Changing the rules of the game: financial regulation in the Dutch mortgage market

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Changing the rules of the game: financial regulation in the Dutch mortgage market

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I Management Summary

Financial instability and faulty products have triggered new legislation, especially focused on the Dutch mortgage market to restore the trust of consumers. Organizations active in this market can suffer as well as benefit from regulation and seek strategies to cope with the changed situation. The problem statement of this thesis therefore is: What impacts could future regulation changes have on Dutch mortgage funders and intermediaries and what strategic actions should they take in preparation?

A theoretical framework provided the link between regulation and strategy. Regulation is commonly used when markets fail to optimize welfare caused by market failures, natural monopolies and externalities. But regulation is not only forced onto the market, it can also be actively sought. Different theories try to explain this process but there is still a dominant theory to emerge. Strategy is then linked to regulation through the impact that regulation can have on the Five Forces model of Porter. To influence this impact, organizations can adopt different strategies, being: acquiesce, compromise, avoid, defy and manipulate.

To shed light onto these subjects, data was collected through interviewing experts in the field of the Dutch mortgage market. Respondents were found at funders, intermediaries and other experts from different areas. The questionnaires focused on five main topics of interest, being: Dutch mortgage market regulation in the period 2000 – 2007, Dutch mortgage market regulation from 2007 – 2009, trends of regulation, influencing regulation and the future of the Dutch mortgage market.

Results showed that the legislators and supervisory agencies are hard to influence. Furthermore, respondents expect more regulation coming towards the Dutch mortgage market. From the data gathered, an impact onto the Five Forces model could be assessed. Conclusions were that more regulation; (1) makes funding more difficult, (2) consolidation of actors will occur, (3) costs will increase for market actors, (4) entry will decrease, (5) use of internet as a distribution channel will decrease, (6) mortgage products will become simpler, (7) mortgage products will become more transparent, (8) business models will change, (9) strategic freedom will be limited and, contrastingly to the third conclusion, (10) part of the costs of funders will also decrease. Economic developments also the diversity and number of actors in this market.

Finally, funders and intermediaries active in the Dutch mortgage market need to focus on a customer driven strategy. This is needed to create trust in their activities. To achieve this, strategies need to be compliant with the law, other strategies will likely have an opposite effect.
II Preface

In earlier studies, internships were mandatory. The experiences I gained during these internships have proven to be invaluable to me. After my return to the University of Tilburg to study Strategic Management I was presented with the choice to write my master thesis in combination with an internship. This would re-enable me to combine study and work, providing me with experiences that can prove to be very helpful in my future career.

Shortly after my search began I came across Hypsotech Management Consultancy. Given the situation the economy found itself in during that time, and the aim of Hypsotech Management Consultancy as a specialist in the Dutch mortgage market appealed greatly to me. My girