander, 2008: 17).

The expansion of the hedge fund sector is also reflected in its growing share of trading in equity, bond and derivatives markets, with hedge funds becoming a key provider of liquidity in many areas of the financial markets. (Alexander, 2008: 10)

Gieve (2206) argues that the success of hedge funds has been in their ability to unpack traditional investments, like equities and bonds, into their component parts and then to sell them separately, or in new bundles, to appeal to a particular type of investor (Gieve, 2006: 3). Market innovations such as electronic trading platforms for swaps and futures and "direct market access" (DMA) tools have also allowed trading in a wider range of financial asset classes and instruments (Farrell et al., 2007a: 102).

The phenomenal growth of the sector in recent years is in large part due to the aggressive movement of large institutional investors, such as pensions and insurance funds into the industry. Figure 15 illustrates the subsequent jump in the value of assets under management after 2002.

Fig. 16: Types of investors in hedge funds (1997-2006)



Type	% of total in 2006	% of total in 1997
HNWI	40	61
FoHF *	23	14
Pension Funds *	11	5
Institutions *	8	9
Endowments & Foundations *	18	11

*Institutional investors

Reproduced from (The New Power Brokers2007a: p 100)

Historically hedge funds raised money on a word-of-mouth basis from wealthy individuals ('HNWI'), but the relative outperformance of hedge funds compared to traditional investment funds during a market downturn between 2000-2002 ignited the interest of institutional investors (Alexander, 2008: 13).

In absolute dollar terms, the allocation of both institutional as well as private investors has increased, but there has been a material increase in the market share of institutional investors (AIMA, 2009: 20; Alexander, 2008: 20). By 2006, institutional investors such as pension funds, insurance companies and endowments and foundations, and indeed FoHFs, accounted for 60 per cent of hedge fund assets, compared to only 39 per cent nine years earlier (see figure 16).

The less 'risky' and more diversified FoHF became the preferred investment vehicle for new institutional investors entering the market. By 2008, FoHFs were managing between 40 and 50 per cent of total assets (Alexander, 2008: 52). Investors injected a record $195 billion of new money into hedge funds in 2007. However this growth came to an abrupt halt with the 2008 global financial crisis (Alexander, 2008: 20). Post-crisis institutional investment has climbed steadily, and the evidence suggests that institutional investors worldwide will continue to invest "aggressively" in the sector (Wolf, 2007).

This process of *institutionalization* has transformed hedge funds from a niche opportunity aimed at a small number of wealthy individuals, to a mainstream financial services product. However, it also blurred the distinction between traditional asset management and the alternative investment industry, giving rise to concerns that the pensions and investments of ordinary citizens ('retail investors') are being exposed to this risky investment sector without the proper regulatory safeguards.

Retail access to date has mainly been through FoHFs, although 'wrapper' products linked to underlying hedge funds dominate in certain markets. The changes introduced by UCITS II/ III permitting wider investment in derivatives have given rise to 'Newcits'. Up to 30 per of the assets of an UCITS fund can be invested in hedge fund, or FoFH strategies (CEC, 2004a: 56). There are now over 200 of these sub-species of UCITS funds, which have been described as hedge funds in a UCITS wrapper (Bircham, 2010).

Exposures to hedge funds and private equity strategies are now commonplace in the investment portfolios of pension funds, insurance companies and some public authorities (Commission, 2009a: 73). Up to 30 per cent of assets of some traditional investment vehicles can be invested in hedge funds or FoHF strategies, therefore ordinary investors may not always be aware of what is in their pension or insurance portfolios (Commission, 2004a: 56). It follows therefore that some ordinary investors badly advised by their bank or financial advisor may have exposure to hedge funds, even if those funds are not authorized to be distributed directly in their country of origin.

Private equity and 'Activist' hedge funds

'Activist' hedge funds represent only a relatively small proportion of the hedge fund and private equity funds universe, but a number of highly publicized deals have brought them to the public's attention.

Private equity buy-outs such as the take-over of Chrysler by Cerberus in the US, the Automobile Association ('AA') by Permira in the UK, or the Dutch publisher PCM by Apax, as well as hedge fund activism in Stork, ABN AMRO and the German company Deutsche Börse, have all received considerable media attention internationally and in their home countries (Ewald et al., 2008: 611-612).

Private equity funds ('PEF') have long been the target of trade union groups, in both the Netherlands and Germany. Most of the attacks on hedge fund 'activism' have also come from labour unions (Ewald et al., 2008: 615). At issue is the perceived disproportionate and aggressive nature of the tactics used by these funds to re-orient the corporate strategy of the companies taken-over (Commission, 2009a: 75).

New owners exert influence on the company management with a view to maximizing the short-term return of their holding. This often results 'asset-stripping' to raise quick returns, which is not necessarily compatible with the long-term health of the company (Commission, 2009a: 75). The labour unions argue this fuels short-termism within the wider economy (2007: 16).

The Trade Union Congress ('TUC') argues that given the major economic assets under the control of private equity, the current regulatory regime is inappropriate and should be strengthened to ensure that private equity funds and the companies they own operate in the public interest (2007: 16). Labour movements across the western economies have echoed this position. In 2007 the UNI global union, which has 15 members in 150 countries, called on governments and international organizations to ensure proper regulation, taxation and transparency concerning the activities of private equity and hedge funds (Elliot, 2007).

Public officials, particularly in Germany and the Netherlands, have voiced similar concerns. In the Netherlands, officials from both the departments of Justice and of Economic Affairs have publicly stated that the influx of private equity should be checked.

In Germany, the chairman of Sozialdemokratische Partei Deutschlands ('SPD') Franz Münterfering accused hedge funds of "routing the economy – browbeating management, stripping assets and axing jobs" after a group of hedge funds and a private equity fund blocked the German company, Deutsche Börse, from buying the London Stock Exchange[11] (Jenkins, 2005: 8). The impact

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[11] A British hedge fund, The Children's Investment Fund, led a shareholder rebellion against Deutsche Börse ('DBG") CEO Werner Siefert, forcing him to resign from a position he had held for the previous 12 years. Siefert was committed to a takeover bid for the London Stock Exchange, but DBG shareholders were unconvinced that using the company's profitability to fund the takeover bid represented the best value for money. BDG closed in 2004 with a cash surplus of €700 million, yet the estimated profit acquiring the London Stock Exchange totalled

of this event on German national preferences on hedge fund regulation is analyzed in more detail in chapter 5.

Although PEFs and activists hedge funds only account for a small portion of the hedge fund industry, their activities have been important in framing the tone and language of the public debate. Media editorials on hedge funds generally continue to reproduce the pejorative similes used to describe 'activist' funds, such as 'locusts', 'parasites', 'gamblers' and 'sharks' (Ewald et al., 2008: 615).

Hedge funds and Fraud

The opaque nature of most hedge funds makes it harder for investors to verify hedge fund valuations. This feature of the industry, combined with the lack of regulatory oversight, compared to traditional investment vehicles has led some to argue that there is a high risk of fraudulent behaviour (Danielsson et al., 2005: 536-537).

Danielsson et al (2005: 532-533) argues that *institutionalization*, has resulted in supervisors expressing growing concerns about protecting hedge fund investors from fraudulent activities, such as the misappropriation of assets, mispricing, insider trading, the misrepresentation of portfolio performance, inappropriate marketing, the falsification of experience, credentials and past returns and misleading disclosure.

Stulz (2007: 188) argues there is little evidence to indicate that hedge funds engage disproportionately in fraud. Historically aggregated losses from hedge fund fraud have been relatively small(Stulz, 2007: 188). However, high profile cases, such as the 2009 Madoff scandal have received substantial international media attention (Foley, 2009: 2).

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only around €100 million - the shareholders wanted more cash returned directly to them (Watson, 2005b).

Madoff Investment Securities in New York claimed to run a derivative based strategy, but the complex trading he claimed to be carrying out was in fact a 'ponzi' scheme in which the returns were faked, and the money being paid out to investors was funded by receiving more cash from new investors. When it was uncovered in December 2009 the investment scam cost was revealed to have cost investors an estimated U$50 billion (Foley, 2009: 2)

The wider concern of the Madoff scandal was the extent to which FoHFs had also been duped - calling into question the quality of the due diligence carried out on behalf of investors. FoHF also helped to propagate risk from one impacted fund to a wider set of funds and investors. A much larger number of funds were affected 'indirectly' through their investments in the four directly impacted funds whose assets were invested with Madoff. This underlined the capacity of FoHF to spread financial damage across a wider segment of the market. (Commission, 2009a: 65)

Hedge funds and financial stability

Beginning in the early 1990s hedge funds have been at the centre and periphery of a number of periods of market turmoil. The proximity of hedge funds to these events has highlighted the destabilizing effects of 'speculation' and the potential for 'systemic risk', and has contributed significantly to the pressure for public regulatory intervention in most member states of the EU.

The first media stories about hedge funds were positive and focused on the remarkable performance of funds such as George Soros' Quantum Fund and Julian Robertson's Tiger Fund (Alexander, 2008: 134). These stories mainly appeared in specialist financial and investor media, but the first and most famous story to highlight the hedge fund speculative was the profiting of Soros' Quantum Fund from the 'Black Wednesday' 1992 UK currency crisis.

A group of hedge funds lead by Soros, questioned the commitment of EU governments to the European Exchange Rate Mechanism (ERM) in the face of rising interest rates[12]. Believing the French Spanish, Swedish, Italian lira and British currencies to be over valued, they 'bet' that governments would be unable not keep interest rates sufficiently high to fend off speculative attacks on their currencies (Mishkin, 1997: 19-20).

When sterling was ejected from the ERM, Soros was reported to have profited $1 billion in a single day by short selling the currency. This little-known financier whose fame stretched no further than the City, become infamous as, "The man who broke the Bank of England" (Litterick, 2002).

Hedge fund speculation was again linked to a national currency crisis during the Asia Financial Crisis. In early 1997, several large US banks and hedge funds (including Soros' Quantum Fund) starting taking short positions on the Thai baht in anticipation of a devaluation of the currency after a strengthening of the US dollar (Arndt and Hill, 1999).

The Thai government was forced to devalue the currency by the middle of the year. After the crisis erupted in Thailand, it spread rapidly to other economies in the region. As the crisis spread to Korea, the world's eleventh largest economy, the possibility of a default by Korea raised a potential threat to the international monetary system[13] (Fund, 1999).

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[12] The massive fiscal expansion required to rebuild East Germany, led to rises in German interest rates. The Deutsche Marke was the anchor point in the European Exchange Rate Mechanism (ERM) therefore the other member countries, the UK included, had to respond by putting up their own interest rates to keep their currencies pegged in line with the mark. This created a negative demand shock that led to a decline in economic growth and a rise in unemployment (Mishkin, 1997).

[13] In Indonesia, the local currency, the rupiah, lost 84 per cent of its previous value against the US dollar. The currencies of South Korea and Thailand went down more than 50 per cent at the depth of the crisis (December 1997 to January 1998). All the seriously affected countries experienced a drop in GDP in 1998, with Indonesia hit most seriously with a decline of 13.7 per cent. Thailand, Malaysia, South Korea and Hong Kong experienced a drop of GDP more than 5 per cent. Unemployment at the end of 1998 in Indonesia, Thailand, and South Korea together

The Malaysian Prime Minister, Mahathir Mohammad, blamed hedge funds for causing the crisis and accused them of spreading panic (Vines, 1997). Mohammad called for currency trading to be banned and accused hedge fund managers of being "unscrupulous profiteers" involved in an "unnecessary, unproductive and immoral" trade (Vines, 1997). The net effect of the ERM crisis and the Asia Financial crisis, was that it linked hedge fund speculation with financial crisis.

Levi-Faur and Jordana (2004) argue that the collapse of US hedge fund, Long-term Capital Management ('LTCM'), was an important milestone in creating an impetus for public regulatory intervention. LTCM highlighted the potential for the folding of a large and highly-leveraged hedge fund to create widespread market dislocation and spread into a crisis engulfing the entire financial system (Levi-Faur and Jordana, 2004: 7).

The collapse of LTCM was all the more shocking to the financial community because amongst the 16 general partners in the firm were two Nobel prize winners in Economics, and some of the most high profile and experienced investment professionals on Wall Street[14] (Edwards, 1999: 199).

LTCM was formed in 1994 with equity of $1.3 billion, in order to take advantage of a complex mathematical model involving fixed income arbitrage deals in government bonds across a range of countries (Post, 1998: 8). By delivering consistently high returns to investors the fund's asset had grown to over $7 billion in just three years (Edwards, 1999: 197). The strategy required the fund

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amounted to 18 million, compared with 5.3 million in 1996. The economic costs of the financial crisis were profound not only in terms of income lost, unemployment induced, reduced wages, and bankruptcies but also in terms of the reputation of the region, which only a few years earlier had been called "The East Asian Miracle" (Mera, Koichi & Renaud, 2000).

[14] John Meriwether, formerly head of bond trading at Salomon Brothers; David Mullins, the former vice chairman of the Federal Reserve Board; and Myron Scholes and Robert Merton, who both won Nobel prizes in economics for their work in the pricing of financial instruments (Edwards, 1999).

to be heavily leveraged, and at the time of its collapse the fund was borrowing U$200 billion on an original capital base of U$5 billion. With more than 20:1 leverage, the ratio was high by any standard, but was unusual for a hedge fund (Rees-Mogg, 1998).

In August 1998 the Russian government devalued the Ruble and declared a moratorium on 281 billion rubles ($13.5 billion) of its Treasury debt. This key event combined with the ongoing problems created by the Asia Financial Crisis created a 'flight to quality' as investors everywhere tried to unload high-risk illiquid assets and replace them with low-risk liquid ones. The result was an in-flow of funds into US Treasury Bonds that led to a drain on LTCM's liquidity (Edwards, 1999: 199). LTCM collapsed with losses of $3.6 billion (Farrell et al., 2007a: 95).

The news that LTCM was in trouble rang alarms bells throughout the financial community for several reasons. First, other hedge funds trading in similar strategies might also be forced to sell their assets at a distressed price, which could result in a collapse in the value of an entire asset class.

Secondly, many of the banks held large amounts of similar assets to those held by LTCM on their own trading accounts, so if the prices of those assets collapsed they too would suffer substantial losses. Thirdly, certain banks also had a significant exposure as leverage providers and prime brokers ('counterparties') to LTCM. If the collapsing hedge fund wiped out one or more if its bank counterparties, then the relevant bank or banks in turn may be forced to default on sums owed to other banks, setting off a domino-like collapse throughout the financial industry (Edwards, 1999: 200).

Fearing that the systemic risk posed by LTCM going into default was 'very real', the Federal Reserve Bank of New York ("Fed") intervened (Siconolfi et al., 1998: 16). A consortium of some of the biggest banks and investment banks in the world[15] agreed to a financial rescue plan and put in capital of U$3.625 billion in exchange for equity (Edwards, 1999: 200). For the banks there was simply too much at stake, as a mass liquidation of LTCM would have had a disastrous effect on their balance sheets, as well as on the market as whole (1998: 10).

The intervention of the Fed in the collapse of LTCM was widely criticized in the US media because it would create 'moral hazard' at odds with the principles of the free market. Market observers said the intervention would encourage large financial institutions to assume more risk, in the belief that the Fed would step in, in the event of any trouble The Fed was keen to stress that no public funds had been used to bailout LTCM, but many still questioned why the New York Fed should have intervened and played the role of policemen in the deal rather than let the banks and other creditors resolve it amongst themselves (Post, 1998: 10).

LTCM propelled hedge funds into the spotlight and resulted in a series of US congressional hearings and a study into hedge funds by the President's Working Group ('PWG') on Capital Markets (Haubrich, 2007: 11-12). An international response also followed, policy documents were issued by the Basel Committee on Banking Supervision ('BCBS'), the International Organization of Securities Commissions ('IOSCO'), and subsequently by the newly created Financial Stability Forum ('FSF') (Quaglia, 2009: 13).

Although it highlighted serious financial stability risks, the collapse of LTCM did not result in any change to benign regulatory environment in which hedge funds operated. All the reports mentioned above concluded in favour of indirect and self-regulatory initiatives. Shortly, after LTCM's collapse the industry went through the process of *institutionalization* (outlined above), which resulted in total assets in the sector quadrupling by 2007.

[15] Goldman Sachs, Merrill Lynch, J. P. Morgan, Morgan Stanley, Dean Witter, the Travellers Group, Union Bank of Switzerland, Barclays, Bankers Trust, Chase Manhattan, Credit Suisse First Boston, Deutsche Bank, Lehman Brothers, Paribas, and Societe Generale

In the same year as the industry was achieving record inflows of assets, hedge funds were accused of contributing to the severity of the US sub-prime mortgage debacle (Dodd, 2007: 6). The roots of the sub-prime crisis lay in a change in the way the major banks treated debt on their balance sheets. Driven by a boom in house prices through the late 1990s and early 2000s, banks shifted from a 'lend and hold' to an 'originate and distribute model' which resulted in mortgages being "sliced, diced, recombined and sold on" (Gieve, 2008: 3).

The process of repackaging debt and moving it off balance sheet by the banks is known as 'securitisation'. Loans were approved by brokers, temporarily warehoused by mortgage bankers, sold en bloc to investment banks who structured CDOs and marketed these to investors (Soros, 2008). Included in these were 'sub-prime'[16] mortgages. Hedge funds, always at the forefront of financial innovation, had been leading traders in these complex products, notably sub-prime mortgages, and structured instruments (CDOs, CDS). (Commission, 2009a: 68) Specialised credit hedge funds effectively acted as licensed insurance companies and collected premiums on the CDOs and other securities they insured. At the peak of the boom, the CDS market touched $62 trillion (Soros, 2008).

As long as the housing boom continued, securitization and leverage worked efficiently but when the housing market flattened and then started to fall, the sub-prime crisis began to unfold. In 2006 there was a downturn in the US housing market that was then further compounded by rising interest rates.

An increase in the number of mortgage defaults forced lenders to make provisions for bad debts and by the summer of 2007, fearing the scale and

[16] Subprime borrowers are individuals with a previous record of delinquency, fore- closure, or bankruptcy, a low credit score and a debt service-to-income ratio of 50 per cent or greater. The term "subprime" therefore refers to the higher risk credit characteristics of the individual borrowers Louis, Federal Reserve Bank of St. 2007. "What is Subprime." In Monetary Trends. St. Louis: Federal Reserve Bank of St. Louis.

location of losses arising from sub-prime mortgages, there was effectively an investor strike from global securitisation markets (Gieve, 2006: 3).

With little transparency between the original underlying loan and the end investors, when the system began to unwind panic spread quickly because of the complexity and opaque nature of the loans. Two hedge funds run by the investment bank, Bear Sterns, specializing in sub-prime assets collapsed as a direct result of the sub-prime crisis (Tett, 2007: 13).

The impact of the sub-prime crisis on the global financial sector was greatly magnified due to the complex bundling of obligations that was thought to spread risk efficiently, but this innovation also made the resulting instruments extremely non-transparent and illiquid in the face of falling house prices.

The crisis escalated through the international banking system and reached a climax in the autumn of 2008 with a wave of bank nationalizations across North America and Europe. Governments and central banks across the world have responded with unprecedented fiscal stimulus, monetary policy expansion and institutional bailouts[17] (Barrell and David, 2008: 5).

The activities of hedge funds involved in short-selling[18] bank stock during the crisis attracted considerable attention. Short-selling is recognized as a

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[17] In the UK as the crisis deepened significant public sector stakes totalling £37 billion were taken in three major lenders, HBOS, RBS and Lloyds, in order to ensure their solvency, while guarantees were offered for their liabilities and the Bank of England expanded its swap facility for illiquid assets. (Barrell and David, 2008). A number of European countries announced that they would also strengthen the equity base of banks by taking a public share. Fortis Bank received capital injection from Belgium, Netherlands and Luxembourg, but was subsequently taken over when those effects filed to sustain confidence. French and Belgian authorities recapitalized Dexia. The German government arranged a rescue of Hypo Real Estate and then had to later assist it further (le Pan, 2008).

[18] Short selling involves borrowing shares in anticipation of being able to buy them back in the future at a lower price. It is only profitable if the manager is correct in thinking that shares are

legitimate hedging or trading technique, but certain hedge funds were accused of aggravating market volatility by short selling the shares of the banks (*see earlier for explanation of short-selling*).

In March 2008 the Financial Services Authority ('FSA') issued a "market abuse warning" after £3bn was wiped off the market value of Halifax-Bank of Scotland ('HBOS') in a single day's trading (Bowers, 2008). The FSA suspected that unscrupulous traders had deliberately contrived to drive down the stock with emails and messages giving a false impression of the bank's financial position in an attempt to "trash and cash" the shares (Clark, 2008).

When HBOS's share price collapsed and the bank was forced into a merger deal with Lloyds TSB, short-sellers were blamed for the sale and the expected thousands of job losses that would follow. The front page of the UK tabloid the *Daily Mirror* ran the headline "Greedy pig" alongside a picture of a prominent UK hedge fund manager (Wighton, 2008). The First Minister of the devolved parliament in Scotland, Alex Salmond, accused "spivs and speculators" of causing the demise of one of Scotland's oldest financial institutions (Penman, 2008).

In the US, hedge funds were accused of having played a similar role in the collapse of the investment bank, Bear Stearns. Former chairman, Jimmy Cayne, blamed the demise of the bank on an "unjustified and irrational evaporation of confidence" fuelled by the activities of a group of hedge funds (Clark, 2010: 30).

In late September 2008 the US regulator, the SEC, brought in measures to temporarily restrict short selling of financial service stocks. In the UK the FSA imposed a ban on hedge funds and other investors taking short positions against the financial sector, the Belgian, French, German, Italian and Irish regulators introduced similar bans on financial stocks (Costello, 2008).

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overpriced and they subsequently fall. If his opinion is right and the share goes down he will make a profit; if he is wrong and the price goes up he will lose out (see chapter 1).

As the turmoil in credit markets deepened, there was a shakeout of the hedge fund sector, banks cut their exposures causing a number of hedge funds and other leveraged investors to unwind existing positions, with a consequent impact on asset prices and market liquidity. Forced asset sales accelerated the ongoing investor withdrawal from various financial markets, driving down the value of assets (Commission, 2009a: 67).

The manifest failure of due diligence in some cases fuelled doubt over the transparency of some investment vehicles vis-à-vis their investors, as well as the capacity and willingness of investors to process the information and to react accordingly. In particular, institutional investors where shown to have neglected due diligence and followed general trends, known as 'herding'. This challenged the idea that 'qualified' investors were capable of understanding the complexities of some financial products (Commission, 2009a: 65).

Hedge funds and financial markets – a complex relationship

By the middle of the last decade the activities of hedge funds were giving rise to some very real concerns for policy makers. The rapid growth of the industry and the process of *institutionalization* had blurred the distinction between traditional investments and alternative investments, potentially increasing the chances of ordinary investment being unwittingly exposed to hedge fund risk.

Activist hedge funds and private equity funds were being accused of fuelling short-termism in the wider economy, by orienting company towards short-term profits without consideration for the social consequences or long-term stability. When the hedge fund LTCM collapsed the danger of contagion to the wider banking system was so present that the Fed felt it necessary to intervene. The ERM crisis and the Asia financial crisis demonstrated that there was a relationship between speculation and market confidence. This relationship was underlined recently, when hedge funds were accused of worsening the banking crisis by short selling bank stocks.

The 2008 financial crisis also demonstrated that hedge funds could drive asset bubbles and their deflation. Hedge funds were shown to be subject to the pro-cycle nature of the financial system, contributing to driving down asset prices during a period of market stress (Commission, 2009a: 67).

In summary, the logic for public intervention seems compelling. However the fact that hedge funds are at, or near, the centre of most financial crises does not necessarily mean they cause or exasperate them. Hedge funds are by their nature designed to exploit opportunities created by market failures and inefficiencies, therefore their presence, and even role, in a financial crisis is arguably unremarkable (Lutton, 2008: 170).

It is argued here that causal relationship between hedge funds and financial instability is more complex than is often portrayed. Edwards (1999) argues that the contention that speculation is destabilizing is not new, and it goes far beyond hedge funds (Edwards, 1999: 208). A bank that takes on too much risk through a hedge fund could also take on too much risk with an individual or a proprietary trading desk that employs hedge fund strategies; in either case, the problem is not specifically a hedge fund issue, but rather involves the regulation of financial institutions (Stulz, 2007: 189). The LTCM collapse and the sub-prime crisis revealed weaknesses in the risk management procedures of, already highly regulated, banks and other major financial institutions

Hedge fund regulation is an example of what Crouch and Streek (1997: 10) calls the ‘democracy illusion’ in which states refuse to acknowledge externalities that reduce national political capacities, and so transfer blame for what they don’t like to external forces or actors. The continued presence of hedge funds within the vicinity of each crisis is a recurring phenomenon, and has also allowed hedge funds to be used as something of a scapegoat for national politicians trying to explain domestic failures within a highly complex international financial system (Lutton, 2008: 170).

In the case of the Asia Financial Crisis, the governments of the East Asia economies were not themselves entirely blameless, poor monetary management had allowed the economy to become over reliant on foreign capital (Fund, 1999). Most of the money rapidly withdrawn from the East Asia countries came from banks, not hedge funds. Hedge funds, themselves, were later exonerated by the International Monetary Fund (IMF), who concluded that whilst some funds may have determined the timing of the crisis they were not themselves the cause and, in fact, played only a "relatively limited" role (Atkinson, 1997: 188; Stulz, 2007: 16).

Hedge funds are frequently vilified but it is often overlooked that they play a crucial role in the financial system. Danielsson et al (2005: 524) argue that hedge funds create more efficient and liquid markets. The logic behind this argument is that development of hedge fund markets has allowed banks to transfer some of the risk that they had traditionally held on their own balance sheets to a large number of independent funds financed by very rich individuals and professional investors, whose losses are of interest only to themselves. Therefore, the active trading of hedge funds makes markets more liquid and has become an important part of the risk transfer process, which allows large banks and other investors to adjust their positions in periods of market stress (BOE, 2006: 450).

The process of *institutionalization* may have exposed a broader investor base to hedge funds, but, despite the phenomenal growth, hedge funds still only represent less than 2.5 per cent of all investments (Alexander, 2008: 17) and less than 2 per cent of the total asset allocation of institutional investors (Commission, 2006b: 3). Hedge funds have therefore expanded and grown without attracting much attention from regulators because they target 'qualified investors'. Ordinary investors are prevented from investing in most jurisdictions by high minimum investment thresholds and restrictions on marketing. Stulz (2007: 189) argues there is no reason to believe that the occasional hedge fund losses of well-resourced and well-to-do investors, however painful this may be to those investors, has a broader social cost.

Short-selling and shareholder activism also serve a legitimate market function. Acharya (2009: 230) argues that although, short selling is often blamed for causing the price of stocks to crash – beyond what is consummate with their true health – it is most often the case that the company's health has indeed deteriorated and it is the selling by investors holding the stock that causes prices to crash rather than short selling itself. Indeed after the ban was introduced shares continued to fall and in fact throughout the period of the ban (19/09/08 – 16/01/09) the FTSE 359 Bank index dropped by 43 per cent (AIMA, 2009: 2). Ewald et al (2008: 616) argue that the benefits of investor activism are generally held to exceed the costs, because the intervention of activist investors can have a salutatory effect on a failing company. Intervention is usually driven by similar dynamics to short selling, in that it is generally weak management that provokes action.

Finally, systemic risk is the extent to which difficulties in the hedge fund sector could spread contagion into the wider financial system. The risks posed to financial institutions are real, as was demonstrated by the collapse of LTCM. The prime brokerage market is highly concentrated which makes some of the largest banks potentially vulnerable to a simultaneous meltdown of one or several large hedge funds (Farrell et al., 2007a: 118). However, this risk did not manifest itself during the 2008 global financial crisis when the failure of funds was generally confined to investors, and did not spill over to other financial institutions. It is recognized that this was primarily due to self-regulatory measures concerning prudential lending rules and sufficient collateralization on lending to hedge funds which were put in place by the banking sector after the collapse of LTCM (Commission, 2009a: 64).

Nevertheless, the recent 2008 crisis has exposed frailties in the system. The evident failure of due diligence in some cases fuelled doubt over the transparency of some investment vehicles vis-à-vis their investors, as well as the capacity and willingness of investors to process the information and to react accordingly (Commission, 2009a: 73). Also the forced and rapid unwinding of hedge fund assets during the 2008 crisis challenged the assumption that the diversified strategies of hedge funds meant they were pro-cyclical, and demonstrated that hedge funds have the potential to contribute to the downward pressure on asset prices during a period of market stress (Commission, 2009a: 67).

There are of course forceful counter arguments to the defence of the regulatory light regime for hedge funds, but the point being made in this section is that when analyzing the EU policy response on hedge funds it is important to bear in mind that there is a robust neo-liberal counter argument to public intervention. Stulz (2007: 189) argues that role of hedge funds in making markets more liquid and in reducing market inefficiencies has meant it has been necessary for those seeking to restrict their activities to have a compelling case that their possible adverse impact on market volatility outweighs their positive effects.

It is argued here that existence of competing definitions of the policy problem, and the solution has meant that different actors drawn into the policy process have been able to pick and choose the parts of the regulatory pressure 'story' that best suit their interests. The debate is often polarized and numerous proposals have been offered, but Danielsson et al (2005) offers a typology which distils the proposals into four main viewpoints.

At one extreme is the 'regulate everything' approach. Actors holding this view consider that hedge funds should be regulated in the same manner as any other financial institution. At the other extreme is the *laissez-faire*, or 'hands-off' view that hedge funds should not be regulated at all because of the efficiency they provide to the financial system (Danielsson et al., 2005: 546).

Lying somewhere between these two poles are the *macro-* and *micro-prudential* arguments. The micro-prudential argument is concerned with the internal operational risk inherent to hedge funds. The complicated investment strategies and limited disclosure of hedge funds have also promoted concern over investor protection, particularly as such products are extended to retail investors and regulated institutions. The macro-prudential argument is that hedge funds need to be regulated because of their potential to trigger or exacerbate liquidity crises, and therefore compound counterparty risk which can ultimately lead to a domino style collapse in the financial system (Danielsson et al., 2005: 546).

Conclusions

This chapter has shown that hedge fund regulation is a complex policy area. The existence of competing definitions of the policy problem, and the preferred solution has meant that different actors drawn into the policy process have been able to pick and choose the parts of the regulatory pressure 'story' that best suit their interests.

By targeting 'qualified' investors, rather than ordinary investors, hedge fund managers have been able to operate with a high degree of flexibility compare to traditional investment vehicles, like pensions and insurance funds, where rules on transparency, valuation and disclosure are strictly laid down.

However, *institutionalization* has transformed hedge funds from a niche opportunity aimed at a small number of wealthy individuals, to a mainstream financial services product. In the period to the end of the decade assets in the sector have quintupled, whilst global stocks of equities, tradable debt, and bank deposits have only doubled (Mallaby, 2007).

In the process the distinction between traditional asset management and the alternative investment industry has been blurred, giving rise to concerns that the pensions and investments of ordinary citizens are being exposed to this risky investment sector without the proper regulatory safeguards.

Assimilation with mainstream financial institutions has also nurtured a growing anxiety that hedge funds pose a dangerous source of systemic risk to the broader financial system. The collapse of LTCM highlighted the potential for the unwinding of a large and highly leveraged hedge fund to create widespread market dislocation.

More recently, hedge funds have been accused of being key perpetrators of the spread of dubious mortgage-backed assets into the financial system, and therefore exacerbating the 2007 US sub-prime debacle. In 2008, the short selling of bank shares by certain hedge funds was seen as aggravating market volatility during the worst period of the financial crisis. The activities of certain 'activist' hedge funds and high-profile cases of fraud, such as the Madoff scandal, have received substantial international media attention and attracted adverse publicity.

However, it has been demonstrated that the causal relationship between hedge funds and financial instability is more complex than often portrayed. A robust neo-liberal counter argument to public intervention has carried considerable normative authority. Nevertheless by the middle of the last decade activities of hedge funds were increasingly attracting the attention of public authorities in most member states, and indeed EU institutions.

Chapter 4: EU policy response

A theoretical puzzle

This chapter considers the EU regulatory response to the pressure for regulatory action on hedge funds, and introduces the key actors and the theoretical 'puzzles'.

Part I considers the theoretical puzzle by first exploring the nature of the 'European' hedge fund industry, and explaining the EU regulatory context. EU policy outcomes in hedge fund regulation are then explored in detail. In this section, it is demonstrated that different actors framed the nature of the problem (and the regulatory solution) in different ways, at different times during the policy process.

Two competing grounds for EU intervention emerged from the policy process - 'financial stability' versus correcting 'market-access' issues. The way in which these competing solutions have been reflected in policy outcomes presents a theoretical puzzle.

Part I examines the patterns of actor participation in EU hedge fund regulation, drawing on the results of the methodological approach explained in chapter 2. Actors' scores of *intensity* of participation are considered alongside the 'network diagram' and the findings of the Social Network Analysis ('SNA'). The network diagram provides a *visual presentation* of the policy network in hedge funds, which aids in the identification of key influential actors in the policy network.

PART I: EU POLICY RESPONSE – A THEORETICAL PUZZLE

Only around 9 per cent of European hedge funds are actually registered 'onshore' within EU jurisdictions[19], but a growing share of hedge fund assets are managed from EU financial centres (CEC, 2006f: 14).

The USA dominates the hedge fund management sector managing 63 per cent of the total global volume of invested capital, but Europe has been rapidly catching up. According to a 2007 McKinsey Global report, while US hedge funds have grown at an annual rate of 12 per cent since 2005, the most significant growth has taken place in Europe[20] and Asia where assets, although smaller in absolute terms, have increased by around 40 per cent (Farrell et al., 2007a: 97).

Voth (2008: 22) argues that the European market is now significant enough in size for the EU to exert substantial pressure. The UK regulator, the Financial Services Authority ('FSA'), estimates that around 30 per cent of global hedge fund assets are managed from the EU.

London has emerged as the second international centre for fund management after New York, managing almost 80 per cent of EU hedge fund assets (Waters, 2005) and around 60 per cent of the largest European private equity firms. Paris and Amsterdam have also become important EU centres for fund management (Waters, 2009).

As well as fund management, London is also the EU's leading centre for counterparty services[21]. Ninety per cent of all European prime brokerage[22]

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[19] Most hedge funds are legally domiciled in 'offshore' jurisdictions, which offer funds certain advantages in terms of disclosure and allowable activities, but most importantly favourable taxation regimes (see chapter 2).

[20] Figures include Switzerland

[21] Includes Leverage and Prime Brokerage (see chapter 2)

[22] Prime brokers provide hedge funds with clearing and financing as well as ongoing asset servicing (corporate actions processing, dividends, etc). These services effectively provide the operational infrastructure of a fund and allow it to trade with multiple brokerage houses while

activity is operated out of the UK. Ireland dominates the administration sector with almost half of all EU assets serviced from Dublin. Luxembourg has emerged as the second most popular centre for fund administration (CEC, 2006f: 14).

At the EU level the financial services sector is divided functionally into three segments; banking, insurance and securities. The latter covers investment services, which consist of investment funds and capital markets, or stock markets - hedge funds fall within investment services. The principal EU legislation in the area of investment services is the 1985 Undertakings for Collective Investment in transferable Securities Directive ('UCITS') and its various revisions.

UCITS, or ‘harmonised’ funds as they commonly known, are specially constituted collective investment portfolios primarily destined for ordinary (or ‘retail’) investors (CEC, 2005b; 2005d: 12).

The UCITS legislation established a harmonized standard of investor protection, achieved through strict investment limits, capital and disclosure requirements, as well as asset safekeeping and fund oversight provided by an independent depositary. UCITS funds benefit from an EU ‘passport’, which allows the fund to be offered to retail investors in any jurisdiction once authorised in any one member state (CEC, 2005d: 2).

Hedge funds along with closed-end, private equity/ venture capital, real estate and commodities funds are non-UCITS funds, also referred to as “non-harmonised products” or non-harmonised Collective Investment Strategies (‘CIS’) and now more commonly as 'Alternative Investments Funds' (‘AIF’) (CEC, 2004a: 14; 2006a: 95; 2006f: 3). The Commission estimates that AIFs represent 22 per cent of all assets under management by the EU investment fund industry

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maintaining a centralised account with a prime broker. Beyond settlement, the prime broker also acts as a custodian and is responsible for safeguarding and servicing the hedge fund’s assets Alexander, Ineichen. 2008. "AIMA's Roadmap to Hedge Funds." ed. Commissioned by AIMA's Investor Steerling Committee.

(CEC, 2004a: 14). Being outside the UCITS framework, AIFs do not benefit from any mechanism to support their marketing on a pan-European basis (CEC, 2004a: 1).

UCITS do not specifically cover hedge funds, but revisions to the Directive have brought closer the definition of investment funds and hedge funds and blurred the line between harmonised and non-harmonised products.

One of the ongoing difficulties with the UCITS legislation is that it has struggled to keep up with market realities, especially in asset management, where financial innovation out-paced regulation (CEC, 2006g: 4). Consequently, UCITS legislation has been in a state of almost perpetual review (Pallesi, 2007: 92).

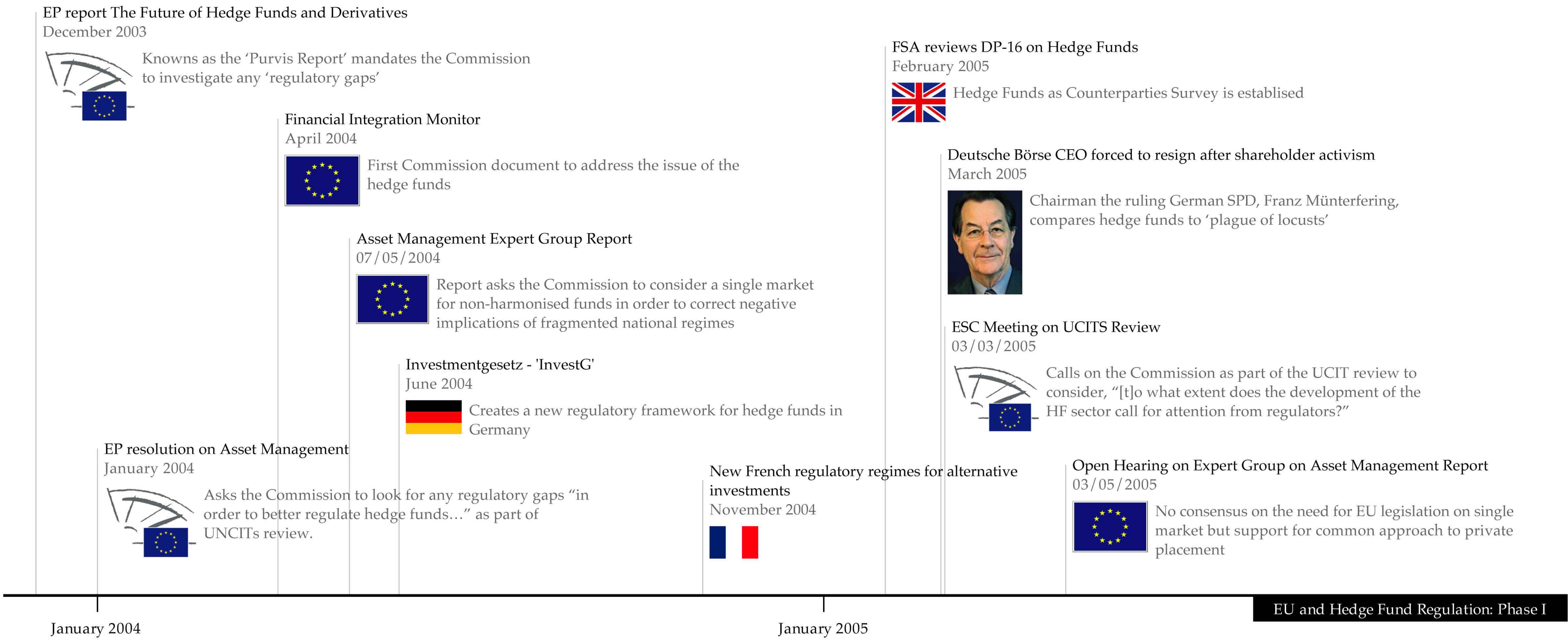
The changes introduced by UCITS II and III permitting wider investment in derivatives have given rise to 'Newcits'. Up to 30 per of the assets of an UCITS fund can be invested in hedge fund, or FoFH strategies (CEC, 2004a: 56). There are now over 200 of these sub-species of UCITS funds, which have been described as hedge funds in a UCITS wrapper (Bircham, 2010).

Hedge fund mangers are subject to certain cross-cutting provisions of EU law, but there is no EU legislation which directly targets their activities, or indeed the funds themselves (CEC, 2009d: 3). However, this does not mean that they are entirely un-regulated. Non-harmonised funds are subject to the regulation and supervision of the member states' regulatory authorities. However there is considerable diversity across the EU and hedge fund have been described as operating across a 'regulatory patchwork' (Pallesi, 2007: 100) – (See chapter 6).

EU Hedge Fund Regulation: A Policy Analysis

In Chapter 1 it was argued that the current literature on the EU response to hedge funds is missing an important part of the 'story' by focusing too heavily on the AIFM directive (see Quaglia, 2009). To fully understand the EU decision-making in this policy area it is necessary to consider the regulatory response in its entirety.

Fig.17: Phase I: Addressing pressure for regulatory intervention



By tracing the policy process in this way three distinct phases in the development of the EU response emerge. In phase one, EU institutions debate and consider the pressure for regulatory intervention (see figure 17). In the second phase, there is a formal policy response on hedge funds (see figure 18). In the final phase, EU hedge fund regulation is revisited in the light of the 2008 financial crisis (see figure 19).

Phase I: Addressing pressure for regulatory intervention

The European Parliament ('Parliament') was the first EU institution to respond to the pressure for regulatory intervention. In June 2003, the Parliament authorized the Committee on Economic and Monetary Affairs ('ECON') to draw up an own-initiative report under Rule 163, entitled *The Future of Hedge Funds and Derivatives*.

The final report, known as the 'Purvis Report' (after the appointed rapporteur, British Conservative MEP, John Purvis), was published in December of the same year. The report reflected the broad political concerns about the hedge fund industry, arguing for urgent action based on the potential risk to the global financial system if hedge funds were allowed to "proliferate without qualification or control" (EP, 2004).

However the report also recognized that alternative investments were to be 'welcomed and encouraged' and asked the Commission to design a 'light-regime' to encourage hedge funds to locate 'onshore' within the EU (ESC, 2005: 8). The Parliament adopted the report in January 2004, and mandated the Commission to investigate any regulatory gaps "in order to better regulate hedge funds…" (EP, 2004)

In March 2005, the Commission's European Securities Committee ('ESC') met to discuss the extent to which the development of the hedge fund industry required regulatory attention. The Committee reported that hedge funds had become more broadly available through the process of *institutionalization* and this gave rise to investor protection concerns (ESC, 2005: 8).

The ESC concluded that while there was no immediate concern about the operation of hedge funds, they might be a source of systemic risk to counterparties, which itself was a threat to financial stability. It again called on the Commission as part of the UCIT review to consider, "[t]o what extent does the development of the HF sector call for attention from regulators?" (CEC, 2005b: 14).

The European Central Bank ('ECB') published its paper, *Hedge Funds and their Implications for Financial Stability* in the summer of 2005. The ECB paper echoed the Parliament's concerns about financial instability caused by systemic risk to counterparties. The ECB argued that although the hedge fund sector was relatively small in terms of the entire asset management industry, their active role in financial markets made them more important than suggested by their market share (Garbaravicius and Dierick, 2005: 5).

The Commission had first addressed hedge fund concerns in the "Financial Integration Monitor" published in April 2004. The report aimed to set out the policy priorities following implementation of the Financial Services Action Plan ('FSAP), due to be completed by 2005.

Although the report dealt with the progress of financial integration generally, it was the first Commission document to specifically consider hedge funds risk. It also reflected the financial stability concerns outlined by both the Parliament and the ECB. The Commission identified that the rapid growth of the sector could be accumulating "large-scale risk exposures" and recognized that *institutionalization* had increased the availability of hedge funds and had changed the nature of the investor base. It concluded that the lack of coordinated EU legislation was a "cause for concern" (CEC, 2004a: 58). While the EU public authorities reflected financial (in)stability concerns, the industry itself took a very different view of where the policy priorities should lie.

The Commission had constituted four expert groups in October 2003 to prepare reports on the state of financial integration in the banking, insurance, securities and asset management sectors (CEC, 2004b: 3). The Expert Group on Asset Management ('EGAM') report was published at the same time as the Financial Integration Monitor and outlined the industry perspective on hedge fund regulation.

The EGAM report argued that because hedge funds targeted 'qualified' investors they did not require the same level of regulation as UCITS funds aimed at retail investors. Rather, self-regulation was an appropriate means of ensuring best practice in terms of transparency and investor disclosure (CEC, 2004b: 3). The group argued that "fragmented national legislation" was acting as a barrier to the development of a fully integrated market; therefore regulatory intervention was necessary only to correct 'market-access' issues. (CEC, 2004b: 25).

The group called on the Commission to consider a single market for non-harmonised funds, but also suggested that a solution to recognizing the special case of qualified investors was the harmonisation of private placement[23] rules (CEC, 2004b: 3).

However, at the public Open Hearing on the EGAM Report in February 2005 no industry consensus was reached on the need for EU legislation. While some industry participants argued that legislation was useful, as it would clarify the position regarding the conditions under which a hedge fund might be allowed to cross-border market, others argued that intervention was only required if hedge funds were sold to the retail market. The only consensus that emerged was strong industry "support for the development of a common approach to private placement" (CEC, 2005e: 7-8).

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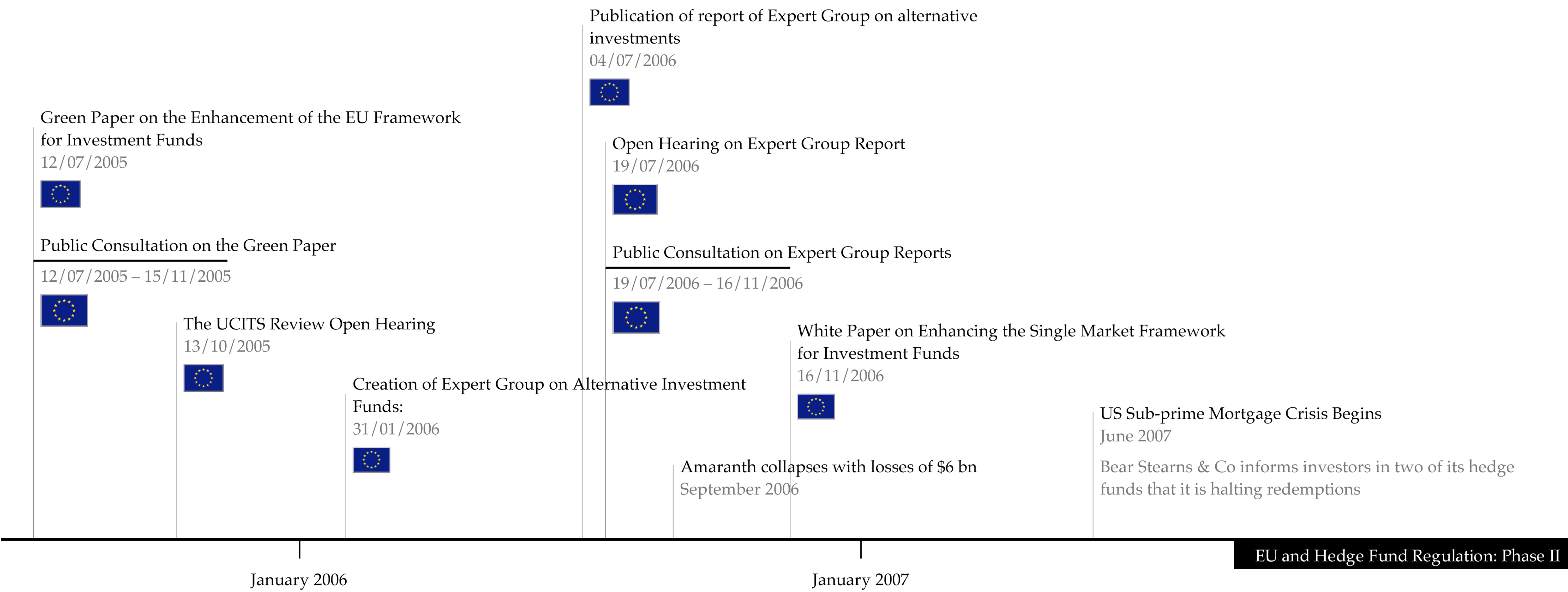
[23] Private placement (or non-public offering) is a funding round of securities that are sold without an initial public offering, usually to a small number of chosen private investors. Private placements may typically consist of stocks, shares of common stock or preferred stock or other forms of membership interests, warrants or promissory notes (including convertible promissory notes), and purchasers are often institutional investors such as banks, insurance companies or pension funds.

Fig.18: Phase II: Formal EU Policy Response



Phase II: Formal Policy Response

The Green Paper on the *Enhancement of the EU Framework for Investment Funds* was published in July 2005. Although this was primarily a review of the UCITS legislation, it also addressed the issue of hedge funds;

> Q16: To what extent do problems of regulatory fragmentation give rise to market access problems which might call for a common EU approach to a) private equity funds; b) hedge funds and funds of hedge funds?
>
> Q17: Are there particular risks (from an investor protection or a market stability perspective) associated with the activities of either private equity or hedge funds which might warrant particular attention? (CEC, 2005d: 9)

Question 16 deals with the potential negative consequences of the regulatory fragmentation, a position that emerged strongly from the Expert Group on Asset Management. Question 17 reflects the financial stability concerns being raised by the Parliament and the ECB.

The Commission's own position was explicitly stated in the supporting documentation, in which it argued "…there is no compelling case for EU legislation on hedge funds" and "…no clear evidence of cross-border retail investor risk" (CEC, 2005c).

The Commission initiated a public consultation that closed in November 2005 and hosted an Open Hearing on the Green Paper in Brussels in October 2005. The consultation was intended to bring together investors, industry players, consumer representatives and policy makers to consider whether the Commission had set the right priorities in the Green Paper, but the feedback statement reports that responses were mainly received from professional industry players rather than an investor, or consumer perspective. To correct this lack of consumer input the Commission created FIN-USE[24] (CEC, 2006c: 5).

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[24] FIN-USE was set-up by the European Commission in 2004 as an expert forum to help it meet the need to improve policy-making in the field of financial services by including a user

The industry's response predictably concentrated on market-access issues. Over 60 per cent of responses thought regulatory fragmentation was undermining the performance of the EU hedge fund industry, but there was no consensus on, either the need for or, the scope of any EU intervention (CEC, 2006c: 6-7).

Some respondents argued that hedge funds were not being offered to retail investors on any significant level and therefore regulatory intervention was not necessary.

The Commission reported "a large majority" support for a common private placement regime to "facilitate the cross-border offering of alternative investments to "qualified investors'" and noted that the larger industry players "cited this a top priority" (CEC, 2006c: 16). There was also support, albeit more limited, for a new harmonized framework for alternative investments (CEC, 2006c: 16). The crucial issue of financial stability was not dealt with to any significant degree. The director of the IMF's Capital Markets Department, Gerd Häusler's concluding remarks to the open hearing said that it was "hard to make a call for intervention" on the basis of financial stability because the overall size of market and the level of leverage was relatively small (CEC, 2005a: ix).

The Green Paper required the creation of two new industry expert groups - one on market efficiency and the other on alternative investment funds. In the documentation that established these groups the Commission said it had, "… seen no demonstrable case suggesting that there are significant European risks… from private equity funds and hedge funds which require a Community level response" (CEC, 2006b: 1).

The Commission limited the mandate of the groups to explore the hypothetical/ perceived risk that regulatory fragmentation could have a negative impact on the development of the industry, rather than consideration of the broader issue

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perspective. Members are made up of consumer protection and small business experts, academic researchers and staff from major consumer and small business organizations.

of financial stability. The group was also asked to consider "the extent to which a common understanding of 'private placement' could facilitate their cross border offer to qualified investors" (CEC, 2006b: 1).

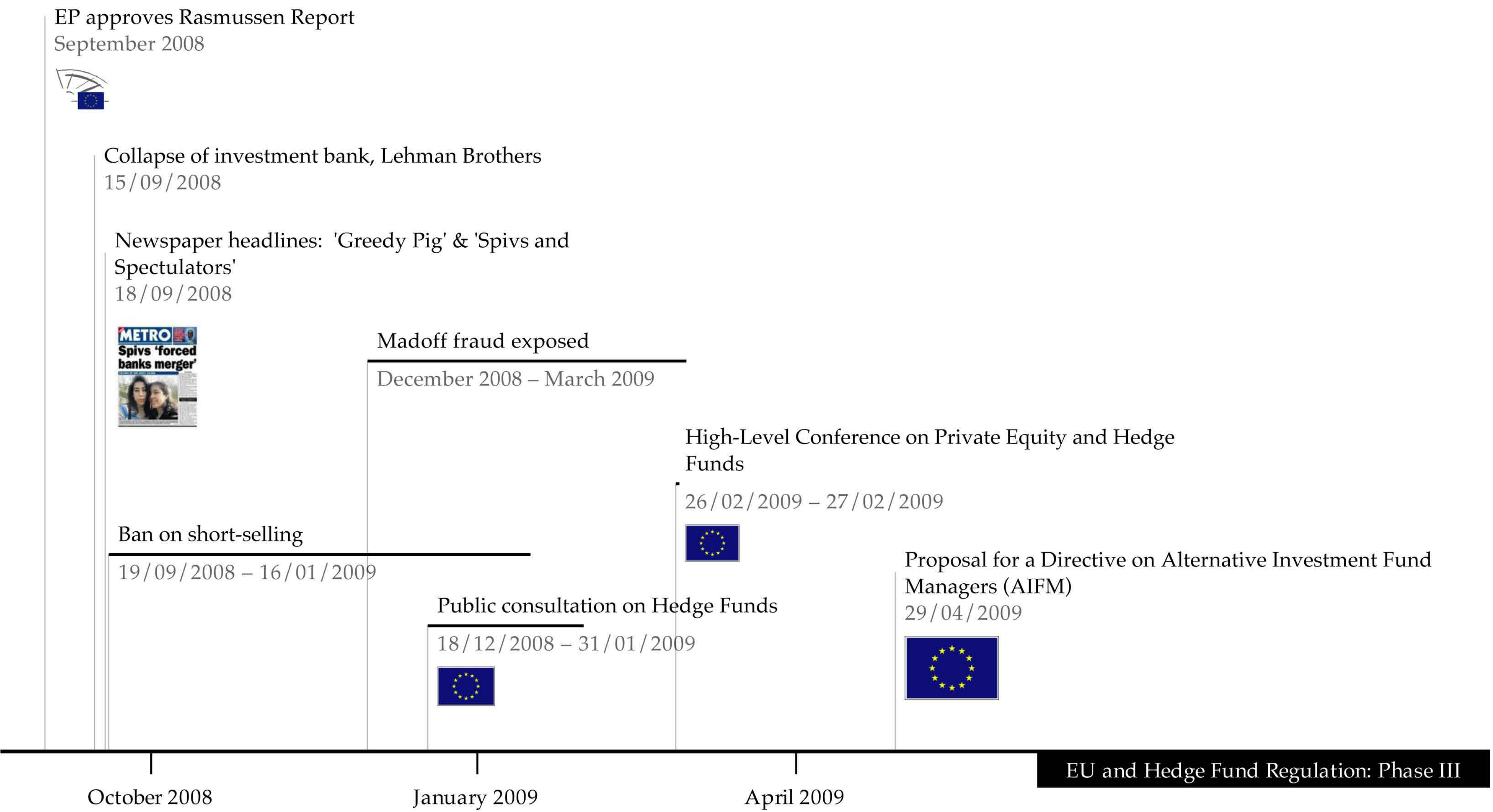
The final report of the expert group unsurprisingly concluded that allowing qualified investors freer access to hedge fund products by correcting national regulatory fragmentation was a priority and identified a harmonized private placement regime as a means of achieving this goal (CEC, 2006e: 5).

The Commission organized a further public Open Hearing on the expert group reports in July 2006 and a public consultation ending in November 2006. The overt industry bias of the expert group was criticized by trade unions, the Socialist Group of the Parliament and some consumer protection organizations, who argued that the report failed to tackle the critical issue of financial stability (CEC, 2006e: 20).

The White Paper on *Enhancing the Single Market Framework for Investment Funds* was published in November 2007 and in it the Commission concluded that it was unconvinced as to the need for action in the areas of financial stability and investor protection, arguing that regulation could "stifle" the development of the sector and that current national and EU legislation was sufficient in its application to hedge funds (CEC, 2006d).

Critically, the Commission accepted the industry's argument that the sector was being held back because it was outside the UCIT framework. However the Commission said that it did not believe that "…the time is ripe to table legislative grounds to undertake a fundamental revision of the Directive". Rather the same objectives could be met through a common private placement regime from which eligible investors could benefit from "pan-European operational support and finance services that are subject to specific/ lighter regulatory requirements which reflect the sophisticated nature of the investor base" (CEC, 2006a: 95; 2006g).

Fig. 19: Phase III: Post 2008 Crisis Policy Response



The Commission came under considerable criticism for its position. Commissioner McCreevy continued to defend hedge funds even in the face of the sub-prime crisis, and continued to rule out regulation (Buck, 2007: 8), arguing that hedge funds promoted financial innovation which was good for the European economy (Reuters, 2007).

Poul Nyrup Rasmussen MEP, president of the Party of European Socialists and former Danish Prime Minister accused Commissioner McCreevy of being "the only player in Europe who doesn't believe that private equity and hedge funds should not be subject to tougher transparency rules" (Gow, 2007). In June 2008 the EP's Legal Affairs Committee unanimously adopted a report by German MEP, Klaus-Heiner Lehne, which called on the Commission to bring forward legislation on the transparency of institutional investors, requiring companies to disclose their investment policies and associated risks (Report, 2008).

Phase III: Post 2008 Crisis Policy Response

The 2008 global financial crisis significantly politicized the issue of hedge fund regulation. In September 2008 the Parliament approved a report drafted by Rasmussen ('Rasmussen' report) requesting the Commission to revise the EU regulatory framework of the hedge fund industry, including the introduction of mandatory capital requirements and measures to tackle the secrecy that had characterized the hedge fund industry (Helleiner and Pagliari, 2009: 282).

In December 2008 the Commission hastily organised a public consultation and high-level conference on hedge funds. The tone of consultation documents marked a clear departure from the Commission's strong position on hedge fund regulation, with the emphasis now being placed on the appropriate scope of regulation rather than questioning the need for legislation (CEC, 2008a: 2).

The consultation paper this time focused on systemic financial risk (macro-prudential risk), both in terms of the risk posed to counterparties but also on pro-cyclical risk such as the impact of deleveraging and declining asset prices on markets (CEC, 2008b). The Commission argued this "adjustment to its policy stance" was a part of an overall review of regulation and supervision in light of the 2008 financial crisis (CEC, 2008a: 9).

At the High Level Conference on Hedge Funds the industry argued that because systemic risk was primarily carried through regulated counterparties there was no need for direct regulatory intervention on hedge funds. However the Commission concluded that hedge funds did in fact carry pro-cyclical systemic risk and therefore needed to be directly regulated not just through the indirect regulation of service providers (CEC, 2009b: 18).

The proposal for a directive for Alternative Investment Fund Managers ('AIFM') was published in May 2009. In the text the Commission argues that the industry "may in some cases have contributed to market turbulence" and that "national fragmented approaches do not constitute a robust and comprehensive response to risks in this sector" (CEC, 2009b). Regulatory fragmentation was no longer presented as a barrier inhibiting an efficient market, but rather inhibiting the effective regulation, supervision and macro-prudential oversight by failing to take account of the cross-border activities of hedge funds (CEC, 2009a: 14).

The AIFM directive was designed to develop a EU framework for monitoring macro-prudential risk through the sharing of data amongst supervisors to manage micro-prudential risk, as well as to increase transparency and improve investor protection by introducing minimum disclosure rules. The directive also contained scope for the development of a single market by allowing funds authorized in home member states to market to professional investors in any other member states (PWC, 2010: 4).

The scope of the original Commission draft directive contained several areas of contention. From the industry's perspective, the most damaging aspects of the

AIFM directive to current business practices was plans to impose fixed caps on leverage and capital requirements. The draft directive gave the Commission authority to set pan-EU limits on the amount of leverage used by given strategy, or an individual fund. The directive also required all fund managers to have external independent depositories (or 'administrators'). Although this is already standard industry practice, the directive stipulated that these 'depositaries' should be EU credit institutions, and that they are liable to the fund, and its investors, for losses suffered (PWC, 2010: 4).

Since the publication of the Commission's original draft, there have been several "compromise texts" published by Swedish, Spanish and most recently Belgian governments as part of their respective Presidencies of the Council. The Council's position has been prepared through the Economic and Financial Affairs group ('ECOFIN'). The 'Swedish Compromise' made considerable concessions to both industry and investor concerns, reducing reporting burdens and significantly reducing the potential impact on current industry business models. The Commission draft restricted the marketing of funds to professional investors, but subsequent Council texts have widened the definition of professional investors (Manvatkar, 2009: 7). The ECOFIN texts have tempered the requirements in areas such as the roles and responsibilities of depositories (at least partially) and valuers. It also relieved proposed restrictions on the ability of managers to delegate functions offshore (Manvatkar, 2009: 5).

However, by far the most contentious aspect of the directive for member states has been the rules governing access to EU markets for alternative fund managers and investment vehicles based outside the EU. Reaching common agreement in this area has been the largest obstacle, and delayed the process for 18 months (FT). In the original Commission draft it was proposed that non-EU managers and funds be granted a pan-EU marketing passport if the jurisdiction of the fund meet with certain conditions after a three year transition period (393; 6), but the Council texts, ruled this out in favour of retaining national private placement regimes. In particular, France has been opposed to any form of EU-passporting for funds and fund mangers based outside of the EU.

The AIFM directive came under the 'co-decision procedure', therefore two drafting process have run simultaneously by the Parliament and the Council. The Parliament appointed rapporteur, Jean-Paul Gauzès, to prepare its own version of the directive. Gauzès published his Parliamentary report in November 2009, tabling 1,699 amendments to the Commission's original directive for consideration by the Parliament's Economic and Monetary Affairs Committee ('ECON') (Bircham, 2010). The ECON draft, adopted in a full plenary session on 17 May 2010, was significantly less industry-friendly than the position taken by the Council restating the rules on leverage and capital adequacy, and removing *de minimis* provisions[25] in the original and Council texts which excluded small funds from the scope of the directive (Manvatkar, 2009; PWC, 2010).

The ECON text proposes that the rules binding onshore managers in relation to funds they manage, and service providers such as administrators and depositories, should apply to both onshore and offshore funds (PWC, 2010: 7). This would have effectively meant the scope of the directive would apply in non-EU jurisdictions.

The ECON and ECOFIN drafts of the directive, once approved, were subject to a three-way reconciliation process between the Commission, ECOFIN and ECON to agree the final text. Both the Swedish and the Spanish governments failed to reach a position acceptable to all member states and the Parliament. The initial plenary vote of the Parliament initially set for July, was first pushed back to September, and then October 2010.

The deadlock was broken on 20 October 2010 when the French backed from their refusal to allow non-EU fund access to European markets. The AIFM directive was approved in the European Parliament ('Parliament') on 11

[25] All collective investment vehicles, whether open or closed ended, subject to de minimis: €100m under management or €500m if un-geared and a 5-year lock in. Exclusions for, amongst others, sovereign wealth funds, insurers, banks and managers of non-EU funds not marketed into EU (Manvatkar, 2009).

Fig.20: Overall organization participation by Group (Commission adapted typology)

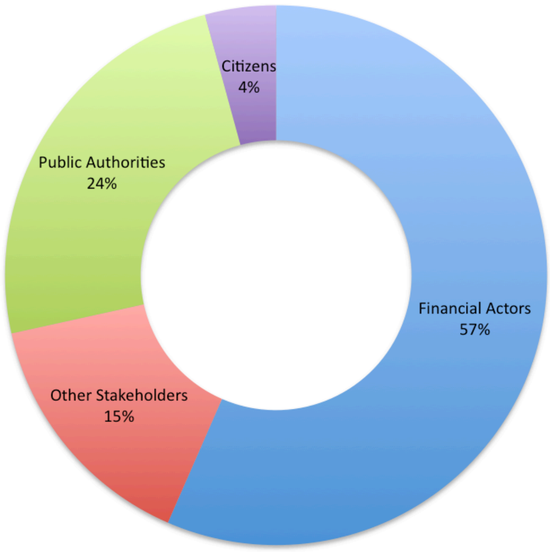


Fig.21: Actor participation by Group and Type

Group	Type	Percentage of Total
Citizens	Individual	1.54%
	Think Tank	1.54%
	University	1.15%
Citizens Total		4.23%
Financial Actors	Accountancy & Consultancy	1.15%
	Assoc. (Asset Management)	11.92%
	Assoc. (Banking)	8.08%
	Assoc. (Capital Markets)	7.31%
	Assoc. (Pensions & Insurance)	1.92%
	Bank/ Investment Bank	10.00%
	HF/FOHF	8.85%
	Inst. Investor	5.77%
	Legal	1.54%
Financial Actors Total		56.54%
Other Stakeholders	Business & Industry	3.85%
	Consumers	2.69%
	Legal	0.77%
	Market Data	2.31%
	Stock Exchange	0.38%
	Trade Union	5.00%
Other Stakeholders Total		15.00%
Public Authorities	Central Bank	1.92%
	EP Grouping	0.38%
	EU Institution	1.92%
	Govnt. Dept	8.46%
	International Body	0.77%
	National Parliament	0.38%
	Political Party	0.38%
	Regulator	10.00%
Public Authorities Total		24.23%
Grand Total		100.00%

November 2010 and the legislation is expected to become law in member states by 2013[26] (CEC, 2010a).

The final scope of the directive is based on the compromise proposal released on October 15 by the Belgian presidency. In an attempt to reach agreement over the most contentious issue of the passport for non-EU funds and managers, the Belgian government suggested a dual system allowing non-EU managers to apply for a passport from 2015, while EU managers will be able to obtain a passport from the initial implementation date of the AIFM in 2013. Existing national private placement regimes will remain in place throughout this transition period, but may be withdrawn in 2018 (Tait, 2010).

PART II: IDENTIFYING KEY ACTORS

Forensic analysis of the patterns of actor participation in EU hedge fund regulation revealed a large policy network of over 260 organizations, and 163 participating individual actors, showing that the multiplicity of state and non-state actors were involved in the policy process.

Using the modified Commission typology outlined in Chapter 2, figure 20 illustrates the pattern of participation across all the formal EU policy decision-making participation events. This diagram shows that there was a heavy dominance of industry interests ('Financial Actors') and Public Authorities. In figure 21 these groupings are broken down into more detail, revealing a multiplicity of participating actors in EU hedge fund regulation.

Chapter 2 outlined in detail the methodology by which a total participation score ('PT') was calculated for each actor, measuring the *intensity* of actor participation by capturing the frequency, effort and exclusivity of participation.

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[26] The directive still awaits its final formal adoption by the Council, scheduled to take place in January 2011 after legal revision (CEC. 2010b. "Provisional request for a technical advice on the Directive for Alternative Investment Fund managers (AIFM) level 2 measures." Brussels.

Fig. 22: Participation Intensity by Quartile

Quartile	Value	No. of organisations
Q3	18 >	13
Q2	< 12	235
Q1	< 6.5	234

Fig. 23: List of Medium/ High Participating Organizations

Organisation	EG AM	EG AM	GP 01	GP 02	EH AI	EH AI	EH AI	EH AI	LG01	LG02	HF PC	HF PC	PT TOTAL
AXA	9	4	4			9	4			4		1	35
Committee of European Securities Regulators	6	4	4				4			4	4		26
Gartmore	9	4				9							22
JP Morgan	9	4	4	1							4		22
Santander Group	9	4				9							22
BNP Paribas	9	4	4	1				1				1	20
Deutsche Bank Group	9			1		9							19
European Private Equity & Venture Capital Association	9	4	4	1	1								19
Alternative Investment Management Association				1	1	6	4	1			4	1	18
Assogestioni	9	4	4					1					18
Fidelity Investement Services Limited	9	4	4					1					18
Goldman Sachs				1		9	4				4		18
Union Asset Management (+ Union Investment)	9	4	4	1									18

Fig. 24: Upper Quartile Organizations by Group

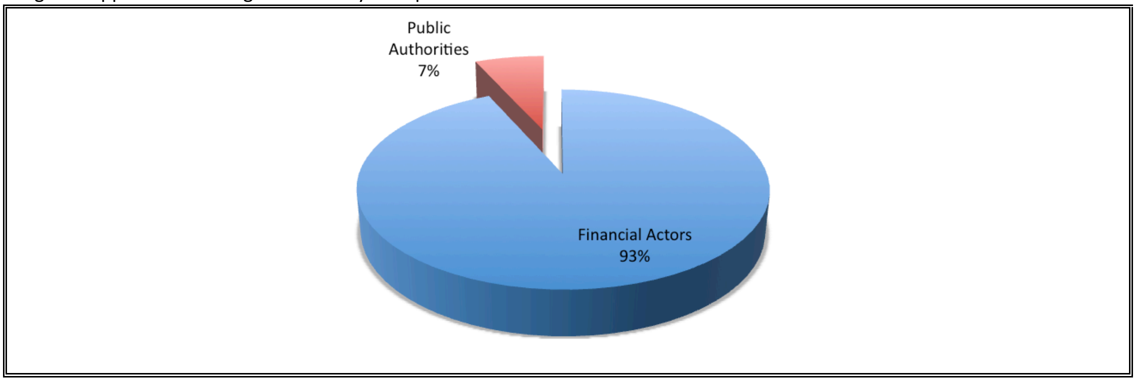
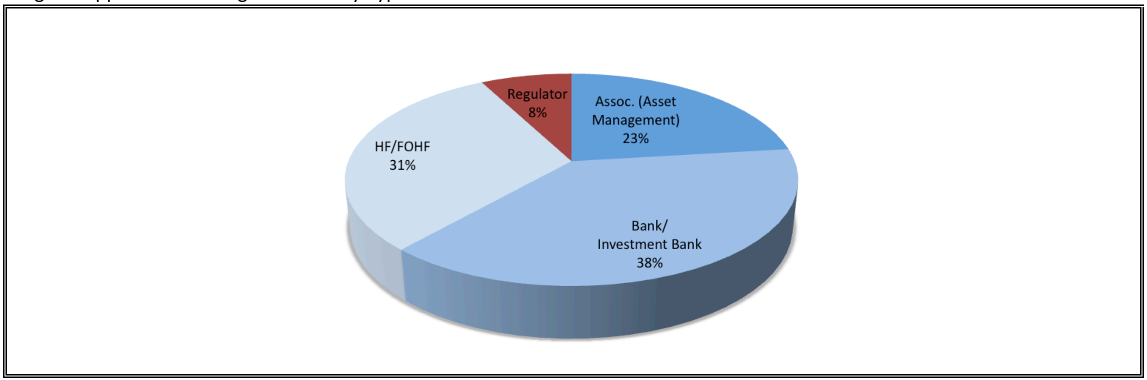


Fig 25: Upper Quartile Organizations by Type



The PT scores were arranged into *quartiles*, a statistical method for determining overall distribution of scores. The data was arranged in ascending order and divided into four equal parts. The first quartile (‘Q_1’) is the cut off score of the lowest 25 per cent of the data. The second quartile (‘Q_2’) is the ‘median’ value and cuts the data set in half. The third quartile (‘Q_3’) is the upper quartile and cuts off the highest 25 per cent of data (see figure 22).

Ninety per cent of participating organizations fell under the Q_1 value, and had a PT score of 6.5 (or less) out of a possible 42. This indicates that overall *intensity* of participation was low. Only, 13 organizations fell into the upper quartile of the data, scoring 18 or more and demonstrating a higher level of participation by acting as an exert group member, participating in open hearings as a panellist and providing written submissions.

In summary, the policy network of hedge fund regulation shows that there was a multiplicity of state and non-state actors involved in the policy process. This indicates a large network, but further analysis has revealed that there were only a small number of core participants. It is suggested that the organizations in the upper quartile of the data (see figure 23) are potentially the most influential actors within the network.

Figure 24 illustrates that financial actors dominated this grouping. Further analysis in figure 25 demonstrates that hedge funds, professional associations and banks/ investment banks made up this group.

Figure 26 shows the location of participating organizations in the upper 25 per cent of the data (‘Q_3’). The category ‘EU’ represents European professional associations. Core member states Germany, France and UK were represented, but the diagram also shows participants from US and international financial organizations, such as the International Monetary Fund (‘IMF’).

In summary, the organizational analysis of actor participation demonstrates that while the policy network in hedge funds was large, only a very small number of actors participated with any degree of intensity. Further analysis of

Fig .26: Upper Quartile Organizations by Location

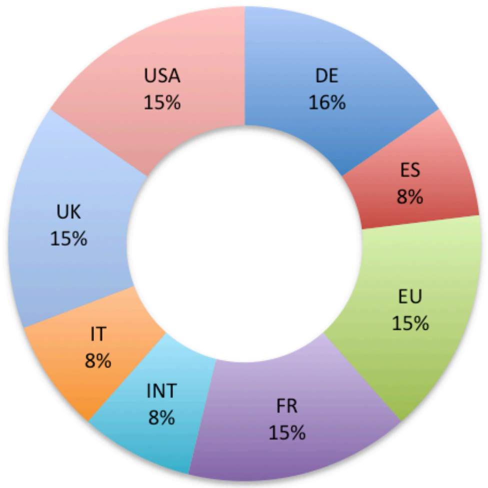


Fig. 27: Actor Degree by Quartile

Quartile	Degree Value	No. of Actors
Q3	54.5 >	12
Q2	< 36 >	68 / 55
Q1	< 25.25	58

these Q_3 actors shows that industry interests dominated the core grouping. Although participants in the main were from EU states, or EU professional associations, organizations from the US and international financial organizations were also present.

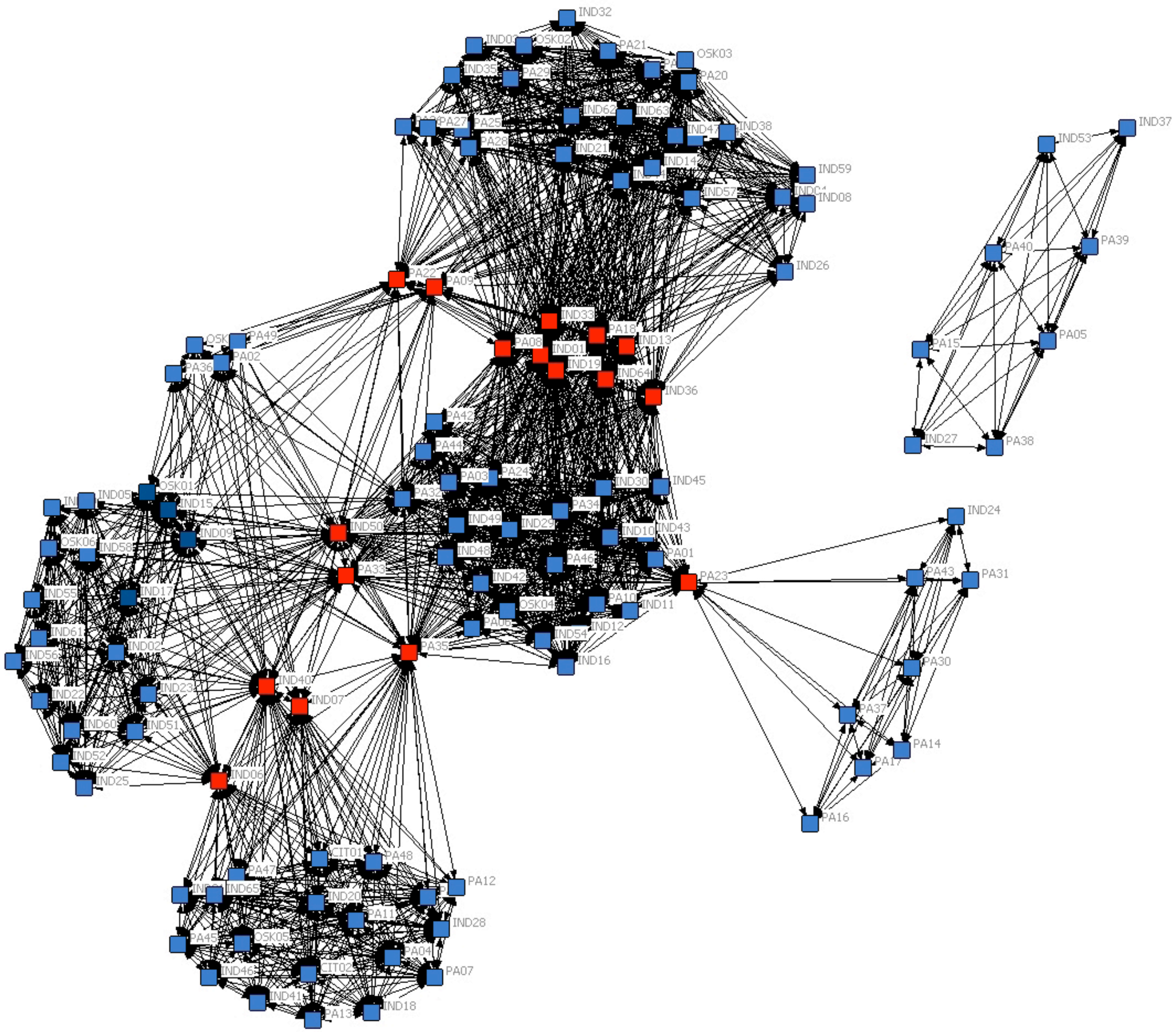
This pattern of intense participation by a small core of industry-dominated actors was corroborated by the findings of the Social Network Analysis ('SNA'). The purpose of the SNA in this research was to develop a visual representation of the policy network in the form of a network graph, to identify which actors' position in the network afforded them the greatest opportunity to influence others.

The density of the hedge fund network was found to be 0.2582, which is 26 per cent of all possible ties were present in the network. This suggests that although large, the network was loose in terms of the connection present between actors. The degree values of participating actors were also divided into quartiles and as illustrated in figure 27, only 12 actors fell into the upper quartile of the data ('Q_3'). Actors in the upper quartile were a source of between 45 to 71 per cent of ties to other actors in the network (the full data set of actor degree and mean score is available in Appendix 18).

Using UCINET software the results of the SNA can be rendered in a 'network graph'. The network graph visually represents the policy network in hedge fund regulation, and reveals a number of important features of the network not immediately obvious from traditional approaches to policy analysis.

The network graph in figure 28 dramatically illustrates that actors were clustered into distinct local 'neighbourhoods'. The significance of this can be explained with reference to the *event-by-event* matrix. This adjacency matrix reveals the links between each participation event. The individual cells show the number of actors who link each particular pairs of events. When compared to the total number of participating actors (123) there are relatively few interlocks between events. As illustrated in figure 29 (see p. A-110), event EG AM 01 and

Fig.28: Network Diagram



EG AM 02 share the most connections, but there are several events where there are no interlocking actors (for example EG AM 02 to EH AI 02). There are no actors linking LG02 with any of the other events. Overall, this shows that only a small number of actors participated in multiple events.

Consequently, each decision-making event was quite separate from the last in terms of the actors that participated across them. However, the network graph clearly demonstrates that some actors (marked with a red star in figure 28) appear to provide a 'bridge', or a link between the clusters. These actors are the 'sociometric star', the recipient of numerous and frequent ties with others in the network, is an indication that that person holds a position of great popularity, or leadership (Moreno, 1934, 1960). It is argued here that EU hedge fund 'network stars' are key actors because they have the most potential to influence other actors and as such are potentially the key actors in the network.

There are 17 *network stars* (see figure 30 on next page). If all of the actors in the network are ranked by order of degree and mean then 12 of the network stars represent the top 12-degree and mean scores (a degree between 87 and 55 and a mean of between 71 per cent and 40 per cent). The remaining 5 network stars have a degree between 43 and 35 and a mean between 35 per cent and 29 per cent.

In summary, the SNA revealed that the EU hedge fund policy network is large but fairly loose in terms of the density of individuals who interlock (or have ties) through participating in eight *participation events*. However, there is a core of individuals with high mean and degree scores, which means these actors are sending many ties to other actors in the network. Analysis of the *event-by-event* matrix corroborates this point because it also shows that relatively few actors provided the ties between different policy participation events.

Actors identified as 'network stars' and actors with degree and mean scores above the second quartile mark ('Q_2') were used as targets for elite interview. It is argued here that by providing the connection between clusters and having a

Fig. 29: Adjacency Matrix I: Affiliation-by-Affiliation

	EG AM 01	EG AM 02	GP 01	EH AI 02	EH AI 03	LG01	LG02	HF PC 01
EG AM 01	-	19	7	0	1	0	0	0
EG AM 02	19	-	7	0	1	0	0	0
GP 01	7	7	-	2	3	0	1	1
EH AI 02	0	0	2	-	5	0	0	2
EH AI 03	1	1	3	5	-	0	0	3
LG01	0	0	0	0	0	-	0	0
LG02	0	0	1	0	0	0	-	0
HF PC 01	0	0	1	2	3	0	0	-

Fig. 30: Network Stars

Code	Organization	Mean	Degree
IND01	Allianz	71	87
IND13	Assogestioni	71	87
IND19	BNP Paribas	71	87
IND33	European Private Equity & Venture Capital Association	71	87
IND64	Union Asset Management (+ Union Investment)	71	87
PA18	European Commission	71	87
PA35	Financial Services Authority	57	69
IND50	MAN Investments	56	68
PA08	Committee of European Securities Regulators	52	63
IND36	Fidelity Investement Services Limited	48	58
IND40	Goldman Sachs	46	56
PA33	FIN-USE	45	55
IND06	Alternative Investment Management Association	35	43
PA22	European Commission	35	42
PA23	European Commission	35	42
PA09	Committee of European Securities Regulators	31	37
IND07	Alternative Investment Management Association	29	35

higher number of ties than other actors in the network, these actors may have greater potential to influence the policy process.

However, it must be stressed knowing that network actors were tied together by participation in certain events does _not_ mean there was necessarily any interaction between them, nor does it suggest that the interaction can influence policy outcomes. The SNA is based on recorded participation in formal policy decision-making, and therefore potentially misses crucial actors influencing policy outside of these documented events. Nevertheless, the SNA data shows that some actors have a structural advantage within the network over other actors.

A closer examination of the patterns of participation amongst these actors also reveals significant features of the policy network in EU hedge fund regulation. Figure 31 (overleaf) illustrates the composition of these actors, by the organization they represent. Again Financial Actors dominate the grouping, but Public Authorities were also well represented. Further analysis in figure 32 (overleaf) shows that most of these public actors were state and EU-institutional actors. The national regulators of the UK, Ireland, France and Spain were represented by these Q_2 actors, also represented is the UK Treasury and the Italian central bank. The institutional actors in this grouping all represented the Commission.

In Figure 33 (overleaf) the location of Q_2 actors is illustrated. The SNA analysis reveals a dominance of EU actors (professional associations and EU institutions). German actors are less prominent, but UK and French actors are well represented. As in the analysis of participation intensity the organization US and international actors are present in this core grouping.

In conclusion, both the participation intensity analysis and the SNA support the theoretical assumption in the analytical framework (see chapter 1) that the key actors in EU hedge fund regulation are states, EU institutions and interests groups. However, the presence of US and international financial organizations in

Fig. 31: SNA Q2 actors by Group

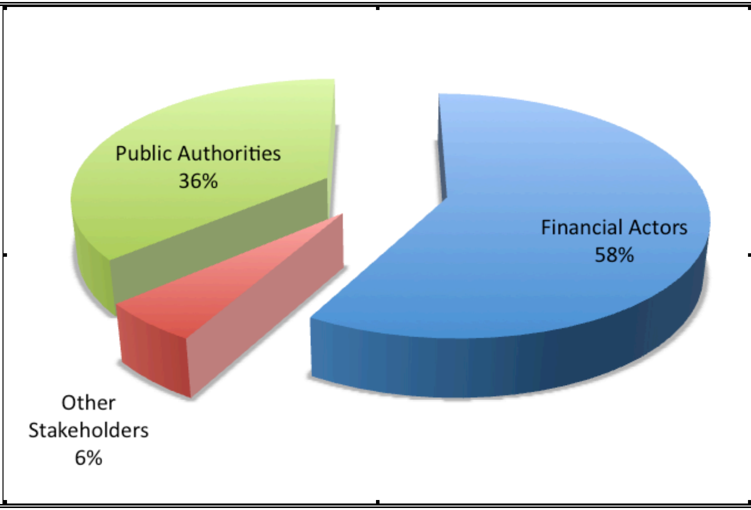
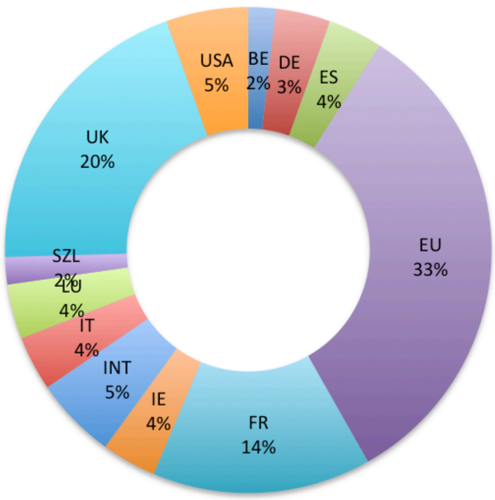


Fig. 32: SNA Q2 Actors by Group and Type

Group	Type	Percentage of Total
Financial Actors	Accountancy & Consultancy	1.82%
	Assoc. (Asset Management)	20.00%
	Assoc. (Capital Markets)	1.82%
	Bank/ Investment Bank	16.36%
	HF/FOHF	16.36%
	Inst. Investor	1.82%
Financial Actors Total		58.00%
Other Stakeholders	Consumers	1.82%
	Market Data	3.64%
Other Stakeholders Total		6.00%
Public Authorities	Central Bank	1.82%
	EU Institution	18.18%
	Govnt. Dept	1.82%
	International Body	1.82%
	Regulator	12.73%
Public Authorities Total		36.00%
Grand Total		100.00%

Fig .33: SNA Q2 Actors by Location



the upper quartiles of both the participation intensity analysis and the SNA suggests that the international dimension also needs to be taken into consideration.

Conclusions: The puzzle

This chapter has demonstrated that different actors have framed the nature of the problem - and the regulatory solution - at different times during the policy process.

Initially, EU institutions echoed the financial stability concerns being raised by the growing constituency of academics, government bodies, regulators and campaigning politicians, but by 2005 two competing interpretations of the grounds for EU intervention had emerged. While EU public authorities promoted 'financial stability', the industry sought to frame the debate in terms of 'market-access'.

In the Commission's White Paper on *Enhancing the Single Market Framework for Investment Funds* the 'financial instability' issues were overlooked, and the debate was framed as a 'market access' issue. This raises the first puzzle; given the considerable political support for regulatory intervention, what explains the Commission's non-decision to progress hedge fund regulation in the 2007 White Paper?

When the issue of hedge fund regulation was revisited in the light of the 2008 financial crisis, the result was the Alternative Investment Fund Managers ('AIMF') directive (2009). AIFM directly regulates the activities of hedge fund managers, not just in Europe, but also attempts to impose rules and practices on the office-shore jurisdictions where the funds themselves are located. It therefore represents a significant departure from the EU's previous hands-off approach, and gives rise to the second puzzle; what explains the complete u-turn from the Commission's inactive policy stance?

The formal EU policy negotiations around hedge funds drew a range of interested actors into the debate, including member states, EU institutional actors as well as non-state actors, not least industry interests, as well as trade unions and consumer groups. This created a large policy network of interested actors; further analysis has shown that the key actors were member states, EU institutions and industry interests. The presence of US and international financial organizations in the upper quartiles data sets suggests that the international dimension also needs to be fully taken into account.

The role played by each of these sets of actors is explained in turn in the following chapters 5 to 7. In chapter 8 the question of the international dimension is addressed.

Chapter 5: State-centred Approach

State preference formation and interstate bargaining

This chapter examines the empirical evidence and considers the extent to which interstate bargaining, and the changing intensity of member states' preferences towards regulatory intervention explain policy outcomes in EU hedge fund regulation.

It draws on the two-stage process of *national preference formation* and *interstate bargaining* in the liberal intergovernmental (see Moravcsik, 1993a, 1993b, 1998; Moravcsik and Schimmelfennig, 2009) literature, as well as the varieties of capitalism ('VoC") literature (see Dore et al., 1999; Goyer and Pw, 2006; Hall and Soskice, 2003, 2004; Menz, 2003; Story and Walter, 1997), to explore a state-centred explanation.

In Part I the origins of member states' preferences on hedge fund regulation are explored in detail. It is argued here that national preferences in this policy area arise out of state capitalist traditions, and traditional balance of power politics.

Part II considers interstate bargaining as an explanation for policy outcomes, taking into account the non-decision on intervention in 2007 and the Alternative Investment Fund Managers ('AIFM') directive (2009).

It is argued that while most member states shared a concern about hedge funds, there is considerable diversity with regard to the intensity of national preferences on collective action, and the most appropriate regulatory solution.

Although the 2008, financial crisis intensified preferences on intervention in most member states, one should not confuse collective agreement on the need for action, with a common understanding of the most appropriate solution. In the case of hedge fund regulation, while the former is present, the latter continues to prove elusive.

PART I: STATE PREFERENCE FORMATION

Senior Commission official PA18 explained when interviewed that divergent state preferences on hedge regulation were largely driven by a clash of economic philosophies between the "Anglo-Saxon world" and continental Europe. He said, "…along come these unregulated merchants [*hedge funds*]… and they don't want any rules at all….and people say we don't like this, it touches all sorts of nerves of different economic philosophies" (PA18, 2009).

To better understand member states' preferences on EU hedge fund regulation it is necessary to consider how these 'economic philosophies', or state capitalist traditions, have determined regulatory regimes concerning hedge funds in core member states.

Moravcsik (1993, 1998) argues that capitalist traditions determine the way in which states deal with economic modernization, as such they underpin national preferences on monetary management and financial integration. The 'Varieties of Capitalism' ('VoC') literature (Dore et al., 1999; Goyer and Pw, 2006; Hall and Soskice, 2003, 2004; Menz, 2003; Story and Walter, 1997) argues that scholars can predict systematic differences between states in the way they react to global economic pressures, by studying the formal organization of their political economies. Systems differ over the role of the state regulator, the exercise of corporate governance and the debt sourcing for the financing of economic enterprises. Consequently, states have divergent ideas about how to control and manage capital (Story and Walter, 1997: 150).

Hall and Soskice (2004: 8) draw the core distinction between two types of political economies; liberal market economies ('LME') and coordinated market economies ('CME'); which they describe as representing "ideal types at the poles of a spectrum along which many nations can be arrayed".

Hedge Funds and Capitalist Traditions – A Regulatory Patchwork

Hedge funds are strongly associated with the LME model, or more specifically the capitalist traditions of the US and UK. The industry is attracted to jurisdictions where government interference in the markets is minimal and capital can be freely allocated to its most efficient use.

The regulatory regime for hedge funds in the UK has been described as "relatively light-touch" (Waters, 2005: 5). The light-touch regulatory model is associated with a belief that hedge funds should not be regulated at all because of the efficiency they provide to the financial system. Funds are left to choose the legal form and the terms under which their relationships with investors are established (Pallesi, 2007: 100).

There is no direct legislation in respect of offshore domiciled hedge funds therefore they fall into the category of 'unregulated collective investment schemes' ('CIS'). As unregulated CIS, hedge funds are restricted to 'qualified' investors (CEC, 2005d: 57). The UK does allow FoHF, that are listed on a public stock exchange, to be offered to retail investors, although there have only ever been a very small number of listed funds (FSA, 2002: 15).

In common with most other EU countries, the registration of fund managers is compulsory, falling under the provisions of the Financial Services and Markets Act (2000) (Danielsson et al., 2005: 525; FSA, 2002: 4) Once authorized a hedge fund manager is subject to certain rules[27]. However, these are of a general

[27] These include requirements on 'Senior Management Arrangements, Systems and Controls', which requires that a firm "must take reasonable care to establish and maintain such systems and controls as are appropriate to its business" (SYSC 3.1.1R). Managers are also covered by the FSA's 'Dealing and Managing Conduct of Business' rules; these include for example best execution, and fair and timely trade allocation. These rules apply to dealings on behalf of both private and intermediate customers. The Code of Market Conduct/Market Abuse regime also applies to behaviour by managers in relation to qualifying investments, that is, investments which are traded on a prescribed market in, or accessible from, the UK - even if the trader is not authorised by the FSA or is located overseas (Waters, 2005).

rather than specific nature, and principally relate to obligations on fair dealing and market abuse. This leaves the fund manager to operate with considerable freedom and flexibility compared to regulated investment vehicles.

In 2002, the UK regulator - the Financial Services Authority ('FSA') - reviewed[28] the UK hedge fund industry in response the increasing size of the market and the collapse of US hedge fund, Long Terms Capital Management ('LTCM') (see chapter 4). The FSA revisited the issue again in 2005 following record net-inflows into the sector. This review established the Hedge Funds as Counterparties Survey ('HFACS') (Waters, 2005: 3). The HFACS created a database of counterparty risk exposure to hedge funds, but created only voluntary obligations on the industry to exchange information with the regulator (Waters, 2005: 5).

The UK regulator - the Financial Services Authority ('FSA') - has historically considered the activities of hedge funds as '"low impact and low risk" and too small to give rise to any serious risk (FSA, 2002: 19). Senior Treasury official PA37 responsible for negotiating the UK position during the Green Paper (2005) consultation reported that the UK Treasury was "supportive" of the FSA position. He said that while the UK did not have a particularly strong preference on hedge fund regulation, "… we obviously didn't want a directive" (PA37, 2009).

Although the 2008 financial crisis significantly politicized the issue of hedge fund regulation in the UK, as yet there have been no substantive changes to the regulatory regime. The previous, and the current, UK government has publically opposed the AIFM directive, and remains supportive of voluntary guidelines reflecting industry 'best practice' such as those published in June 2009 by the IOSCO (International Organization of Securities Commissions) (Costello, 2010; Costello and Mortished, 2010; IOSCO, 2009: 14)

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[28] FSA discussion paper (DP-16)

Member states at the CME end of the spectrum have tended toward the 'regulate everything' approach to hedge fund regulation (Danielsson et al., 2005: 546). In the CME model firms rely more on non-market relationships and there is a greater reliance on collaborative, as opposed to competitive, relations (Hall and Soskice, 2004: 8). Senior UK Treasury official PA37 said that Spain and Italy, and other countries - referred to by the Treasury as the 'Club-Med' states - had made it very difficult for funds to be sold, or passported into their jurisdictions (PA37, 2009).

Both the German and French governments have introduced regulatory regimes which govern the operation of hedge funds, however they vary significantly in means by which access to retail markets is restricted, as well as registration, authorization and standards for investor disclosure (Pallesi, 2007: 100).

The German government has gone furthest in introducing highly prescriptive regulation that directly regulates the activities of hedge funds. The German Investment Act ('InvestG'), was introduced in 2004 and created a regulatory framework for hedge funds in German law (Lang, 2004: 672). InvestG prevents FoHF from using leverage and restricts investment in cash assets to 49 per cent, investment in one single manager to no more than 20 per of assets and only allows investment in two funds where the investment manager is the same. The legislation sets fixed redemption periods for both hedge funds and FoHF and prohibits FoHF investing in other FoHF strategies (Lang, 2004: 674). Funds are required to make a special warning in the offering documents of the possibility of total capital loss (Lang, 2004: 674)

The French reviewed their regulatory framework for alternative investments ("gestion alternative") in November 2004. The regulatory framework for hedge funds in France is not as prescriptive as its German equivalent, rather it is primarily concerned with restricting access to qualified investors by giving a legal definition to hedge funds in French law and imposing minimum investment limits consummate to risk.

There are four kinds of collective investment schemes (CIS) in France; the funds ARAI (Agrèes á Règles d'Investissement Allègèes), leveraged ARAI (ARIAEL), contractual funds and FCIMT (Fonds communs d'intervention sur les marchès á terme). These funds can be offered to 'qualified' investors without any restrictions and to retail investors subject to investment thresholds which vary according to perceived risk (€0 for guaranteed FoHF, €10,000 for FoHFs and FCIMT, €125,000 for other ARIA funds, €250,000 for contractual funds) and the net worth and experience of the investor (CEC, 2005d: 57).

In summary, national regulatory regimes in the EU, governing the operation of hedge funds, vary significantly. The European hedge fund industry can therefore be said to operate within a 'patchwork' of national regulatory regimes'. Generally speaking national systems are firstly concerned with preventing 'retail' investors from accessing hedge fund products, but the measures to achieve this range from a complete ban, as is the case in Germany, Ireland, Italy and Spain, to the use of high subscription minimums in France (CEC, 2005d: 59).

Some national regimes go further than simply restricting access to 'qualified investors' and have brought in measures to directly regulate hedge funds. At one extreme, Germany, has adopted specific legislation that regulates the legal form of the fund, rights of investors and obligations of fund managers. At the other end, the UK has left hedge funds to choose their own legal form and the terms under which their relationships with investors are established (Pallesi, 2007: 100).

Although the legal remedies differ, continental member states do share a common concern about hedge funds and this arises out of their state capitalist traditions. Interviews undertaken by Quaglia (2009) in the various continental EU capitals found a deeply ingrained dislike of the type of 'casino capitalism' associated with hedge funds and the Anglo-American capitalist traditions (Quaglia, 2009: 23).

The empirical evidence produced for this research suggests that German opposition to 'activists' hedge funds, and its perceived eroding affect on German traditions of corporate governance was a primary driver of hedge fund regulation in Europe (PA19, PA08, IND13, IND08). Senior Commission official PA18 said, "In Mitteleuropa they like strong stable companies, so they don't like these rough diamonds [*hedge funds*] coming in and roughing up the match…" (PA18, 2009).

A close-knit community of major financial and industrial businesses, in which each sits on the others' boards, has traditionally dominated German corporate governance. In the German 'bank-based system' banks often hold significant capital in firms. They actively participate in the boardroom and this affords them access to 'inside' information with the result that financial disclosure tends to be limited (Watson, 2005: 522).

Bankers play a central coordinating role in government policy through their positions on corporate supervisory boards, however this role is shared with labour unions, local and central government officials in their capacity as stakeholders in corporations. The overall focus is towards risk-averse strategies, preferring stability and reliability (Story and Walter, 1997: 141).

The organization of Germany's political economy has meant that hedge fund activism has historically been a much less prominent feature of corporate financing than in either the US or the UK (Watson, 2005: 519). However, in the last decade Germany has come to account for almost one-third of all private-equity transactions in the EU (Voth, 2008: 32).

The effect of the increasing exposure of the German corporate sector to hedge fund activism, came to a head in 2005 when a hedge fund[29] led a shareholder rebellion of UK and US investors against CEO of Deutsche Börse Group ('DBG') - Werner Siefert - forcing him to resign from a position he had held for the previous 12 years. Many of the participants interviewed for this research

[29] The Children's Investment Fund

reported that the DBG affair was a pivotal event that set the tone of regulatory debate in Germany (PA19, PA08, IND13, IND08, 2009).

Shareholders were unconvinced that using the company's profits to fund a takeover bid for the London Stock Exchange represented the best value for money. They accused Siefert of allowing 'conflicts of interest' to cloud his judgment. DBG Chairman, Rolf Breuer, was also Chairman and a former Chief Executive of Deutsche Bank ('DB'). DB was both a shareholder and the financier of DBG's takeover bid. Such apparent conflicts of interest are diametrically opposed to Anglo-American corporate governance norms, and an anathema to the US and the UK shareholders who were active in mobilizing dissent (Watson, 2005: 519-521).

Germany's then ruling Social Democratic Party ('SDP') presented the shareholder activism at DBG as the intrusion of foreign values and foreign activities into the German economy. Hedge funds were presented as deliberately seeking to undermine the customs and traditions of German economic success. Hans Eichel, Finance Minister in the SPD-led government, argued publicly that hedge funds had deliberately targeted German jobs as a means of cutting costs in the interests of short-term profits.

The then Federal Chancellor, Gerhard Schroeder, ordered a review of controls over hedge fund activities, on the grounds that it was necessary to check their compatibility with German ideals of social democracy. New legislation governing the disclosure of shareholdings was introduced as a direct result of the role of hedge funds in the DBG affair (Watson, 2005: 516-517).

Hedge funds do not sit comfortably either within the French market-managed system. Senior Commission official PA18 described the French economic philosophy as being focused on long-term planning, "…they don't want to be pushed around by hedge funds upsetting the balance" (PA18, 2009).

In France, the Ministry of Finance directly regulates capital markets. Both lending and borrowing institutions fall under the authority of the Ministry, which formally draws up investment priorities through elaborate consultations with trade associations recorded in 'The Plan' through negotiations with the Ministry of Industry or in response to requests filtered through political parties (Story and Walter, 1997: 143).

Senior industry participant, IND13 identified "…a deeply different concept of what constitutes a qualified investor" between the UK and most other EU member states (IND13, 2009). As the industry has *institutionalized* the term 'qualified investor' has increasingly come to mean 'institutional investors' - financial institutions, pension funds or insurance companies. In the Anglo-American model it is assumed that institutional investors have the capacity to make their own professional assessment of the risk associated with their investment. Therefore when funds are distributed to these investors, the exchange of investment information comes largely through voluntary disclosure (see chapter 1).

However, IND13 said that in most European countries there is a general perception that even trustees of pension funds, or people that manage insurance assets are sufficiently knowledgeable to make 'self-directed' investment decisions. He said that this had led to general support in continental Europe for regulatory intervention that establishes a standardized environment, in terms of transparency and information disclosure, which would assist institutional investors to make more informed investment choices (IND13).

This distrust of the capacity of investment professionals to calculate investment risk is most explicitly reflected in German law. Lang (2004) argues the German legal system has had a longstanding distrust of the capacity of private investors to make informed investment decisions. The InvestG legislation prohibits investing in single manager hedge funds to all but the largest institutional investors (Lang, 2004: 676). The minimum investment levels consummate with risk used in France are another mechanism for restricting access (see above).

Walter and Story (1997) have described EU financial integration as a 'battle of systems', in which the distinctive capitalist traditions of the continental European economies have been undermined and threatened by the spread of Anglo-American capitalist traditions in international finance (Story and Walter, 1997). Watson (2005) argues that by the middle of the last decade fear of predatory Anglo-American capitalism was a popular motif in European politics. The Constitutional treaty was perceived by some member states as an encroachment, via the EU, of Anglo-American economic norms into their national models of capitalism. This was a key issue in 'No' vote referendum campaigns in France and the Netherlands (Watson, 2005: 520).

This sensitivity of certain member states is derived from what Grahl et al. (2005) describe as a process of 'disintermediation' - a trend in the global financial system in which, as a result of global economic pressures, the financing of government and corporations is increasingly through the direct sale of securities to the markets.

For many member states this represents a significant departure from their historical capitalist traditions, not only regarding the management and movement of capital but also corporate governance. Grahl et al. (2005: 1008) argue that in effect, this process represents a transformation, or internalization, of the Anglo-American financial system on a global scale.

Watson (2005) argues that the close association of hedge funds to the Anglo-American model has given rise to two important factors that have set the tone of the regulatory debate in continental Europe. First, because of the dominance of the US in global assets, and the UK in the European markets, hedge fund managers are often presented as a synonym for US, and UK financiers. Secondly, as a consequence they are also sometimes thought to be the advance guard of foreign practices that consciously seek to undermine traditional national modes of capitalism (Watson, 2005).

In summary, the VoC approach offers some explanation as to why the UK has adopted a *laissez-fair* attitude to hedge fund regulation, while continental member states have taken comprehensive steps to regulate the activities of funds more directly. State preferences on hedge fund regulation are shown to have been determined by underlying state capitalist traditions. The close association of hedge funds with Anglo-American capitalist traditions has given rise to common belief in a need for action.

Hedge Funds and National Competition

This section considers the motivation behind state preferences on EU cooperation on hedge fund policy from a liberal intergovernmental perspective. Moravcsik (1993) argues that *economic independence* motivates member states towards EU integration. The increasing trans-border flow of capital, goods and services creates 'international policy externalities' amongst states, which create incentives for policy co-ordination. Economic externalities arise when the policies of one nation impose costs on the domestic nationals of another. In this regard, the EU is a mechanism for state to co-coordinate policy in order to manage economic externalities more efficiently than unilateral action (Moravcsik, 1993b: 484).

Cooperation can be thought of as an attempt to create a level-playing field, in other words to remove the competitive advantage of other states arising out of regulatory arbitrage. Story and Walter (1997) argue that member state preferences in financial services integration are rooted in traditional balance of power politics in which competition between key European financial centres prevails over co-operation (Story and Walter, 1997: 306).

In 1964 the French blocked a Commission attempt to draft a directive on the issuance and placement of foreign shares on national markets, because the French Finance Ministry wanted to keep control over new issues on the domestic market and to promote Paris as the main financial centre in the EU. Likewise in the 1970s, the UK vetoed a draft directive to create a EU-wide regime for universal banks. The City of London was opposed to any legislation that would enmesh it in EU laws biased towards a German style bank based system (Story and Walter, 1997: 8-14).

In the case of hedge funds member states were competing for, what was described by one key industry participant, as a 'piece of the asset management pie' (IND08, 2009). When talking about the formal negotiations on EU hedge fund policy he said,

> …it felt more guided by perceptions of self-interest… everyone wanted their slice of the hedge fund cake. The Germans wanted their industry to succeed the French wanted theirs to succeed as well. The Irish wanted the funds to be domiciled there…so everyone felt there was something to play for. For the UK, they don't really care where the funds are, they just wanted them to be managed from the UK and sold as far a field as possible, whereas for Ireland and Luxembourg it was more about local product

Even Germany has made a conscious attempt to grow its share of the hedge fund sector. The InvestG legislation went considerably further than international standards in this sector, but Lang (2004: 672) argues it also liberalized and modernized the German market compared to the earlier regulatory regime.

The building up of a German hedge fund industry was one of the primary aims of InvestG, correcting punitive tax measures and legal uncertainties in earlier legislation (Lang, 2004: 672). When InvestG was introduced there was speculation that Germany could attract as much as €8 billion of assets in German hedge funds, although this failed to materialize and in fact less that €1 billion was invested, mainly from FoHF set up under German rules but domiciled in Luxembourg (Hedgeweek, 2006: 3).

The hedge fund sector is more than fund management, it includes custodial and fund administration as well as distribution services. Where a member state sees itself sitting on this 'value chain' has determined specific national interests on hedge funds. For example, the London markets are notably different from Paris and Frankfurt because the UK is an international wholesale market (or an 'exporter' of financial services) servicing business from all over the world as opposed to the French and German markets ('importers') that primarily finance domestic national corporations (Story and Walter, 1997: 279).

Senior industry participant IND13 explained that 'exporters' are concerned with free access to new markets for their services (IND13, 2009). Senior UK Treasury official PA37 in interview said, "The sort of priorities that the UK had…. were looking at the idea of private placement…company management passports, simplified prospective and looking ways for managers to sell funds outside their home states" (PA37, 2009). IND13 also said that 'importer' countries are much more concerned with market access rules, as well as standardization of information and disclosure (IND13, 2009).

London's status as a wholesale clearing house of international finance has made it the dominant financial centre in Europe. Much of London's influence is actually derived from within continental Europe, as London provides financial products and services not found in continental markets or financial services provided by institutions that have acknowledged superior reputations. Therefore in both Frankfurt and Paris financial institutions have felt the lure of London (Clark, 2002: 438) .

The UK's pre-eminence in world financial markets presents a major challenge to French and German interests, because London has emerged as the potential *hegemonic* centre of European finance. As the dominant European centre of financial expertise, and as the most obvious market through which to mobile financial assets for global investment, it is no coincidence that London is the location of 8 out 10 hedge fund managers (Waters, 2005).

Walter and Story (1997: 299) argue that alliances have been forged against the dominance of the City. Clark (2002: 448) argues that there are many examples of this in European financial integration. For example, strong Franco-German economic and political interests aimed at reducing the influence of London's financial markets drove the development of advanced electronic trading platforms in Frankfurt and Paris.

PART II: INTERSTATE BARGAINING AND POLICY OUTCOMES

Moravcsik (1993) argues that leverage in inter-state bargaining stems from asymmetries in the relative *intensity* of national preferences. Intergovernmental bargaining favours those governments able to remove negative externalities by opening markets to which others intensely desire access. However, the more intensely the governments desire agreement the more concessions and the greater effort they expend to achieve it. The greater the potential gains for a government from co-operation, as compared to its own best alternative policy, the weaker its bargaining power over the specific terms of agreement (Moravcsik, 1993b: 499).

It is argued here that whilst most EU states shared a concern about hedge funds, only Germany held preferences that were sufficiently intense. Germany had adopted a highly prescriptive regulatory framework on hedge funds, which departed significantly from international practice. Given the international nature of hedge funds, this unilateral action was ineffective, therefore the German government pushed for international cooperation.

Successive German governments have led calls for regulatory intervention on hedge funds. In 1999 the German government proposed international cooperation on the regulation of hedge funds at the G8 conference (Helleiner and Pagliari, 2009: 282). Chancellor Schroder pressed the issue again at the 2005 G8 summit in Scotland (BBC, 2005). Most participants interviewed identified German concerns over hedge-fund activism as a key driver of EU hedge fund regulation (PA19, PA08, IND13, IND08, 2009).

The UK regulatory regime offered the City of London considerable regulatory advantages compared to other European financial centres. As an international wholesale market for financial services the UK had the least to gain from EU regulatory intervention to level the playing field. Moravcsik (1993) argues that those states that have the least to gain have the greatest bargaining leverage. The need to compromise with the least forthcoming government imposes the binding constraint and drives agreements towards the lowest common denominator (Moravcsik, 1993b: 500-501), which in this case was the maintenance of the status-quo in the 2007 White Paper.

In summary, it is argued that in 2007 although there was consensus on the need for action there was no consensus on the part of member states on what needed to be done. Moravcsik (1993b: 486) argues that even where agreements between states create mutual benefits, governments often have different preferences concerning the distribution of benefits, leading to conflict over the precise terms of cooperation. Commission official PA19, responsible for the drafting of the 2007 White Paper, said, "

> …you had Member States that wanted alternative investment fund regulation, and here you have to make a distinction between hedge funds, private equity and real-estate funds. For the Germans real estate was their thing and the French wanted something on hedge funds, and private equity was a more party political thing.

Although certain member states shared unease about hedge funds, member state preferences in this policy area (with the exception of Germany) were not sufficiently intense, or indeed aligned, in 2007 to achieve EU intervention.

AIMF Directive: A New Regulatory Paradigm?

It is argued here that the 2008 crisis increased the *intensity* of national preferences across the EU. What has emerged is a renewed consensus amongst member states towards collective EU regulatory intervention, and this resulted in the Alternative Investment Fund Managers ('AIFM') directive.

Senior industry participant IND13 reported that the crisis focused the attention of the ministries of finance in each member state. He said, "they all needed to show that they were doing something… but this was something that was not really on the agenda beforehand…even my [*Italian*] regulator didn't see it as a priority before" (IND13, 2009).

Some authors (Quaglia, 2009) argue AIFM represents a new 'market-making' regulatory paradigm not just in hedge fund regulation, but also more broadly with regard to the regulation of capital markets. Quaglia (2009) says this paradigm is characterized by a distrust of 'casino-capitalism' and concerns over financial stability, and has been promoted by a Franco-German alliance with the support of Italy and other 'Club Med' member states. She argues that this 'regime' pre-dates the 2008 crisis, although it was not in "good currency" (Quaglia, 2009; Quaglia et al., 2009).

It is argued here that the concept of a 'new regulatory paradigm' is overstated. As demonstrated earlier there is no common EU definition of the policy problem, or indeed the solution on hedge funds. Member state preferences on financial integration arise out of specific national interests, determined by capitalist traditions and the relative power relations between states. Rather, it is argued that the key outcome of the 2008 financial crisis was that it ignited the French government into action, because it offered a political opportunity to re-assert EU influence over the dominance of the City of London and create a level-playing field.

None of the participants interviewed identified France as having taken a particularly strong position on hedge funds prior to the 2008 financial crisis. In fact, Commission official PA19 reported that France was 'dismissive' of hedge fund regulation, whilst UK Treasury official PA37 described the French government's position as 'more sensible than the Germans' (PA18, PA37, 2009).

However, Senior Commission official PA18 said the crisis prompted, "…an immediately fierce reaction from the French" (PA18, 2009). In September 2008, in a speech before the UN General Assembly in New York, President Sarkozy called for the rebuilding of a 'regulated capitalism' arguing that 'no financial institution should escape regulation and supervision' (Sarkozy, 2008a, 2008b). This marked an attempt by Sarkozy to bring back into international debate the regulation of the hedge fund industry (Helleiner and Pagliari, 2009: 281).

Sarkozy was quick to blame the Anglo-American model for triggering the 2008 financial crisis. After the appointment of Michel Barnier as Commissioner for the single market, Sarkozy told French newspapers that the new French Commissioner would take "charge'' of the City of London (Winnett and Samuel, 2009). Mr Sarkozy said it was time to end the "freewheeling Anglo-Saxon model'' of finance and that he wanted the "…the world to see the victory of the European model, which has nothing to do with the excesses of financial capitalism" (Elliot et al., 2009).

The French government seized on the political opportunity offered by the 2008 crisis to push to extend its own tougher regulatory regimes on hedge funds, in order to create a 'level playing field' that would remove the competitive advantage of the UK's 'lighter' regulatory regime. Commission official PA19 who was responsible for drafting the AIFM directive explained that the French government put much of the extra detail in the directive in. He said, "The Commission only wanted managers to be regulated, but the French wanted to drive the industry onshore so pushed for third country rules and depositors liability" (PA19, 2009).

A former member of the Committee of European Security Regulators ('CESR') said that it was rumoured around Brussels that high-level individuals close to Sarkozy had lost money in the Madoff fraud (PA08, 2009). This has made France a vehement supporter of the "strict liability" model for depositories that found its way into the AIFM directive. The French government wanted to see significant investors facing duties ascribed to depositories and to limit their ability to delegate functions or to contract out of liability (Manvatkar, 2009: 6).

Rules restricting the access of non-EU funds to EU markets ('third country rules') represent another characteristic of the French economic philosophy that is reflected in the EU legislation. Former senior CESR official PA08 said that, "French…registration regulations made it really burdensome for foreign (or non-EU) credit agencies to operate in Europe, and the same approach is in the AIFM ...its really difficult for third countries and funds to access the European markets" (PA08, 2009).

Tsoukalis (1996) argues that the French have had a longstanding reticence towards the liberalization of capital markets. Whilst UK, Germany and the Netherlands abolished virtually all restrictions by the end of the 1970's other countries such as France and the whole of Southern Europe retained for years a heavy armoury of control directed mainly at short-term capital movements (Tsoukalis, 1997: 94).

In the push for EU action on hedge funds, Germany was a natural ally to the French. As outlined earlier German national preferences on collective action had been intense prior to the crisis, and had remained so even after intervention was ruled out in the 2007 White Paper. In 2007 the new German coalition government, headed by Angela Merkel, used the presidency of the European Council and the G8 to put forward proposals for an international register of hedge funds, greater transparency of their dealings and a code of conduct (Benoit and Atkins, 2007).

In February 2009, German Chancellor Angela Merkel hosted a summit of German, French, Italian, Spanish, Dutch and British leaders in Berlin that aimed to reach a common EU position on regulatory reform (including hedge funds) in advance of the London G20 meeting. President Sarkozy set out his vision of hedge funds and private equity as 'aggressive' gangs of 'speculators', bent on snapping up firms, sacking workers and creaming off profits (Economist, 2010).

Towards the end of the French presidency of the EU, President Sarkozy reassured the European Parliament that no financial institution would escape regulation (Quaglia, 2009: 24). Sarkozy and Merkel sent a joint letter to Mirek Topolanek, Prime Minister of the Czech Republic and Jose Manuel Barroso, President of the European Commission, in preparation for the G20 Summit in April 2009 which reiterated that 'The European Union must propose that all hedge funds and other funds presenting a potential systemic risk be subject to appropriate registration, regulation and oversight' (Quaglia, 2009: 14).

Former senior official of the CESR PA08 commented that by the G20 conference in London, the French and Germans were able to push for regulation at a global level. He said, "it was really clever of the French and Germans because they pushed it to the G20 conclusions which they could then refer to" to strengthen their position in EU negotiations. The Commission published the AIFM draft Direction shortly afterwards in May 2009 (PA08, 2009).

However, the progress of the AIFM directive has been more difficult, and more politically charged, than one might expect from legislation that benefits from such a wide consensus, especially on the issue of how to deal with non-EU funds and depositary liability. This raises significant questions about the emergence of a new regulatory paradigm. The prolonged negotiations in the Council and the acrimonious relations between member states demonstrated that while there may have been a consensus on the need for regulatory intervention, there was considerable disagreement on the actual scope of the AIFM directive.

The debate around the issue of depository liability was politically charged. While France wanted to see depositories offer liability to investors, other member states more sensitive to industry concerns, recognized that a radical re-shaping of depository duties and functionality would have a very material effect on business models, operational costs and investors' ability to access various overseas markets (PWC, 2010: 5). Nevertheless, depositary liability made it into the final compromise text agreed by ECOFIN in October 2010. However, the French were not as successful on EU passports for non-EU funds.

The third-country provisions of the AIFM directive promoted by the French in both ECOFIN texts were criticized as being protectionist in nature, creating a "fortress Europe" as they limited the ability of EU based fund managers and non-EU managers to market foreign domiciled funds in Europe. Both the Swedish and the Spanish compromise texts ruled out the option of an EU passport for non-EU funds sold by managers based in the EU or elsewhere (Manvatkar, 2009). The Council texts favoured the continuation of national private placement regimes over EU passporting.

However, the compromise draft presented by the Belgian presidency and adopted by ECOFIN as the final draft of the AIFM directive, provided for a dual system of EU passporting and the continuation of national private placement regimes (Tait, 2010). This will have the effect of allowing non-EU managers and funds to obtain the same pan-EU marketing passport as their European counterparts, after the transition period of two years (see chapter 4).

The compromise position required the French government to back down from its protectionist stance and allows the UK to be able to continue to operate its current 'light-touch' model of fund management unhindered by the new EU legislation. However, the UK has had to agree to a heightened role for the new EU regulatory authority, European Securities and Markets Authority ('ESMA'), based in Paris (Charter, 2010). ESMA's role in administering the new system will be phased in over several years, starting with a passport for EU funds in 2013, followed by a scheme for non-EU managers from 2015, with national private placement regimes being harmonized three years later (Waterfield, 2010).

The agreement on the final scope of the directive has been protracted and difficult because member state preferences on financial integration arise out of specific national interests, which are determined by capitalist traditions. These 'varieties of capitalism' and the interests that underpin them, are unchanged by the financial crisis, therefore state preferences remain considerably divergent. One should not confuse collective agreement on the need for action, with a common understanding of the most appropriate solution. In the case of hedge fund regulation, while the former is evident, the latter has often been lacking.

Like the 2007 White Paper before it the final scope of the AIFM directive is best explained by interstate bargaining, rather than a new EU regulatory paradigm.

Conclusions

A state-led approach using VoC and Liberal Intergovernmental perspective helps to explain the origin of divergent state preferences on hedge funds.

The close association of hedge funds with Anglo-American capitalist traditions has given rise to a common belief in a need for action. EU hedge fund regulation can therefore be contextualized in terms of a 'battle of systems' as described by Story and Walter (1997), or as part of a broader continental European defence of national capitalist traditions against the spread of the Anglo-American market practices.

By considering *interstate bargaining* as an explanation of policy outcomes, the research lens is focused on the *intensity* of national preferences. Only Germany's preferences were sufficiently intense to seek collective action in 2007. However, the need to compromise with the least forthcoming government, in this case the UK imposed the binding constraint, which drove agreement towards the lowest common denominator, thus the status quo was maintained in the 2007 White Paper.

The 2008 financial crisis was a pivotal moment in EU hedge fund regulation because it re-energized the issue in most member states, intensifying national preferences and resulting in the AIFM directive. However, progress towards a common policy solution has proven difficult, because national preferences on the appropriate regulatory solution remain determined by capitalist traditions and relative power relations. National differences persist and have survived attempts at integration

The state-led perspective has been shown to have useful explanatory power, but it focuses too much on interstate negotiations and fails to take into account the institutional context. Hedge fund regulation did not reach Council negotiations until May 2010. However, crucial stages of agenda setting and early decision-making took place within the institutional setting of the Commission, and to a lesser extent the Parliament.

Moravcsik (1993) recognizes that when there is general support for joint action, but considerable disagreement between national governments over what should replace the status quo, this gives rise to circumstances in which the Commission's agenda setting power is particularly decisive (Moravcsik, 1993b: 512). The importance of the institutional context is explored in the next chapter.

Chapter 6: Institutional Approach

Path Dependency and Critical junctures in EU hedge fund regulation

This chapter explores the extent to which policy outcomes on hedge fund regulation were determined by the institutional dynamics of the EU. It draws on historical institutional literature, in particular 'path dependency' (see Capoccia and Kelemen, 2007; Mahoney, 2001; Page, 2006; Pierson, 2000; Thelen and Steinmo, 1992) and 'critical junctures' (see Collier and Collier, 1991; Levi, 1997; Pierson, 2000, 2005).

In the previous chapter it was demonstrated that member states were divided over the optimum policy solution to hedge fund regulation. It is argued, that in these circumstances the institutional context gains particular significance.

Part I of this chapter investigates the path dependent processes that led to the Commission's decision to maintain the status quo in the 2007 White Paper on *Enhancing the Single Market framework for investment funds*.

In Part II, it is argued that the 2008 financial crisis 'punctured' the established equilibrium, undermining the authority of the Commission to provide policy leadership and creating an opportunity for the European Parliament ('Parliament') to lead the policy debate.

PART I: PATH DEPENDENCY IN EU HEDGE FUND REGULATION

The 2005 Green Paper, *on Enhancement of the framework for investment funds*, was the Commission's formal policy response to the growing pressure for action (see chapter 5). Given the active support for action by key member states, some institutional actors and important interests, action might reasonably have been anticipated. However, in the subsequent 2007 White Paper[30] the Commission ruled out an EU level regulatory response on hedge funds (CEC, 2006g)

Path dependency offers a causal explanation for the Commission's decision to maintain the status quo. Pierson (2000: 260) argues that path dependency is a critical concept for political scientists seeking to understand the sources of political stability and change. Therefore, analysis of the micro-level processes that produce path dependencies might help to explain what actors have succeeded at what stages in EU hedge fund regulation.

Path dependence provides a way to conceptually link decision-making through time, however it is not a process of inevitability in which the past neatly predicts the present, rather it helps to identify the conditions that are necessary for past choices and outcomes to influence the present (Page, 2006: 87).

It is demonstrated below that by using its monopoly of policy initiation, the Commission was able to create the conditions necessary to establish a policy 'equilibrium' in financial services, which shaped its response to hedge fund regulation.

Whilst policy options appeared to be more open during the Green Paper (2005) consultation, in fact they were constrained by earlier Commission choices and actions, which had given rise to 'increasing returns', making a departure from the established policy equilibrium highly unlikely.

Before considering the effect of this equilibrium on hedge fund policy specifically, it is firstly necessary to draw back the research lens in order to understand what initially gave rise to this policy equilibrium. EU policy responses to hedge fund regulation needs to be analyzed within the broader and longer-term programme to integrate European financial markets (Lutton, 2008: 173).

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[30] Enhancing the Single Market Framework for Investment Funds

EU Financial Markets Integration: An Emergent Policy Regime

Wymmersch (2005: 1009) argues that over the last fifty years, despite the considerable technical difficulties and often limited enthusiasm of member states, EU decision-making on financial markets integration has evolved into a coherent policy regime.

Several authors argue that the Commission acted as catalyst in the development of this regime, playing a crucial central role fostering a favourable political environment, providing resources and bringing together a coalition of public and private actors (see Weber, 2001, Mather, 2001, Quaglia, 2007, Majone, 1996, 1997, 2002b, 2006).

Majone (1994) argues that offices of the Commission responsible for a particular policy area form the central node in a vast 'issue network' that includes not only experts from the national administrations, but independent experts (also from non-EU countries), academics, public-interest advocates, representatives of economic and professional organizations and of regional bodies. Commission officials listen to everybody - both in advisory committees, which they normally chair, and in informal consultations - but are free to choose whose ideas and proposals to adopt. Majone (1994: 91) argues that the Commission operates, less as technical experts alongside other technical experts, but more as ‘policy entrepreneurs’, that is, as 'advocates’ who are willing to invest their resources - time, energy, reputation, money - to promote a position in return for anticipated future gain in the form of material, purposive, or solidary benefits'.

Initially, the Commission attempted to harmonise the diverse national systems into a single unitary framework, but in this early phase of financial services integration it struggled to make any significant advances (Story and Walter, 1997: 26). However, the landmark ruling by the European Court of Justice on the Cassis de Dijon case in 1979 established the principle of mutual recognition and offered the Commission a new policy approach. Rather than attempting to harmonise diverse systems into a unitary framework, the Commission redefined harmonisation as the establishment of common standards (Story and Walter, 1997: 16).

The Single European Act (1987) boosted the new approach with a legal basis and committed member states to work progressively towards a single market in financial services. However, divergent national rules on licensing, market access and prudential measures persisted into the early nineties and remained effective barriers to a fully integrated market (Hager, 2007: 14).

Monetary union and the introduction of the Euro provided a new stimulus (Grahl et al. 2005: 1005). At the Cardiff summit in 1998 the Council asked the Commission to establish a framework for action to improve the single market in financial services. The Commission drafted the FSAP which containing 43 measures subject to Qualified Majority Voting ('QMV') to be implemented by 2005 (Grahl et al., 2005: 1010) that would complete the transition from a liberalized, to a truly integrated EU market in financial services (Bieling, 2003: 14).

The Council appointed a 'Council of Wise Men' to explore how best to adapt securities regulation and co-operation between national regulators in an effort to overcome the difficulties experienced during earlier attempts to integrate European securities' markets (Visscher et al. 2007: 5). The Council's committee, chaired by Alexandre Lamfalussy, former President of the European Monetary Institute, resulted in the Lamfalussy process[31], which created a four level system to improve the legislative process (Visscher et al. 2007: 5).

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[31] The new regulatory structure of the so-called Lamfalussy process was initiated by the Stockholm European Council Resolution of 23 March 2001 on "more effective securities market regulation". The Lamfalussy process is based around the four-level regulatory approach recommended by the Committee of Wise Men on the Regulation of European Securities Markets, chaired by Baron Alexandre Lamfalussy. The process was designed to make Community legislation on securities markets more flexible, so that it can be agreed and adapted more quickly in response to innovation and technological change in financial markets; to allow the

The policy regime that emerged in financial services was principally focused on legislative intervention aimed at completing the internal market and promoting free trade. The legislative mechanisms by which this was achieved were minimum standards, mutual recognition, and rule making through the Lamfalussy process (Wymeersch, 2005: 1009).

The regime established the 'rules of game', with the Commission playing a crucial central role in building-up behavioural routines, social connections and cognitive structures, which Page (2006) argues, are the conditions necessary to create an 'equilibrium' or a path dependency (Page, 2006: 89).

Although a coherent EU decision-making regime has emerged in financial services, unlike competition policy the regulatory framework has not involved any direct transfer of powers from member states (Genschel et al., 1997: 101). Whilst rule-making and decision-making have been increasingly centralized at the EU level, 'supervision' remains very much a national competence (Wymeersch, 2005: 988). It is only in response to the 2008 finance crisis that a centralized EU regulator has been created. The European Securities and Markets Authority ('ESMA') will be based in Paris from January 2011 and will have the ability to intervene in situations where there was a risk to the integrity of European financial markets (Tait, 2010). However, historically the policy regime in financial services is 'asymmetric', disproportionately weighted towards negative integration. In other words *light-touch* and focused on 'market

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Institutions to benefit from the technical and regulatory expertise of European securities regulators and from better involvement of external stakeholders; and to focus more on even implementation and enforcement of Community law in the Member States. One of the key innovations of the Lamfalussy process is the creation of two Committees to advise the Commission on Level 2 implementing measures – the European Securities Committee (ESC) representing the Member States and functioning as a so-called 'regulatory committee' under the Comitology arrangements – and the Committee of European Securities Regulators (CESR). The two Committees were set up by Decisions of the Commission on 6 June 2001106. The ESC acts in its capacity as a regulatory committee, assisting the Commission in the exercise of its delegated executive powers, within the terms defined in the Directives adopted at Level (CEC,2009b).

access' over regulatory supervision. Majone (2006) argues that this asymmetric treatment of 'positive' and 'negative' integration has been a long-standing feature of European integration and is evidenced in the disproportionate use of negative integration in the completion of the single market (Majone, 2006: 622).

b. FSAP and hedge fund regulation

The crucial step along this policy path concerning EU hedge fund regulation was the Financial Services Action Plan ('FSAP'), as it put the Commission at the centre of a network of financial actors.

Commission official PA19 said that before the late 1990s the Commission had been accused by the industry of making policy from 'ivory towers'. He said, "…the FSAP put the Commission back at the centre of the debate" (PA19). Senior Commission official PA18, described the regulatory agenda established by the FSAP has having been "good to us" because it had allowed the Commission to "…establish very good credibility vis-à-vis the City and others" (PA18, 2009).

The pro-market nature of FSAP and its emphasis on deregulation and market access aligned the Commission's agenda with that of industry interests. The Commission needs close contact with private actors in order to ensure it provides *input legitimacy* (Bouwen, 2002; Grossman, 2004; Scharpf, 1997; Scharpf, 1999). It seeks to attract maximum 'expert knowledge' as a means of mobilizing national and European encompassing interests, in order to legitimize its proposals with regard to the Council and the Parliament (Grossman, 2004: 646-647).

The maintenance of a credible relationship with financial actors, constituted a process of *increasing returns* (Pierson, 2000, 2005) for the Commission, committing it to a particular policy path on hedge funds. It is argued here that the 'rules of the game' established by the broader regime in the financial market integration, constrained the 'scope' of any regulatory initiatives on hedge fund to the correction of market access issues.

Path dependency therefore offers a plausible explanatory model as to why the 'market access' argument won out over the 'financial stability argument' in the drafting of the Green Paper, despite pressure from some key member states and EU institutions to address some of the financial stability concerns about hedge funds. Path dependency also helps to explain why the Commission was reluctant to bring forward any legislation on hedge funds in 2007 (see chapter 5).

The *Financial Integration Monitor*, published in April 2004 set out the Commissions priorities post-completion of the 2005 FSAP deadline. It positioned the issue of hedge funds broadly within the integration of financial markets, but more specifically in terms of the ongoing review of the UCITS directives[32] (CEC, 2004a: 58).

The Commission considered asset management to be developing into an important area of finance, but recognized that the only EU legislation in this area was UCITS (PA19, 2009). A Commission official and network actor – PA19 said, "…that was the first way the issue was formulated, there was this whole non-UCITS space we'd like to benefit from passporting, and this is how it came onto the Commission's radar screen" (PA19, 2009).

Several of the participants in the Green Paper consultation who were interviewed confirmed that the focus of the consultation was on the single market (IND08; IND13; PA08; PA37). A senior UK Treasury official and network actor – IND08 said, """…the debate was framed in terms of the completion of the single market, or rather a continuation of UCITS." A former senior member of the Committee of European Securities Regulators ('CESR') PA08 said the purpose of the Commission agenda on asset management was to "…complete the single market and create a level playing field with the US" (PA08, 2009).

Senior Commission Official PA18 confirmed that the Commission believed a harmonized product similar to UCITS might form the basis of an EU framework for hedge funds (PA18, 2009). Commission official PA19 said "…we'd had to

[32] For a detailed explanation of the UCITS legislation see chapter 4

engineer some form of harmonized rules… that was the logic of MiFD and UCITS and it was the same with hedge funds, the conditions would be light-touch but would need to be the same type of regulatory harmonization" (PA19, 2009). The Commission was dismissive of the financial stability issues, PA19 said, "…at that time no one was really familiar with the macro-issues…it was all about the single market and investor protection, ensuring that investors remained qualified" (PA19, 2009).

Direct intervention along the lines of the 'regulate everything' approach to hedge fund regulation (see chapter 4 and 6) would have constituted a significant departure from the established policy path and therefore in the context of path dependency theory would have been highly unattractive to the Commission.

The liberal pro-markets financial agenda had been 'good' to the Commission, raising its credibility amongst key economic actors and putting it at the centre of a policy network of public and private actors. Understood through the logic of increasing returns regulatory invention, beyond the correction of market access issues, would have been counterproductive and damaged the Commission's credibility amongst its hard fought constituency of financial actors.

As Majone (2006: 613) observes the Commission can be thought of as a rational actor capable of self-regarding manipulation of the policy process to meet its own interests. It is suggested here that just as in financial services integration where the Commission had acted as an agenda setter and policy entrepreneur, in the case of hedge funds it was able to engineer events towards outcomes that served its own interests. The preferred outcome for the Commission in this case was not to act in order to maintain the status quo.

Commission official, network actor – PA19, said that at the time hedge fund regulation was being discussed "…the Commission was on the back foot, we'd done the FSAP and everyone was complaining pretty loudly…so the climate was not right."

Although it offered substantial benefits the FSAP had come with considerable implementation costs for the financial services industry. Wymeersch (2005) argues that following intense legislative activism the FSAP the Commission 'paused' to consolidate and implement (Wymeersch, 2005: 990). The first priority stated in the White Paper *on Financial Services Policy* (2005-2010) was to "dynamically consolidate progress and ensure sound implementation" of legislation already in place (CEC, 2005f).

Six months before the publication of the Green Paper, Commissioner McCreevy told a CESR Conference,

> I hear clearly the message from the financial services industry. I understand the strain that the Action Plan [*read FSAP*] has put on the resources of all actors. I recognize there is some regulatory fatigue… I cannot promise there will be no proposals from the Commission during my mandate. But I can at least reassure you that I do not envisage bringing forward any major co-decision proposals aimed at securities markets during 2005 (McCreevy, 2004).

Commissioner McCreevy's tenure at the DG Internal Markets was characterized by ambivalence towards any type of regulatory intervention. There was a perception amongst industry actors that McGreevy had come into the role with the task of reducing policy output from DG Internal Markets (IND08, 2009).

UK treasury official PA37 said, "…his attitude was very much I'm not doing anything unless someone proves there is a market failure and he was quite adamant on this on absolutely everything." Commission official PA19 said that this made McCreevy as a "polarizing figure" in EU politics (PA19, 2009).

Senior Commission official PA18 reported that it was McCreevy himself who ruled out allowing FoHF into the UCITS framework[33], because he felt the

[33] The incorporation of FoHF into the UCITS framework was supported by many industry actors, see chapter 7

Parliament would use the opportunity to expand the scope into a direct legislative framework for hedge funds. Even on private placement, where there was member state support, McCreevy was "nervous" about presenting draft legislation to the Parliament (PA18, 2009).

The empirical evidence suggests that the Commission only paid lip service to the pressure for regulatory action. One industry participant in the Green Paper consultation described the process as, "…a slightly odd experience, lots of round table discussions with the Commission really driving the agenda…I think they knew the outcome before they started and we were a little bit of a rubber stamp" (IND08, 2009). Several other consultation participants echoed the idea that Commission had decided on the outcome of the consultation from the outset (IND13, 2009; PA37, 2009).

A senior member of EFMA, the main European industry association said, "…the Green Paper was just a political show…a way by the Commission to show it was willing to consult with a large number of stakeholders… in the end what we got was the revision of UCITS and this was very much what was on the cards from the beginning…everything beyond that was all shelved". He argued that even initiatives that were supported by member states, such as real estate funds by the Germans and harmonized private placement supported by the UK, were side stepped. He said, "The Commission feigned to be proactive, but they didn't really want to produce anything" (IND13, 2009).

PART II: A PUNCTURED EQUILIBRIUM – THE 2008 FINANCIAL CRISIS

In 2007 when the Commission ruled out regulation, despite building pressure for action in some quarters, hedge funds were still operating in a relatively benign political environment in Europe. Former CSER member PA08, described the debate prior to the 2008 financial crisis as "…technical, no one could care less about UCITS" (PA08, 2009). However as illustrated in Chapter 5, the 2008 financial crisis politicized the issue of the hedge fund regulation in most member states.

The 2008 financial crisis was a ‘critical juncture’ in EU hedge fund regulation, which punctured the Commission’s established equilibrium and opened up the range of policy choices available to the multiplicity of actors who had been drawn into the debate.

Senior UK Treasury official, network actor – PA37 described the event as a “window opening” for anyone on continental Europe seeking to challenge the regulatory landscape of EU financial markets (PA37, 2009). Industry network actor – IND08 described the attitude towards hedge funds in Brussels as “…much more defensive…hedge funds moved from masters of the universe to the bad guys” (IND08, 2009).

The financial crisis punctured the logic of the established equilibrium, by discrediting the authority of light-touch market-led regulatory agenda that the Commission had been pursing over the last decade, and undermined the ability of the Commission to provide policy leadership. The institutional ‘gap’ was filled by the European Parliament (‘Parliament’), which became the focus for the backlash against inaction on hedge funds, and a critical driving force behind the pressure on the Commission to reverse its position on hedge fund regulation.

Much of the literature on the Parliament focuses on the democratic deficit, (Follesdal and Simon, 2006; Mather, 2001; Schmitt, 2005), but many scholars have overlooked the influence of the Parliament on policy outcomes, and fail to take into account its increased legislative powers.

The expansion of the Parliament’s legislative powers from consultation via co-operation to co-decision, in the course of four treaty changes has been significant[34] Christiansen (2008: 244) argues that these reforms have

[34] Commission accountability to the European Parliament was strengthened at Maastricht by the extension of the Commission’s term of office to five years, making it concurrent with the electoral term of the European Parliament. A new provision (Article 214) required governments to consult the Parliament in regard to their nomination of their nominee for Commission President. The Treaty of Amsterdam institutionalized the Parliament’s interpretation of the

strengthened the hand of the Parliament vis-à-vis the Commission, and as a result the Commission's relationship with the EP has become more adversarial at the Parliament's influence and self-confidence has increased. Commission official PA19, responsible for the drafting of AIFM directive, said, "The Parliament became the institution that forced the Commission to back down from its inactive stance" (PA19, 2009).

In the aftermath of the 2008 financial crisis relations between the Parliament and the Commission became extremely adversarial. The Socialist grouping of the Parliament - Party of European Socialists ('PSE) - lead by Poul Nyrup Rasmussen were long standing supporters of collective EU action on hedge funds and opposed to the Commission's decision not to bring forward regulation (PSE, 2007).

Prior to the crisis, the Parliament's Legal Affairs Committee unanimously adopted a report by German MEP, Klaus-Heiner Lehne, which called on the Commission to bring forward legislation on the transparency of institutional investors, requiring companies to disclose their investment policies and associated risks (see chapter 1).

After the crisis broke the Socialists became much more vocal on the social costs of hedge funds and private equity[35]. Rasmussen accused hedge funds of "…contributing to the build-up and depth of the crisis" (CEC, 2009c: 1). The primary target of the Parliament's backlash was Commissioner McCreevy, who

provisions of the TEU, granting it a formal investiture power, requiring the Commissioners-designate not just to undergo lengthy hearings in front of the respective committees of the European Parliament, but also to complete extensive questionnaires about their competence and their European credentials. At Nice, a number of changes to the operation of the Commission were agreed, the most critical concerned the role of the President whose hands are to be strengthened vis-à-vis the individual Commissioners (Christinasen, 2008).

[35] For details of labour union opposition to activist hedge funds and private equity see chapter 2.

was accused of being too close to the markets and promoting Irish over European interests[36].

The Commission officials believed MEPs were 'jumping' on hedge fund regulation because it offered a political opportunity to pursue wider social goals (PA18, 2009). Senior Commission official PA18 described Rasmussen and the Socialist's behaviour as "vitriolic" (PA18, 2009) and said they were ill-informed about the complexities of financial markets., "…they didn't understand what a hedge fund did, they don't understand financial services legislation" (PA18, 2009). Commission official PA19 described the atmosphere between the Commission and the Parliament by the beginning of 2009 as "extremely polarized and quite nasty" (PA19, 2009).

It is argued here that the shifting power relations between the Commission and the Parliament help to explain the Commission's u-turn on hedge fund regulation. Majone (2002) argues that the effect of increasing the Parliament's power and the Commission's accountability to it threatens to transform the Commission from a non-majoritarian institution, designed to stand above ideological difference and act independently in the common European interest, into a partisan body, concerned more about its own short-term survival and placating parliamentarians than pursuing the long-term objectives set down by the treaties (Majone, 2002a).

The Commission initially tried to maintain the policy equilibrium on hedge funds. Senior Commission official PA18 reported that McCreevy gave the DG specific instructions not to prepare anything on hedge funds "under any circumstances" and to continue working on a common framework for private placement regimes (PA18, 2009). The official responsible for drafting the AIFM said that even as late as March 2009 following the completion of the *Public*

[36] Ireland dominates the fund administration services sector, with almost half of all EU assets administered from Dublin (CEC, 2006f).

Consultation on Hedge Funds it was still unclear whether the Commission would bring forward any legislation on hedge funds (PA19, 2009).

It was widely believed in Brussels that the Socialists would benefit politically from the financial crisis and become the largest party in the Parliament in the up-coming June 2009 elections (PA08, 2009; PA18, 2009; PA19, 2009; PA33, 2009). The Maastricht Treaty had tied the Commission President's term of office to the electoral term of the Parliament; therefore President Barroso was also seeking a mandate for a second term. A senior Commission official and network star said, "Barroso was told if you don't bring hedge fund regulation before Parliament breaks you can wave goodbye to your socialist support… so it was that second mandate that drove his thinking" (PA18, 2009).

McCreevy was effectively ordered by the Commission's presidency to bring forward legislation and the Commission officials were told, "…you're writing a directive and you have three weeks to do it" (PA19, 2009). The political intervention of the President into an area that had previously been very technical was extremely unusual. A Commission official said, "I haven't seen something as unpleasant as that, or as difficult, I mean there have been other difficult files but that one was unusual in how vicious the politics became" (PA19, 2009).

The net effect was to undermine the Commission's authority and leadership in this policy area. The industry lobby immediately began to focus attention on the Parliament and Council rather than the Commission (IND08, 2009). Former CESR official PA08, now working in a senior industry position, said "I am surprised how many people still go and see the Commission…the Council and the Parliament are at the driving seat" (PA08, 2009).

Conclusions

In Chapter 6 it was demonstrated that member states were divided over the optimum policy solution to hedge fund regulation. It is argued that in this context the role played by institutions gains in importance.

This chapter has argued that the EU response to hedge fund regulation needs to be understood as part of a broader policy regime in financial services, in which the Commission - through its monopoly of policy initiation - was able to create the conditions necessary to establish a policy 'equilibrium'.

Path dependency therefore offers a plausible explanation for the Commission's decision not to regulate hedge funds in the 2007 White Paper. A pro-market, market access-led policy agenda had created *increasing returns* and placed the Commission at the centre of a policy network of financial actors. Even at the highest political level in DG Internal Markets there was a reluctance to embark on any significant regulatory change, rendering EU action on hedge funds in 2007 extremely unlikely from the outset.

It has been demonstrated that the 2008 financial crisis 'punctured' the established policy equilibrium in financial services. This event not only challenged the light-touch market-led regulatory agenda, but also crucially undermined the ability of the Commission to provide leadership and authority.

The institutional 'gap' was filled by the Parliament, which drove the EU policy agenda on hedge funds after the crisis. Successive treaty amendments that have increased the accountability of the Commission to the Parliament were instrumental giving the Parliament the necessary leverage to force the Commission into a u-turn on hedge fund regulation.

Policy outcomes on hedge fund regulation have been shown to be embedded in the institutional dynamics of EU integration. In the context of conflict, or indecision, on the part of member states, institutions matter. This chapter has demonstrated, however, that the traditional focus on the Commission is insufficient. To fully understand policy outcomes, the role played by the Parliament must increasingly be taken into account. In the following chapter it is argued that the role played by powerful interests in shaping the position of key institutional actors must also be analyzed closely.

Chapter 7: Interest-based Approach

Financial actors and Commission decision-making

This chapter explores the nature of interest group participation in EU hedge fund regulation, and considers the extent to which policy outcomes are explained by the lobbying activities of private business interests.

The chapter draws on research in EU lobbying that explores how private business interest groups gain access to EU institutions, in particular the Commission, and translate this advantage into concrete policy outcomes (see Bouwen 2002, Hertig 2000, Grossman 2004, Bieling, 2003, Mazey and Richardson, 1993).

It was shown in the previous chapter that the European Parliament ('Parliament') came to be important in the later stages of the policy process in relation to EU hedge fund regulation. However, the Commission played a key role in agenda setting and decision-making in the formal policy participation events on hedge fund regulation, therefore this chapter focuses on the extent to which private business interests were able to influence Commission decision-making.

Empirical evidence is presented that suggests that financial 'industry' interests heavily influenced the Commission. However, it is argued that business interests are too often assumed to be homogenous. To better understand which particular private business actors were the most influential, the concept of industry interest is unpacked.

Policy outcomes are analyzed using a more nuanced definition of financial interests, and it is shown that the Commission's decision-making in the 2007 White Paper was not simply pro-markets, but was specially aligned to the interests of a particular set of financial actors – namely UK based market participants promoting an Anglo-American regulatory solution to hedge fund regulation.

Commission/ industry relations - Partnership for 'in-action'?

There is considerable empirical evidence to suggest that financial interests lobbied the Commission on hedge fund regulation, and that this lobbying influenced decision-making.

Senior Commission official PA18 said that he believed, with hindsight, "…too much influence…" had been given to industry interests (PA18, 2009). A commission official involved in the Green Paper consultation said that, "DG Markets is quite conscious they are permanently being lobbied" (PA33, 2009). She said, "…it's a rich industry, it has a lot of money…and it is very easy to buy lobbyists and create associations…this creates permanent talking, either through dinners or lunches or conferences, they invent a lot of activities and forums to create discussion" (PA33, 2009)

Windhoff-Heritier (2002) argues by exploiting the Commission's need for expert knowledge private interests can influence public policies to their own advantage, adjusting them to specific sectoral needs. (Windhoff-Heritier, 2002: 194). Commission official PA33 said the industry had the advantage of resource and money, which meant they were able to keep up the pressure on Commission officials and exploit the need for expert knowledge in order to, "…exclude from the debate other parts of the story" (PA33, 2009).

The Commission was criticized on several occasions by trade union groups and the socialist grouping of the Parliament for allowing actors with an interest in maintaining the light-touch regulatory environment to be disproportionately represented (Commission, 2004b: 14; 2006b). Trade unions often presented the argument that the Commission was failing to assemble expert groups that were socially representative, taking into account the intensive debate in society concerning the activities of hedge funds (Metal, 2006).

Analysis of actor participation in the formal decision-making events around hedge fund regulation, confirms this bias towards industry interest (see chapter 2). Actors representing societal interests, such as consumer groups and trade

Fig.34: Other Stakeholders & Citizens by Primary Function as % of total participants

Citizens	Individual	1.54%
	Think Tank	1.54%
	University	1.15%
Citizens Total		*4.23%*
Other Stakeholders	Business & Industry	3.85%
	Consumers	2.69%
	Legal	0.77%
	Market Data	2.31%
	Stock Exchange	0.38%
	Trade Union	5.00%
Other Stakeholders Total		*15.00%*

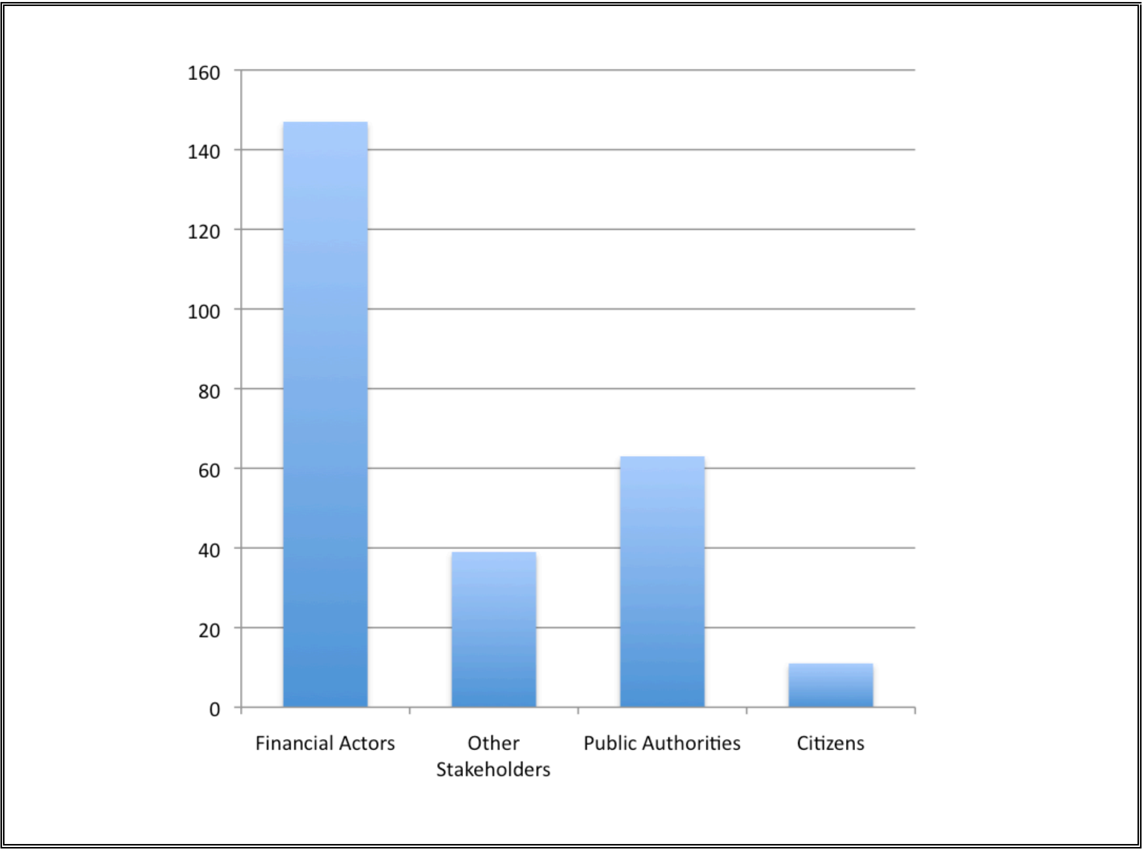
unions, represented just 2.69 per cent and 5 per cent retrospectively of the total participating organizations (see figure 34). Commission official PA19 said, "…we had a structural problem getting any involvement from investor representatives or consumers or academics…they just didn't have the time, or resource or organization to support this" (PA19, 2009). Senior Commission official – PA18 said the Commission was aware that the inputs were being skewed towards the industry, but he said, "…find me a European consumer dead or alive – they don't exist" (PA33, 2009).

The Commission's solution was to create FIN-USE, a group of appointed independent experts who would participate in the policy process. However, FIN-USE had 'observer' status during the consultations, meaning they were unable to contribute to discussions unless asked a direct question by another participant. As such their principal function was simply to report outcomes to other consumer stakeholders (PA33, 2009).

Commission official PA33 described financial actors as having 'captured' DG Markets. She said, "…within this sector, agency capture is a real risk…you can see that they [*read DG Markets*] blankly represent the interests of the industry" (PA33, 2009). Offe and Preuss (2006) argue that public policy only provides a pretension of the neutral enhancement of technical efficiency. In fact *pareto-optimality* usually leads to increased liberalization (or negative integration), which benefits some economic actors whilst damaging others (Offe and Preuss, 2006: 8).

Commission official network actor PA19 said, "…anything we did was bounced off regulatory committees of the member states, like CESR. It's not that we accepted blindly what the industry said…but a lot of the raw material we were working with, and a lot of the initial conversations were coming from the industry" (PA19, 2009). A former senior member of the CESR reported that it was often the case that members of the CESR felt the Commission paid more attention to the needs of the industry than to the national regulators (PA08, 2009).

Fig.35: Participants by Organizational Category



Although it is argued that 'agency capture' is rare in EU politics, because the plurality of actors and the complexity of the decision-making (Mazey and Richardson, 1993: 467), in this case financial actors were in a very advantageous position compared with other participating actors. As providers of the Commission's most valuable 'access good' – expert knowledge - (Bouwen, 2002), financial actors supplied the 'raw materials' upon which the solutions were defined. In addition, these actors possessed the financial, organizational and linguistic resources to maintain pressure on the Commission through lobbying activities.

The Commission's decision not to intervene in the market in the 2007 White Paper[37] was seen by many as playing to the markets. Senior industry participant IND13 said, "…the perception was that the industry had won the war against regulation at the EU level". He added, "Commissioner McCreevy was very close to the financial industry…" and willing to take the controversial step of not regulating hedge funds in the face of considerable pressure for regulatory intervention (IND13, 2009).

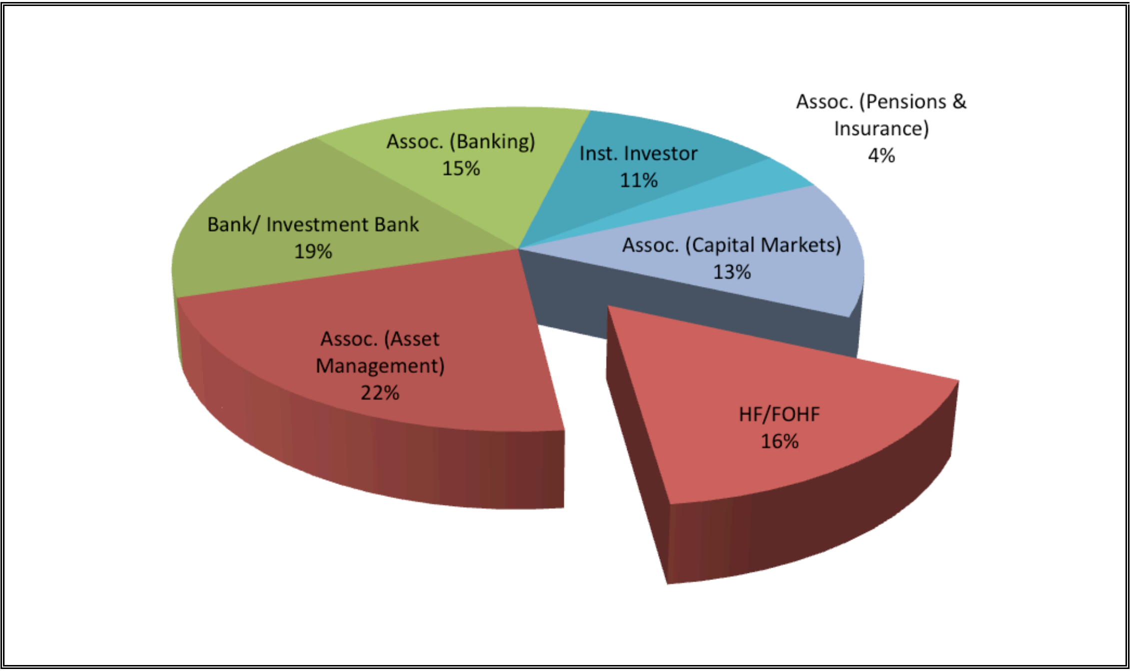
Defining the 'industry' interest

The empirical evidence suggests that industry interests were highly influential, but a multiplicity of actors from the financial services sector participated in the decision-making process. The literature on EU lobbying argues that transnational business interests are important actors, but often treats these interests as homogenous actors. To better explain which particular financial actors were the most influential in EU hedge fund regulation; it is necessary to 'deconstruct' the concept of 'industry interest'.

While societal actors lacked resources and expert knowledge, the opposite was true of the industry. Commission official PA19 remarked, "…it was very clear, very quickly that the people who had the most resource was the industry side of the market" (PA19, 2009). Using the typology outlined in Chapter 2, figure 35

[37] Enhancing the Single Market Framework for Investment Funds

Fig. 36: Participating financial organizations by primary function



illustrates the pattern of organizational participation across the *participant events* on hedge fund regulation, and shows that financial interests accounted for 57 per cent of all participating organizations.

However, within the category of financial actors there was considerable diversity of industry interests - not just *vertically* in terms of the range of actors from the value chain of asset management, but also *horizontally* between actors from 'importing' and 'exporting' market economies.

Defining 'vertical' industry preferences

As outlined in Chapter 5, hedge fund regulation was defined within the context of the UCITS review. A wide range of financial actors were drawn into the policy process, because the issue was categorized broadly within the UCITS regulatory process and therefore touched the interests of many actors.

Senior industry participant IND08 said, "…its very important which bit of the asset management pie are you trying to eat…is it the custodian or fund operations, or is it investment management side, and then of course there is a lot of profit in distribution…there are all sorts of bits to play for…" (IND08, 2009).

Figure 36 shows how the pattern of participation by financial actors in the formal negotiation surrounding hedge fund regulation reflected interests across the entire value chain in asset management. As one might expect, hedge funds and professional associations from the asset management sector were heavily represented, but secondary actors such as banks/ investment banks, institutional investors (pensions and insurance companies) and service providers (accountancy, legal and consultancy firms and banks) along with their associated professional organizations also actively participated in the policy process on hedge funds.

Defining 'horizontal' industry preferences

The location of financial actors, either in 'importing' or 'export' economies[38] was a crucial determinant of policy preferences with regard to EU action on hedge funds (see chapter 6).

i. Importing countries – 'continental' industry perspective

A distinctive continental European industry perspective is evidenced in the position adopted by the European professional association, the European Fund and Asset Management Association[39] ('Efama').

A senior member of Efama – IND13 confirmed that continental members' interests were driven by their own domestic markets (IND13, 2009). A senior member of the UK's IMA's policy team – IND08 confirmed that, "Efama set its own agenda in terms of importing, rather than exporting countries" (IND08, 2009).

Whereas London is an international wholesale market for finance, continental financial centres principally finance their own domestic market. The concern for asset managers in these markets is the conditions under which foreign products are allowed to enter their own markets; therefore the regulatory focus is on harmonized standards (see chapter 5).

Being more comfortable with product harmonization, continental asset managers saw the Commission's 2005 Green Paper as an "opportunity", because it potentially offered the creation of a harmonized framework that would clarify

[38] London markets are notably different from Paris and Frankfurt because the UK is an international wholesale market (or an 'exporter 'of financial services) servicing business from all over the world as opposed to the French and German markets ('importers') that primarily finance domestic national corporations Story, Johnathan and Ingo Walter. 1997. Political economy of financial integration in Europe: The battle of the systems. 1st Edition. Cambridge: MIT Press..

[39] Efama is the EU umbrella group for twenty-six national member associations (source: www.efama.org).

the rules on cross-border marketing of domestic funds (IND13, 2009). In particular, Efama's continental members thought there was a case for adapting the UCITS framework to include FoHFs (IND13, 2009).

ii. Exporting nations – London based industry perspective

The Investment Management Association[40] ('IMA') actively promoted an 'exporter' led agenda at the EU level. A senior member of the policy team IND08 said "We were keen to keep the ball rolling with UCITS...we wanted to keep the pressure on the Commission…the context was very pro-free trade, very confident from an exporting country perspective, we thought we could have the importing countries on the run if only we could apply more pressure" (IND08, 2009).

Although the IMA represents UK fund managers, many of its members manage funds based outside the UK; therefore their principal policy concern is with access to foreign markets.

The IMA were keen to shift the Commission's thinking from product regulation (as was the case with UCITS) to a sales channel approach. The logic being, if hedge funds and other alternative investments were restricted to 'qualified investors' then liberalization of pan-European marketing could be achieved without the prescriptive regulation necessary for products aimed at the retail market. The IMA's solution was the harmonization of private placement regimes, which could achieve this objective whilst removing national variation (IND08, 2009).

Not all London based firms shared the IMA's enthusiasm for encouraging EU intervention, even if it meant the correction of restrictive market access issues.

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[40] The IMA is the trade body for the UK's £3 trillion asset management industry. Its members include the broad spectrum of investment vehicles including authorized investment funds, pension funds and stocks, as well as managers involved in alternative investments (source: www.investmentfunds.org.uk)

Fig. 37: Financial Actors by Corporate HQ

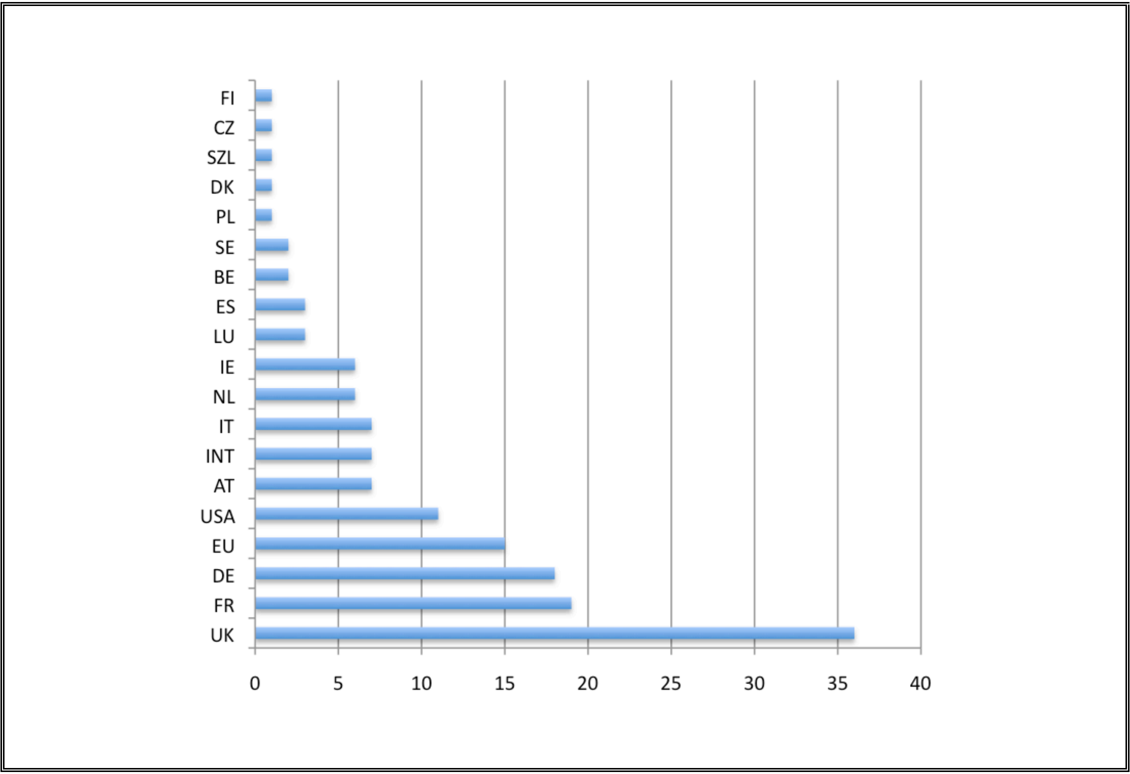
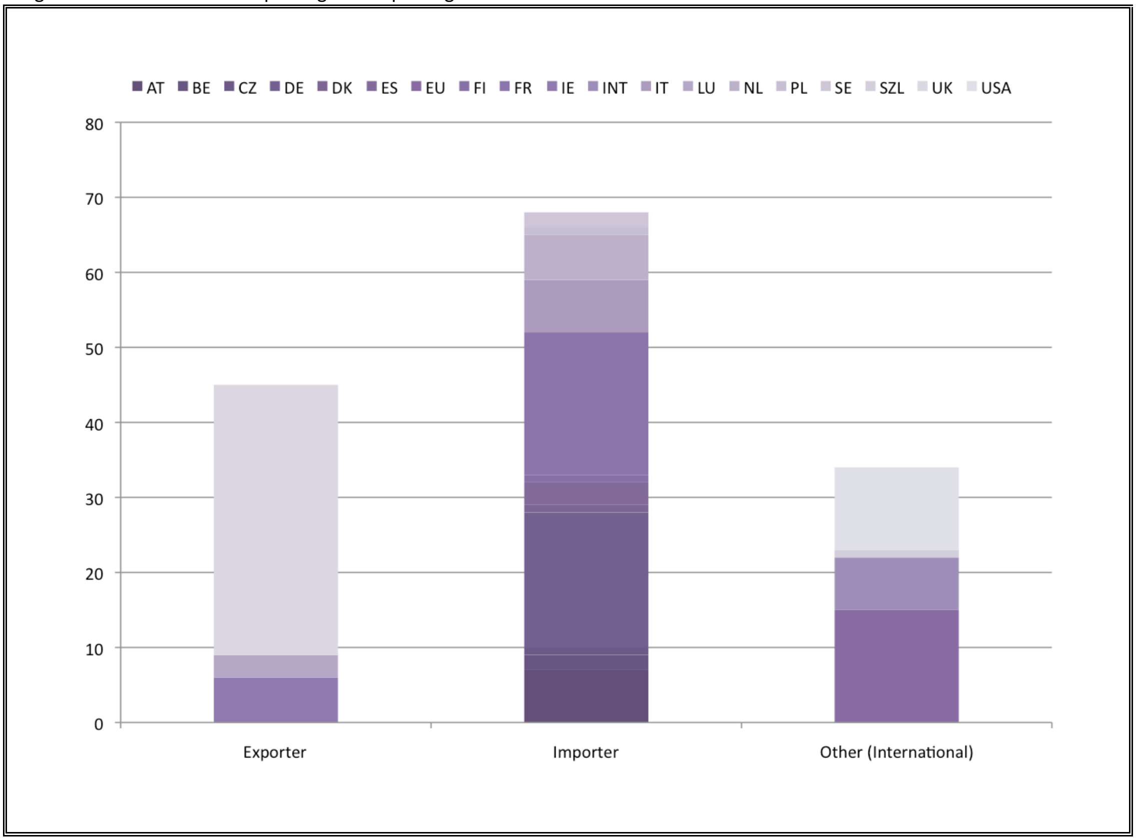


Fig. 38: Financial Actors – exporting and importing countries



The professional organization of the hedge fund industry - the Alternative Investment Managers Association ('AIMA') - was opposed to any form of regulatory intervention (*see below*). The senior member of the IMA's policy team IND08 reported, "…the banks and the insurance companies thought we were insane" (IND08, 2009). A senior member of Efama – IND13 believed that most London based asset management firms were, "…absolutely opposed to any form of regulation" (IND13, 2009).

In summary, industry participation in hedge fund regulation formed a more complex picture than one might expect. By deconstructing the concept of 'industry', competing sectoral and national interests are revealed. There is strong empirical evidence to suggest that financial actors heavily influenced the Commission's decision-making on hedge fund regulation – this raises the question of which particular interests prevailed. Which definition of the policy problem, and solution, is reflected in the policy outcomes? To answer this it is necessary to assess policy outcomes in the context of *vertical* and *horizontal* industry divisions.

Assessing industry influence - vertically and horizontally

As figure 37 illustrates, UK based financial actors make up the largest majority of participating industry actors. However, when the data is split using the importer/ exporter distinction, it shows that the 'importer' perspective represented the majority interest (see figure 38). It might therefore be argued that the 'importer' view could be said to best represent the majority EU view, while the 'exporter' view presented the minority interest of the UK.

Given the support for regulatory intervention by the Parliament and core member states (see chapter 4), one might reasonably expect EU decision-making to have reflected the 'importer' perspective.

However, the 2007 White Paper closely reflected the interest of the 'exporting' actors. The Commission rejected the creation of a new harmonized framework promoted by continental industry actors, arguing that the same objectives could be achieved through a common private placement regime, from which eligible investors could benefit from pan-European finance services subject to lighter regulatory requirements that reflected the sophisticated nature of the investor base (CEC, 2006a: 95; 2006g).

A senior member of Efama – IND13 reported that the Commission was generally dismissive of the 'importer' industry position. He said, "…McCreevy treated us like, 'well you are a bunch of useless guys who don't have a clue about how political decisions are taken" (IND13, 2009). And yet, the IMA reported the Commission to be very open to their advances. Senior industry participant IND08 said, "…there was a happy correspondence, in arguing for a free trade agenda and it was good that the Commissioner and important Commission officials happen to be from pro-industry states" (IND08, 2009). He added, "…we worked hard to push PA19[41] and PA19[42]…and we were successful, broadly speaking" (IND08, 2009).

The lobbying literature argues that it has been the British model of lobbying, specifically the US-imported style of British lobbying, which is heavily expertise-driven that has proven the most successful in developing long-term contacts with EU officials. (Grossman, 2004: 645). Research into the participation of financial actors in EU legislation carried out by Joselin (1996) found that the City of London has a multitude of professional organizations (trade associations and self-regulatory organizations) compared to other European financial centres. As a result, larger numbers of organizations will be activated around any single issue in London (Josselin, 1996: 304).

In the case of hedge fund regulation it is argued here that it was UK based financial actors that were best placed to provide the critical expert knowledge required by the Commission. A senior member of Efama reported that much of

[41] Names have been removed and replaced with actor codes to ensure confidentiality of interviewees

[42] As above

the technical expertise that the Commission needed was based in London. A senior treasury official and network actor – PA37 said, "…on financial markets…the UK does punch above its 1 in 27 position, and I felt the Commission were listening to the UK" (PA37, 2009)

Although the 'European' interest appeared to be best represented by the 'importing' industry perspective, it is argued that the Commission's decision-making was not simply pro-markets, but specifically aligned to a particular set of market actors - namely UK based market participants, promoting the *laissez-faire* approach to financial market regulation, closely associated with the Anglo-American model of capitalism.

Being the most directly affected by the proposed legislation, and given their financial wealth and economic significance, one might reasonably have expected the UK based hedge fund industry to have been the critical sectoral interest that successfully influenced the Commission's decision-making.

Seen through the lens of the lobbying literature, hedge funds appear to possess the necessary financial resources to engage in effective EU lobbying. However, the vast majority of hedge funds are one or two partner firms. These small individual firms, regardless of the size of the assets they are managing, do not have the personnel resources to engage in EU lobbying, therefore the interests of the hedge fund industry were, in the main, promoted collectively through the Alternative Investment Managers Association ('AIMA').

Based in London, AIMA claims to represent the interests of 75 per cent of global hedge fund assets and 70 per cent of global fund of hedge funds assets (see www.aima.org). AIMA participated in the Commission's consultation, but it was not as well positioned to capitalize on its advantageous position as one might expect.

A senior member of the Investment Management Association's ('IMA') policy team – IND08 described AIMA as "…a very thin outfit, given the significance of it economically" (IND08, 2009). He explained that its purpose was to promote hedge funds, rather than lobby policy-makers (IND08, 2009). Commission official P19, stated that AIMA's weakness arose from sector's highly individualistic character. He said, "It's a bunch of very talented guys, doing things in corners and doing their own thing…even AIMA struggled to pull together an industry position" (PA19, 2009).

Bouwen (2002) argues that the consistent provision of high-quality expert knowledge by private interests over time facilitates and improves efficient resource exchange with EU institutions. Therefore the interest group that can provide the highest quantity access good in the most efficient way will enjoy the highest degree of access to the Commission (Bouwen, 2002: 381).

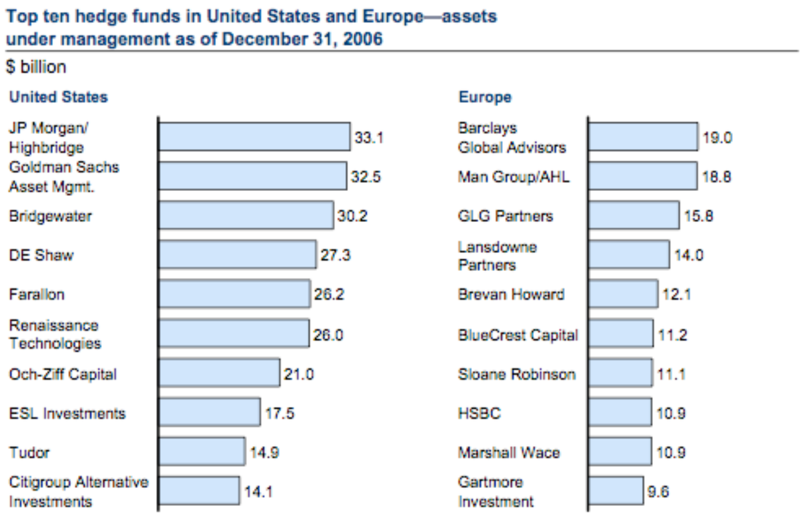
In this respect the inability of AIMA to promote a unified industry position seriously damaged its credibility with the Commission as a critical source of expert knowledge. In addition, the hedge fund industry has limited experience of the EU policy process. Commission official P19 said, "The hedge fund industry had never really had to deal with it [*the EU*]…we had worked with them on the expert groups in 2006 and they got an outcome they were comfortable with…they thought they had suppressed any action, but they didn't have people on the ground here, or a sophisticated understanding…" (PA19, 2009).

It is argued here that the hedge fund industry appears to have suffered from a lack of credibility in Brussels, particularly with the Commission, and therefore it can be concluded that it was not the lobbying activities of these particular actors that influenced policy outcomes. And yet, there is considerable evidence to suggest financial interests influenced Commission decision-making.

Transnational Financial Actors – US investment banks and hedge fund regulation

The research lens must now be focused on the remaining participating financial actors. It is argued that in the case of hedge fund regulation, contrary to what one might expect it was not the hedge fund industry, but rather the London offices of US investment banks, that were the most influential participating private interests.

Fig. 39: Top 10 hedge funds in United States and Europe – assets under management as of December 31, 2006



Reproduced from (The New Power Brokers2007a: p 98)

In a study of actor participation in financial services integration Grossman (2004) found that the actors who are regulatory consulted, or who participate in expert groups and hearings come from the London offices of US investment banks, especially Solomon, Smith Barney, Morgan Stanley Dean Witter and Goldman Sachs (Grossman, 2004). Posner and Véron (2010) also argue that the large US financial interests have been responsible for promoting Anglo-American regulatory models at the EU level in financial services integration.

As the hedge fund industry has moved from the fringes of financial services to the mainstream, it has become increasingly embedded with the interests of investment banks. Banks, but particularly investment banks, have responded to the growth of the hedge fund industry by setting up their own internal funds or by adding hedge funds to their range of investment products. Figure 39 shows that some of the top 10 hedge funds in the US and in Europe are in fact divisions of banks, or investment banks.

In addition banks have created new products such as credit securitization and structured credit vehicles like collateralized debt obligations ('CDOs') which have allowed hedge funds to trade in pools of consumer loans, mortgages and credit card debt previously held only by banks (Farrell et al., 2007a: 102). These instruments have allowed banks to originate more loans than they would have otherwise, because these credit risks can be taken off balance sheet and syndicated in the market (Farrell et al., 2007a: 111).

Investment banks have also emerged as key service providers to the hedge fund industry, providing credit lines in the form of leverage and prime brokerage. These services effectively provide the operational infrastructure of the industry, allowing funds to trade with multiple brokerage houses while maintaining a centralised account with a prime broker. Beyond settlement, the prime broker also acts as a custodian and is responsible for safeguarding and servicing the hedge fund's assets (Alexander, 2008: 50). Investment banks are estimated to have earned over U$300 billion from providing trading and prime-brokerage

Fig 40: Organizational Participation Analysis: Financial Actors

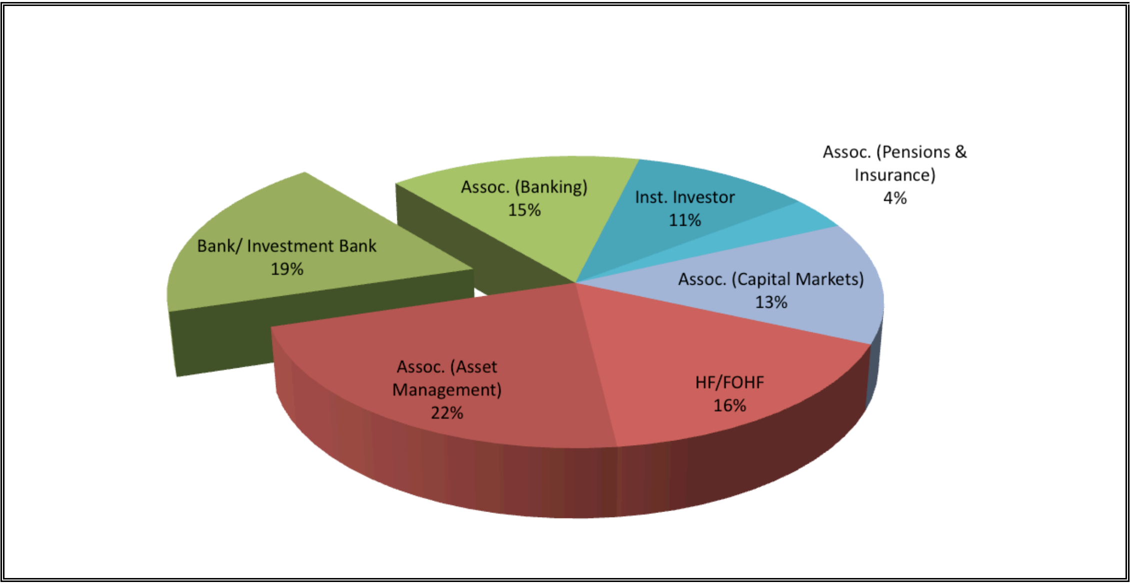
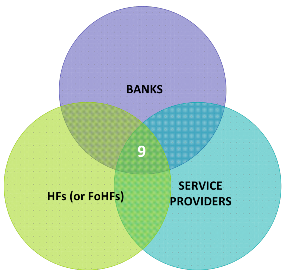
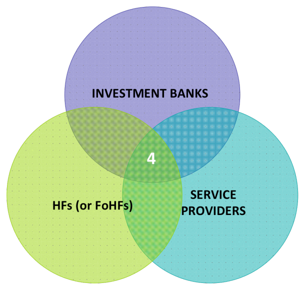


Fig. 41: Interlocking relations between Banks/ Investment Banks and Hedge Funds

Bank		Venn Diagram I	Investment Bank		Venn Diagram II
Allianz	FR		Goldman Sachs	US	
ABN AMRO	NL		J.P. Morgan	US	
Barclays	UK		Morgan Stanley	US	
BNP Paribas	FR		Merrill Lynch	US	
Citigroup	US				

services to hedge funds – some 15 per cent of their total capital markets revenues (Farrell et al., 2007a: 118).

Although not immediately obvious, banks and investment banks have a strong interest in the hedge fund industry and through fees, interest and the trading incomes generated by hedge funds (Gieve, 2008: 3). These actors are at the same time, providers of hedge fund products; significant institutional investors in other hedge funds; as well as service providers of prime brokerage and leverage. In effect, these financial actors have a financial interest in the entire value chain of asset management.

Much of the regulatory debate has been driven by risk management issues concerning banks acting as counterparties to hedge funds. Edwards (1999) argues that the policy lesson from the collapse of US hedge fund Long Term Capital Management ('LTCM'), and to a lesser extent Amaranth, was that the risk management practices of even U.S. banks and other major financial institutions are not what they should be. Bank regulation was shown to have fallen seriously behind market developments, especially with respect to hedge funds (Edwards, 1999: 209).

Stulz (2007: 189) argues that a bank that takes on too much risk through a hedge fund could also take on too much risk with an individual or a proprietary trading desk that employs hedge fund strategies; in either case, the problem is not specifically a hedge fund issue, but rather involves broader questions about the appropriate regulation of financial institutions. This theme that the risk management procedures in the banks were not what they should be was repeated again during the US Sub-prime housing crisis, and the subsequent banking crisis (see chapter 3).

In practice, the interests of banks/ investment banks were significantly impacted by proposed EU intervention on hedge funds, and as a result they actively participated in the policy negotiations (see figure 40). The empirical evidence supports this argument. Figure 41 illustrates that banks/ investment banks and their respective professional associations accounted for a significant proportion of financial actors participating in the formal policy process on hedge fund regulation. Of the participating banks/ investment banks, 70 per cent were service providers to the sector while 55 per cent offered their own hedge funds or FoHF. Nine of the participating banks and four of the participating investment banks offered their own hedge funds or FoHF, as well as services such as prime brokerage and leverage, to other hedge funds. All of the participating investment banks were the London offices of major US firms, including Goldman Sachs, JP Morgen, Morgen Stanley and Merrill Lynch.

Goldman Sachs and JP Morgan scored highly in both the Social Network Analysis ('SNA') and the measures of participation intensity (see chapter 2). Goldman Sachs appears in the upper 25 per cent of both data sets and was a *network star*. JP Morgan scored in the upper 25 per cent of participation intensity measures, and in the upper 50 per cent of actor degree and mean scores in the SNA. These investment banks run the two largest hedge funds in the world. Through its subsidiary, Highbridge, JP Morgan runs a fund worth $33.1 billion, while Goldman Sachs Asset Management has a fund with total assets of $ 32.1 billion (Farrell et al., 2007a: 98). Goldman Sachs along represents 18 per cent of the global prime brokerage market (Farrell et al., 2007a: 119).

While the hedge fund industry might have suffered from a lack of credibility in EU, this was not the case with banks and investment banks. Commission official PA19 said, "…prime brokers, investment banks… they are used to dealing with us" (PA19). He said that compared to other participating interests, "...individual players, especially the investment banks had whole policy departments" (PA19, 2009). Commission official PA33 said that in the area of hedge fund regulation, "…the power is really with the banks " (PA33, 2009).

Being the most resourced and experienced in the EU policy process the London offices of US investment banks were best placed to supply the Commission with the expert knowledge required in the early draft stages of the legislation, and therefore were highly influential in determining policy outcomes. These actors promoted an Anglo-American 'view' of the policy solution, which prevailed over the 'importing' perspective and was adopted by the Commission in its 2007 White Paper.

It was the representatives from the London offices of US investment banks that were the most influential participating private interests in the case of hedge fund regulation. They promoted an Anglo-American 'view' of the policy solution, which prevailed over the 'importing' perspective and was adopted by the Commission in the 2007 White Paper. The lobbying literature therefore goes some way towards explaining the non-decision on hedge funds regulation in 2007. However, the AIFM directive, which directly regulates the activities of hedge fund managers, represents a significant departure from the *laissez-fair* Anglo-American regulatory model.

Conclusions

This chapter has presented considerable evidence, which suggests that industry interests lobbied the Commission and that this lobbying activity strongly influenced the Commission's initial decision-making on hedge fund regulation in the 2007 White Paper.

However, the concept of 'industry interest' is much more complex than one might expect. The Commission's decision-making was shown not simply as pro-markets as is often argued, but was specifically aligned to a particular set of market actors - namely UK based market participants, promoting the 'exporter' solution to financial market regulation, closely associated with the Anglo-American model of capitalism

The AIFM directive represents a significant departure from this laissez-faire Anglo-American regulatory model. Unsurprisingly, the publication of the directive has met with fierce opposition from the industry, who have argued that it is incompatible with established industry practice, and unfairly disadvantages the EU hedge fund industry (PWC, 2010: 1). Influential players from the hedge fund and private equity industries have all pilloried the directive

(Costello, 2009). Financial Markets Law Committee, set up by the Bank of England to review the proposed legislation, concluded that the proposed regulation would trigger ‘systemic failure and widespread market distribution’ if it became law (Jagger, 2010a).

The interest-based approach cannot itself, therefore, fully account for policy outcomes in this area. To explain EU decision-making on hedge funds, both state preferences and institutional context need to be taken into account alongside the lobbying activities of private business interests. In chapter 8, it is argued further that a missing piece of the explanatory jigsaw, remains the significance of international financial regimes within which the various actors and institutions of the EU must operate.

Chapter 8: International Context

International Financial Regimes

This chapter goes beyond the traditional theoretical approaches to EU integration, and draws on the *transnational governance regimes* literature (Porter, 2009), as well as Strange's (1997,1998) work on the role and influence of the United States ('US') in the international financial system, to explore the extent to which policy solutions established in 'international financial regimes' have constrained EU decision-making on hedge fund regulation.

The first section defines the concept of an 'international financial regime', and considers how this regime has responded to pressures for public intervention on hedge fund regulation.

In the next section, the EU response on hedge fund regulation is considered in the context of the international financial regime policy response. It is argued here that the 2007 White Paper reflected international practice, rather than a distinct EU response to hedge fund regulation.

The Alternative Investment Fund Managers ('AIFM') directive (2009) represents a significant departure from the international regulatory model, however, it is demonstrated that a new EU regulatory paradigm has not been established in financial services regulation, as some authors have suggested (Quaglia, 2009). The final scope of the AIFM directive more closely reflects developing international practice than a distinctive European response to hedge fund regulation.

Defining the concept of 'international financial regimes'

It is argued here that large transnational financial firms, the US authorities and *transnational governance regimes* (Porter, 2009) together constitute an 'international financial regime', which has promoted a particular Anglo-American regulatory normative model from which it is extremely difficult for the EU to depart, especially when conflict and indecision exists between member state over appropriate regulatory solutions. International financial regimes therefore act as an external constraint on EU decision-making on hedge funds making the development of a new EU regulatory paradigm in financial services regulation highly problematic.

As Tsoukalis (1997: 267) has observed EU integration takes place within the context of international economic interdependence. This is particularly relevant to financial services integration as the financial system operates internationally, and not regionally.

Porter (2009) has traced the rise in importance of *transnational governance regimes* in an increasingly interdependent international financial system. He argues that faced with the need to manage ever-changing global markets, national authorities have come to rely on the hybrid mixes of decentralised public and private regulation promoted in international financial forums (Porter, 2009: 7). These public and private international institutions are an assemblage of informal and formal public sector groupings, networks and organizations. Transnational governance regimes are located in institutions like the Bank for International Settlements ('BIS'), such as the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, the Committee on the Global Financial System, the Joint Forum (which brings together banks, securities and insurance regulators), and the Financial Stability Forum ('FSF').

Other public regulatory bodies are hosted by the Organization for Economic Co-operation and Development ('OECD'), or are stand-alone formal organizations such as the International Organization of Securities Committees ('IOSCO') and the International Monetary Fund ('IMF'). Co-operation and exchange of information across these bodies is extensive. The FSF which includes representatives from many of these bodies plays a coordinating role (Porter, 2009: 5).

These transnational governance regimes have allowed large international financial firms to become key sources of private authority in the international financial system, and afforded them considerable influence in shaping the scope and nature of financial regulation. Strange (1998: 30-31) has also argued that actors with the ability to 'create credit' have come to be of critical importance in the international political system. Consequently, there is a risk that policy and regulatory processes can become captured and manipulated, by the private sector actors that they are supposed to regulate (Porter, 2009: 3). When the Banks' own internal risk models were adopted at Basel II, this was seen as unfairly advantaging the largest transnational banks and reflecting the prominence of their interests in the process (Porter, 2009: 7).

Fioretos (2010: 471) argues that transnational governance regimes have been key actors in establishing the 'neo-liberal' order, or Anglo–American regulatory models, as the global standard. Posner and Véron (2010) argue that US interests dominate international financial forums. As a result, the principles generally accepted as 'neutral' or 'technical', have tended to rely on self-regulation, private authority and other governance modes used in the US and the UK.

Strange (1997: 30) also argues that the international financial system reflects US domestic monetary policy preferences. Given its dominance in the international financial system, the US is able to exert asymmetrical power over other states, giving it the decisive power to set the 'rules of the game' in international finance. Successive US governments have been driven by short-term domestic considerations, meaning that the international financial system has come to reflect US domestic monetary preferences.

The US influences ideas about how a market economy should be managed, consequently the liberal ideology of a market-orientated economy in which economic enterprise functions free of government interference has become the dominant normative model of international finance (Strange, 1995: 64; Strange, 1997: 23). Consequently, no change in the collective management of international finance can take place that is not initiated - or sanctioned - by the US authorities (Strange, 1997: 30).

Hedge Fund regulation – the international context

Porter (2009) argues that when there is public demand for regulatory intervention, as has been the case in hedge funds, transnational business interests will use their influence to ensure international financial forums promote self-regulatory measures, in order to forestall or thwart public regulation (Porter, 2009).

Helleneiner and Pagliaria (2009) argue that the hedge fund industry and its bank counterparts proposed voluntary self-regulating initiatives in order to deflect the pressure for more stringent public regulation (Helleiner and Pagliari, 2009: 282). After the collapse of the US hedge fund Long-Term Capital Management ('LTCM') (see chapter 3), US investment banks were able to forestall public regulation of hedge funds by organizing themselves into the Counterparty Risk Management Policy Group ('CRMPG"). The CRMPG put in place self-regulatory measures to limit leverage exposure in order to manage systemic risk (Stulz, 2007: 188).

The failure of LTCM precipitated investigations into hedge fund risk by a number of the international financial forums. The Basel Committee on Banking Supervision ('BCBS') reported on hedge funds 1999, the IOSCO also reported in the same year. In 2000 the newly created FSF issued its report on highly leveraged institutions (updated in 2007) (FSF, 2007). However, all theses studies recommended indirect regulatory measures, or self-regulatory guidelines.

The US's position on hedge fund regulation is most closely associated with former US Federal Reserve Chairman, Alan Greenspan. At a meeting of the House Committee on Banking and Financial Services 1998 Greenspan said, "If, somehow, hedge funds were barred worldwide, the American financial system would lose the benefits conveyed by their efforts, including arbitraging price differentials away. The resulting loss in efficiency and contribution to financial value added and the nation's standard of living would be a high price to pay..." (Danielsson et al., 2005: 546).

Strange (1997) argues that in monetary management the US is more likely to respond to pressure for public regulation with a negative decision; that is, to leave the market alone, or not to intervene or restrain the market (Strange, 1997: 26). Over the last decade the US Treasury has been opposed to any form of direct regulatory intervention in the hedge fund market. The US conducted its own review of the hedge fund industry in 1999 following the collapse of LTCM, through the President Working Group (PWG) on Financial Markets (1999). However, the group concluded that systemic risk was not limited to hedge funds, and recommended self-regulatory measures to constrain excessive leverage (PWGFM, 1999).

When the dominant player is reluctant to act, the most likely outcome at the international level is a non-decision on market intervention (Strange, 1997: 26) Policy solutions that promote best practice and voluntary codes over direct intervention by pubic authorities, also became the default option on hedge fund regulation adopted in international political forums, such as the G8 and G20.

In advance of the 2007 G8 summit, ministers asked the FSF to update its 2000 report. The report stated that the relationship between hedge funds and prime brokers and other counterparties had "...become central to the robustness of the financial system", and concluded there was a risk that the forced liquidation of a hedge fund could bring down one or more of its counterparties, and/or cause a sharp deterioration in market liquidity (FSF 2007: p.1).

The German government used its G8 presidency to push for a tougher international response on hedge funds, but in the summit declaration, rather than propose direct regulation addressing financial stability risks, G8 ministers asked the industry to review existing practices particularly in the area of valuations, risk and disclosures (Declaration 2007: 3).

The industry responded to the G8 declaration with the establishment of the Hedge Fund Working Group (HFWG) set up in June 2007 and chaired by Sir Andrew Large (former deputy governor of the Bank of England). The HFWG brought together 14, mainly London based, fund managers with a remit to "review best practice and to examine the application of industry-wide standards where appropriate" (HFWG 2007). The HFWG published its report in January 2008 and recommended voluntary guidelines on best practice for hedge fund managers.

Posner and Véron (2010) argue there is considerable concurrence between the raft of EU legislation in financial services and international practice. EU policy-makers have been drawn to regulatory principles developed within US-dominated international financial forums, based on Anglo–American regulatory models that allowed transnational business interests a large degree of authority over the direction of public policy (Posner and Veron, 2010: 400).

The 2007 White Paper in an international context

Rather than representing a distinct EU response to hedge fund regulation, the 2007 White Paper on *Enhancing the Single Market Framework for Investment Funds* reflected a US defined policy solution, promoted through the US treasury, transnational business interests and international financial forums.

Posner and Véron (2010: 407) argue that US firms have lobbied for Washington–Brussels co-ordination in financial services. Fearing transatlantic divergence in approaches (and therefore higher transaction costs), these actors have lobbied for transatlantic policy co-ordination. By the end of the 1990s, the largest European financial services companies had become supporters of regional regulation, and along with their US counterparts, encouraged coordinated transatlantic rules.

A consequence of transatlantic policy coordination is that EU representatives have gained bargaining leverage vis-à-vis their US counterparts. Posner and Véron (2010) argue that the regulatory push following Monetary Union to

Fig. 42: Participating Organizations by country of origin

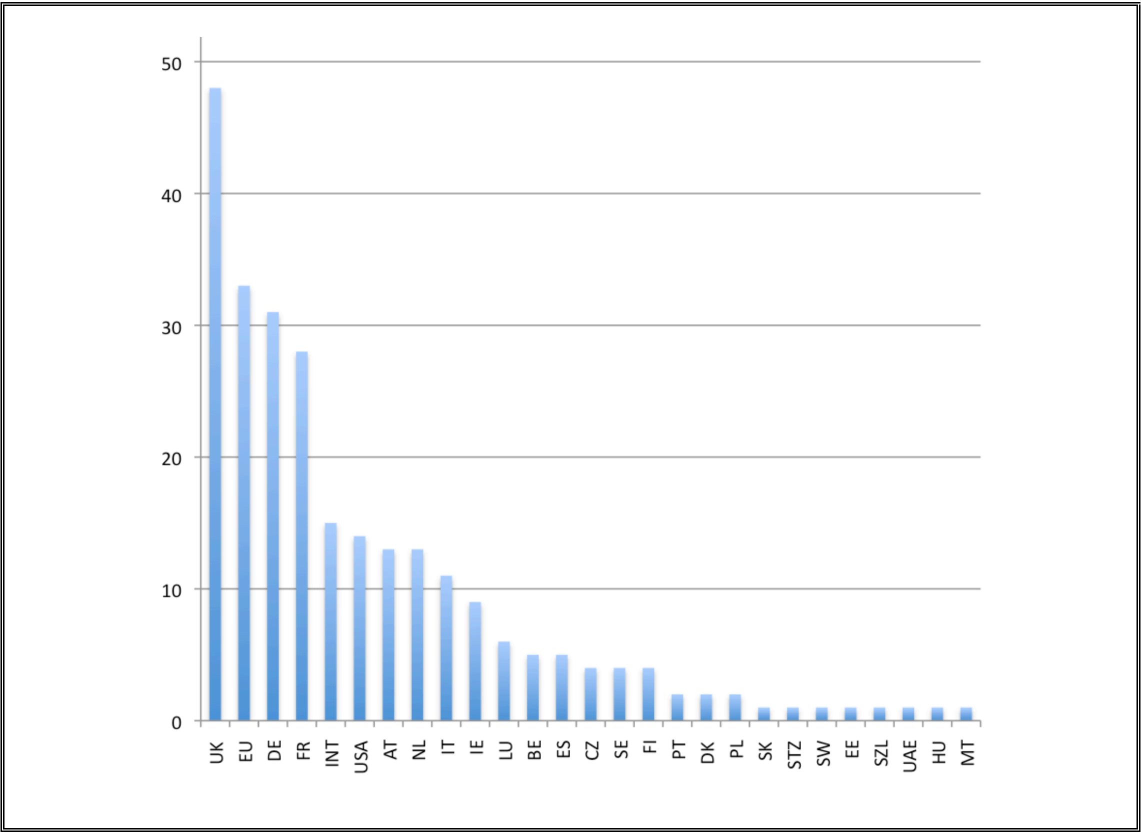
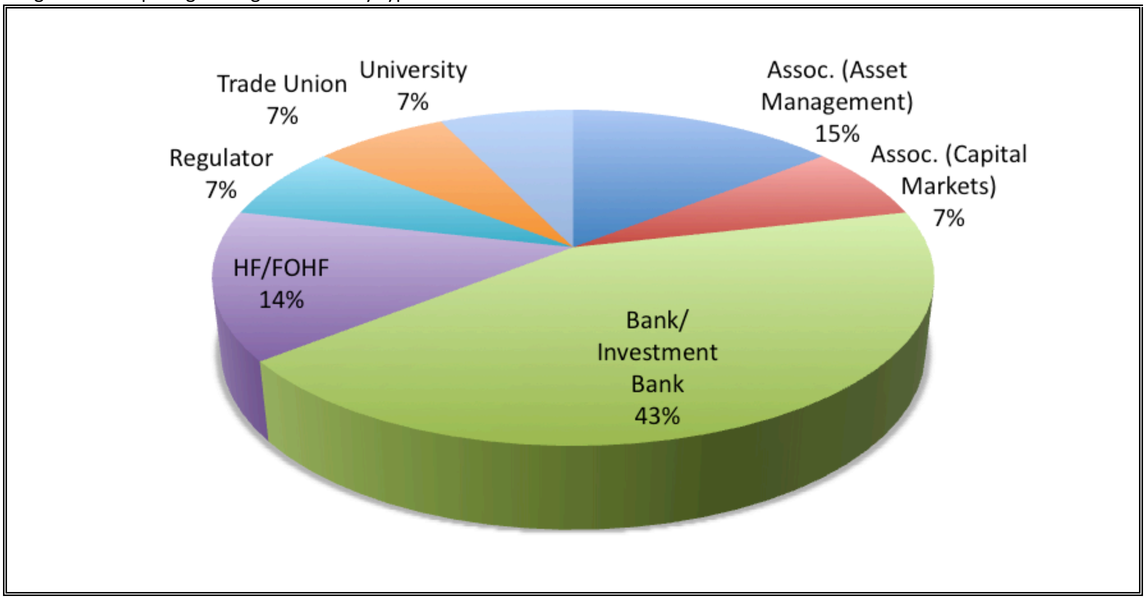


Fig. 43: Participating US Organizations by type



further harmonize regulations and shift more rule-making authority to the regional level was enough to change US perceptions about the EU's capacity to affect the costs of doing business in Europe.

However, this bargaining power has not been used to promote a social or normative European model, but rather to pressure US authorities to level the playing field through mutual recognition arrangements (Posner and Veron, 2010: 406). Senior UK treasury official PA37 confirmed that he had been involved in high-level negotiations on financial markets between the EU and the US authorities during the Green Paper consultation. He said, "…the reason I was in Washington was that Gordon Brown wanted an agreement with USA and EU on financial services, between John Snow, himself and Charlie McCreevy" (PA37, 2009)

Figure 42 demonstrates that there were a surprisingly high number of US actors participating in the formal EU negotiations on hedge funds regulation, when compared with the participation of actors from EU member states. US interests were represented in the formal decision-making process by its financial regulator, the Securities and Exchange Commission ('SEC') and US based industry actors, but figure 43 shows that the largest majority of participating US actors were investment banks. In the previous chapter it was shown that the London offices US investments banks played a highly influential role in shaping policy outcomes on EU hedge fund regulation

Goldman Sachs, a major US investment bank, was also revealed to be a 'network star' by the Social Network Analysis ('SNA') (see chapter 4). Two of the firm's past four leaders have served as Treasury secretaries, Robert Rubin and Henry Paulson who served as United States Secretary of the Treasury under President Clinton and under George W. Bush respectively (McLean, 2010).

It is often argued that the US, supported by the UK, effectively thwarted any international initiatives for hedge funds regulation (Helleiner and Pagliari, 2009: 282), but an alternative interpretation might be that policy co-ordination between the US and the Commission, thwarted EU attempts at hedge funds regulation in 2007.

Senior commission official PA18 confirmed that there was frequent informal dialogue with the US Treasury department on the issue of hedge funds regulation. He said,

> "Particularly the US Treasury and the SEC – we speak a lot to them, there is regular, what we call informal dialogue, so we know where we are and we try to converge our positions as much as possible …we had already agreed with the Americans, that we were going to leave off hedge funds" (PA18, 2009).

It is argued here that alongside traditional theoretical approach to EU integration, it is also necessary to draw back the research lens and consider the EU in an international economic and political context. Given the dominance of the US in the international system, particular attention needs to be given to how US preferences are transmitted through transnational business interests and *transnational government regimes*, and how this effects EU decision-making.

In this context it is argued that a 'non-decision' on hedge fund regulation was the most likely outcome of the 2007 White Paper, as the constraints created by international financial regimes have historically steered EU financial integration towards international practice.

The AIFM Directive – template for future EU financial regulatory models?

On first pass, the AIFM directive might reasonably be mistaken for a 'new EU regulatory paradigm' (Quaglia, 2009). It appears to present a distinctive EU response to the problem of hedge fund regulation. The AIFM directive marks a significant departure from the established Anglo-American regulatory model, but it does not represent a new regulatory paradigm, in fact the final scope of the directive is closer to developing international practice than one might expect.

The concept of a new European regulatory paradigm is therefore overstated; rather it is argued here that the EU's capacity for independent action in the area of financial markets continues to be subject to the constraints created by 'international financial regimes'. Consequently, the final scope of the AIFM directive has been watered down and as such falls short of the ambitions of some member states to develop a distinctive EU response.

No new international regulatory institutions have arisen to challenge the authority of the well-established international financial regimes, well served by a neo-regulatory agenda. Therefore despite the calamity of the 2008 crisis there is more continuity than change, with dynamics of policy decision-making in international finance remaining largely intact. Additionally, the US retains its asymmetric influence over other states through its position as the dominant player in the international financial system.

The compromise position reached on 20 October 2010 brought to an end 18 months of lobbying and redrafting, but many of the industry's primary concerns were removed in first Council compromise presented by the Swedish government (Manvatkar, 2009: 5). Although the industry faces an unwelcome rise in compliance costs, the AIFM directive is unlikely to restrict current business practices to any great extent. The Wall Street Journal reported the Parliament's approval of the final draft of the directive with the headline, 'Hedge funds win big in Brussels' (Plumridge, 2010). The most contentious proposals, such as potentially damaging plans to impose fixed caps on leverage and capital requirements, have either been removed or watered down. The Alternative Investment Management Association ('AIMA'), the professional association which represents the global hedge fund industry, described the final compromise as a "considerable improvement" on earlier versions of the directive (Hedgeweek, 2010).

The scope of AIFMD more closely reflects a developing international policy solution than a distinct EU response. At the G20 conference in November 2008 leaders directly addressed the supervision and regulation of the hedge funds, concluding there was a need for a 'set of unified best practices'. However, the task of setting these standards was again left in the hands of the 'private sector bodies' (Helleiner and Pagliari, 2009: 283). A set of voluntary guidelines reflecting industry 'best practice' was published in June 2009 by the IOSCO (International Organization of Securities Commissions) (IOSCO, 2009: 14).

The Dodd–Frank Wall Street Reform and Consumer Protection Act, passed by the US government in July 2009, requires all hedge funds above $150 million to register with the regulator, the Securities and Exchange Commission ('SEC'), and imposes additional reporting procedures which require the funds to maintain extensive records about their investment and business practices, provide this information to the SEC, hire a chief compliance officer to design and monitor a compliance program, and be subject to periodic SEC examinations and inspections (Brown et al., 2010). Although the Bill is heralded as the biggest shake-up of the financial system since the Depression-era, it has been described as "No Glass-Steagall[43]" (van Duyn and Guerrera, 2010). Brown et al. (2011: 365) describe the additional obligations on hedge funds as "not onerous" and argue that they are unlikely to materially affect the cost of doing business going forward.

The AIFM directive imposes a similar registration and reporting obligation on EU hedge fund managers. Under the terms of the directive, funds must in the future register with national authorities and provide regular information on their holdings, in order that regulators can effectively monitor systemic risk. However, these provisions do not represent a significant departure from the UK's existing 'light-touch' system that requires the registration of managers with the regulatory (the FSA) and reporting through the Hedge Funds as Counterparties Survey ('HFACS'), albeit the reporting obligations are now compulsory rather than voluntary.

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[43] The Glass-Seagill Act of 1933 revolutionised the US financial sector for six decades by separating investments and wholesale banking

Unlike the US legislation AIFMD requires fund managers to appoint a separate custodian for hedge fund assets and provide independent portfolio valuations, but this provision reflects only what is already standard industry practice for most funds operating in the EU. Even in the US, greater investor scrutiny of valuations, increased compliance requirements under the Dodd-Frank legislation and a more challenging fundraising environment are prompting more managers to make use of independent firms in their valuation processes (Thollot, 2010: 4).

The biggest difference between the US and European approach, is the level of perspective detail in the earlier drafts of the AIFM directive that dealt with how funds based outside of EU would have to European markets. Several of the draft versions contained provision that allowed non-EU funds to apply for a European "passport" which would enable them to market across member states, but only if they could satisfy the EU about the quality of their home regimes in areas such as money-laundering and tax. In addition, the home supervisors of non-EU funds would have to ensure that funds comply with the EU rules, effectively extending the scope of the AIFM directive into jurisdictions outside the EU (Economist, 2010).

A senior commission official reported that a key concern of the US authorities (PA18, 2009). The SEC had publically stated that it would be unlikely to be able to comply with the equivalence criteria suggested in earlier drafts, which would have closed the EU market to funds from third countries (Harris, 2010).

In the end, these provisions were substantially scaled back. Non-EU funds will be able to apply for a EU-wide passport if they demonstrate regulatory "equivalence." The Council's position on equivalence criteria reflects policy solutions already established in international financial forums. The home jurisdiction of the non-EU funds applying for a pan-European marketing passport must comply with IOSCO international standards on hedge fund oversight (which include compliance with international tax and anti-money laundering agreements and regulatory co-operation). It is highly likely that the

US and other key markets will be deemed appropriately regulated jurisdictions (Plumridge, 2010). The current system of individual market applications will continue in tandem until 2015 and this will only be terminated when the Commission reviews the directive to check it is not causing market disruption (Griffiths, 2010).

Conclusions

International financial regimes continue to act as a constraint on the capacity for a distinct and independent EU response to hedge fund regulation. Rather than developing a distinct European response to hedge fund regulation, in the 2007 White Paper the EU adopted international practice, which itself reflected an Anglo-American policy solution. The empirical evidence suggests that there was an agreement between the Commission and the US Treasury that the EU would not intervene in the hedge fund sector.

The AIFM directive directly regulates the activities of hedge fund managers, not just in Europe, but also attempts to impose rules and practices on the offshore jurisdictions where the funds themselves are located. As such, it represents a significant departure from the Anglo-American regulatory model. However, AIFM does not represent a 'new regulatory paradigm' (Quaglia, 2009) as some authors have suggested.

Policy frameworks established in international financial regimes remain highly influential and acts as a constraint on EU decision-making. Transnational business interests used their considerable influence to lobby for the removal of provisions, which would have curtailed current business practices. The international financial regime continues to promote a mix of decentralized public and private regulatory solutions, and the US authorities are proposing a much less stringent regulatory response.

In summary, the dynamics that drove decision-making in international finance before the crisis remain largely unchanged. Despite the high ambitions of some member states and the Parliament, EU hedge fund regulation has yet again moved towards international practice, rather than a distinct European response.

Conclusions

At the beginning of this PhD research, a growing but relatively small constituency of industry actors and policy-makers were interested in EU hedge fund regulation. The activities of these secretive collective investment vehicles designed for an exclusive club of wealthy private investors were thought to have little impact on public policy and therefore have been of little concern to most political scientists. Consequently, the study of hedge funds has been historically restricted to the economic and finance literature.

Nevertheless, by the middle of the last decade hedge funds were giving rise to some very real financial stability concerns. Yet, the Commission's non-decision on regulatory intervention in 2007 in its White Paper *Enhancing the Single Market Framework for Investment Funds* barely attracted any academic interest. However, the unprecedented calamity of the 2008 financial crisis changed the political landscape and re-energized EU hedge fund regulation. What had previously been a highly technocratic policy area was suddenly politicized, and hedge fund regulation became part of a much broader debate about how western economies manage state-market relations.

This research explains EU hedge fund regulation in a theoretical context; not by considering simply one theoretical perspective, one decision or one set of actors, but rather it has drawn on the macro theoretical approach of liberal intergovernmentalism, and the more micro-level processes of an institutionalist and interest-based approaches, in order to explain in rich narrative detail the dynamics of EU decision-making in this policy area.

However, these traditional theoretical approaches to EU integration have been found to inadequately capture all the key variables in this case. As Tsoukalis (1997) has observed, EU integration takes place in the context of international economic interdependence. This results in 'international policy externalities', which in turn create incentives for policy co-ordination (Moravcsik, 1993b:

485). The traditional theoretical approaches are primarily concerned with how EU actors – whether these are state, EU institutions or private interests – solve policy externalities arising out of global financial markets in an EU context, but it is argued here that in order to fully understand policy outcomes on EU hedge fund regulation, it is necessary to consider the international political and economic context, and its affect on EU decision-making.

The concept of an *international financial regime*, developed in this thesis, addresses this theoretical 'gap' in traditional approaches to EU integration. Large transnational financial firms, the US authorities and 'transnational governance regimes' (Porter, 2009) together constitute an international financial regime, which has promoted a particular US defined regulatory normative model from which it has been historically extremely difficult for the EU to depart. It is argued, that this international financial regime has acted - and continues to act - as an external constraint on EU decision-making on financial markets generally, and on hedge funds specifically. Therefore EU financial regulation, even post-2008 financial crisis, is a story more about continuity than change.

These themes have been explored through policy tracing the key negotiations around hedge fund regulation from the EU's first response to pressure for regulatory intervention in 2004 right through to the AIFM directive in 2009. Extensive forensic research, an innovative methodological approach and elite interviews with actors at the highest level has produced rich and detailed empirical evidence, which makes a significant contribution to understanding the role and influence of economic interests' on the politics and political economy of EU financial integration.

Advanced quantitative methods, have been used to inform and enhance qualitative elite research. A robust methodology has been developed which measures not just actor participation, but also the level and *intensity* of that participation. Social Network Analysis ('SNA') techniques, underused in political research, have been utilized to reveal actors within the network with the greatest potential to influence others. The methodological approach explores not just who participated, but what actors really *matter* when it comes to determining policy outcomes.

The SNA provided a visual representation of a policy network in the form of a network graph. This technique allowed connections between actors and patterns of participation in EU decision-making to be considered in a way that would not be possible using conventional research methods. Actors demonstrating the greatest intensity of participation, and those with the best structural position within the network to influence others ('network stars') were revealed to be the key actors in this particular policy area. The methodology therefore validated the theoretical assumptions that the key actors in EU hedge fund regulation were state, institutional and industry interests, but it also revealed that international actors, such as US investment banks and public authorities need to be taken into account.

The methodology presented has utility beyond this research. The techniques used have a high degree of reliability, because they are statistically based and could be easily replicated. Key actors were targeted for elite interviews and the evidence collected validated the existence of a small number of highly connected core actors that were highly influential in the policy process.

The technique has its limitations that must be noted. The SNA identified which actors' position in the network afforded them greatest opportunity to influence others. Although this suggests that these are the actors that *matter* most, the elite interviews found that some network actors proved to be more important than others, indeed some crucial actors, such as Jose Manuel Barroso, President of the European Commission, did not appear in the network diagram because they did not participate in the formal decision-making negotiations around hedge funds. Therefore SNA cannot be used in isolation to identify the most influential actors in a given network. The process needs to be validated through elite interviews and empirical analysis. Nevertheless, it can bring precision and reliability to the selection of candidates for elite interview. This is useful particularly in cases where researchers are faced with large policy networks, or are constrained by time and/or resources.

The AIFM directive was approved in the European Parliament ('Parliament') on 11 November 2010[44], although the final scope of the directive reflects the earlier Council agreement reached on 20 October 2010. The ratification of the directive ends; not just 18 months of at times acrimonious relations between member states, the industry and EU institutions, but also finally settles the issue of the EU regulation of hedge funds. It is therefore possible to draw conclusions as to which theoretical perspectives best explain the dynamics of EU decision-making in this policy area.

Although it is argued that traditional approaches to EU integration do not fully capture the dynamics of decision-making on hedge fund regulation, it has been shown in the preceding chapters that they do offer some explanatory power, particularly in relation to explaining how particular sets of actors influence different parts of the policy process.

A collective EU response might reasonably have been anticipated to the question of hedge fund regulation, given the active support for regulatory action in key member states. However, despite mounting pressure for regulatory intervention the Commission chose to rule out hedge fund regulation in its 2007 White Paper, which focused on 'market-access issues' rather than the financial stability concerns being raised by public authorities in most member states.

The state-led approach has substantial explanatory power in regard to this non-decision. The liberal intergovernmental concept of how national preference formation can arise out of competing state capitalist traditions provides a particularly convincing account of member states preferences on hedge fund regulation. It has been shown that the close association of hedge funds with

[44] See Commission MEMO/10/573 CEC. 2010a. "Press Release: European Commission statement at the occasion of the European Parliament vote on the directive on hedge funds and private equity." ed. DG Internal Markets. Brussels..

Anglo-American capitalist traditions created a general unease in continental Europe and that hedge funds were at the vanguard of UK and US financiers deliberately seeking to undermine national capitalist traditions and models of corporate governance. This was particularly evident in Germany and explains why the German government has historically been the most vocal of the member states calling for collective action.

Authors such as Moravcsik (1993a, 1993b, 1998, 2009) would describe policy outcomes in 2007 as the result of interstate bargaining, and the relative power relations of member states. The UK having the least to gain from collective action acted as a binding constraint, driving bargaining down to the lowest common denominator, which in this case was maintenance of the status quo. However, the 2008 crisis altered the power relations between member states, by damaging the credibility of the Anglo-American regulatory model.

The evidence suggests that the key outcome of the 2008 crisis was that it ignited the French government into action. The French government seized on the political opportunity offered by the 2008 crisis to push to mould the EU regulatory regimes towards its own economic philosophy, in order to create a 'level playing field' that would remove the competitive advantage of the City of London.

Interstate bargaining offers a convincing explanation of the final stages of the AIFM directive. The deadlock on the directive was finally broken by the French government backing down from its protectionist provisions, and by the UK government conceding to a heightened role for the new Paris based EU regulator.

Authors such as Quaglia (2009) have argued that this state-led approach offers the best explanatory model. She argues that the AIFM directive represents a 'new regulatory paradigm' not just in hedge fund regulation but in financial service regulation generally, because it forms part of a distinctive continental European 'market-making' model of financial regulation - promoted by France and Germany and supported by the 'Club Med' and other continental member states - that existed, but was not in 'good currency', prior to the crisis.

However, it is argued here that the concept of a new regulatory paradigm is overstated. Although, continental member states may have shared certain unease about hedge funds, which the 2008 crisis transformed into support for EU action, there has never been consensus on what should replace the status quo. This member state division gave rise to circumstances in which the institutional context became particularly important, and in turn allowed private interests to play a determining role in shaping policy solutions, particularly during the framing and agenda setting stage of the policy process. Neither the institutional context, nor the role of private interests are adequately explained by a state-centred approach.

It has been shown that when considering the institutional context it is important to draw back the research lens and consider the wider policy context. When hedge fund regulation is placed within the context of financial services integration, it is revealed that path dependent processes were at play. During the 2005 Green Paper consultation on hedge funds, whilst policy options appeared to be more open, in fact the established 'rules of the game' constrained the 'scope' of any regulatory initiatives on hedge fund to the correction of market access issues, rather than addressing financial stability concerns. It is argued that a non-decision on regulatory intervention in 2007 was the most likely outcome in the context of this wider policy regime in financial services.

Path dependency offers significant explanatory power for this particular stage in the policy process, but it also suggests a very influential role for industry actors. The maintenance of a credible relationship with industry actors, constituted a process of *increasing returns* for the Commission that placed it at the centre of a policy network of public and private actors, but this also closely aligned the Commission's agenda with the markets. The Commission, by its own admission, came to rely heavily on the expert knowledge and expertise of industry participants. The empirical evidence has shown that the industry was able to exploit this advantage and mould policy outcomes towards free market rules over the direct regulation of the activities of hedge funds.

However, when the concept of 'industry interest' was unpacked it was found to be more complex and diverse than one might expect. The empirical evidence demonstrated that there was considerable diversity of industry interests, not just *vertically* in terms of the range of actors from the value chain of asset management, but also *horizontally* between actors from 'importing' and 'exporting' market economies.

This more nuanced understanding of the concept of 'industry' demonstrates that although the 'EU' interest appeared to be best represented by the 'importing' industry perspective, the Commission's decision-making was not simply pro-markets but specifically aligned to a particular set of market actors. The representatives from the London offices of US investment banks were the most influential participating private interests in the case of hedge fund regulation. These actors have an embedded interest in the entire value chain of asset management and as such were highly incentivized to engage with, and try to influence EU public policy in this area. They promoted an Anglo-American 'view' of the policy solution, which prevailed over the 'importing' perspective and was adopted by the Commission in the 2007 White Paper.

This policy equilibrium was punctured by the 2008 financial crisis. This unprecedented event highly politicized the nature of state-market relations, and by association hedge fund regulation in most member states. The crisis constituted a 'critical juncture', in that it appeared to open up the range of policy options open to decision-makers. However, it has been shown that the Commission's policy u-turn was not driven by an internal 'conversion' to the cause of regulatory intervention, but rather by intra-institutional politics between the Commission and the Parliament.

The 2008 crisis created an institutional 'gap' that was filled by the Parliament. As longstanding supporters of hedge fund regulation, the Socialist group of the

Parliament was able to leverage institutional opportunities created in the course of four treaty changes, which have strengthened the Parliament's position vis-à-vis the Commission. The empirical evidence strongly suggests that the Parliament was the key institution that forced the Commission to reverse its inactivity on hedge fund regulation.

The co-decision procedure heightened the Parliament's role in the drafting of the AIFM directive. Its own draft text produced by ECON took a much harder, less industry friendly, position than the Council's compromise positions. At the press conference announcing the agreement on the final Council compromise text the representative of ECON gave a lukewarm response saying that it's members were "relatively satisfied' with the outcome (Griffiths, 2010). Yet, less than a month later the draft directive was ratified.

It remains unclear how the ECON provisions were negotiated into the final directive. The dynamics of the tri-party negotiations between the Council, the Commission and the Parliament constitute an area for future research. This has not been possible within the time and resource limitations of this PhD, but further research in this area could add considerably to our understanding of the role of the Parliament in determining policy outcomes.

In summary although traditional approaches to EU integration offer a level of explanatory power, none of them adequately capture the international political and economic context that, it is argued here, acts as an external constraint on EU decision-making. Although there is a considerable body of work that considers international regulatory decision-making, in particular Porter (2009) has described how large transnational financial firms are afforded considerable authority in determining the scope of international regulatory solutions, few have explored the affect of these on EU decision-making. Posen and Verson (2010) have identified considerable concurrence between the raft of EU legislation in financial services and international practice.

The role the US plays in determining the shape of this international practice is also generally overlooked by the EU literature. Strange (1997) argues that the international financial system reflects US domestic monetary policy preferences. Given its dominance in the international financial system, the US is able to exert asymmetrical power over other states, giving it the decisive power to set the 'rules of the game' in international finance.

It is argued here that, although by the middle of the last decade there was significant pressure for public intervention on hedge funds, there was a strong international bias towards policy solutions favouring best practice and voluntary codes over direct intervention. These solutions were being promoted through transnational governance regimes, the US authorities and transnational business interests. The international context can therefore more fully explain the non-decision on market intervention by the Commission in the 2007 White Paper.

The crucial importance of the international context has also acted as a constraint on post-2008 EU decision-making. Despite the initial ambitions of some member states in the immediate aftermath of the 2008 crisis, the AIFM directive has come to reflect a developing international response, developed in the same pre-crisis international financial regimes. The final of the AIFM directive more closely resembles the US Dodd-Frank Act, than a distinctive EU response.

It is argued therefore that behind the political rhetoric, EU hedge fund regulation is a story of continuity rather than change that is best explained by international financial regimes, which continue to constrain EU decision-making on finance markets regulation.

The determining role that international finance regimes play in shaping policy outcomes at the EU level raises important questions about accountability. In whose interest is policy created, and to what extent are the mechanisms of international financial decision-making 'captured' by powerful private interests?

Given the well-documented tendency of elite individuals to move between public sector and private sector positions in global finance, there is potentially an even greater risk of 'agency capture'. There is a need to understand more about the dynamics of these international elite networks. Are these regimes being skewed toward the interests of large financial interests at the expense of the public interest? Or, given the immensely technical character of the work of these regulatory groupings, is delegation of decision-making to non-majoritarian experts simply the most effective method of formulating international financial regulation? This is a rich area for further research, which is ideally suited to a comprehensive Social Network Analysis. By measuring the bonds and ties that relate individuals within this elite network, it would be possible to explore in considerable detail the power relations that drive decision-making in these networks.

Interview Transcripts

Order	Interviewee	Type	Date of Interview
Interview Transcript: A	IND08	Q2/ Network Actor	22.10.2009
Interview Transcript: B	IND13	Network Star	04.11.2009
Interview Transcript: C	PA08	Network Star	22.10.2009
Interview Transcript: D	PA10	Q2/ Network Actor	21.11.2009
Interview Transcript: E	PA18	Network Star	21.11.2009
Interview Transcript: F	PA19	Q2/ Network Actor	21.11.2009
Interview Transcript: G	PA33	Network Star	24.11.2009
Interview Transcript: H	PA37	Q2/ Network Actor	06.11.2009

Interview Transcript: A

Name:	IND08
Organization:	Investment Managers Association
Type:	Q2/ Network Actor
Date:	22.10.2009

*(*XXXX indicates where names have been removed)*

5:35 "I know a lot of these individuals"

Starts with the Heideman Report which pre-dates UCITS review.

IMA represented UK fund managers but they are often managing funds that are based in other jurisdiction (e.g Lux, Ire etc). The UCITS III had been "helpful but not profound" – the UK developed a committee called EU-Strat chaired by XXXX and XXXX at the IMA

5:40 "…we were keen to keep the ball rolling with the UCITS directive, not to let it stop their, in particular because although seemingly there was permission to sell across borders, in fact there were all sorts of petty obstacles that member states could put up to impede distribution and they wanted to keep the pressure on the European Commission."

"…the context was very pro-free trade, very confident…from an exporting country perspective, we could have the importing countries on the run if only we could apply more pressure…so Dr Heideman was commissioned to produce a report."

"From this report distilled a list of priorities for the Commission, things we hoped could rally a level of EU support...so we (UK) could lead the European policy debate."

	The priorities were: 1). Simplified prospectus 2). Fund managers 3). Pooling (master/ feeder structures) 4). Private placement *Private Placement;* UCITS was all about retail so it was “constrained” but alternatives were “Let-Buyer-Beware” so rather than squeeze everything into UCITS we wanted distribution regulations, in particular investor type distribution i.e. not defining the product (like in UCITS) rather the sales channel and the ensuring sales were only to qualified investors. This was an unoccupied space at the EU level, and lots of national variation. UK with a simplified process at one end and France at the other with an “extraordinarily perspective process” “…we worked had to push XXXX and XXXX at the Commission, as well as working hard on EFAMA.” EFAMA; “…odd and complex organizations to work with, their members are not asset manager, rather its member are other national trade associations” “EFAMA set its own agenda in terms of importing, rather than exporting countries.” “we were successful broadly speaking” (in terms of goals above – i.e. get this on the EU agenda) “…most people don’t argue for EU legislation… the banks and insurance companies thought we were insane.. but in the absence of regulation its very hard to sell.” *Relations with the Commission;* “…there was a happy correspondence, in arguing for a free trade agenda and it the Commissioner and important Commission officials happen to be from pro-industry states.” Considers input to have ultimately culminated in the Green Paper *Expert Groups - Green Paper;* “…slight odd experience… lots of round table discussions, the Commission really driving the agenda… I think they know the outcome before they started and we were a little bit of a rubber stamp.” XXXX – was head of hedge fund group – he pulled together the members and chaired the group
11:16	*Change happened post Green Paper – related to locusts, but unable to pinpoint;* “…and then I suppose things started to change…it started positive and bullish… then it became much more defensive... hedge funds move from masters of the universe to the bad

	guys…suddenly it became about regulating hedge funds rather than their distribution… and how can we bring this onshore.” “Whereas our agenda was not about regulating the product it was about the disribution, or regulating the distribution process.” “McCreevy came in with the job of reducing the policy output of that DG” re Green Paper consult; “…they (Com) had already things they had decided they were going to take action on.”
14:26	XXXX pulled together information on national private placement regimes for the Commission “…it felt more guided by perceptions of self-interest… everyone wanted their slice of the hedge fund cake. The Germans wanted their industry to succeed the French wanted theirs to succeed as well. The Irish wanted the funds to be domiciled there…so everyone felt there was something to place for. For the UK…they don’t really care where the funds are, they just wanted them to be managed form the UK and sold as far a field as possible, whereas as for Ireland and Luxembourg its more about local product…this kind of value chain analysis is very important in the asset management sector – which bit of the asset management pie are you trying to eat? Is it the custodian or fund operations, or is it investment management side, and then of course there is a lot of profit in distribution…and that is why it’s relevant whether you are an importing or exporting country. There are all sorts of bits to play for so
16:45	you therefore see all sorts of unlikely and potential alliances.” ***Useful for utility of network actors list;*** “…I know these people, not just in this process but beyond and out with…some of these
19:14	people I still see and have contact with regularly.” XXXX – network; is XXXX husband, former CEO of IMA, very well connected, extremely well connected in Euro asset management and very well respected, “…but I wouldn’t say in this particular debate he had had an enormously significant role.”
20:54	XXXX – network; “…definitely a significant person….I regard him has being very relevant.” XXXX – network; chair of InvestCo – now chair of EFAMA XXXX – network; Stats guy at EFAMA, behind the scenes, doesn’t lead the debate
22:41	XXXX – network; rep for Irish assoc – follows members, doesn’t lead debates XXXX – star; used to work for the Finnish regulator, become one of the most important (because he move to AIMA)
0:50	XXXX – “pain in the butt” head of the French assoc XXXX (himself) – network; “I’m important only in so far as the ‘doer’ of the IMA” XXXX – star; “very interesting and very impressive…he really argued the case in a very straightforward way.”

	XXXX; now at Fidelity "Um..yeah" XXXX – star; "Mixed reviews on Fabio" XXXX – star; then chair of EFAMA XXXX – star; "very significant" Didn't have much to do with AIMA; "In this whole debate we (IMA) had very little to do with AIMA…perhaps because we were representing genuinely different interests…AIMA were very thinly resourced…I think it might have been a case of 'lets have a trade association' but more to promote hedge funds than lobby policy makers. It seemed a pretty thin outfit, given the significant of it economically and in terms of assets."
37:25	XXXX – star; "…not in this context for me personally" XXXX– network; chairman of IMA committee, "fantastically opinionated person." *Q. role of the European Parliament?* "absolutely the Parliament matters…getting Klinz on board for the Green Paper, that really
38:53	mattered." "being on the agenda is key and that is clearly the Commission…so its (Com) necessary but not sufficient…you try to influence parliament in a damage limitation sense, because they could make changes that really screw things up, so its trying to mitigate that risk." *Role of the USA;* "ICA is the US trade association…there are cordial relations between EFAMA, ICA and IMA" "The domestic investment market is so huge that it tends to be hived off and separate from what goes on elsewhere…that's not so say that US firms weren't at the heart of this, because they were…JP Morgen, Goldmans all those…investment banks were right in the middle of this, they vocalised their opinion through the European associations." "The SEC is less engaged than one would suppose" The USA is such a world of its own – "benign neglect" "Investment banks are not representing the US interest rather the interests of their individual firms"

Interview Transcript: B

Name:	IN13
Organization:	Assogestioni/ Efama
Type:	Network Star
Date:	04.11.2009

	*(*XXXX indicates where names have been removed)* "You need to distinguish between the political level of the Commission and the technical level." (Com is not just about prateo-optimality) "Commissioner McCreeevy was very close to the financial industry, and was willing to do something that was very controversial in the context of hedge fund managers."
7:15	*London based industry lobby;* "…absolutely opposed to any form of regulation…accepting in some way just the British model where you regulate the fund manger but not the hedge fund itself… and they were pushing for a private placement regime at the European level." "…extremely difficult to define and implement and this is way even if there is political will on the part of the Commission to create a private placement regime, they never able to find agreement on how to regulate it…how to harmonize private placement." French, Ger, Italian assoc – pushed for incorporation of FoHF into a framework, "…driven by interest in our own domestic markets." There are many differences in EU counties in the why they define a qualified investor, "European generally think that institutional investors also need some kind of protection in order to make choices." But McCreevy was dismissive of this EU association position – so UK and EU position was divergent "…the perception was that the industry had won the war against regulation at the EU level." *After AIFM;* "The initial reaction of the UK based industry was very vocal, very strong, because it was a shock…all of a sudden you seem to be in control of things and then you get this horrible directive."
11:20	EU Assocs – "…sometimes we are captured by our regulators." "McCreevy was not just opposed to hedge fund regulation, but financial services more generally." EFAMA – "In the past McCreevy treated us like, 'well you're a bunch of useless guys who
19:56	don't have a clue about how political decisions are taken, " "I speak form the position of member state who has an extremely weak political position in general…the interest which is brought by the Italian Ministry is very weak and we always kind of find ourselves seeing what the rest propose then deciding how to lean one way or another." "…this is not the case with Germany and France they were part of the pressure." "The crisis focused the attention of the ministries of Finance in each country and they all

	needed to show that were doing something, something that was not really on the agenda beforehand…even my [*Italian*] regulatory didn't see it as a priority."
	"Hedge funds were part of the puzzle but not really main culprits."
	"This is something very technical...no interest from the public or politicians until the crisis."
	Role of the Parliament;
	EP didn't lead it reacted – "…in order to lead the process you must be very knowledgeable, otherwise you're not credible."
24:20	"…scope is not usually a difficult part of a directive but in this case it was."
	XXXX – left unit –"…unable to defend his bady."
	"A lot of technical expertise is based in companies in London."
	In UCITS context;
26:27	"A number of us thought there was a case for adding to UCITS – step by step to include funds that were not harmonized, but AIMA comes form a completely different perspective."
	"I think the Green Paper was just a political show…a way by the Commission to show it was willing to consult with a large number of stakeholders and gather all the information in order to make sensible proposals…in the end what we got was the revision of UCITS and this was very much what has on the cards from the beginning….everything beyond that was all shelved"
	"…even possible harmonisation of real estate funds, property funds, that was very much in the mind of the Germans, and the creation of a harmonised definition of private placement ws apparently was very much in the mind of the UK based industry, even in cases where the Commissions feigned to be proactive, but they didn't really want to produce anything."
	"The Green Paper and the White Paper were a way to postpone discussion…its was clear from discussion we had in drafting the Green Paper it was clear that hedge funds and real estate needed to be discussed but there was never a serious attempt."
	"I always got the impression…there was no appetite for any regulation…because the Commissioner wanted to be seen as pro-markets and from a technical point of view no one their wanted to tackle such a horrible directive…because technically its extremely complex."
33:46	"The Green Paper tried to raise so many issues and look at things from so many sides in the end you ended up with no decision at all…if you create framework that has no focus its very easy to throw the ball off field…this all was meant to create a big debate on nothing…but everyone was satisfied, everyone expressed their view but in the end there was nothing and this was the goal of the Commission. "
	Retail risk for HF;
	"The argument is not without some basis…you get these wrappers under UCITS and they can contain stuff that was not meant for the general public."

	AIFM represents a mix of 2 political issues 1). Financial stability and 2). Consumer protection – the Commission yield to pressure on both sides but these really have little to do with hedge funds "There are people that look at regulation, even in the industry sides, as an opportunity – it its well devised, and there are people who look at it as a problem full-stop…but however you look at regulation its better to live without it." Importer countries tend to focus on consumer protection, exporters more interested in market access. "London is the hub for asset management."

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<td>8:20</td>
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Interview Transcript: C
<table>
<tr><td>Name:</td><td>PA08</td></tr>
<tr><td>Organization:</td><td>Committee of European Securities Regulators ('CESR')</td></tr>
<tr><td>Type:</td><td>Network Star</td></tr>
<tr><td>Date:</td><td>22.10.2010</td></tr>
</table>
See three drivers of HF policy in EU
1). "German's have hated hedge funds since 2005, ever since CIF tried to topple the management of Deutsch Borse"
2). Rasmussen – Danish telecoms was privatized and it involved a leveraged buy out which "lost hundreds of millions of debt revenue and he lost a board seat" [Brussels rumour]
3). They found each other at the EP
Rasmussen is a high level politician "…his influence was underestimated by the lobbyists…the lobby really missed the plot at the EP, they should have been much more active."
"Come G20 the Germans and the French were able to push thrpugh this regulation at a global level…it was really clear of the French and Germans because they pushed it to the G20 conclusions which they could then refer to."
"Depositary liability was pushed by the French because people close to the French government lost money during the Madoff scandal."
"at the UCITS review it was really well thought through policy agenda, taking 4 to 5 years for anything to happen."
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	"…to be very frank is was highly political…asset management used to be technical, no one could care less about UCITS IV."
10:43	"The UK had already committed its support for Barroso, but he needed the French and German support to get re-elected…so clearly policy was being driven by the elections."
	"…its so clear policy is being driven by the European (Presidential) elections."
	"The Commission was taking the industry's agenda…creating the single market, efficiencies of scale."
	"…many times it was felt that the Commission was listening to the industry even more than CESR – the national regulators."
	"The Commission used to be our friend, but we're not sure any more that that's the case."
	2004 agenda;
	The Asset Management Unit at the Com was set up to "Complete the single market and create level playing field with the US"
15:01	The US reached the same conclusions at the G20 but the US interpretation of its meaning is completely different. – "I get daily alerts, its being moderated, its being made more flexible…clearly the lobby is working there, the proposals will be much more pragmatics (than Europe)."
16:40	French has always had a protectionist attitude towards their markets: "French…registration regulations made it really burdensome for foreign (or non-EU) credit agencies to operate in Europe, and same approach is in the AIFM..its really difficult for third countries and Funds to access the European markets." – appear protectionist to other jurisdictions
	Early Sept – "US is never going to go for this level of EU regulation."
18:52	"I'm hearing the US are a bit happy with the proposals, because the competitive edge will move to the states."
	LTCM:
19:40	"Many policy makers refer to LTCM, its basically the only good example of stability issues with hedge funds."
	"…who would have believed we were going to have this kind of regulation this year, nobody."
	Re UCITs and Private Placement;
	"…we were really working on that and the Commission was starting to warm up"
	Importance of the Commission;
	"I am surprised how many people still go and see the Commission, they keep sending letters to the Commission all these little firms and I'm asking why…ok they are players but you know the impetus now is the Swedish Presidency – the Council, member states and on

	the other hand the Parliament." "AIMA works with the Swedish Presidency, the UK government not the Commission – the Council and Parliament are at the driving seat" "The Commission's role after drafting is less so…they are not in the driving seat so the target for the lobbyist changes." Interviewee worked in the Council for 3 years; Council is in the driving seat when it comes to this legislation…e.g during UCITS III during the Finish Presidency…."We rewrote the whole investment powers for UCITS, and the Commission where really upset but we cornered them…it happens quite often."

Interview Transcript: D

Name:	PA10
Organization:	Eurosharholders
Type:	Q2 / Network Actor
Date:	24.11.2009

EMAIL EXCHANGE FOLLOWING CANCELLATION OF MEETING IN BRUSSELS 24.11.2009

My first reactions to your ' questions are:

1.Dynamics of what has driven hedge fund regulation : embarrassment that a sector that also concerned the large public of investors was so poorly known to authorities, a sector based on a financial instrument for which there is and was not even a definition (no serious definition of "hedge funds", therefore the European Commission talks of non Ucits...), also the fact that the dynamism of hedge fund managers had too much impressed the EC who saw in the hedge funds managers finally people that took risks where other funds were too shy or too prudent, also the fact that hedge fund managers monitored more intensively the boards of companies in which they invested, but the EC had not enough attention to the risks they took, and then the EC became most embarrassed to have believed too much in them and wanted to show they wanted (finally!) to protect the investor in hedge funds, do not forget that hedge fund managers had the bad habit to be paid on the basis of a (high) percentage of the increased value, but in case of disaster it was the investor who lost, bad luck! Do not forget that the top of the sector in the EC wished his views on hedge funds to be shared by his staff. After a number of disasters there was a need to show interest in investor protection and regulation. Perhaps there should also have been serious instruction to verify the reliability of information on the risks

	taken by the hedge fund managers. 2.Some excellent players who on the basis of their skills had a better feeling on the evolution of markets, the George Söros of this world, unfortunately followed by imitators and adventurers, greedy financial geniuses or behaving as if they were, both of academic (LTCM) and commercial (Pierre Lagrange)type. Large and small investors (the large public, those who would also be interested in buying lottery tickets, attracted by the success of the great names. Fund managers not reluctant to take excessive risks, certainly when the losses were for the investors and the possible high profits for say 30 per cent for the hedge fund managers! With this kind of people you can expect what quality of transparency to expect. Some became extremely rich and I did not hear of many of them wishing to share their wealth with the small investor. 3. Key events : the directive, the disasters, the way investors had been lured by misleading propaganda for hedge funds that had mysterious capacities they tried to convince people with. Next to this there are also serious hedge fund managers, even if some were not always lucky. 4.A change of mentality, a better knowledge of what these managers really take as risks, this is to be expected from a better follow up by authorities that need the support of the players, especially the investors. Many bank commissions and similar agencies want to protect the investors but the investors must politically support their supervisory authorities who have to face the mighty lobbies of the extremely rich sector of hedge fund managers, but I repeat you also have good ones, with excellent feeling for market evolution and scientific approach. Unfortunately the adventurers and "great pretenders" are still there and must feel more monitored and watched by public investors and authorities. Just a few addenda to my first impressions on hedge funds : The hedge fund system came more to the attention of the EC thanks to the insistence of the European Parliament. Also CESR played its role and continue to press for more attention to this opaque world. In investors circles the fact that hedge funds were known as dangerous short sellers alarmed authorities and "victims" of created downturns in price levels on stock exchanges. Have a good tip home and hopefully we will see each other. Tell us something regarding your Ph.D. ! In my previous mail I referred to the fact that it could be appreciated and that Mc Creevy especially appreciated the fact that hedge fund managers were monitoring more

	intensively boards. That is only valuable and useful if they do so with the intention to pursue what is good for the firm, not only for their short term own interest. I forgot to tell this. Some, even many hedge fund managers are not real investors but just speculators (specialists of short selling). When some boards did not follow their advice they tried to get rid of them, even if these boards were acting in the long term interest of the firm! Sometimes they wanted splitting of firms in order to give them an opportunity to earn quick and easy funds. Sometimes they insisted on working with too high borrowing to increase profits per share but weakening the financial structure of the firm. Once a nice value increase was obtained they fled away from the company like rabbits. This was luckily not the case with all of them. Some were real and intelligent investors. Unfortunately, too many of them were only driven by their wish to obtain a high percentage of short term earnings, to the detriment of the long term interest of the firm.

Interview Transcript: E

Name:	PA18
Organization:	European Commission
Type:	Network Star
Date:	24.11.2009

*(*XXXX indicates where names have been removed)*

4:28	"Hedge funds were never really seen as a prime issue, or a serious issue, until the crisis started to break and then of course everyone try's to analyze everything."
	"…of course everyone is looking for scapegoats."
5:24	"The Germans has always been worried about hedge fund activity, arising from Deutsch Borse. This triggered the central European socialist to hedge funds."
	"France is much more de rejest anyway…I can't remember any particular events in France"
	Rasmusen has been 'vitriolic' – he is the EP's voice, "mouth piece"
5:25	"…the Socialists don't like McCreevy anyway, because McCreevy is as liberal as you get in European politics."
7:28	EP blamed the commission and the commissioner – he was seem a promoting Irish interests
8:40	"McCreevy had given us very specific instructions that we were not to prepare anything on hedge funds under any circumstances. What we had been working on was a different

9:17	approach which was a private placement regime."
	Even on private placement McCreevy was nervous the EP would start to add things in, "McCreevy was always nervous."
9:51	Barroso was told "if you don't bring hedge fund regulation before Parliament breaks you can wave goodbye to your socialist support…"
10:18	"…having not done a lot of work on hedge fund we had to produce something in very very short notice."
11:30	HF actions was, "…in breach of the EU's regulatory agenda that had been good to use. We'd basically established a very good credibility vis-à-vis the City and others."
11:27	"There was immediately fierce opposition from the French…. Extra detail in the AIFM directive was put in by the French - the Commission only wanted managers to be regulated, but the French wanted to drive the industry onshore so pushed for third country rules and depositary liability… all ridiculed by the industry
12:19	"It's an example of why its not a good idea to make law in a hurry, especially not complex law like this."
	talks again about how good private placement would have been
13:02	"All bets were off because the politicians were deciding something else."
	"The directive is being heavily amended"
	"There is a huge amount of lobbying going on…the hedge fund industry doesn't know
13:35	Brussels very well but you can understand why they were annoyed"
	In reference to Barrose – "…he clearly made a move here."
13:35	"The socialist were the second biggest grouping… no one knew what was going to happened…you would have expected them to do better in the election. He needed their votes, so it was that second mandate that drove his thinking."
13:50	"Barosso is a consensus seeker…you can see that because there have been very few votes in the Commission. I remember Britton and Delors went here were lots of votes."
17:33	"…it was just to big a risk to stick with McCreevy and not to act."
	"This is pure politics… they don't understand what hedge funds did, they don't understand
19:26	financial services regulation – its extremely complicated."
	"The economic philosophies of the Anglo-Saxon world and the Mitteleuropa are very different. In Mitteleuropa they like strong stable companies, so they don't like these rough
21:08	diamonds [*hedge funds*] coming in and roughing up the match… it's a touchstone that shows its quite difficult to reconcile the positions between the Anglo-Saxon world and
21:56	Mitteleuropa."
	"France rewards long-term shareholders by giving them more votes."
	"For the last ten years I've been trying to integrate the capital markets of Europe… free

22:53	flow of capital under the Treaties, free provision of services, of course with constraints, but along come these unregulated merchants… and they don't want any rules at all, then the crisis come along and people say we don't like this…it touches all sorts of nerves of different philosophies." "Financial services is a particularly sensitive area…the French philosophy is long-term planning – they don't want to be pushed around by hedge funds upsetting the balance." *The commissions priorities were;*
25:31	1). Transparency i.e better information for regulators 2). Passporting – "…we think in terms of the single market, not the national market."
26:07	"UCITS is a fully harmonized product and it has become the global standard for investment funds – we are very happy about that."
26:45	"There was a view that we have UCITS here, and we'll define the rest there." XXXX – "He was the author – he was right at the heart of drafting
29:14	"…we've made a lot of progress on financial services integration. I mean were nowhere 10 years ago. We are now a big player in the world. The EU is one of the biggest capital markets in the work with a lot of rule which influence other parts [of the world]…so we've moved a long way."
30:00	*Has the Commission been captured?*
31:58	"…the sale-side industry are very well organised, very powerful…I don't think we've been captured but maybe they've had too much influence…and that is why we are basically trying to re-balance out inputs, re-balance the broader stakeholders…problem being here
32:38	is find me a European consumer dead or alive – they don't exist." FIN-USE – "…they're as good as you get." FoHF – were looked at in the context of UCITS, "…but McCreevy thought the EP would stick in a whole lot of things." "The American's were annoyed." "We had already agreed with the Americans, that we were going to leave off hedge funds." "The American's are nervous about the third country rules" "Particularly the US Treasury and the SEC – we speak a lot to them…there is regular, what we call informal dialogue, so we know where we are and we try to converge our positions as much as possible, but we don't always succeed. "The US has done so badly in this crisis…there have been evident failures…certainly we're not going to be told what to do by the Americans." Systemic Risk Board – set up under the ECB and brings together central bankers and regulators ,with the aim of identifying risks in the system."

Interview Transcript: F

Name:	PA19
Organization:	European Commission
Type:	Q2/ Network Actor
Date:	24.11.2010

*(*XXXX indicates where names have been removed)*

Confirmed it was rumoured that the DG was getting a French Commissioner

4:05 Up to 1990's Commission had been fairly inactive in financial markets, FSAP "put the Commission back at the centre of the debate"

4:41 By 2004 asset management was developing as an important aspect of finance only Com legislation in area was UCIT s – Com looked at "how do we develop UCITS, which brought in asset management"

So…set up the first Expert Group – "…first real engagement with area of fund regulation."

"…there was no real comprehensive policy here."

However already in certain parts of the market (eg. France and Germany) were already being subject to regulation – "…this was a whole space being regulated at the national level."

"…that was the first way the issue was formulated" a whole non-UCITS space we'd like to benefit form passporting – "…this is how it came onto the Commission's radar screen."

"…the Greenspan consensus had prevailed by that time." ECB and IMF perspectives were

9:22 defined by LTCM

"A market opening usually comes with some regulatory framework to create the conditions…make member states feel comfortable opening up their markets."

"…using mutual recognition alone is very unusual…rather member states require a second authorisation, so to break that down we've had to engineer some form of harmonized rules…that was the logic of MiFD, UCITS etc and the same here with hedge funds…the conditions would be light-touch but would need to be same type of regulatory harmonization."

Q. why did the Commission say no in 2007?

"…McCreevy brought his own political perspectives to the role…he remains to be convinced that regulation is always useful."

"I have to say the debate was finely poised…at the time no one was really familiar with the macro-issues…its was all about the single market and investor protection…ensuring

14:50	that investors remained qualified." "…at the time the Commission was on the back-foot, we'd done the FSAP and everyone was complaining pretty loudly…so the climate was not right." "…debate divided between Member States…member states were split on action/ in-action…so you had Member States that wanted alterative investment fund regulation, and here you have to make a distinction between hedge funds, private equity and real-estate funds…for the Germans real-estate was their thing and the French wanted something on hedge funds and private equity was a more party political thing….you had industry split, EFAM if you look at their position…then there were many, many minority views." "…the European Parliament became the focus for the backlash against McCreevy's position." XXXX – initially reports were sympathetic to the Com's view, but the 2nd report more favourable towards regulatory initiatives which reflected "…the dynamics of the EP which were changing, the socialists were becoming much more vocal on private equity." "…at the start we had an easy time picking off their arguments." Aug 2008 – "…the Parliament became the institution that forced the Commission to back
21:45	down from its inactive stance." this debate had become extremely polarised and quite nasty." "McCreevy was a polarising figure…he had gone against the mainstream and had made a
23:12	lot of enemies." "…on hedge funds…he was just unwilling to give anything…the Commission is traditionally honest brokers, if there is pressure to look at anything normally we look at the middle ground, or at least engage with the different sides, but McCreevy's approach was no, I've said no and repeated that ad nausea, until people were sick of hearing it and it all kind of bubbled up in this very poisonous atmosphere in 2008, start of 2009." "I haven't seen something as unpleasant as that, or as difficult.. .I mean there have been other difficult files but that one was unusual in how vicious the politics became." Private Equity Lobby: "EVCA saw the issue coming and got really involved with the Commission…they knew the pressure was mounting and they were exploring how to hold the lone…or damage limitation." But the HF: "…European associations tried to play the card that they would give
23:49	nothing…there shall be no regulation and we can't believe anyone would want this…they challenging the right of the Commission to act in this area."

	"…shows a difference in their understanding of the EU process. The hedge fund industry had never really had to deal with it…we had worked with them on an expert groups in 2006 and the got an outcome they were comfortable with…they thought they had suppressed any action but they didn't have people on the ground here, or a sophisticated understanding despite it being explained to them very clearly that the politics had moved away from them."
25:20	They organised visits to lecture MEPs…"more counterproductive lobbying I have yet to see."
	"…it got beyond lobbying, the socialist got all the parties lined up and then put pressure on the President."
26:25	"We had a consultation and hearing and even then it still – will they wont they – then it wa, you're writing a Directive and you have three weeks to do it."
	"In the past we were accused of sitting in an ivory tower and making legislation…and that was true to some extent…there was no real serious engagement with stakeholders."
26:57	"…we institutionalized stakeholder involvement quite extensively.. and we were one of the Commission DGs that really lead the way on that…"
	"We try and mobilise input from all parts of the market, but it was very clear very quickly
27:13	that the people who had the most resources was the industry side of the market and we had a structural problem in getting any involvement from investor representatives or consumers or academics… they just didn't have the time, or resources or organization to
28:18	support this, whereas the trade associations and individual players, especially the investment banks had whole policy departments." "…it's something we were aware of and that we tried to compensate for to some
29:45	extent." "…anything we did was bounced of regulatory committees of the member states, like
32:49	CESR…its not that we accepted blindly what the industry said and that become policy, there were a lot of checks and balances in the system, but a lot of the raw material we were working with, and a lot of the initial conversations were coming from the industry."
34:45	"You need to go into the consultation with a clear sense of what you want to do and filter what people tell you... be alert to self interest."
36:25	"If you don't have that clarity of what you want to achieve you can be taken hostage."
	RE scope of AIFM;
39:00	The area we were most interested in was disclosure of leverage positions and an ability to provide information to the regulatory…that was the area were we thought hedge funds could cause financial stability issues
	Depository conditions was spill over from Madoff

	"A lot of thing got added a that proposal filtered its way through the system… the initial story was this macro-prudential story." *Investment Banks, and lack of HF participation in Green Paper;* "…prime brokers, investment banks and trade associations…they are used to dealing with us ...the small hedge fund managers were just hoping this would go away." "I find the hedge fund industry…it's a bunch of individual very talented guys…doing things in corners... and doing their own thing, even AIMA struggled to pull together an industry position because people are so individualistic in this industry, so they don't really see the interest in having a public affairs outreach."

Interview Transcript: G

Name:	PA33
Organization:	FIN-USE
Type:	Network Star
Date:	24.11.2010

1:50	FIN-USE is a group of independent experts created by the Com and established in 2004 – group is pre-selected by the Com – open tender but they are looking for people with a pan-EU focus FIN-USE had observer status at Green Paper – means you cannot speak unless asked something, therefore simply to report back to your own stakeholders "The lobby in the financial sector is strong and the market are completely dominated…so its not a common sense understanding of all this…and the consumer voice is not heard" "Financial Services are more complex and not all consumer organization have experts…
7:40	therefore they don't contribute, or contribute with a very basic response." *Structured funds were their main concern;* "In the UCITS review the main concern was the alternative investment industry was putting pressure on traditional funds…for example structured funds were easy to set-up and almost unregulated therefore it presented a loop-hole…hedge fund were part of this but not really the main concern." "…it was relatively clear if you were this experience investor then well you can get them
11:55	(Hedge funds) but it was not easy to sell to normal investors and the main concern of

<table>
<tr><td>14:50</td><td>FIN-USE was to continue this approach…and the status-quo was preserved.”
Industry lobby:
“…within this sector, agency capture is a real risk… you can see that they blankly represent the interests of the industry…DG Market is quite conscious they are permanently being lobbied.”
On AIFM;
“…you can see that the industry use all the tools just to kill it and the media have responded to that… its like its top of priority… its everywhere…its absolute pressure. “
“The argument they always come up with and it more or less always the same, they try to play the financial centres against each other and threaten to move.”
On complexity;
“…it excludes form the debate other parts of the story”
“…it’s a rich industry, it has a lot of money.. and it is very easy to buy lobbyists and create this association and that association in Brussels…in coming to dinners and this and that…permanent talking…either through dinner or lunch or conferences, they invent a lot of activities and forums to create discussion”</td></tr>
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<tr><td>10:35</td><td>Interview Transcript: H
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<tr><td>Name:</td><td>PA37</td></tr>
<tr><td>Organization:</td><td>UK Treasury</td></tr>
<tr><td>Type:</td><td>Q2 / Network Actor</td></tr>
<tr><td>Date:</td><td>06.11.2009</td></tr>
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(*XXXX indicates where names have been removed)

2004/5 – Trinder headed that up the Treasury European and Financial Services team. He ran all the EU negotiations, during the UK presidency. He only had a y a team of 18 staff with very little resources (but there now there are more than 200 in the financial services team)
Q. who initially drove HF regulation?
The FSA and SEC where interested in developing methods of data collection and setting up expert teams – “…and I felt that was a very common sense approach.” Thinking coming out of UK, USA and Switzerland was “…hedge funds don’t pose systemic risk, they perform useful tasks, we just need better information.”</td></tr>
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	“There was a lot of anti-rhetoric on hedge funds coming from the EU”
	“On continental Europe its was slightly different, because I think the main driver was that a number of the EU countries are strongly against active shareholders, particularly hedge funds who are looking to change the direction of company boards and I think, particularly in Germany, where there were a number of cases… where hedge funds had tried to oust the management…culturally in Germany their management structure is just totally different, they don’t like that. The management boards tend to involve people like engineers, or a munch broader spectrum of people, rather than just accountants or financial analysis or speculators…I think that got to heart of corporate Germany.”
13:25	summer of 2005 FSA launches expert team on hedge funds, basically this is FSA’s response to the pressure for action on regulatory intervention.
15:10 16:24	pre-crisis the debate was framed in terms of the competition of the single market, or a continuation of UCITS …”…UCITS is seen as a success internationally, particularly in Asia, but also on the wholesale side there was a demand to implements a private placement regime for qualified investors… and on the retail side to introduce the passporting arrangements prevalent in EU legislation.”
	“David Wright, who is now deputy general of DG Internal Markets, who has probably over the last decade been the most important civil servant in Brussels.”
	Q. was the Commission pro-markets?
18:15 20:40	Commissioner McCreevy “…whose attitude is very much I’m not doing anything unless someone proves there is a market failure and he was quite adamant with that on absolutely everything” – e.g. clearing and settlement, bond markets where he concluded on bond market transparency – he said we’ve looked into this, had a consultation, public enquires, looked at evidence etc and “…there is no market failure, there is no need to do anything….and that was coming down from McCreevy right up until …18 months ago… and then what’s happened since then is ….McCreevy basically is partially being blamed within the various circles in Europe, particularly by other Commissioners or national governments, or the European Parliament, and you’ve seen him really sort of side tracked and that’s what you see by the hedge fund legislation that has come out of Brussels – is that it was really not written by McCreevy’s team, Barrosso has taken complete control over this, partly because he wanted to get re-elected, and partly because of the political and public pressure to do something.”
	Q. what was the UK position from the Treasury perspective?
	“On hedge funds not really…we obviously didn’t want a directive, we were supportive of the FSA, in this whole area the sort of priorities that the UK had on on the wholesale side were looking at the idea of private placement and on the more retail side company

	management passports, simplified prospective and looking ways for investors to sell funds outside their home states…the notification process.” The way the Treasury works; “We don’t always agree with the FSA, but usually you do because that is the main body of where the expertise lies in the UK… a lot of the work here was being done by Dan Waters at the FSA and his team…so a lot of the discussion between the FSA and Treasury on the various issues where about agreeing a common platform…the usual practice is to agree [a position] within the departments, sometimes it involves the Bank of England as well.” **Q. how important is the market position of London?** “… on financial markets particularly in areas where UK has a complete dominance in Europe, which is usually terms wholesale, the UK does punch above its 1 in 27 position and I felt the Commission were both was listening to the UK, but also the industry as well. One
23:26	thing about the Treasury, and the Commission is that they are very open to discuss issues with industry participants.” Spoke at the Green Paper open hearing; “…what Commission tend to do at this hearings is invite the EU presidency, or a representative of the presidency…so I was speaking on on behalf of the UK presidency rather than the UK government…I probably said some works about the UK’s priorities…I certainly remember being asked what Gordon Brown’s priorities were for the presidency.” “I actually flew to Washington that afternoon… I had a meeting with the US government…so I actually didn’t stay for the second half…I don’t think there were any questions asked…it wasn’t really a panel, it was people just coming and giving a statement.”
27:18	**Q. USA position on this issue?** “The discussions between the USA and UK on particular market issues would have been handled between the FSA and SEC” The interlocutor the UK , or the Treasury is the US Treasury which is more the political body…the reason I was in Washington was that Gordon Brown wanted an agreement on USA and EU on financial services, between John Snow, himself and Charlie McCreevy…the main discussions were between the European Commission, XXXX and myself and XXXX at the US Treasury and it was purely political… rather than getting into detail.” **Q. Views on the debate post-2008 crisis?** “First of all it’s the political desire to be seen to do something… there is an incentive to try and change everything….both politically at the highest level, but also at a lower level with civil servants. Civil services generally get promoted or rewarded through…in the European context through delivering legislation, in the British context through introducing new

29:25 33:30 37:14 39:02	policies…and so people opened up a whish list of what needs to be changed…which included looking at hedge funds…but in a number of these cases although there are a number of improvements to be made, quite often the facts just get disregarded in the political process." "…so actually the hedge funds have played an incredibility useful role at moping up distressed assets. But there could be a social issue that says some of them are to highly leveraged, but should that be a commercial decision or regulatory?... but actually hedge funds themselves have played a very useful role during the crisis, but that has just be totally disregarded…and I think anyone who has had some whinges about any aspect of changing the landscape on financial services is in there with a change to change it – the window has opened. Take supervision as an other example, the French for years have been trying to push for centralised supervision in Europe…now we are moving slowly in that direction but there is no evidence if that would really have improved things with the crisis and hedge funds just fall into that category unfortunately." **Q. what member states are now driving this?** I think its being driven largely by Germany for political reasons, and also from the EP particularly the socialist side where there are a number of people who see hedge funds as the ultimate capitalist machines. The debate for them is not to ensure the financial crisis doesn't happen again, but really to address wider social issues." "There are a number of member states that make it very difficult for funds to be sold or be passported into their jurisdictions. Spain and Italy or what we used to call at the Treasury the Club-Med states." "My understanding is that French have been more sensible on this." **The role of the EP?** "The European Commission, obviously when they are contemplating bringing forward any legislative changes they do obviously play homage to particularly what the largest member states are thinking, but there is no doubt that by the fact that the Parliament is a couple of weeks each month based in Brussels, they do take soundings very heavily from the Parliament, so they so matter greatly." **Q. are the member states now driving this?** "…people senior within the European Commission, who are responding to wider public and political concerns." "No…more power gone to the Commission, there's a question of whether its McCreevy's part of the Commission or Barrsoo, or even in fact Commissioner Almunia's (Spain) team in some instances…I think the reason for that is as you have expansion of EU to 27… the power of the individual member states has been diluted and the Commission's role has

	become stronger…I've no doubt about that." "…if this had happened in the 1980's when you had 12 member states, if the UK and French didn't want something it would never happen. If this happens in 2009, just by the dynamics of trying to block things now, which has become much more complex and complicated for member states, with 27…. the Commission's power to do things and get changes has significantly increased." **Q. negative reaction to AIFM what will happen?** "There will be legislation, but I think you'll find it is very different to the legislation proposed by the European Commission."

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Appendix

Appendix 1: Hedge fund policy path in chronological sequence

File Ref	Date	Year	Event Description	Material	Doc Type	Author	URL
	01/11/2003	2004	Period of deliberation Nov 03 to Apr 04 {x4 meetings]	None			source - SNA02 [p.4]
SNA66	15/01/2004	2004	EP resolution on the future of hedge funds and derivatives	Document	EP Resolution	EP	http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0425+0+DOC+XML+V0//EN#def_1_23
SNA54	28/04/2004	2004	Financial Integration Monitor 2004	Document	Report	CEC	http://ec.europa.eu/internal_market/finances/docs/cross-sector/fin-integration/2004-04-fim-background_en.pdf
SNA01	07/05/2004	2004	Expert Group on Asset Management Report	Document	Report	AM Exprt Grp	http://ec.europa.eu/internal_market/finances/docs/actionplan/stocktaking/report-assetmgnt_en.pdf
SNA02	07/05/2004	2004	Review of FSAP, Publication of reports of four independent expert groups for comment	Document	Working Doc	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/ameg-report_en.pdf
	07/05/2004	2004	Consultation Asset Management Expert Group report	None			source = SNA45
	10/09/2004	2004	Consultation on Asset Management Expert Group report ends	None			source = SNA45
	01/01/2005	2005	Discussions with MS, CESR and market participants	None			source = SNA45
SNA03	03/02/2005	2005	Expert Group Meeting on Asset Management Report	Document	Minutes	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/expgrpmeeting_en.pdf
SNA51	03/03/2005	2005	UCITS Review by European Securities Committee of the EP	Document	Summary Record	EP	http://ec.europa.eu/internal_market/investment/docs/consultations/summary-esc_en.pdf
SNA52	03/03/2005	2005	UCITS Review by European Securities Committee of the EP	Document	Discussion Paper	EP	http://ec.europa.eu/internal_market/investment/docs/consultations/esc-discussion_en.pdf
SNA53	03/03/2005	2005	UCITS Review by European Securities Committee of the EP	Document	Presentation	EP	http://ec.europa.eu/internal_market/investment/docs/consultations/mdm_en.pdf
SNA65	12/07/2005	2005	Annex to Green Paper on Enhancement of the framework for investment funds: Backgrounder	Document	Working Doc	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/greenpaper-background_en.pdf
SNA04	14/07/2005	2005	Green Paper on Enhancement of the framework for investment funds	Document	Green Paper	CEC	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0314:EN:NOT
SNA28	14/07/2005	2005	Green Paper Press Release	Document	Press Release	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=IP/05/927&format=HTML&aged=0&language=EN&guiLanguage=fr
SNA29	14/07/2005	2005	Green Paper: FAQ	Document	FAQ	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/05/257&format=HTML&aged=0&language=EN&guiLanguage=fr
	01/09/2005	2005	White Paper Road Map	None			source = SNA45
SNA06	13/10/2005	2005	Green Paper - The UCITS review Open Hearing: Programme	Document	Summary Record	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/record_en.pdf
SNA07	13/10/2005	2005	Green Paper - The UCITS review Open Hearing	Document	Programme	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/programme_en.pdf
	21/10/2005	2005	Start of "Potential Cost Savings" study	None			source = SNA45
	15/11/2005	2005	End of Green Paper's consultation period	None			source = SNA45
	20/12/2005	2005	Individual responses to Green Paper consultation	Document	Consulation response	Various	http://ec.europa.eu/internal_market/investment/consultations/index_en.htm#green
	21/12/2005	2005	Start of "Current Trends" study	None			source = SNA45
SNA17	10/01/2006	2006	Klinz Report - Committee on Economic and Monetary Affairs Draft Report on Asset Management	Document	Draft Report	EP	http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-367.703+02+DOC+PDF+V0//EN&language=EN
SNA13	31/01/2006	2006	Commission appoints experts to investment fund groups	Document	Press Release	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/96&format=HTML&aged=0&language=EN&guiLanguage=en
SNA35	31/01/2006	2006	List of eligible nominating organisations	Document	Notes	CEC	http://ec.europa.eu/internal_market/investment/docs/other_docs/reports/300106_nominating_list_en.pdf
SNA46	31/01/2006	2006	Terms of Reference on Expert Working Group on Alternative Investment Funds	Document	Terms of Reference	CEC	http://ec.europa.eu/internal_market/investment/docs/other_docs/reports/alternative-tor_en.pdf
SNA48	31/01/2006	2006	Composition of sub-group on Hedge Funds	Document	Notes	CEC	http://ec.europa.eu/internal_market/investment/docs/other_docs/reports/300106_hf_list_3_en.pdf
SNA08	01/02/2006	2006	Feedback Statement on completion of Green Paper consultation	Document	Feedback Statement	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/feedback_statement_en.pdf
SNA15	13/02/2006	2006	Green paper end of consultation	Document	Press Release	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/152&format=HTML&aged=0&language=EN&guiLanguage=en
	08/03/2006	2006	1st meeting of the Inter-service Impact Assessment Steering Group	None			source = SNA45
SNA55	27/04/2006	2006	Klinz Report - European Parliament's adoption of draft asset management report	Document	EP Resolution	EP	http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2006-0181+0+DOC+PDF+V0//EN
	19/05/2006	2006	2nd meeting of the Impact Assessment (IA) Steering Group	None			source = SNA45
SNA56	20/06/2006	2006	1st FSCG agenda	Document	Agenda	FSCG	http://ec.europa.eu/internal_market/finservices-retail/docs/fscg/meeting060620/agenda20062006_en.pdf
SNA57	20/06/2006	2006	1st FSCG minutes	Document	Minutes	FSCG	http://ec.europa.eu/internal_market/finservices-retail/docs/fscg/meeting060620/minutes060620_en.pdf
SNA58	20/06/2006	2006	1st FSCG annex to minutes	Document	Annex to minutes	FSCG	http://ec.europa.eu/internal_market/finservices-retail/docs/fscg/meeting060620/annex060918_en.pdf
SNA59	20/06/2006	2006	Commission presentation to 1st meeting of FIN-USE; Forum of user experts in area of financial services	Document	Presentation	CEC	http://ec.europa.eu/internal_market/finservices-retail/docs/fscg/meeting060620/eiteljorge_en.pdf
	20/06/2006	2006	1st meeting of Financial Services Consumer Group	None			http://ec.europa.eu/internal_market/finservices-retail/fscg/archive_en.htm
SNA36	04/07/2006	2006	Final report of the Expert Group - FAQ	Document	FAQ	CEC	http://europa.eu.int/rapid/pressReleasesAction.do?reference=MEMO/06/264&format=HTML&aged=0&language=EN&guiLanguage=fr
SNA37	04/07/2006	2006	Final reports of the Expert Group - Overview	Document	Overview	CEC	http://ec.europa.eu/internal_market/investment/docs/other_docs/reports/overview_reports_en.pdf
SNA38	04/07/2006	2006	Expert Group report press release	Document	Press Release	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/915&format=HTML&aged=0&language=EN&guiLanguage=fr
SNA50	04/07/2006	2006	Report of the Alternative Investments Expert Group (inc HF sub group)	Document	Report	HF Sub Grp	http://ec.europa.eu/internal_market/investment/docs/other_docs/reports/hedgefunds_en.pdf
	18/07/2006	2006	3rd meeting of the IA Steering Group	None			source = SNA45
SNA24	19/07/2006	2006	Flash Report from the Open Hearing	Document	Report	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/1907openhearing-flashreport_en.pdf
SNA30	19/07/2006	2006	Programme of the hearing	Document	Programme	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/060615_programme_en.pdf
SNA31	19/07/2006	2006	Closing speech: Charlie McCreevy	Document	Speech	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/06/465&format=HTML&aged=0&language=EN&guiLanguage=en
SNA32	19/07/2006	2006	Presentation on Hedge Fund expert group report by Commission	Document	Presentation	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/report_hedgefunds_en.pdf
SNA09	01/08/2006	2006	Potential cost savings report (provide overview of market in some MS)	Document	Report	CEC	http://ec.europa.eu/internal_market/investment/docs/other_docs/finrep280906msannex_en.pdf
	08/09/2006	2006	4th meeting of the IA Steerling Group	None			source = SNA45
SNA67	20/09/2006	2006	Common Position of the Governments of the United Kingdom, France and Germany on the Green Paper	Document	Consulation response	MS [UK, Fr, Gr]	http://ec.europa.eu/internal_market/investment/docs/consultations/comments/ukfranceandgermanycommonposition.pdf
	20/09/2006	2006	Individual response to Expert Group's report	Document	Consulation response	Various	http://ec.europa.eu/internal_market/investment/consultations/commentseg_en.htm
SNA12	06/10/2006	2006	Current trends in the European Asset Management Industry	Document	Report	CEC	ftp://ftp.zew.de/pub/zew-docs/gutachten/Report_ZEW_OEE_2005.pdf
SNA39	26/10/2006	2006	Public Consultation on Expert Group Reports	Document	Feedback Statement	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/feedbacksteg6.pdf
SNA43	15/11/2006	2006	White paper FAQ	Document	FAQ	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/431&format=HTML&aged=0&language=EN&guiLanguage=en
SNA44	15/11/2006	2006	White paper white paper on enhancing the single market framework for investment funds	Document	White Paper	CEC	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006DC0686:EN:NOT
SNA45	15/11/2006	2006	Commission working document on white paper written by Impact Assessment Steering Group	Document	Impact Assessment	CEC	http://ec.europa.eu/internal_market/investment/docs/legal_texts/whitepaper/impact_assessment_en.pdf
SNA42	16/11/2006	2006	White paper Press Release	Document	Press Release	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1569&format=HTML&aged=0&language=EN&guiLanguage=en
SNA61	05/12/2006	2006	2nd FSCG minutes	Document	Minutes	FSCG	http://ec.europa.eu/internal_market/finservices-retail/docs/fscg/meeting061205/minutes061205_en.pdf
SNA62	05/12/2006	2006	Commission presentation of White Paper at 2nd FSCG meeting	Document	Presentation	CEC	http://ec.europa.eu/internal_market/finservices-retail/docs/fscg/meeting061205/eiteljorge_en.pdf
SNA63	05/12/2006	2006	Speaker presentation; Expert group report on market efficency	Document	Presentation	Alt AM Exprt Gr	http://ec.europa.eu/internal_market/finservices-retail/docs/fscg/meeting061205/struwe_en.pdf
	05/12/2006	2006	2nd Meeting of the Financial Services Consumer Group	None			source = SNA45
	11/07/2007	2007	EP: Resolution 2006/2270(INI)		EP Resolution		source = SNA98
	12/12/2007	2007	EP: Resolution		EP Resolution		source = SNA89
SNA73	12/02/2008	2008	Open Hearing on non-harmonised retail investment funds	Document	Press Release	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/209&format=HTML&aged=0&language=EN&guiLanguage=fr
SNA74	08/04/2008	2008	Opening remarks by Jorgen Holmquist, DGI for Internal Market and Services European Commission	Document	Programme	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/080408programme_en.pdf
SNA75	08/04/2008	2008	Open Hearing on non-harmonised retail investment funds	Document	Flash Report	CEC	http://ec.europa.eu/internal_market/investment/docs/consultations/080408flash-report_en.pdf
SNA76	08/04/2008	2008	Open Hearing on non-harmonised retail investment funds	Document	Presentation	Various	http://ec.europa.eu/internal_market/investment/docs/consultations/080408presentation_en.pdf
SNA91	18/04/2008	2008	EP: draft report Hedge funds and private equity		Report		http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=en&procnum=INI/2007/2238
SNA88	09/07/2008	2008	EP Lehne Report; with recommendations to the Commission on transparency of institutional investors	Document	Report	EP	http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2008-0296+0+DOC+PDF+V0//EN&language=EN
SNA89	11/09/2008	2008	EP Rasmussen Report; with recommendations to the Commission on Hedge funds and private equity	Document	Report	EP	http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=en&procnum=INI/2007/2238
SNA87	22/09/2008	2008	CEC speech to plenary session of EP; Intervention on Lehne and Rasmussen	Document	Speech	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/08/451&format=PDF&aged=0&language=EN&guiLanguage=en.
SNA92	23/09/2008	2008	EP: non-legislative resolution Hedge funds and private equity		Report		http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=en&procnum=INI/2007/2238
SNA71	01/10/2008	2008	The retailisation of non-harmonised investment funds in the European Union	Document	Report	CEC	http://ec.europa.eu/internal_market/investment/docs/other_docs/study_non-harmonized_funds.pdf
SNA72	01/10/2008	2008	The retailisation of non-harmonised investment funds in the European Union	Document	Report Annex	CEC	http://ec.europa.eu/internal_market/investment/docs/other_docs/annex_non-harmonized_funds.pdf
SNA86	18/11/2008	2008	EP Debate: EU response to the world financial crisis, Commission's legislative and work programme for 2009	Debate	Debate		http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20081118+ITEM-011+DOC+XML+V0//EN&language=EN
	08/12/2008	2008	Start of Public Consultation on Hedge Funds	None			http://ec.europa.eu/internal_market/consultations/2008/hedge_funds_en.htm
SNA68	18/12/2008	2008	Public Consultation on Hedge Funds	Document	Consulation Document	CEC	http://ec.europa.eu/internal_market/consultations/docs/hedgefunds/consultation_paper_en.pdf
SNA69	18/12/2008	2008	Public Consultation on Hedge Funds	Document	Press Release	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/2028&format=HTML&aged=0&language=EN&guiLanguage=fr
	31/01/2009	2009	End of Public Consultation on Hedge Funds	None			http://ec.europa.eu/internal_market/consultations/2008/hedge_funds_en.htm
SNA90	25/02/2009	2009	The High Level Group on Financial Services in the EU (Lorosiere Group)	Document	Report		http://ec.europa.eu/internal_market/investment/alternative_investments_en.htm
SNA70	26/02/2009	2009	High-Level Conference on Private Equity and Hedge Funds	Document	Programme	CEC	http://ec.europa.eu/internal_market/investment/docs/conference/27022009_programme_en.pdf
SNA77	27/02/2009	2009	High-Level Conference on Private Equity and Hedge Funds	Document	Flash Report	CEC	http://ec.europa.eu/internal_market/investment/docs/conference/summary_en.pdf
SNA78	27/02/2009	2009	High-Level Conference on Private Equity and Hedge Funds, Poul Nyrup Rasmussen, Member of the European Parliam	Document	Presentation		http://ec.europa.eu/internal_market/investment/docs/conference/rasmussen_en.pdf
SNA79	27/02/2009	2009	High-Level Conference on Private Equity and Hedge Funds, Sir Michael Rake, British Telecom and Chairman of the (W	Document	Presentation		http://ec.europa.eu/internal_market/investment/docs/conference/rake_en.pdf
SNA80	27/02/2009	2009	High-Level Conference on Private Equity and Hedge Funds, Prof. Nick Bacon, Nottingham University Business School a	Document	Presentation		http://ec.europa.eu/internal_market/investment/docs/conference/bacon_wright_en.pdf
SNA81	27/02/2009	2009	High-Level Conference on Private Equity and Hedge Funds, Gabriela Tschirkova, Asset Management, Internal Market	Document	Presentation		http://ec.europa.eu/internal_market/investment/docs/conference/tschirkova_en.pdf
SNA82	27/02/2009	2009	High-Level Conference on Private Equity and Hedge Funds, Mr Jean-Pierre Jouyet, Président, Autorité des Marchés Fi	Document	Presentation		http://ec.europa.eu/internal_market/investment/docs/conference/jouyet_en.pdf
SNA83	27/02/2009	2009	High-Level Conference on Private Equity and Hedge Funds, Mr Aerdt Houben, Director Financial Stability Division, De	Document	Presentation		http://ec.europa.eu/internal_market/investment/docs/conference/houben_en.pdf
SNA84	27/02/2009	2009	High-Level Conference on Private Equity and Hedge Funds, Mr Jean-René Giraud, Director of development, EDHEC Ri	Document	Presentation		http://ec.europa.eu/internal_market/investment/docs/conference/jrg_na_en.pdf
SNA85	12/03/2009	2009	Public Consultation on Hedge Funds	Document	Feedback Statement	CEC	http://ec.europa.eu/internal_market/consultations/docs/hedgefunds/feedback_statement_en.pdf
SNA93	29/04/2009	2009	Directive on Alternative Investment Fund Managers (AIFMs) : Frequently Asked Questions	Document	FAQ	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/09/211&format=HTML&aged=0&language=EN&guiLanguage=fr
SNA94	29/04/2009	2009	Financial services: Commission proposes EU framework for managers of alternative investment funds	Document	Press Release	CEC	http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/669&format=HTML&aged=0&language=EN&guiLanguage=fr
SNA95	01/05/2009	2009	Proposal for a Directive on Alternative Investment Fund Managers (AIFM)	Document	Proposed Directive	CEC	http://ec.europa.eu/internal_market/investment/docs/alternative_investments/fund_managers_proposal_en.pdf
SNA96	01/05/2009	2009	Proposal for a Directive on Alternative Investment Fund Managers (AIFM)	Document	Impact Assessment	CEC	http://ec.europa.eu/internal_market/investment/docs/alternative_investments/fund_managers_impact_assessment.pdf
SNA97	01/05/2009	2009	Proposal for a Directive on Alternative Investment Fund Managers (AIFM)	Document	IM Executive Summary	CEC	http://ec.europa.eu/internal_market/investment/docs/alternative_investments/fund_managers_executive_summary_en.pdf

Appendix 2: Participating Individuals (Anonymized)

Code	Organisation
IND35	Fidelity Investments Services Limited
IND40	Goldman Sachs
IND62	Threadneedle Investments
PA30	European Commission
PA06	Comision Nacional del Mercade de Valores
IND58	Santander Group
PA15	economist and the former chairman of the National Bank of Poland.
IND36	Fidelity Investments Services Limited
PA47	Jersey Financial Services Commission
IND43	Investment Management Association
PA43	International Monetary Fund
OSK01	Euroshareholders
PA22	European Commission
PA10	Committee of European Securities Regulators
IND29	European Fund and Asset Management Association
PA48	Securities and Exchange Commission
PA19	European Commission
IND41	Hedge Fund Standards Board
IND21	CDC IXIS
IND44	Investment Management Group Linklaters Loesch
IND46	JP Morgan
IND15	AXA
PA09	Committee of European Securities Regulators
IND09	APB Investments
IND01	Allianz
IND48	JP Morgan
CIT02	London School of Economics
PA20	European Commission
IND42	Invesco
PA01	Autorité des Marchés Financiers
PA05	Chairman of the Strategic Committee of the French Treasury and Advisor to BNP Paribas, for
IND31	European Fund and Asset Management Association
IND22	Citco (Lux)
IND30	European Fund and Asset Management Association
IND19	BNP Paribas
OSK07	Union of Industrial and Employers' confederations of Europe (now Business Europe)
PA25	European Commission
IND52	Pioneer Alternative Investments
PA37	Financial Stability Forum
IND61	Société Générale Group
IND49	KBC
IND33	European Private Equity & Venture Capital Association
IND02	Allianz
IND07	Alternative Investment Management Association
IND57	Santander Group
IND39	Gartmore
IND04	Allied Irish Bank

Code	Organisation
IND14	AXA
IND65	US Managed Funds Association
IND13	Assogestioni
PA26	European Commission
CIT01	EDHEC Risk & Asset Management Centre
PA07	Commissione Nazionale per le Società e la Borsa
IND63	UBS AG
IND25	Deutsche Bank Group
PA44	International Monetary Fund
PA13	De Nederlandsche Bank
IND23	Citigroup (and Citigroup-Tribeca)
IND27	Economist, former member of the board of the Deutsche Bundesbank
PA41	German Federal Ministry of Finance
IND60	SMN Investment Services
PA46	Irish Financial Services Regulatory Authority
PA32	European Parliament
PA12	Czech Finance Ministry
IND24	Comité Européen des Assurances
IND10	Association Française de la Gestion Financière
IND06	Alternative Investment Management Association
OSK03	FERI - Fund Market Information Ltd
IND64	Union Asset Management (+ Union Investment)
IND08	AMF Pension
PA40	Former Finance Minister and Prof of Economic at the European University of Rome
IND34	Fedération Européenes des Fonds et Sociétés d'Investissement
PA38	Former Chairman of the Financial Services Authority
PA23	European Commission
IND03	Allied Irish Bank
PA27	European Commission
IND26	Deutsche Bank Group
PA04	Bank of England
PA31	European Council - Economic and Finance Committee
IND55	PricewaterhouseCoopers
PA49	Supervision of Hedge Funds
IND37	Former CEO of NCR Corporation from 1995 through 2003
PA45	Irish Financial Services Regulatory Authority
OSK02	Euroshareholders
IND45	Irish Funds Industry Association
OSK04	Moventum S.C.A.
IND32	European Private Equity & Venture Capital Association
IND53	President of a financial market intelligence company
IND47	JP Morgan
PA16	European Central Bank
IND11	Association Française des professionnels des Titres
PA28	European Commission
IND05	Alternative Detrivatives and Investments
PA02	Autorité des Marchés Financiers
IND50	MAN Investments

Code	Organisation
PA39	former Director of AMRO Bank and executive director of the IMF
PA34	FIN-USE
PA24	European Commission
IND12	Association of the Luxembourg Fund Industry
IND18	Blackrock Investment Management (Alpha Strategies)
PA36	Financial Services Authority
IND59	Schootse Poort Pension and Asset Management/Philips International
IND20	Bundesverband Alternative Investments e.V.
PA03	Banca Italia
IND38	Gartmore
PA08	Committee of European Securities Regulators
IND16	AXA
IND17	Barclays
IND51	Morgan Stanley
PA17	European Central Bank
PA42	HM Treasury
IND28	European Federation for Retirement Provision
OSK05	Philips International
PA33	FIN-USE
PA29	European Commission
PA21	European Commission
IND54	PricewaterhouseCoopers
IND56	RAB Capital
PA35	Financial Services Authority
PA14	De Nederlandsche Bank
PA18	European Commission
PA11	Committee of European Securities Regulators
OSK06	Union of Industrial and Employers' confederations of Europe (now Business Europe)

Appendix 3: Participating Organizations

					Type				
Organisation	**Code**	**Short**	**MS**	**E/I**	**Level 1**	**Level 2**	**Inv Bank**	**Service Provider**	**Type of fund run**
European Commission	PA18	EC	EU	Other	Public Authorities	EU Institution			
AXA	IND14	AXA	FR	Importer	Financial Actors	HF/FOHF			HF/FOHF
Committee of European Securities Regulators	PA08	CESR	EU	Other	Public Authorities	Regulator			
JP Morgan	IND47		USA	Other	Financial Actors	Bank/ Investment Bank	Investment Bank	Service Provider	HF/FOHF (IB)
Gartmore	IND38		UK	Exporter	Financial Actors	HF/FOHF			HF/FOHF
Santander Group	IND57	BSCH	ES	Importer	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
BNP Paribas	IND19	BNPP AM	FR	Importer	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
European Private Equity & Venture Capital Association	IND33	EVCA	EU	Other	Financial Actors	Assoc. (Asset Management)			
Deutsche Bank Group	IND26		DE	Importer	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
Goldman Sachs	IND40		USA	Other	Financial Actors	Bank/ Investment Bank	Investment Bank	Service Provider	HF/FOHF (IB)
Fidelity Investement Services Limited	IND36		UK	Exporter	Financial Actors	HF/FOHF			HF/FOHF
Assogestioni	IND13		IT	Importer	Financial Actors	Assoc. (Asset Management)			
Alternative Investment Management Association	IND06	AIMA	INT	Other	Financial Actors	Assoc. (Asset Management)			
Union Asset Management (+ Union Investment)	IND64		DE	Importer	Financial Actors	HF/FOHF			HF/FOHF
MAN Investments	IND50		UK	Exporter	Financial Actors	HF/FOHF			HF/FOHF
European Fund and Asset Management Association	IND29	EFAMA	EU	Other	Financial Actors	Assoc. (Asset Management)			
Financial Services Authority	PA35		UK	Exporter	Public Authorities	Regulator			
PricewaterhouseCoopers	IND54	PWC	UK	Exporter	Financial Actors	Accountancy & Consultancy		Service Provider	
Threadneedle Investments	IND62		UK	Exporter	Financial Actors	HF/FOHF			HF/FOHF
Euroshareholders	OSK01		EU	Other	Other Stakeholders	Consumers			
Allianz	IND01		DE	Importer	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
Merrill Lynch	Mer-147		USA	Other	Financial Actors	Bank/ Investment Bank	Investment Bank	Service Provider	HF/FOHF (IB)
FERI - Fund Market Information Ltd	OSK03	(LIPPER FMI)	UK	Exporter	Other Stakeholders	Market Data		Service Provider	
Investment Management Group Linklaters Loesch	IND44		UK	Exporter	Financial Actors	Inst. Investor			Inst Investor
UBS AG	IND63		SZL	Other	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
Allied Irish Bank	IND03	AIB IM	IE	Exporter	Financial Actors	Bank/ Investment Bank			Inst Investor
CDC IXIS	IND21		FR	Importer	Financial Actors	Bank/ Investment Bank			HF/FOHF (B)
Fedération Européenes des Fonds et Sociétés d'Investissement	IND34	FEFSI	EU	Other	Financial Actors	Assoc. (Asset Management)			
FIN-USE	PA33		EU	Other	Public Authorities	EU Institution			
Citigroup (and Citigroup-Tribeca)	IND23		USA	Other	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
Morgan Stanley	IND51		USA	Other	Financial Actors	Bank/ Investment Bank	Investment Bank	Service Provider	HF/FOHF (IB)
Irish Financial Services Regulatory Authority	PA45	IFSRA	IE	Exporter	Public Authorities	Regulator			
Union of Industrial and Employers' confederations of Europe (now Business Europe)	OSK06	UNICE	EU	Other	Other Stakeholders	Business & Industry			
Barclays	IND17	BGI	UK	Exporter	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
Société Générale Group	IND61	SG GSSI	FR	Importer	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
RAB Capital	IND56		UK	Exporter	Financial Actors	HF/FOHF			HF/FOHF
AMF Pension	IND08	AMF Pension	SE	Importer	Financial Actors	Inst. Investor			Inst Investor
Schootse Poort Pension and Asset Management/Philips International	IND59		NL	Importer	Financial Actors	Inst. Investor			Inst Investor
Citco (Lux)	IND22		LU	Exporter	Financial Actors	Bank/ Investment Bank		Service Provider	
Pioneer Alternative Investments	IND52		IE	Exporter	Financial Actors	HF/FOHF			HF/FOHF
Alternative Detrivatives and Investments	IND05	ADI	FR	Importer	Financial Actors	HF/FOHF			HF/FOHF

Organisation	Code	Short	MS	E/I	Level 1	Level 2	Inv Bank	Service Provider	Type of fund run
Autorité des Marchés Financiers	PA01	AMF	FR	Importer	Public Authorities	Regulator			
De Nederlandsche Bank	PA13		NL	Importer	Public Authorities	Central Bank			
International Monetary Fund	PA44	IMF	INT	Other	Public Authorities	International Body			
Association Française des professionnels des Titres	IND11	AFTI	FR	Importer	Financial Actors	Assoc. (Capital Markets)			
European Federation for Retirement Provision	IND28	EFRP	EU	Other	Financial Actors	soc. (Pensions & Insurance)			
European Parliament	PA32		EU	Other	Public Authorities	EU Institution			
European Savings Banks Group	Eur-83	ESBG	EU	Other	Financial Actors	Assoc. (Banking)			
Association of the Luxembourg Fund Industry	IND12	ALFI	LU	Exporter	Financial Actors	Assoc. (Asset Management)			
Irish Funds Industry Association	IND45	IFIA	IE	Exporter	Financial Actors	Assoc. (Asset Management)			
European Association of Co-operative Banks	Eur-71	EACB	EU	Other	Financial Actors	Assoc. (Banking)			
German Federal Ministry of Finance	PA41	BaFin	DE	Importer	Public Authorities	Govnt. Dept			
Czech Finance Ministry	PA12	MFCR	CZ	Importer	Public Authorities	Govnt. Dept			
Aviva	Avi-28		UK	Exporter	Financial Actors	Inst. Investor			Inst Investor
HM Treasury	PA42	FSA	UK	Exporter	Public Authorities	Govnt. Dept			
Investment Management Association	IND43		UK	Exporter	Financial Actors	Assoc. (Asset Management)			
International Swaps and Derivatives Association	Int-125	ISDA	INT	Other	Financial Actors	Assoc. (Capital Markets)			
Association Française de la Gestion Financière	IND10	AFG	FR	Importer	Financial Actors	Assoc. (Asset Management)			
Bundesverband Alternative Investments e.V.	IND20	BAI	DE	Importer	Financial Actors	Assoc. (Asset Management)			
SMN Investment Services	IND60		AT	Importer	Financial Actors	HF/FOHF			HF/FOHF
US Managed Funds Association	IND65	MFA	USA	Other	Financial Actors	Assoc. (Asset Management)			
Hedge Fund Standards Board	IND41	HFSB	UK	Exporter	Financial Actors	Assoc. (Asset Management)			
London Investment Banking Association	Lon-258	LIBA	UK	Exporter	Financial Actors	Assoc. (Banking)			
Banca Italia	PA03		IT	Importer	Public Authorities	Central Bank			
European Central Bank	PA16	ECB	EU	Other	Public Authorities	EU Institution			
EuropeanIssuers	Eur-209	EI	EU	Other	Financial Actors	Assoc. (Capital Markets)			
Comité Européen des Assurances	IND24		BE	Importer	Financial Actors	soc. (Pensions & Insurance)			
Securities and Exchange Commission	PA48	SEC	USA	Other	Public Authorities	Regulator			
Aegon	Aeg-268		UK	Exporter	Financial Actors	Inst. Investor			Inst Investor
Bank of England	PA04		UK	Exporter	Public Authorities	Central Bank			
Blackrock Investment Management (Alpha Strategies)	IND18		UK	Exporter	Financial Actors	HF/FOHF			HF/FOHF
Fauchier Partners	Fau-252		UK	Exporter	Financial Actors	HF/FOHF			HF/FOHF
Futures and Options Association	Fut-261	FOA	UK	Exporter	Financial Actors	Assoc. (Capital Markets)			
Invesco	IND42		UK	Exporter	Financial Actors	HF/FOHF			HF/FOHF
London School of Economics	CIT02	LSE	UK	Exporter	Citizens	University			
APB Investments	IND09		NL	Importer	Financial Actors	Inst. Investor			Inst Investor
Moventum S.C.A.	OSK04		LU	Exporter	Other Stakeholders	Market Data		Service Provider	
Commissione Nazionale per le Società e la Borsa	PA07	CONSOB	IT	Importer	Public Authorities	Regulator			
Financial Stability Forum	PA37	FSF	INT	Other	Public Authorities	International Body			
International Capital Market Association	Int-260	ICMA	INT	Other	Financial Actors	Assoc. (Capital Markets)			
Jersey Financial Services Commission	PA47	JFSC	INT	Other	Public Authorities	Regulator			
EDHEC Risk & Asset Management Centre	CIT01		FR	Importer	Citizens	Think Tank			
Financial Markets Association	Fin-262		FR	Importer	Financial Actors	Assoc. (Capital Markets)			
Association of Mutual Insurers and Insurance Cooperatives in Europe	Ass-267		EU	Other	Financial Actors	soc. (Pensions & Insurance)			

Organisation	Code	Short	MS	E/I	Level 1	Level 2	Inv Bank	Service Provider	Type of fund run
Committee of European Banking Supervisors		CEBS	EU	Other	Public Authorities	Regulator			
Committee of European Insurance and Occupational Pensions Supervisors.	Com-265	CEIOPS	EU	Other	Public Authorities	Regulator			
European Council - Economic and Finance Committee	PA31		EU	Other	Public Authorities	EU Institution			
Federation of European Securities Exchanges	Fed-92	FESE	EU	Other	Financial Actors	Assoc. (Capital Markets)			
Comision Nacional del Mercade de Valores	PA06	CNMV	ES	Importer	Public Authorities	Regulator			
Munich Reinsurance Company	Mun-257		DE	Importer	Financial Actors	Inst. Investor			
Supervision of Hedge Funds	PA49	BaFin	DE	Importer	Public Authorities	Regulator			
KBC	IND49	KBC	BE	Importer	Financial Actors	Bank/ Investment Bank		Service Provider	Pension
Philips International	OSK05		UK	Importer	Other Stakeholders	Business & Industry			
State Street Corporation	Sta-171	SST	USA	Other	Financial Actors	HF/FOHF			HF/FOHF
Depositary and Trustee Association	Dep-61	DATA	UK	Exporter	Financial Actors	Assoc. (Asset Management)			
Institutional Money Market Funds Association	Ins-121	IMMFA	INT	Other	Financial Actors	Assoc. (Capital Markets)			
Finnish Ministry of Finance	Fin-102		FI	Importer	Public Authorities	Govnt. Dept			
Forum of European Asset Managers	For-104	FEAM	EU	Other	Financial Actors	Assoc. (Asset Management)			
Association of British Insurers	Ass-19	ABI	UK	Exporter	Financial Actors	Assoc. (Capital Markets)			
Financial Services Consumer Panel	Fin-98		UK	Exporter	Public Authorities	Regulator			
Groupe Consultatif Actuareil Européen	Gro-114	GCAE	UK	Exporter	Financial Actors	Assoc. (Capital Markets)			
Investment & Life Assurance Group	Inv-127	ILAG	UK	Exporter	Financial Actors	Assoc. (Asset Management)			
Law Society of England and Wales	Law-141		UK	Exporter	Other Stakeholders	Business & Industry			
Schroders	Sch-165		UK	Exporter	Financial Actors	HF/FOHF			HF/FOHF
Confederation of the Nordic Bank, Finance and Insurance Unions	Con-52	NFU	SE	Importer	Other Stakeholders	Trade Union			
Swedish Investment Fund Association	Swe-177		SE	Importer	Financial Actors	Assoc. (Asset Management)			
Comissao do Mercado de Valores Mobiliarios	Com-48	CMVM	PT	Importer	Public Authorities	Regulator			
International Securities Lending Association	Int-124	ISLA	INT	Other	Financial Actors	Assoc. (Capital Markets)			
French Ministry for the Economy, Industry and Employment	Min-148		FR	Importer	Public Authorities	Govnt. Dept			
HDF Finance	HDF-115		FR	Importer	Financial Actors	HF/FOHF			HF/FOHF
Socialist Grouping in the European Parliament	PES-156	PES	EU	Other	Public Authorities	EP Grouping			
UNI-Europa Finance	UNI-183		EU	Other	Other Stakeholders	Trade Union			
Deutsche Börse Group	Deu-63		DE	Importer	Financial Actors	Accountancy & Consultancy		Service Provider	
IG Metall Executive	IG -118		DE	Importer	Other Stakeholders	Trade Union			
Zentraler Kreditausschuss	Zen-188	ZKA	DE	Importer	Financial Actors	Assoc. (Banking)			
Czech National Bank	Cze-56	CNB	CZ	Importer	Public Authorities	Govnt. Dept			
Alternative Investment Association Austria	Alt-07	VAI	AT	Importer	Financial Actors	Assoc. (Asset Management)			
Austrian Federal Economic Chamber	Aus-25		AT	Importer	Other Stakeholders	Business & Industry			
Raiffeisen Capital Management	Rai-162	RCM	AT	Importer	Financial Actors	HF/FOHF			HF/FOHF
American Federation of Labor and Congress of Industrial Organizations	Ame-245	AFL-CIO	USA	Other	Other Stakeholders	Trade Union			
Bank of America	Ban-32		USA	Other	Financial Actors	Bank/ Investment Bank		Service Provider	Inst Investor
Columbia University	Col-247		USA	Other	Citizens	University			
Financial Services Roundtable	Fin-99		USA	Other	Financial Actors	Assoc. (Capital Markets)			
Investment Company Institute	Inv-128	ICI	USA	Other	Financial Actors	Assoc. (Asset Management)			
Superfund Investment Group	Sup-175		USA	Other	Financial Actors	HF/FOHF			HF/FOHF
Aberdeen Asset Management	Abe-01		UK	Exporter	Financial Actors	Inst. Investor			HF/FOHF
Associaiton of Investment Trust Companies	Ass-12	AITC	UK	Exporter	Financial Actors	Assoc. (Asset Management)			

Organisation	Code	Short	MS	E/I	Level 1	Level 2	Inv Bank	Service Provider	Type of fund run
Association of Investment Companies	Ass-236	AIC	UK	Exporter	Financial Actors	Assoc. (Asset Management)			
Brevan Howard Asset Management	Bre-237		UK	Exporter	Financial Actors	HF/FOHF			HF/FOHF
British Banking Association	Bri-238	BBA	UK	Exporter	Financial Actors	Assoc. (Banking)			
City of London	Cit-46		UK	Exporter	Financial Actors	Assoc. (Capital Markets)			
Committee of The City of London Law Society	Com-239	CLLS	UK	Exporter	Financial Actors	Legal			
Ernst and Young	Ern-240	EY	UK	Exporter	Financial Actors	Accountancy & Consultancy			
Eversheds LLP	Eve-87		UK	Exporter	Other Stakeholders	Legal		Service Provider	
HBOS Group	Ins-120		UK	Exporter	Financial Actors	Bank/ Investment Bank			Inst Investor
HSBC	HSB-243		UK	Exporter	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
Lipper Fitzrovia	Lip-142		UK	Exporter	Other Stakeholders	Market Data		Service Provider	
London Investment Bank Association	Lon-143	LIBA	UK	Exporter	Financial Actors	Assoc. (Banking)			
M&G (Prudential PLC)	M&G-145		UK	Exporter	Financial Actors	Inst. Investor			Inst Investor
Scottish Financial Enterprise	Sco-166		UK	Exporter	Public Authorities	Govnt. Dept			
Scottish Widows Investment Partnership	Sco-167	SWIP	UK	Exporter	Financial Actors	Inst. Investor		Service Provider	Inst Investor
Simple PFS Ltd and Future Value Consultants Ltd	Sim-168		UK	Exporter	Financial Actors	Inst. Investor			Inst Investor
Transport General Workers Union	Tra-180	T&G	UK	Exporter	Other Stakeholders	Trade Union			
Dubai Financial Services Authority	Dub-235	DFSA	UAE	Other	Public Authorities	Regulator			
Sveriges Riksbank	Sve-234		SW	Importer	Public Authorities	Central Bank			
UNI Global Union	UNI-233	UNI	STZ	Importer	Other Stakeholders	Trade Union			
Slovak Financial Market Authority	Slo-169	FMA	SK	Importer	Public Authorities	Regulator			
Swedish Ministry of Finance	Swe-178		SE	Importer	Public Authorities	Govnt. Dept			
Portugese Finance Ministry	Por-232		PT	Importer	Public Authorities	Govnt. Dept			
KBC Towarzystwo Funduszy Inwestycyjnych	KBC-137	KBC TFI S.A.	PL	Importer	Financial Actors	HF/FOHF			HF/FOHF
Polish Securities & Exchange Commisison (now Polish Financial Services Authority)	Pol-158	KPWiG	PL	Importer	Public Authorities	Regulator			
ABN AMRO	ABN-02		NL	Importer	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
Algemene Pensioen Group	Alg-225	APG	NL	Importer	Financial Actors	Inst. Investor			
Centre for Research on Multinational corporations	Cen-226	SOMO	NL	Importer	Other Stakeholders	Market Data			
Dutch Fund & Asset Management Association	Dut-227	DUFAS	NL	Importer	Financial Actors	Assoc. (Asset Management)			
Dutch Ministry of Finance	Dut-228		NL	Importer	Public Authorities	Govnt. Dept			
Eumedion	Eum-229	EUMEDION	NL	Importer	Other Stakeholders	Business & Industry			
Netherlands Authority for the Financial Markets	Net-153	AFM	NL	Importer	Public Authorities	Regulator			
Norwegian Ministry of Finance	Nor-230		NL	Importer	Public Authorities	Govnt. Dept			
Permanent Representation of the Netherlands	Per-155		NL	Importer	Public Authorities	Govnt. Dept			
Shell Pension Fund	She-231		NL	Importer	Financial Actors	Inst. Investor			Inst Investor
Kishor Mandalia	Kis-138		N/A	Other	Citizens	Individual			
Stephen Wynn	Ste-174		N/A	Other	Citizens	Individual			
UK France and Germany common position	UK -182		N/A	Other	Public Authorities	Govnt. Dept			
Malta Financial Services Authority	Mal-224	MFSA	MT	Exporter	Public Authorities	Regulator			
Commission de Surveillance du Secteur Financier	Com-50	CSSF	LU	Exporter	Public Authorities	Regulator			
Crédit Agricole	Cré-54	CAAM	LU	Exporter	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
Directors' Office	Dir-67		LU	Exporter	Other Stakeholders	Business & Industry			
Associazione Bancaria Italiana	Ass-22	ABI	IT	Importer	Financial Actors	Assoc. (Banking)			
Associazione del Risparmio Gestito	Ass-23		IT	Importer	Financial Actors	Assoc. (Banking)			

Organisation	Code	Short	MS	E/I	Level 1	Level 2	Inv Bank	Service Provider	Type of fund run
Banca Intesa	Ban-30		IT	Importer	Financial Actors	Bank/ Investment Bank			Inst Investor
Dorse Italia	Bor-36		IT	Importer	Other Stakeholders	Stock Exchange			
Intesa Sanpaolo Group	Int-222	INTESA	IT	Importer	Financial Actors	Bank/ Investment Bank		Service Provider	HF/FOHF (B)
Italian Banking Association	Ita-133	ABI	IT	Importer	Financial Actors	Assoc. (Banking)			
Italian Private Equity Venture Capital Association	Ita-134	AIFI	IT	Importer	Financial Actors	Assoc. (Asset Management)			
Thomson Reuters Lipper	Tho-223		IT	Importer	Other Stakeholders	Market Data			
Asset Management and Investors Council (part of International Capital Market Assoc	Ass-217	AMIC	INT	Other	Financial Actors	Assoc. (Asset Management)			
Centre for Financial Market Integrity	Cen-218	CFA	INT	Other	Other Stakeholders	Consumers			
International Financial Data Services	Int-122	IFDS	INT	Other	Other Stakeholders	Market Data		Service Provider	
Securities Industry and Financial Markets Association	Sec-219	SIFMA	INT	Other	Financial Actors	Assoc. (Capital Markets)			
States of Guernsey	Sta-172		INT	Other	Public Authorities	Govnt. Dept			
States of Jersey	Sta-173		INT	Other	Public Authorities	Govnt. Dept			
Trade Union Advisory Committee to the OEDC	Tra-220	TUAC	INT	Other	Other Stakeholders	Trade Union			
Department of Enterprise, Trade and Employment, Ireland	Dep-60	DETE	IE	Exporter	Public Authorities	Govnt. Dept			
Dillon Eustace	Dil-221		IE	Exporter	Financial Actors	Legal			
Irish Association of Investment Managers	Iri-131	IAIM	IE	Exporter	Financial Actors	Assoc. (Asset Management)			
Matheson Ormsby Pentrice	Mat-215	MOP	IE	Exporter	Financial Actors	Legal			
Thomas Bullman	Tho-216		IE	Exporter	Citizens	Individual			
Hungarian Ministry of Finance	Min-150		HU	Other	Public Authorities	Govnt. Dept			
Association Des Consommateurs Société Coopérative	Ass-13	TEST-ACHATS	FR	Importer	Other Stakeholders	Consumers			
Association Française des Investisseurs en Capital,	Ass-15	AFIC	FR	Importer	Financial Actors	Assoc. (Asset Management)			
Association française des trésoriers d'entreprise	Ass-17	AFTE	FR	Importer	Financial Actors	Assoc. (Capital Markets)			
Association Française Professionnelle de l'Épargne Retraite	Ass-18	AFPEN	FR	Importer	Financial Actors	soc. (Pensions & Insurance)			
Carmignac Gestion	Car-42		FR	Importer	Financial Actors	HF/FOHF			HF/FOHF
Commission Bancaire	Com-213		FR	Importer	Public Authorities	Regulator			
Consommation Loberment et Cadre de Vie	Con-53	CLCV	FR	Importer	Other Stakeholders	Consumers			
Direction Générale du Trésor et de la politique économique	Dir-66	DGTPE	FR	Importer	Public Authorities	Govnt. Dept			
Eurosif	Eur-86		FR	Importer	Other Stakeholders	Consumers			
Fédération Bancaire Française	Féd-89	FBF	FR	Importer	Financial Actors	Assoc. (Banking)			
Fédération Française Sociétés d'Assurances	Féd-91	FFSA	FR	Importer	Financial Actors	Assoc. (Capital Markets)			
French Banking Federation	Fre-105	FBF	FR	Importer	Financial Actors	Assoc. (Banking)			
French Private Equity industry	Fre-106		FR	Importer	Financial Actors	Assoc. (Asset Management)			
Groupama Asset Management	Gro-113		FR	Importer	Financial Actors	HF/FOHF			HF/FOHF
L'Association Française de la Gestion Financière	L'A-139	AFG	FR	Importer	Other Stakeholders	Business & Industry			
Reinhold & Partners	Rei-214		FR	Importer	Financial Actors	Legal			
Finnish Association of Mutual Funds	Fin-100		FI	Importer	Financial Actors	Assoc. (Asset Management)			
Finnish Financial Supervision Authority	Fin-101	FIN-FSA	FI	Importer	Public Authorities	Regulator			
University of Helsinki	Uni-212		FI	Importer	Citizens	University			
Council of Bars and Law Societies of Europe	Cou-207	CCBE	EU	Other	Other Stakeholders	Legal			
Eurodad	Eur-208	EURODAD	EU	Other	Other Stakeholders	Business & Industry			
European Association of Public Banks	Eur-72	EAPB	EU	Other	Financial Actors	Assoc. (Banking)			
European Banking Federation	Eur-73	EFB	EU	Other	Financial Actors	Assoc. (Banking)			
European Central Securities Depositaries Association	Eur-75	ESCDA	EU	Other	Financial Actors	Assoc. (Capital Markets)			

Organisation	Code	Short	MS	E/I	Level 1	Level 2	Inv Bank	Service Provider	Type of fund run
European Federation of Financial Analysts Societies	Eur-79	EFFAS	EU	Other	Financial Actors	Assoc. (Capital Markets)			
European Trade Union Confederation	Eur-84	ETUC	EU	Other	Other Stakeholders	Trade Union			
Fédération Bancaire Européenne	Féd-88	FBE	EU	Other	Financial Actors	Assoc. (Banking)			
Financial Services Consumer Group	Fin-97	FSCG	EU	Other	Other Stakeholders	Consumers			
Foundation for European Progressive Studies	Fou-210	FEPS	EU	Other	Citizens	Think Tank			
Party of European Socialists	Par-211	PPE	EU	Other	Public Authorities	Political Party			
ADICAE	ADI-03	ESP	ES	Importer	Financial Actors	Assoc. (Banking)			
INVERCO	INV-205	INVERCO	ES	Importer	Financial Actors	soc. (Pensions & Insurance)			
Nacional del Mercado de Valores	Nac-206	CNMV	ES	Importer	Public Authorities	Regulator			
Estonian Ministry of Finance	Est-69		EE	Importer	Public Authorities	Govnt. Dept			
Danish Financial Supervisory Authority	Dan-57	DFSA	DK	Importer	Public Authorities	Regulator			
Danish Shareholders Association	Dan-58		DK	Importer	Financial Actors	Inst. Investor			
Association of foreign banks in Germany	Ass-20		DE	Importer	Financial Actors	Assoc. (Banking)			
Bundesverband der Deutschen Volksbanken und Raiffeisenbanken	Bun-40		DE	Importer	Financial Actors	Assoc. (Banking)			
Bundesverband Investment und Asset Management e.V.	Bun-41		DE	Importer	Financial Actors	Assoc. (Asset Management)			
DekaBank	Dek-59		DE	Importer	Financial Actors	Bank/ Investment Bank			HF/FOHF (B)
Deutsche Vereinigung für Finanzanalyse und Asset Management e.V.	Deu-64	DVFA	DE	Importer	Financial Actors	Assoc. (Asset Management)			
Deutscher Gewerkschaftsbund Bundesvorstand	Deu-194	DGB	DE	Importer	Other Stakeholders	Trade Union			
Deutsches Aktieninstitut	Deu-195	DAI	DE	Importer	Financial Actors	Assoc. (Capital Markets)			
Deutsches Derivate Institut e.V.	Deu-65	DDI	DE	Importer	Financial Actors	Assoc. (Banking)			
Die Gewerkschaft der Privatangestellten, Druck, Journalismus, Papier	Die-196	GPA	DE	Importer	Other Stakeholders	Trade Union			
Federation of German Consumer Organisation	Fed-93		DE	Importer	Other Stakeholders	Consumers			
German Insurance Association	Ger-197	GDV	DE	Importer	Financial Actors	Assoc. (Banking)			
German Parliament	Ger-201		DE	Importer	Public Authorities	National Parliament			
German Parliament (Bundesrat)	Bun-37		DE	Importer	Public Authorities	Govnt. Dept			
German Savings Banks Association	Ger-110		DE	Importer	Financial Actors	Assoc. (Banking)			
Hans-Böckler-Stiftung	Han-198	HBS	DE	Importer	Other Stakeholders	Trade Union			
HVB Group	HVB-117		DE	Importer	Financial Actors	Bank/ Investment Bank		Service Provider	Inst Investor
INDEXCHANGE Investment AG	IND-119		DE	Importer	Financial Actors	Inst. Investor			Inst Investor
Schmidt-Hullmann	Sch-204		DE	Importer	Citizens	Individual			
Verbraucherzentrale Bundesverband	Ver-186	vzbf	DE	Importer	Public Authorities	Govnt. Dept			
Wissenschaftszentrum Berlin für Sozialforschung	Wis-199		DE	Importer	Citizens	Think Tank			
World Economy, Ecology & Development	Wor-200	WEED	DE	Importer	Citizens	Think Tank			
Asociace pro kápitalový trh	Aso-11	AKAT	CZ	Importer	Financial Actors	Assoc. (Asset Management)			
Czech Securities Commission	Cze-193		CZ	Importer	Public Authorities	Regulator			
Belgian Banking, Finance and Insurance Commission	Bel-34		BE	Importer	Public Authorities	Regulator			
European Association for Listed Companies	Eur-70		BE	Importer	Other Stakeholders	Business & Industry			
European Confederation of Directors' Associations	Eur-77	ecoDa	BE	Importer	Other Stakeholders	Business & Industry			
Austrian Ministry of Finance	Aus-26		AT	Importer	Public Authorities	Govnt. Dept			
Bundessparte Bank und Versicherung WKO	Bun-38		AT	Importer	Financial Actors	Assoc. (Banking)			
Federal Chamber for Employees' Welfare	Fed-189	BAK	AT	Importer	Other Stakeholders	Trade Union			
Financial Market Authority	Fin-190	FAM	AT	Importer	Public Authorities	Regulator			
Oesterriechische National Bank	Oes-247	OeNB	AT	Importer	Public Authorities	Central Bank			

Organisation	Code	Short	MS	E/I	Level 1	Level 2	Inv Bank	Service Provider	Type of fund run
OGB - Begleitschreiben und Konsultation	OGB-191	OGB	AT	Importer	Other Stakeholders	Trade Union			
Österreichischer Sparkassenverband	Öst-154		AT	Importer	Financial Actors	Bank/ Investment Bank			HF/FOHF (B)
Superfund Asset Management	Sup-192		AT	Importer	Financial Actors	HF/FOHF			HF/FOHF
Vereinigung Österreichischer Investmentgesellschaften	Ver-187	VOIG	AT	Importer	Financial Actors	Assoc. (Asset Management)			

Appendix 4: Summary of Participation Intensity Scores

Organisation	EG AM 01	EG AM 02	GP 01	GP 02	EH AI 01	EH AI 02	EH AI 03	EH AI 04	LG01	LG02	HF PC 01	HF PC 02	TOTALS
AXA	9	4	4			9	4			4		1	**35**
Committee of European Securities Regulators	6	4	4				4			4	4		**26**
Gartmore	9	4				9							**22**
JP Morgan	9	4	4	1							4		**22**
Santander Group	9	4				9							**22**
BNP Paribas	9	4	4	1				1				1	**20**
Deutsche Bank Group	9			1		9							**19**
European Private Equity & Venture Capital Association	9	4	4	1	1								**19**
Alternative Investment Management Association				1	1	6	4	1			4	1	**18**
Assogestioni	9	4	4					1					**18**
Fidelity Investement Services Limited	9	4	4					1					**18**
Goldman Sachs				1		9	4				4		**18**
Union Asset Management (+ Union Investment)	9	4	4	1									**18**
MAN Investments			4			9	4						**17**
European Fund and Asset Management Association			4	1	1			1		4	4	1	**16**
Financial Services Authority			4	1			4	1			4	1	**15**
PricewaterhouseCoopers			4			9		1				1	**15**
Allianz			4			9						1	**14**
Euroshareholders		4				6	4						**14**
Threadneedle Investments	9	4		1									**14**
Allied Irish Bank	9	4											**13**
CDC IXIS	9	4											**13**
Fedération Européenes des Fonds et Sociétés d'Investissement	9	4											**13**
FERI - Fund Market Information Ltd	9	4											**13**
Investment Management Group Linklaters Loesch	9	4											**13**
Merrill Lynch	9	4											**13**
UBS AG	9	4											**13**
FIN-USE			4	1		6		1					**12**
Citigroup (and Citigroup-Tribeca)				1		9		1					**11**
Irish Financial Services Regulatory Authority			4	1				1			4	1	**11**
Morgan Stanley				1		9						1	**11**
Union of Industrial and Employers' confederations of Europe (now Business Europe)						6	4	1					**11**
Barclays				1		9							**10**

Organisation	EG AM 01	EG AM 02	GP 01	GP 02	EH AI 01	EH AI 02	EH AI 03	EH AI 04	LG01	LG02	HF PC 01	HF PC 02	TOTALS
Société Générale Group				1		9							10
Alternative Detrivatives and Investments						9							9
AMF Pension	9												9
Autorité des Marchés Financiers			4				4					1	9
Citco (Lux)						9							9
Pioneer Alternative Investments						9							9
RAB Capital						9							9
Schootse Poort Pension and Asset Management/Philips International	9												9
Association Française des professionnels des Titres			4	1	1			1				1	8
De Nederlandsche Bank										4	4		8
European Federation for Retirement Provision				1	1			1			4	1	8
European Parliament			4				4						8
European Savings Banks Group				1	1			1		4		1	8
International Monetary Fund			4							4			8
Association of the Luxembourg Fund Industry			4	1				1				1	7
Czech Finance Ministry				1				1			4	1	7
European Association of Co-operative Banks				1	1					4		1	7
German Federal Ministry of Finance				1				1			4	1	7
Irish Funds Industry Association			4	1				1				1	7
Association Française de la Gestion Financière			4					1				1	6
Aviva				1						4		1	6
Bundesverband Alternative Investments e.V.								1			4	1	6
HM Treasury			4					1				1	6
International Swaps and Derivatives Association					1					4		1	6
Investment Management Association			4	1				1					6
SMN Investment Services						6							6
Banca Italia			4	1									5
Comité Européen des Assurances				1						4			5
European Central Bank										4		1	5
EuropeanIssuers										4		1	5
Hedge Fund Standards Board											4	1	5
London Investment Banking Association										4		1	5
US Managed Funds Association											4	1	5
Aegon										4			4
Blackrock Investment Management (Alpha Strategies)											4		4

Organisation	EG AM 01	EG AM 02	GP 01	GP 02	EH AI 01	EH AI 02	EH AI 03	EH AI 04	LG01	LG02	HF PC 01	HF PC 02	TOTALS
APB Investments							4						4
Association of Mutual Insurers and Insurance Cooperatives in Europe										4			4
Bank of England											4		4
Comision Nacional del Mercade de Valores			4										4
Committee of European Banking Supervisors										4			4
Committee of European Insurance and Occupational Pensions Supervisors.										4			4
EDHEC Risk & Asset Management Centre											4		4
European Council - Economic and Finance Committee										4			4
Fauchier Partners											4		4
Federation of European Securities Exchanges										4			4
Financial Stability Forum										4			4
Financial Markets Association										4			4
Futures and Options Association										4			4
International Capital Market Association										4			4
Invesco			4										4
Investicni společnost Ceske sporitelny										4			4
Jersey Financial Services Commission											4		4
KBC			4										4
London School of Economics											4		4
Moventum S.C.A.			4										4
Munich Reinsurance Company										4			4
Philips International											4		4
Supervision of Hedge Funds							4						4
Securities and Exchange Commission											4		4
Commissione Nazionale per le Società e la Borsa											4		4
Depositary and Trustee Association				1	1			1					3
Finnish Ministry of Finance				1				1				1	3
Forum of European Asset Managers				1	1			1					3
Institutional Money Market Funds Association				1	1			1					3
State Street Corporation				1				1				1	3
Alternative Investment Association Austria				1								1	2
Association of British Insurers				1								1	2
Austrian Federal Economic Chamber								1				1	2
Comissao do Mercado de Valores Mobiliarios				1				1					2
Confederation of the Nordic Bank, Finance and Insurance Unions				1								1	2

Organisation	EG AM 01	EG AM 02	GP 01	GP 02	EH AI 01	EH AI 02	EH AI 03	EH AI 04	LG01	LG02	HF PC 01	HF PC 02	TOTALS
Czech National Bank								1				1	2
Deutsche Börse Group				1				1					2
Financial Services Consumer Panel				1				1					2
French Ministry for the Economy, Industry and Employment				1								1	2
Groupe Consultatif Actuareil Européen				1				1					2
HDF Finance								1				1	2
IG Metall Executive								1				1	2
International Securities Lending Association				1								1	2
Investment & Life Assurance Group				1								1	2
Law Society of England and Wales				1				1					2
Raiffeisen Capital Management				1				1					2
Schroders				1				1					2
Socialist Grouping in the European Parliament								1				1	2
Swedish Investment Fund Association				1								1	2
UNI-Europa Finance				1				1					2
Zentraler Kreditausschuss				1								1	2
Aberdeen Asset Management				1									1
ABN AMRO				1									1
ADICAE				1									1
Algemene Pensioen Group												1	1
American Federation of Labor and Congress of Industrial Organizations												1	1
Asociace pro kápitalový trh				1									1
Asset Management and Investors Council (part of International Capital Market Association)												1	1
Associaiton of Investment Trust Companies								1					1
Association Des Consommateurs Société Coopérative				1									1
Association Française des Investisseurs en Capital,								1					1
Association française des trésoriers d'entreprise				1									1
Association Française Professionnelle de l'Épargne Retraite				1									1
Association of foreign banks in Germany				1									1
Association of Investment Companies												1	1
Associazione Bancaria Italiana				1									1
Associazione del Risparmio Gestito				1									1
Austrian Ministry of Finance				1									1
Banca Intesa				1									1
Bank of America								1					1

Organisation	EG AM 01	EG AM 02	GP 01	GP 02	EH AI 01	EH AI 02	EH AI 03	EH AI 04	LG01	LG02	HF PC 01	HF PC 02	TOTALS
Belgian Banking, Finance and Insurance Commission				1									1
Brevan Howard Asset Management												1	1
British Banking Association												1	1
Bundessparte Bank und Versicherung WKO				1									1
Bundesverband der Deutschen Volksbanken und Raiffeisenbanken				1									1
Bundesverband Investment und Asset Management e.V.				1									1
Carmignac Gestion				1									1
Centre for Financial Market Integrity												1	1
Centre for Research on Multinational corporations												1	1
City of London								1					1
Columbia University												1	1
Commission Bancaire												1	1
Commission de Surveillance du Secteur Financier				1									1
Committee of The City of London Law Society												1	1
Consommation Loberment et Cadre de Vie				1									1
Council of Bars and Law Societies of Europe												1	1
Crédit Agricole				1									1
Czech Securities Commission				1									1
Danish Financial Supervisory Authority				1									1
Danish Shareholders Association								1					1
DekaBank				1									1
Department of Enterprise, Trade and Employment, Ireland				1									1
Deutsche Vereinigung für Finanzanalyse und Asset Management e.V.				1									1
Deutscher Gewerkschaftsbund Bundesvorstand												1	1
Deutsches Aktieninstitut												1	1
Deutsches Derivate Institut e.V.				1									1
Die Gewerkschaft der Privatangestellten, Druck, Journalismus, Papier												1	1
Dillon Eustace												1	1
Direction Générale du Trésor et de la politique économique								1					1
Directors' Office				1									1
Dorse Italia				1									1
Dubai Financial Services Authority												1	1
Dutch Fund & Asset Management Association												1	1
Dutch Ministry of Finance												1	1
Ernst and Young												1	1

Organisation	EG AM 01	EG AM 02	GP 01	GP 02	EH AI 01	EH AI 02	EH AI 03	EH AI 04	LG01	LG02	HF PC 01	HF PC 02	TOTALS
Estonian Ministry of Finance				1									1
Eumedion												1	1
Eurodad												1	1
European Association for Listed Companies				1									1
European Association of Public Banks				1									1
European Banking Federation												1	1
European Central Securities Depositaries Association					1								1
European Confederation of Directors' Associations								1					1
European Federation of Financial Analysts Societies				1									1
European Trade Union Confederation												1	1
Eurosif				1									1
Eversheds LLP				1									1
Federal Chamber for Employees' Welfare												1	1
Fédération Bancaire Européenne								1					1
Fédération Bancaire Française				1									1
Fédération Française Sociétés d'Assurances				1									1
Federation of German Consumer Organisation								1					1
Financial Market Authority												1	1
Financial Services Consumer Group								1					1
Financial Services Roundtable								1					1
Finnish Association of Mutual Funds				1									1
Finnish Financial Supervision Authority				1									1
Foundation for European Progressive Studies												1	1
French Banking Federation								1					1
French Private Equity industry				1									1
German Insurance Association												1	1
German Parliament												1	1
German Parliament (Bundesrat)				1									1
German Savings Banks Association				1									1
Groupama Asset Management				1									1
Hans-Böckler-Stiftung												1	1
HBOS Group				1									1
HSBC												1	1
Hungarian Ministry of Finance				1									1
HVB Group				1									1

Organisation	EG AM 01	EG AM 02	GP 01	GP 02	EH AI 01	EH AI 02	EH AI 03	EH AI 04	LG01	LG02	HF PC 01	HF PC 02	TOTALS
INDEXCHANGE Investment AG				1									1
International Financial Data Services				1									1
Intesa Sanpaolo Group												1	1
INVERCO												1	1
Investment Company Institute				1									1
Investment Manager Association												1	1
Irish Association of Investment Managers				1									1
Italian Banking Association								1					1
Italian Private Equity Venture Capital Association								1					1
KBC Towarzystwo Funduszy Inwestycyjnych								1					1
Kishor Mandalia				1									1
L'Association Française de la Gestion Financière				1									1
L'association française des professionnels des titres				1									1
Lipper Fitzrovia				1									1
London Investment Bank Association					1								1
M&G (Prudential PLC)				1									1
Malta Financial Services Authority												1	1
Matheson Ormsby Pentrice												1	1
Nacional del Mercado de Valores												1	1
Netherlands Authority for the Financial Markets				1									1
Norwegian Ministry of Finance												1	1
Oesterriechische National Bank												1	1
OGB - Begleitschreiben und Konsultation												1	1
Österreichischer Sparkassenverband				1									1
Party of European Socialists												1	1
Permanent Representation of the Netherlands								1					1
Polish Securities & Exchange Commisison (now Polish Financial Services Authority)								1					1
Portugese Finance Ministry												1	1
Reinhold & Partners												1	1
Schmidt-Hullmann												1	1
Scottish Financial Enterprise				1									1
Scottish Widows Investment Partnership				1									1
Securities Industry and Financial Markets Association												1	1
Shell Pension Fund												1	1
Simple PFS Ltd and Future Value Consultants Ltd				1									1

Organisation	EG AM 01	EG AM 02	GP 01	GP 02	EH AI 01	EH AI 02	EH AI 03	EH AI 04	LG01	LG02	HF PC 01	HF PC 02	TOTALS
Slovak Financial Market Authority				1									1
States of Guernsey				1									1
States of Jersey				1									1
Stephen Wynn				1									1
Superfund Asset Management												1	1
Superfund Investment Group								1					1
Sveriges Riksbank												1	1
Swedish Ministry of Finance				1									1
Thomas Bullman												1	1
Thomson Reuters Lipper												1	1
Trade Union Advisory Committee to the OEDC												1	1
Transport General Workers Union								1					1
UK France and Germany common position								1					1
UNI Global Union												1	1
University of Helsinki												1	1
Verbraucherzentrale Bundesverband				1									1
Vereinigung Österreichischer Investmentgesellschaften				1									1
Wissenschaftszentrum Berlin für Sozialforschung												1	1
World Economy, Ecology & Development												1	1

Appendix 5: Members of Asset Management Expert Group

Code: **DP 03 / EG AM 01**
Title: **Expert Group on Asset Management**
Source Doc: **SNA01**

Surname	Type	Organisation (as described)	P Frq	P Lvl	P T
IND62	Participant	Threadneedle Investments	1	9	9
IND36	Participant	Fidelity Investement Services Limited	1	9	9
PA19	Secretariat	European Commission	1	9	9
IND21	Participant	CDC IXIS	1	9	9
IND44	Participant	Investment Management Group Linklaters Loesch	1	9	9
PA09	Observers	Committee of European Securities Regulators	1	6	6
IND01	Participant	Merrill Lynch Investment Managers Limited	1	9	9
PA20	Observers	European Commission - DG ECOFIN	1	6	6
IND19	Participant	BNP Paribas Asset Management	1	9	9
IND33	Participant	EVCA	1	9	9
IND57	Participant	Santander Central Hispano Asset Management	1	9	9
IND04	Participant	AIB Investment Managers	1	9	9
IND14	Participant	AXA GIE	1	9	9
IND13	Participant	ASSOGESTIONI	1	9	9
IND63	Participant	UBS AG	1	9	9
OSK03	Participant	FERI - Fund Market Information Ltd	1	9	9
IND64	Participant	Union Asset Management - Holding AG	1	9	9
IND08	Participant	AMF Pension	1	9	9
IND34	Participant	FEFSI	1	9	9
IND26	Participant	Deutsche Bank Asset Management	1	9	9
IND47	Participant	J.P. Morgan Fleming – Asset Management France	1	9	9
IND59	Participant	Schootse Poort Pension and Asset Management/Philips International	1	9	9
IND38	Participant	Gartmore	1	9	9
IND16	Secretariat	European Commission	1	9	9
PA21	Secretariat	European Commission	1	9	9
PA18	Chair	European Commission	1	9	9

Appendix 6: Expert Group Meeting on Asset Management, 3rd February 2005

Code: DP03 / EG AM 02
Title: Expert Group Meeting on Asset Management, 3rd February 2005
Source Doc: SNA03

Surname	Type	Organisation (as described)	P Frq	P Lvl	P T
	Participant	Fidelity Investement Services Limited	1	4	4
	Participant	Threadneedle Investments	1	4	4
	Participant	European Commission - Unit G4	1	4	4
	Participant	European Commission - Head, Unit G4 Asset Mangement	1	4	4
	Participant	CDC IXIS	1	4	4
	Participant	Investment Management Group Linklaters Loesch	1	4	4
	Participant	Merrill Lynch Investment Managers Limited	1	4	4
	Participant	European Commission - DG ECFIN EuropeanCommission	1	4	4
	Participant	BNP Paribas Asset Management	1	4	4
	Participant	European Commission	1	4	4
	Participant	EVCA	1	4	4
	Participant	Santander Central Hispano Asset Management	1	4	4
	Participant	AXA GIE	1	4	4
	Participant	ASSOGESTIONI	1	4	4
	Participant	European Commission - Unit	1	4	4
	Participant	UBS AG	1	4	4
	Participant	FERI - Fund Market Information Ltd	1	4	4
	Participant	Union Asset Management - Holding AG	1	4	4
	Participant	FEFSI	1	4	4
	Participant	AIB Investment Managers	1	4	4
	Participant	European Commission - Unit	1	4	4
	Participant	Euroshareholders	1	4	4
	Participant	EVCA	1	4	4
	Participant	J.P. Morgan Fleming – Asset Management France	1	4	4
	Participant	European Commission	1	4	4
	Participant	Gartmore	1	4	4
	Participant	Committee of European Securities Regulators	1	4	4
	Participant	European Commission - Unit	1	4	4
	Participant	European Commission - Unit	1	4	4
	Participant	European Commission - Director, Market Directorate G	1	4	4

Appendix 7: The UCITS review Open Hearing, 13 October 2005

Code: DP05 / GP01
Title: The UCITS review Open Hearing, 13 October 2005
Source Doc: SNA07

Surname	Type	Organisation (as described)	Title	P Frq	P Lvl	P T
PA06	Panellist	Comision Nacional del Mercade de Valores	Vice-President	1	4	4
IND36	Panellist	Fidelity Investement Services Limited	President	1	4	4
IND43	Panellist	Investment Management Association	European Policy Advisor	1	4	4
PA10	Panellist	Committee of European Securities Regulators	Investment Management Expert Group	1	4	4
IND29	Panellist	European Fund and Asset Management Association	President	1	4	4
IND01	Panellist	Allianz Global Investors Europe	Head	1	4	4
IND48	Chair	J.P. Morgan	Managing Director	1	4	4
IND42	Panellist	Invesco	Chief Executive	1	4	4
PA01	Panellist	Autorité des Marchés Financiers	Head of Asset Management and Investment Service Provider Department	1	4	4
IND30	Panellist	European Fund and Asset Management Association	Director of Economics and Research	1	4	4
IND19	Panellist	BNP Paribas	Director of Risk Management & Compliance	1	4	4
IND49	Panellist	KBC Asset Management NV	President	1	4	4
IND33	Panellist	European Private Equity & Venture Capital Association	Secretary General	1	4	4
IND13	Panellist	Assogestioni	Director General	1	4	4
PA44	Closing Speech	International Monetary Fund		1	4	4
PA46	Panellist	Irish Financial Services Regulatory Authority	Senior Regulator	1	4	4
PA32	Panellist	European Parliament	Asset Management Rapporteur	1	4	4
IND10	Chair	Association Française de la Gestion Financière	Chairman	1	4	4
IND64	Chair	Union Asset Management (+ Union Investment)	Member of the Board	1	4	4
PA23	Paper/ Report	European Commission	Commissioner	1	4	4
IND45	Panellist	Dublin Funds Industry Association	Chief Executive	1	4	4
OSK04	Panellist	Moventum S.C.A.	Chief Executive	1	4	4
IND11	Panellist	Association Française des professionnels des Titres	Director	1	4	4
IND50	Panellist	Man Investments	Head of Product Structuring & Transaction Management	1	4	4
PA34	Panellist	FIN-USE	Consumer Representative (member)	1	4	4
PA24	Welcome address	European Commission	Director General Internal Market and Services DG	1	4	4
IND12	Chair	Association of the Luxembourg Fund Industry		1	4	4
PA03	Panellist	Banca Italia	Senior Officer	1	4	4
PA08	Panellist	Committee of European Securities Regulators	Rapporteur of the Expert Group on Investment Management	1	4	4
IND16	Panellist	Axa Investment	General Counsel	1	4	4
PA42	Panellist	HM Treasury & The Financial Services Authority		1	4	4
PA33	Panellist	FIN-USE	Consumer Representative (member)	1	4	4
IND54	Chair	Financial Services PwC	Senior Advisor	1	4	4
PA35	Panellist	Financial Services Authority	Director of Retail Policy	1	4	4
PA18	Chair	European Commission	Director Financial Services Policy and Financial Markets	1	4	4

Appendix 8: The UCITS review Open Hearing, 13 October 2005

Code:
DP05 / GP02
Title:
Public Consultation on the Green Paper, contributions authoritised for publication
Source Doc:
http://circa.europa.eu/Public/irc/markt/markt_consultations/library?l=/financial_services/asset_manag

Organisation (coded)	P Frq	P Lvl	P T
Aberdeen Asset Management	1	1	1
ABN AMRO	1	1	1
ADICAE	1	1	1
Alternative Investment Association Austria	1	1	1
Alternative Investment Management Association	1	1	1
Asociace pro kápitalový trh	1	1	1
Association Des Consommateurs Société Coopérative	1	1	1
Association Française des professionnels des Titres	1	1	1
Association française des trésoriers d'entreprise	1	1	1
Association Française Professionnelle de l'Épargne Retraite	1	1	1
Association of British Insurers	1	1	1
Association of foreign banks in Germany	1	1	1
Association of the Luxembourg Fund Industry	1	1	1
Associazione Bancaria Italiana	1	1	1
Associazione del Risparmio Gestito	1	1	1
Austrian Ministry of Finance	1	1	1
Aviva	1	1	1
Banca Intesa	1	1	1
Banca Italia	1	1	1
Barclays	1	1	1
Belgian Banking, Finance and Insurance Commission	1	1	1
BNP Paribas	1	1	1
Dorse Italia	1	1	1
German Parliament (Bundesrat)	1	1	1
Bundessparte Bank und Versicherung WKO	1	1	1
Bundesverband der Deutschen Volksbanken und Raiffeisenbanken	1	1	1
Bundesverband Investment und Asset Management e.V.	1	1	1
Carmignac Gestion	1	1	1
Citigroup (and Citigroup-Tribeca)	1	1	1
Comissao do Mercado de Valores Mobiliarios	1	1	1
Comité Européen des Assurances	1	1	1
Commission de Surveillance du Secteur Financier	1	1	1
Confederation of the Nordic Bank, Finance and Insurance Unions	1	1	1
Consommation Loberment et Cadre de Vie	1	1	1
Crédit Agricole	1	1	1
Czech Securities Commission	1	1	1
Czech Finance Ministry	1	1	1
Danish Financial Supervisory Authority	1	1	1
DekaBank	1	1	1
Department of Enterprise, Trade and Employment, Ireland	1	1	1
Depositary and Trustee Association	1	1	1
Deutsche Bank Group	1	1	1
Deutsche Börse Group	1	1	1
Deutsche Vereinigung für Finanzanalyse und Asset Management e.V.	1	1	1
Deutsches Derivate Institut e.V.	1	1	1
Directors' Office	1	1	1
Irish Funds Industry Association	1	1	1
Estonian Ministry of Finance	1	1	1
European Association for Listed Companies	1	1	1
European Association of Co-operative Banks	1	1	1
European Association of Public Banks	1	1	1
European Banking Federation	1	1	1
European Central Bank	1	1	1
European Federation for Retirement Provision	1	1	1
European Federation of Financial Analysts Societies	1	1	1

Organisation (coded)	P Frq	P Lvl	P T
European Fund and Asset Management Association	1	1	1
European Private Equity & Venture Capital Association	1	1	1
European Savings Banks Group	1	1	1
European Trade Union Confederaiton	1	1	1
Eurosif	1	1	1
Eversheds LLP	1	1	1
Fédération Bancaire Française	1	1	1
Fédération Française Sociétés d'Assurances	1	1	1
Financial Services Authority	1	1	1
Financial Services Consumer Panel	1	1	1
Finnish Association of Mutual Funds	1	1	1
Finnish Financial Supervision Authority	1	1	1
FIN-USE	1	1	1
Forum of European Asset Managers	1	1	1
French Private Equity industry	1	1	1
German Federal Ministry of Finance	1	1	1
German Savings Banks Association	1	1	1
Société Générale Group	1	1	1
Goldman Sachs	1	1	1
Groupama Asset Management	1	1	1
Groupe Consultatif Actuareil Européen	1	1	1
HVB Group	1	1	1
INDEXCHANGE Investment AG	1	1	1
HBOS Group	1	1	1
Institutional Money Market Funds Association	1	1	1
International Financial Data Services	1	1	1
International Securities Lending Association	1	1	1
Investment & Life Assurance Group	1	1	1
Investment Company Institute	1	1	1
Investment Management Association	1	1	1
Irish Association of Investment Managers	1	1	1
Irish Financial Services Regulatory Authority	1	1	1
JP Morgan	1	1	1
Kishor Mandalia	1	1	1
L'Association Française de la Gestion Financière	1	1	1
L'association française des professionnels des titres	1	1	1
Law Society of England and Wales	1	1	1
Lipper Fitzrovia	1	1	1
M&G (Prudential PLC)	1	1	1
French Ministry for the Economy, Industry and Employment	1	1	1
Finnish Ministry of Finance	1	1	1
Hungarian Ministry of Finance	1	1	1
Morgan Stanley	1	1	1
Netherlands Authority for the Financial Markets	1	1	1
Österreichischer Sparkassenverband	1	1	1
Raiffeisen Capital Management	1	1	1
Schroders	1	1	1
Scottish Financial Enterprise	1	1	1
Scottish Widows Investment Partnership	1	1	1
Simple PFS Ltd and Future Value Consultants Ltd	1	1	1
Slovak Financial Market Authority	1	1	1
State Street Corporation	1	1	1
States of Guernsey	1	1	1
States of Jersey	1	1	1
Stephen Wynn	1	1	1
Swedish Investment Fund Association	1	1	1
Swedish Ministry of Finance	1	1	1
Threadneedle Investments	1	1	1
UNI-Europa Finance	1	1	1
Union Asset Management (+ Union Investment)	1	1	1
Verbraucherzentrale Bundesverband	1	1	1
Vereinigung Österreichischer Investmentgesellschaften	1	1	1
Zentraler Kreditausschuss	1	1	1

Appendix 9: List of eligible nominating organisations for Expert Working Group on Alternative Investment Fund

Code:	**DP08 / EH AI 01**
Title:	**List of eligible nominating organisations for Expert Working Group on Alternative Investment Fund**
Source Doc:	**SNA35**

Organisation (coded)	Short	Organisation (as described)	MS	P Frq	P Lvl	P T
Association Française des professionnels des Titres	AFTI	Association Française des professionnels des Titres	FR	1	2	2
Alternative Investment Management Association	AIMA	Alternative Investment Management Association	UK	1	2	2
Depositary and Trustee Association	DATA	Depositary and Trustee Association	UK	1	2	2
European Association of Co-operative Banks	EACB	European Association of Co-operative Banks	EU	1	2	2
European Banking Federation	EBF	European Banking Federation	EU	1	2	2
European Fund and Asset Management Association	EFAMA	European Fund and Asset Management Association	EU	1	2	2
European Federation for Retirement Provision	EFRP	European Federation for Retirement Provision	EU	1	2	2
European Savings Banks Group	ESBG	European Savings Banks Group	EU	1	2	2
European Central Securities Depositaries Association	ESCDA	European Central Securities Depositaries Association	EU	1	2	2
European Private Equity & Venture Capital Association	EVCA	European Private Equity & Venture Capital Association	EU	1	2	2
Forum of European Asset Managers	FEAM	Forum of European Asset Managers	EU	1	2	2
Federation of European Stock Exchanges	FESE	Federation of European Stock Exchanges	EU	1	2	2
Institutional Money Market Funds Association	IMMFA	Institutional Money Market Funds Association	INT	1	2	2
International Swaps and Derivatives Association	ISDA	International Swaps and Derivatives Association	INT	1	2	2
London Investment Bank Association	LIBA	London Investment Bank Association	UK	1	2	2

Appendix 10: Members of Expert Working Group on Alternative Investment Funds: Sub Group on Hedge Funds

Code: **DP08 / EH AI 02**
Title: **Members of Expert Working Group on Alternative Investment Funds: Sub Group on Hedge Funds**
Source Doc: **SNA48**

Surname	Type	Organisation (as described)	MS	P Frq	P Lvl	P T
IND40	Participant	Goldman Sachs	UK	1	9	9
IND58	Participant	Santander	P	1	9	9
OSK01	Observer	DWS/Euroshareholders	DE	1	6	6
IND15	Participant	Axa-IM	FR	1	9	9
IND09	Observer	ABP Pension Fund	NL	1	6	6
IND22	Participant	Citco (Lux)	LUX	1	9	9
IND52	Participant	Pioneer	IRL	1	9	9
IND61	Participant	Lyxor	FR	1	9	9
IND02	Participant	Allianz	DE	1	9	9
IND39	Participant	Gartmore	UK	1	9	9
IND25	Participant	Deutsche Bank	DE	1	9	9
IND23	Participant	Citigroup-Tribeca	US	1	9	9
IND60	Observer	SMN Investment Services	AUT	1	6	6
IND06	Observer	AIMA	INT	1	6	6
IND55	Participant	PricewaterhouseCoopers	IRL	1	9	9
IND05	Participant	ADI	FR	1	9	9
IND50	Participant	MAN	CH	1	9	9
IND17	Participant	BGI	UK	1	9	9
IND51	Participant	Morgan Stanley	UK	1	9	9
PA33	Observer	DB/FIN-USE	DE	1	6	6
IND56	Participant	RAB Capital	UK	1	9	9
OSK06	Observer	UNICE	DE	1	6	6

Appendix 11: Expert Group Reports on Investment Fund Market Efficiency, Hedge Funds and Private Equity, 19th July 2006

Code: DP08 / EH AI 03
Title: Meeting on Expert Group Reports on Investement Fund Market Efficiency, Hedge Funds and Private Equity, 19th July 2006 (Session I: Hedge Fund Expert Group Report)
Source Doc: SNA30

Surname	Type	Organisation (as described)	Title	P Frq	P Lvl	P T
IND40	Expert Group Member	Goldman Sachs International	MD	1	4	4
OSK01	Panellist	Euroshareholders		1	4	4
PA22	Expert Group Secretary	European Commission		1	4	4
IND15	Expert Group Member	Axa Investment Managers	Head of Investment Solutions	1	4	4
PA09	Panellist	The Committee of European Securities	Deputy to the Secretary General	1	4	4
IND09	Panellist	APB Investments, Netherlands	Advisor to the Board, Manager Special Products	1	4	4
OSK07	Panellist	Union of Industrial and Employers' confederations of Europe		1	4	4
IND07	Panellist	Alternative Investment Management Association	Chairman	1	4	4
PA32	Opening Remarks	European Parliament	ALDE-Coordinator for Economic and Monetary Affairs	1	4	4
PA49	Panellist	Supervision of Hedge Funds, Bafin, Germany	Head of Section	1	4	4
PA02	Moderator	Autorite des marches financiers	MD	1	4	4
IND50	Expert Group Member	Man Investments	Head of Product Structuring & Transaction Management	1	4	4
PA36	Panellist	Financial Services Authority	Manager of the Hedge Fund Managers Supervision Team	1	4	4
PA35	Moderator	Financial Services Authority	Director of Retial Policy	1	4	4

Appendix 12: Public Consultation on Expert Group Reports

Code:
DP08 / EH AI 04
Title:
Public Consultation on Expert Group Reports
Source Doc:
http://ec.europa.eu/internal_market/investment/consultations/commentseg_en.htm

Organisations (coded)	P Frq	P Lvl	P T
Alternative Investment Management Association	1	1	1
Associaiton of Investment Trust Companies	1	1	1
Association Française de la Gestion Financière	1	1	1
Association Française des Investisseurs en Capital,	1	1	1
Association Française des professionnels des Titres	1	1	1
Association of the Luxembourg Fund Industry	1	1	1
Assogestioni	1	1	1
Austrian Federal Economic Chamber	1	1	1
Bank of America	1	1	1
BNP Paribas	1	1	1
Bundesverband Alternative Investments e.V.	1	1	1
Citigroup (and Citigroup-Tribeca)	1	1	1
City of London	1	1	1
Comissao do Mercado de Valores Mobiliarios	1	1	1
Czech Finance Ministry	1	1	1
Czech National Bank	1	1	1
Danish Shareholders Association	1	1	1
Depositary and Trustee Association	1	1	1
Deutsche Börse Group	1	1	1
Direction Générale du Trésor et de la politique économique	1	1	1
Irish Funds Industry Association	1	1	1
European Confederation of Directors' Associations	1	1	1
European Federation for Retirement Provision	1	1	1
European Fund and Asset Management Association	1	1	1
European Savings Banks Group	1	1	1
European Trade Union Confederaiton	1	1	1
Fédération Bancaire Européenne	1	1	1
Federation of German Consumer Organisation	1	1	1
Fidelity Investement Services Limited	1	1	1
Financial Services Consumer Group	1	1	1
Financial Services Consumer Panel	1	1	1
Financial Services Roundtable	1	1	1
Finnish Ministry of Finance	1	1	1
FIN-USE	1	1	1
Forum of European Asset Managers	1	1	1
French Banking Federation	1	1	1
German Federal Ministry of Finance	1	1	1
Groupe Consultatif Actuareil Européen	1	1	1
HDF Finance	1	1	1
Financial Services Authority	1	1	1
HM Treasury	1	1	1
IG Metall Executive	1	1	1
Institutional Money Market Funds Association	1	1	1
Investment Management Association	1	1	1
Irish Financial Services Regulatory Authority	1	1	1
Italian Banking Association	1	1	1
Italian Private Equity Venture Capital Association	1	1	1

Organisations (coded)	P Frq	P Lvl	P T
KBC Towarzystwo Funduszy Inwestycyjnych	1	1	1
Law Society of England and Wales	1	1	1
Permanent Representation of the Netherlands	1	1	1
Socialist Grouping in the European Parliament	1	1	1
Polish Securities & Exchange Commisison (now Polish Financial Services Authority)	1	1	1
PricewaterhouseCoopers	1	1	1
Raiffeisen Capital Management	1	1	1
Schroders	1	1	1
State Street Corporation	1	1	1
Superfund Investment Group	1	1	1
Transport General Workers Union	1	1	1
UK France and Germany common position	1	1	1
UNI-Europa Finance	1	1	1
Union of Industrial and Employers' confederations of Europe (now Business Europe)	1	1	1

Appendix 13: Members of the Lorosiere Group; the High Level Group on Financial Services in the EU

Code: DP12 / LG01
Title: Members of the Lorosiere Group; the High Level Group on Financial Services in the EU
Source Doc: SNA90 (Annex II)

Surname	Type	Career Description	MS	P Frq	P Lvl	P T
PA15	Member	economist and the former chairman of the National Bank of Poland.	PO	1	9	9
PA05	Chairman	Chairman of the Strategic Committee of the French Treasury and Advisor to BNP Paribas, former MD of the IMF	FR	1	9	9
IND27	Member	economist, former member of the board of the Deutsche Bundesbank	DE	1	9	9
PA40	Member	former Finance Minister and Prof of Economic at the European University of Rome	IT	1	9	9
PA38	Member	former Chairman of the Financial Services Authority	UK	1	9	9
IND37	Member	former CEO of NCR Corporation from 1995 through 2003	UK	1	9	9
IND53	Member			1	9	9
PA39	Member	former Director of AMRO Bank and executive director of the IMF	NL	1	9	9

Appendix 14: Organisation giving oral evidence to the Lorosiere Group; the High Level Group on Financial Services in the EU

Code: DP12 / LG02
Title: Organisations giving oral evidence to the Lorosiere Group); the High Level Group on Financial Services in the EU
Source Doc: SNA90

Surname	Type	Organisation (as written)	Short	P Frq	P Lvl	P T
PA30	European Commissione	European Commission		1	4	4
PA43	Head of the European I	International Monetrary Fund		1	4	4
PA37	Chairman	Financial Stability Forum & Governor of the Bank of Italy		1	4	4
IND24		Comité Européen des Assurances	CEA	1	4	4
PA23	European Commissione	European Commission		1	4	4
PA31	Chairman	Economic and Finance Committee		1	4	4
PA16	Chairman of the Banki	European Central Bank		1	4	4
PA17	President	European Central Bank		1	4	4
PA14	Chairman	Basle Committee & President of the Netherlands Central Bank		1	4	4
		International Swaps and Derivatives Association	ISDA	1	4	4
		Aegon		1	4	4
		Association of Mutual Insurers and Insurance Cooperatives in Europe	AMICE	1	4	4
		AVIVA plc		1	4	4
		AXA		1	4	4
		Committee of European Banking Supervisors	CEBS	1	4	4
		Committee of European Insurance and Occupational Pensions Supervisors.	CEIOPS	1	4	4
		Committee of European Securities Regulators	CESR	1	4	4
		European Association of Co-operative Banks	EACB	1	4	4
		European Banking Federation	EBF	1	4	4
		European Fund and Asset Managers Association	EFAMA	1	4	4
		European Issuers		1	4	4
		European Savings Banks Group	ESBG	1	4	4
		Federation of European Securities Exchanges	FESE	1	4	4
		French Association of Financial Markets	AMAFI	1	4	4
		Future and Options Association	FOA	1	4	4
		International Capital Market Association	ICMA	1	4	4
		Investicni společnost Ceske sporitelny	ISCS	1	4	4
		London Investment Banking Association	LIBA	1	4	4
		Munich Reinsurance Company		1	4	4

Appendix 15: European Commissions Conference on Private Equity and Hedge Funds, 26 February 2009 (Hedge Funds Session)

DP13 / HF PC 01

European Commissions Conference on Private Equtiy and Hedge Funds, 26 February 2009 (Hedge Funds Session)

SNA70

Surname	Type	Organisation (as written)	Short	P Frq	P Lvl	P T
IND40	Panellist	Goldman Saches		1	4	4
PA47	Panellist	Jersey Financial Services Commission		1	4	4
PA48	Panellist	US Securities and Exchange Commission	SEC	1	4	4
IND41	Opening Statement	Hedge Fund Standards Board	HFSB	1	4	4
IND46	Panellist	JP Morgen Bank (Ireland) PLC		1	4	4
CIT02	Moderator	London School of Economics		1	4	4
IND31	Moderator	European Fund and Asset Management Association		1	4	4
IND07	Panellist	Fauchier Partners		1	4	4
IND65	Panellist	US Managed Funds Association		1	4	4
CIT01	Opening Statement	EDHEC Risk & Asset Management Centre		1	4	4
PA07	Panellist	Commissione Nazionale per le Società e la Borsa	CONSOB	1	4	4
PA13	Panellist	De Nederlandsche Bank		1	4	4
PA41	Panellist	German Federal Ministry of Finance		1	4	4
PA12	Panellist	Czech Ministry of Finance		1	4	4
IND06	Panellist	Alternative Investment Management Association	AIMA	1	4	4
PA04	Panellist	Bank of England		1	4	4
PA45	Panellist	Irish Financial Services Authority		1	4	4
IND18	Speech	Alpha Strategies		1	4	4
IND20	Panellist	Bundesverband Alternative Investments e.V.		1	4	4
IND28	Panellist	European Federation for Retirement Provision	EFRP	1	4	4
OSK05	Panellist	Philips International		1	4	4
PA35	Panellist	Financial Services Authority	UK	1	4	4
PA11	Chairman	Committee of European Securities Regulators	CESR	1	4	4

Appendix 16: Public Consultation on Hedge Funds

Code: DP13 / HF PC 02
Title: Consultation on Hedge Funds
Source Doc: http://ec.europa.eu/internal_market/consultations/2008/hedge_funds_en.htm

Surname	Organisation (as written)	Short	Type	MS	P Frq	P Lvl	P T
IND26	Algemene Pensioen Group	APG	Organisations	NL	1	1	1
	Allianz SE European Affairs Office		Organisations	EU	1	1	1
PA07	Alternative Investment Association Austria	VAI	Organisations	AT	1	1	1
IND58	Alternative Investment Management Association	AIMA	Organisations	UK	1	1	1
	American Federation of Labor and Congress of Industrial Organizations	AFL-CIO	Organisations	USA	1	1	1
IND45	Asset Management and Investors Council (part of International Capital Market As	AMIC	Organisations	INT	1	1	1
PA19	Association Française de la Gestion Financière	AFG	Organisations	FR	1	1	1
PA12	Association Française des professionnels des Titres	AFTI	Organisations	FR	1	1	1
	Association of British Insurers	ABI	Organisations	UK	1	1	1
IND11	Association of Investment Companies	AIC	Organisations	UK	1	1	1
	Association of the Luxembourg Fund Industry	ALFI	Organisations	LU	1	1	1
IND47	Austrian Federal Economic Chamber	WKO	Organisations	AT	1	1	1
	Autorité des Marchés Financiers		Public Bodies	FR	1	1	1
	AVIVA INVESTORS		Organisations	UK	1	1	1
	AXA GIE/ Axa Investment Managers	AXA IM	Organisations	FR	1	1	1
	BNP Paribas Securities Services		Organisations	FR	1	1	1
OSK05	Brevan Howard Asset Management		Organisations	UK	1	1	1
	British Banking Association	BBA	Organisations	UK	1	1	1
IND46	Bullman - Hedge Fund and the Definition Challenge - Part I		Individual	IE	1	1	1
	Bundesverband Alternative Investments	BAI	Organisations	DE	1	1	1
PA12	Bundesverband Investment and Asset Management	BVI	Organisations	DE	1	1	1
	Centre for Financial Market Integrity	CFA	Organisations	INT	1	1	1
IND28	Centre for Research on Multinational corporations	SOMO	Organisations	NL	1	1	1
PA07	Columbia University		Individual	USA	1	1	1
	Commission Bancaire		Public Bodies	FR	1	1	1
IND15	Committee of The City of London Law Society	CLLS	Organisations	UK	1	1	1
IND36	Confederation of the Nordic Bank, Finance and Insurance Unions	NFU	Organisations	SW	1	1	1
IND13	Council of Bars and Law Societies of Europe	CCBE	Organisations	EU	1	1	1
	Czech National Bank		Public Bodies	CZ	1	1	1
OSK04	Deutscher Gewerkschaftsbund Bundesvorstand	DGB	Organisations	DE	1	1	1
	Deutsches Aktieninstitut	DAI	Organisations	DE	1	1	1
	Die Gewerkschaft der Privatangestellten, Druck, Journalismus, Papier	GPA	Organisations	DE	1	1	1
	Dillon Eustace		Organisations	IR	1	1	1
	Dubai Financial Services Authority	DFSA	Public Bodies	UAE	1	1	1
PA25	Dutch Fund & Asset Management Association	DUFAS	Organisations	NL	1	1	1
PA07	Dutch Ministry of Finance		Public Bodies	NL	1	1	1
PA11	Ernst and Young	EY	Organisations	UK	1	1	1
	Eumedion	EUMEDION	Organisations	NL	1	1	1
	Eurodad	EURODAD	Organisations	EU	1	1	1
PA07	European Association of Co-operative Banks	EACB	Organisations	EU	1	1	1
IND11	European Banking Federation	EBF	Organisations	EU	1	1	1
	European Central Bank	ECB	Public Bodies	EU	1	1	1
	European Federation for Retirement Provision	EFRP	Organisations	EU	1	1	1
	European Fund and Asset Management Association	EFAMA	Organisations	EU	1	1	1
	European Savings Banks Group	ESBG	Organisations	EU	1	1	1
PA27	European Trade Union Confederation	ETUC	Organisations	UK	1	1	1
	EuropeanIssuers	EI	Organisations	EU	1	1	1
PA42	Federal Chamber for Employees' Welfare	BAK	Organisations	AT	1	1	1
	Financial Market Authority	FAM	Public Bodies	AT	1	1	1
	Financial Services Authority	FSA	Public Bodies	UK	1	1	1
	Finnish Ministry of Finance		Public Bodies	FI	1	1	1
IND38	Foundation for European Progressive Studies	FEPS	Organisations	EU	1	1	1
	French Ministry for the Economy, Industry and Employment		Public Bodies	FR	1	1	1
	German Insurance Association	GDV	Organisations	DE	1	1	1
PA14	German Ministry of Finance		Public Bodies	DE	1	1	1
IND02	German Parliament	EICHEL	Individual	DE	1	1	1
	Hans-Böckler-Stiftung	HBS	Organisations	DE	1	1	1
	HDF Finance	HDF	Organisations	FR	1	1	1
IND22	Hedge Fund Standards Board	HFSB	Organisations	UK	1	1	1
	HM Treasury		Public Bodies	UK	1	1	1
IND13	HSBC Alternative Investments Limited		Organisations	UK	1	1	1
PA02	IG METALL	IGM	Organisations	DE	1	1	1
	International Securities Lending Association	ISLA	Organisations	UK	1	1	1
	International Swaps and Derivatives Association	ISDA	Organisations	UK	1	1	1
IND53	Intesa Sanpaolo Group	INTESA	Organisations	IT	1	1	1
	INVERCO	INVERCO	Organisations	ES	1	1	1
IND16	Investment & Life Assurance Group Limited	ILAG	Organisations	UK	1	1	1
PA08	Investment Manager Association	IMA	Organisations	UK	1	1	1
IND22	Irish Financial Services Regulatory Authority		Public Bodies	IE	1	1	1
IND14	Irish Funds Industry Association	IFIA	Organisations	IE	1	1	1
	London Investment Banking Association	LIBA	Organisations	UK	1	1	1
	Malta Financial Services Authority	MFSA	Public Bodies	MT	1	1	1
IND02	Matheson Ormsby Pentrice	MOP	Organisations	IE	1	1	1
	Ministry of Finance of the Czech Republic		Public Bodies	CZ	1	1	1
	Morgan Stanley		Organisations	UK	1	1	1
	Nacional del Mercado de Valores	CNMV	Organisations	ES	1	1	1
	Norwegian Ministry of Finance		Public Bodies	NL	1	1	1

Surname	Organisation (as written)	Short	Type	MS	P Frq	P Lvl	P T
	Oesterriechische National Bank	OeNB	Public Bodies	AT	1	1	1
IND60	OGB - Begleitschreiben und Konsultation	OGB	Organisations	AT	1	1	1
	Party of European Socialists	PPE	Public Bodies	EU	1	1	1
	Portugese Finance Ministry		Public Bodies	PT	1	1	1
	PricewaterhouseCoopers	PWC	Organisations	UK	1	1	1
IND05	Reinhold & Partners		Organisations	FR	1	1	1
PA02	Securities Industry and Financial Markets Association	SIFMA	Organisations	INT	1	1	1
	Shell Pension Fund		Organisations	NL	1	1	1
	Socialist Grouping in the European Parliament	PSE	Public Bodies	EU	1	1	1
PA44	State Street Corporation		Organisations	USA	1	1	1
PA35	Superfund Asset Management		Organisations	AT	1	1	1
PA45	Sveriges Riksbank		Public Bodies	SW	1	1	1
IND44	Swedish Investment Fund Association	SIFA	Organisations	SW	1	1	1
IND13	Thomson Reuters Lipper		Organisations	IT	1	1	1
	Trade Union Advisory Committee to the OEDC	TUAC	Organisations	INT	1	1	1
IND63	UNI Global Union	UNI	Organisations	STZ	1	1	1
IND11	University of Helsinki		Individual	FI	1	1	1
	US Managed Funds Association	MFA	Organisations	USA	1	1	1
PA33	Wissenschaftszentrum Berlin für Sozialforschung		Individual	DE	1	1	1
PA29	World Economy, Ecology & Development	WEED	Individual	DE	1	1	1
PA27	Zentraler Kreditausschuss	ZKA	Organisations	DE	1	1	1
PA24			Individual	DE	1	1	1

Appendix 17: Incidence Matrix

Identification Code	EG AM 01	EG AM 02	GP 01	EH AI 02	EH AI 03	LG01	LG02	HF PC 01
CIT01	0	0	0	0	0	0	0	1
CIT02	0	0	0	0	0	0	0	1
CIT03	0	0	0	0	0	0	0	0
IND01	1	1	1	0	0	0	0	0
IND02	0	0	0	1	0	0	0	0
IND03	0	1	0	0	0	0	0	0
IND04	1	0	0	0	0	0	0	0
IND05	0	0	0	1	0	0	0	0
IND06	0	0	0	1	0	0	0	1
IND07	0	0	0	0	1	0	0	1
IND08	1	0	0	0	0	0	0	0
IND09	0	0	0	1	1	0	0	0
IND10	0	0	1	0	0	0	0	0
IND11	0	0	1	0	0	0	0	0
IND12	0	0	1	0	0	0	0	0
IND13	1	1	1	0	0	0	0	0
IND14	1	1	0	0	0	0	0	0
IND15	0	0	0	1	1	0	0	0
IND16	0	0	1	0	0	0	0	0
IND17	0	0	0	1	0	0	0	0
IND18	0	0	0	0	0	0	0	1
IND19	1	1	1	0	0	0	0	0
IND20	0	0	0	0	0	0	0	1
IND21	1	1	0	0	0	0	0	0
IND22	0	0	0	1	0	0	0	0
IND23	0	0	0	1	0	0	0	0
IND24	0	0	0	0	0	0	1	0
IND25	0	0	0	1	0	0	0	0
IND26	1	0	0	0	0	0	0	0
IND27	0	0	0	0	0	1	0	0
IND28	0	0	0	0	0	0	0	1
IND29	0	0	1	0	0	0	0	0
IND30	0	0	1	0	0	0	0	0
IND31	0	0	0	0	0	0	0	1
IND32	0	1	0	0	0	0	0	0
IND33	1	1	1	0	0	0	0	0
IND34	1	1	0	0	0	0	0	0
IND35	0	1	0	0	0	0	0	0
IND36	1	0	1	0	0	0	0	0
IND37	0	0	0	0	0	1	0	0
IND38	1	1	0	0	0	0	0	0
IND39	0	0	0	1	0	0	0	0
IND40	0	0	0	1	1	0	0	1
IND41	0	0	0	0	0	0	0	1

Identification Code	EG AM 01	EG AM 02	GP 01	EH AI 02	EH AI 03	LG01	LG02	HF PC 01
IND42	0	0	1	0	0	0	0	0
IND43	0	0	1	0	0	0	0	0
IND44	1	1	0	0	0	0	0	0
IND45	0	0	1	0	0	0	0	0
IND46	0	0	0	0	0	0	0	1
IND47	1	1	0	0	0	0	0	0
IND48	0	0	1	0	0	0	0	0
IND49	0	0	1	0	0	0	0	0
IND50	0	0	1	1	1	0	0	0
IND51	0	0	0	1	0	0	0	0
IND52	0	0	0	1	0	0	0	0
IND53	0	0	0	0	0	1	0	0
IND54	0	0	1	0	0	0	0	0
IND55	0	0	0	1	0	0	0	0
IND56	0	0	0	1	0	0	0	0
IND57	1	1	0	0	0	0	0	0
IND58	0	0	0	1	0	0	0	0
IND59	1	0	0	0	0	0	0	0
IND60	0	0	0	1	0	0	0	0
IND61	0	0	0	1	0	0	0	0
IND62	1	1	0	0	0	0	0	0
IND63	1	1	0	0	0	0	0	0
IND64	1	1	1	0	0	0	0	0
IND65	0	0	0	0	0	0	0	1
OSK01	0	0	0	1	1	0	0	0
OSK02	0	1	0	0	0	0	0	0
OSK03	1	1	0	0	0	0	0	0
OSK04	0	0	1	0	0	0	0	0
OSK05	0	0	0	0	0	0	0	1
OSK06	0	0	0	1	0	0	0	0
OSK07	0	0	0	0	1	0	0	0
PA01	0	0	1	0	0	0	0	0
PA02	0	0	0	0	1	0	0	0
PA03	0	0	1	0	0	0	0	0
PA04	0	0	0	0	0	0	0	1
PA05	0	0	0	0	0	1	0	0
PA06	0	0	1	0	0	0	0	0
PA07	0	0	0	0	0	0	0	1
PA08	0	1	1	0	0	0	0	0
PA09	1	0	0	0	1	0	0	0
PA10	0	0	1	0	0	0	0	0
PA11	0	0	0	0	0	0	0	1
PA12	0	0	0	0	0	0	0	1
PA13	0	0	0	0	0	0	0	1
PA14	0	0	0	0	0	0	1	0
PA15	0	0	0	0	0	1	0	0

Identification Code	EG AM 01	EG AM 02	GP 01	EH AI 02	EH AI 03	LG01	LG02	HF PC 01
PA16	0	0	0	0	0	0	1	0
PA17	0	0	0	0	0	0	1	0
PA18	1	1	1	0	0	0	0	0
PA19	1	1	0	0	0	0	0	0
PA20	1	1	0	0	0	0	0	0
PA21	1	1	0	0	0	0	0	0
PA22	0	1	0	0	1	0	0	0
PA23	0	0	1	0	0	0	1	0
PA24	0	0	1	0	0	0	0	0
PA25	0	1	0	0	0	0	0	0
PA26	0	1	0	0	0	0	0	0
PA27	0	1	0	0	0	0	0	0
PA28	0	1	0	0	0	0	0	0
PA29	0	1	0	0	0	0	0	0
PA30	0	0	0	0	0	0	1	0
PA31	0	0	0	0	0	0	1	0
PA32	0	0	1	0	1	0	0	0
PA33	0	0	1	1	0	0	0	0
PA34	0	0	1	0	0	0	0	0
PA35	0	0	1	0	1	0	0	1
PA36	0	0	0	0	1	0	0	0
PA37	0	0	0	0	0	0	1	0
PA38	0	0	0	0	0	1	0	0
PA39	0	0	0	0	0	1	0	0
PA40	0	0	0	0	0	1	0	0
PA41	0	0	0	0	0	0	0	1
PA42	0	0	1	0	0	0	0	0
PA43	0	0	0	0	0	0	1	0
PA44	0	0	1	0	0	0	0	0
PA45	0	0	0	0	0	0	0	1
PA46	0	0	1	0	0	0	0	0
PA47	0	0	0	0	0	0	0	1
PA48	0	0	0	0	0	0	0	1
PA49	0	0	0	0	1	0	0	0

Appendix 18: Adjacency Matrix II: Case-by-Case

	IND35	IND40	IND62	PA30	PA06	IND58	PA15	IND36	PA47	IND43	PA43	OSK01	PA22	PA10	IND29	PA48	PA19	IND41	IND21	IND44	IND46	IND15	PA09	IND09	IND01	IND48	CIT02	PA20	IND42	PA01	PA05	IND31	IND22	IND30	IND19
IND35	-	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	1	1	0	0	0	0	1	0	0	1	0	0	0	0	0	0	1
IND40	0	-	0	0	0	1	0	0	1	0	0	2	1	0	0	1	0	1	0	0	1	2	1	2	0	0	1	0	0	0	0	1	1	0	0
IND62	1	0	-	0	0	0	0	1	0	0	0	0	1	0	0	0	2	0	2	2	0	0	1	0	2	0	0	2	0	0	0	0	0	0	2
PA30	0	0	0	-	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PA06	0	0	0	0	-	0	0	1	0	1	0	0	0	1	1	0	0	0	0	0	0	0	0	0	1	1	0	0	1	1	0	0	0	1	1
IND58	0	1	0	0	0	-	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	1	0	0
PA15	0	0	0	0	0	0	-	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0
IND36	0	0	1	0	1	0	0	-	0	1	0	0	0	1	1	0	1	0	1	1	0	0	1	0	2	1	0	1	1	1	0	0	0	1	2
PA47	0	1	0	0	0	0	0	0	-	0	0	0	0	0	0	1	0	1	0	0	1	0	0	0	0	0	1	0	0	0	0	1	0	0	0
IND43	0	0	0	0	1	0	0	1	0	-	0	0	0	1	1	0	0	0	0	0	0	0	0	0	1	1	0	0	1	1	0	0	0	1	1
PA43	0	0	0	1	0	0	0	0	0	0	-	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OSK01	0	2	0	0	0	1	0	0	0	0	0	-	1	0	0	0	0	0	0	0	0	2	1	2	0	0	0	0	0	0	0	0	1	0	0
PA22	1	1	1	0	0	0	0	0	0	0	0	1	-	0	0	0	1	0	1	1	0	1	1	1	1	0	0	1	0	0	0	0	0	0	1
PA10	0	0	0	0	1	0	0	1	0	1	0	0	0	-	1	0	0	0	0	0	0	0	0	0	1	1	0	0	1	1	0	0	0	1	1
IND29	0	0	0	0	1	0	0	1	0	1	0	0	0	1	-	0	0	0	0	0	0	0	0	0	1	1	0	0	1	1	0	0	0	1	1
PA48	0	1	0	0	0	0	0	0	1	0	0	0	0	0	0	-	0	1	0	0	1	0	0	0	0	0	1	0	0	0	0	1	0	0	0
PA19	1	0	2	0	0	0	0	1	0	0	0	0	1	0	0	0	-	0	2	2	0	0	1	0	2	0	0	2	0	0	0	0	0	0	2
IND41	0	1	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0	-	0	0	1	0	0	0	0	0	1	0	0	0	0	1	0	0	0
IND21	1	0	2	0	0	0	0	1	0	0	0	0	1	0	0	0	2	0	-	2	0	0	1	0	2	0	0	2	0	0	0	0	0	0	2
IND44	1	0	2	0	0	0	0	1	0	0	0	0	1	0	0	0	2	0	2	-	0	0	1	0	2	0	0	2	0	0	0	0	0	0	2

Appendix 19: Univarient Statistics: Actors Degree and Means

Code	Organization	Mean	Degree
IND01	Allianz	71	87
IND13	Assogestioni	71	87
IND19	BNP Paribas	71	87
IND33	European Private Equity & Venture Capital Association	71	87
IND64	Union Asset Management (+ Union Investment)	71	87
PA18	European Commission	71	87
PA35	Financial Services Authority	57	69
IND50	MAN Investments	56	68
PA08	Committee of European Securities Regulators	52	63
IND36	Fidelity Investement Services Limited	48	58
IND40	Goldman Sachs	46	56
PA33	FIN-USE	45	55
IND14	AXA	44	53
IND21	CDC IXIS	44	53
IND34	Fedération Europées des Fonds et Sociétés d'Investissement	44	53
IND38	Gartmore	44	53
IND44	Investment Management Group Linklaters Loesch	44	53
IND47	JP Morgan	44	53
IND57	Santander Group	44	53
IND62	Threadneedle Investments	44	53
IND63	UBS AG	44	53
OSK03	FERI - Fund Market Information Ltd	44	53
PA19	European Commission	44	53
PA20	European Commission	44	53
PA21	European Commission	44	53
PA32	European Parliament	39	47
IND06	Alternative Investment Management Association	35	43
PA22	European Commission	35	42
PA23	European Commission	35	42
PA09	Committee of European Securities Regulators	31	37
IND07	Alternative Investment Management Association	29	35
IND09	APB Investments	28	34
IND10	Association Française de la Gestion Financière	28	34
IND11	Association Française des professionnels des Titres	28	34
IND12	Association of the Luxembourg Fund Industry	28	34
IND15	AXA	28	34
IND16	AXA	28	34
IND29	European Fund and Asset Management Association	28	34
IND30	European Fund and Asset Management Association	28	34
IND42	Invesco	28	34
IND43	Investment Management Association	28	34
IND45	Irish Funds Industry Association	28	34
IND48	JP Morgan	28	34
IND49	KBC	28	34
IND54	PricewaterhouseCoopers	28	34
OSK01	Euroshareholders	28	34
OSK04	Moventum S.C.A.	28	34
PA01	Autorité des Marchés Financiers	28	34
PA03	Banca Italia	28	34
PA06	Comision Nacional del Mercade de Valores	28	34
PA10	Committee of European Securities Regulators	28	34
PA24	European Commission	28	34
PA34	FIN-USE	28	34
PA42	HM Treasury	28	34
PA44	International Monetary Fund	28	34
PA46	Irish Financial Services Regulatory Authority	28	34
IND03	Allied Irish Bank	24	29
IND32	European Private Equity & Venture Capital Association	24	29

Code	Organization	Mean	Degree
IND35	Fidelity Investement Services Limited	24	29
OSK02	Euroshareholders	24	29
PA25	European Commission	24	29
PA26	European Commission	24	29
PA27	European Commission	24	29
PA28	European Commission	24	29
PA29	European Commission	24	29
IND04	Allied Irish Bank	20	24
IND08	AMF Pension	20	24
IND26	Deutsche Bank Group	20	24
IND59	Schootse Poort Pension and Asset Management/Philips Internati	20	24
CIT01	EDHEC Risk & Asset Management Centre	18	22
CIT02	London School of Economics	18	22
IND02	Allianz	18	21
IND05	Alternative Detrivatives and Investments	18	21
IND17	Barclays	18	21
IND18	Blackrock Investment Management (Alpha Strategies)	18	22
IND20	Bundesverband Alternative Investments e.V.	18	22
IND22	Citco (Lux)	18	21
IND23	Citigroup (and Citigroup-Tribeca)	18	21
IND25	Deutsche Bank Group	18	21
IND28	European Federation for Retirement Provision	18	22
IND31	European Fund and Asset Management Association	18	22
IND39	Gartmore	18	21
IND41	Hedge Fund Standards Board	18	22
IND46	JP Morgan	18	22
IND51	Morgan Stanley	18	21
IND52	Pioneer Alternative Investments	18	21
IND55	PricewaterhouseCoopers	18	21
IND56	RAB Capital	18	21
IND58	Santander Group	18	21
IND60	SMN Investment Services	18	21
IND61	Société Générale Group	18	21
IND65	US Managed Funds Association	18	22
OSK05	Philips International	18	22
OSK06	Union of Industrial and Employers' confederations of Europe (no	18	21
PA04	Bank of England	18	22
PA07	Commissione Nazionale per le Società e la Borsa	18	22
PA11	Committee of European Securities Regulators	18	22
PA12	Czech Finance Ministry	18	22
PA13	De Nederlandsche Bank	18	22
PA41	German Federal Ministry of Finance	18	22
PA45	Irish Financial Services Regulatory Authority	18	22
PA47	Jersey Financial Services Commission	18	22
PA48	Securities and Exchange Commission	18	22
OSK07	Union of Industrial and Employers' confederations of Europe (no	11	13
PA02	Autorité des Marchés Financiers	11	13
PA36	Financial Services Authority	11	13
PA49	Supervision of Hedge Funds	11	13
IND24	Comité Européen des Assurances	7	8
PA14	De Nederlandsche Bank	7	8
PA16	European Central Bank	7	8
PA17	European Central Bank	7	8
PA30	European Commission	7	8
PA31	European Council - Economic and Finance Committee	7	8
PA37	Financial Stability Forum	7	8
PA43	International Monetary Fund	7	8
IND27	Economist, former member of the board of the Deutsche Bunde	6	7
IND37	Former CEO of NCR Corporation from 1995 through 2003	6	7
IND53	President of a financial market intelligence company	6	7
PA05	Chairman of the Strategic Committee of the French Treasury and	6	7

Code	Organization	Mean	Degree
PA15	economist and the former chairman of the National Bank of Pola	6	7
PA38	Former Chairman of the Financial Services Authority	6	7
PA39	former Director of AMRO Bank and executive director of the IMF	6	7
PA40	Former Finance Minister and Prof of Economic at the European U	6	7

Appendix 20: Covering Letter to Participants

Dear [Interviewee]

I am a PhD candidate in the Department of Government at the University of Strathclyde in Glasgow. My research focuses on EU financial services' integration, specifically in the context of regulatory initiatives on hedge funds.

Since commencing my PhD in 2007 I have given several presentations on this subject, both nationally and internationally. In September 2008 my work was published in the Journal of European Contemporary Research (attached for your reference). I also have industry knowledge in the hedge fund sector, where I worked as head of investor relations for a $500 million Gibraltar managed hedge fund, prior to beginning my PhD.

During my research I indentified you as a participant in policy decision-making opportunities in hedge fund regulation, and as such I would very much like the opportunity to hear your views on this topic in more detail. I wondered if you would be willing to be interviewed for research purposes. I could meet with you at your offices, at a time and date convenient to your schedule [If convenient I would like to conduct a telephone interview with you]. The interview should take no more than 45 minutes.

The primary purpose of the interview is to form part of the empirical research for the final PhD thesis, although elements of this thesis may also be used in articles submitted for publication in academic journals. My research has been approved by the University ethics committee and I have enclosed an 'Information Sheet' with further detail regarding anonymity and confidentiality. If you have any concerns or queries please do not hesitate to contact me, or my supervisor, at the contact details below.

I look forward to your response.

Yours faithfully

David Lutton

PhD Candidate:
David Lutton, BA(Hons), Msc
Department of Government,
16 Richmond Street,
McCance Building,
Glasgow,
G1 1XQ.

Email: david.lutton@strath.ac.uk
Mobile: +44 (0) 7825 007 924

Supervisor:
Dr Laura Cram
Department of Government,
16 Richmond Street,
McCance Building,
Glasgow,
G1 1XQ.

Email: laura.cram@strath.ac.uk
Telephone: +44 (0) 141 548 2920

Appendix 21: Information Sheet

University of Strathclyde Glasgow

Name of Investigator: David Lutton
Academic Institution: University of Strathclyde

INFORMATION SHEET

The EU and hedge fund regulation

Name of Participant:	

* IMPORTANT INFORMATION *

I am a PhD candidate in the Department of Government at the University of Strathclyde in Glasgow. My research focuses on EU financial services' integration, specifically in the context of regulatory initiatives on hedge funds. I am particularly interested in the bonds, ties and relations (if any) that bind participants in formal EU decision-making opportunities. This is known as Social Network Analysis. The primary purpose of the interview is to form part of the empirical research for the final PhD thesis, although elements of this thesis may also be used in articles submitted for publication in academic journals.

During my research I indentified you as a participant in formal EU policy decision-making opportunities in hedge fund regulation, and as such I would very much like the opportunity to hear your views on this topic in more detail. Your participation is entirely voluntary, and you may withdraw at any time. You are under no obligation to answer any questions you are not comfortable with.

Your answers can be anonymous if you wish. The information provided by you will be confidential and will not be disclosed to any third parties. The data will be stored electronically in a secure and anonymous format and may be retained for future research use. I will ensure that no material is made available from which your identity could be inferred.

The University of Strathclyde, Glasgow ethics committee, has approved this research. Any concerns or questions about this research arising now, or later, can be addressed to an independent member of staff at the University. The contact details are as follows: Dr Mark Shephard, Chair of Government Department of Ethics Committee, Department of Government, 16 Richmond Street, McCance Building, Glasgow, G1 1XQ. Email: m.shephard@strath.ac.uk or telephone +44 (0) 141 548 2213.

Please retain a copy of this information sheet for your records should you have any concerns which you may wish to raise with the University

***

Contact Details

PhD Candidate:
David Lutton, BA(Hons), Msc
Department of Government,
16 Richmond Street,
McCance Building,
Glasgow,
G1 1XQ.

Email: david.lutton@strath.ac.uk
Mobile: +44 (0) 7825 007 924

Supervisor:
Dr Laura Cram
Department of Government,
16 Richmond Street,
McCance Building,
Glasgow,
G1 1XQ.

Email: laura.cram@strath.ac.uk
Telephone: +44 (0) 141 548 2920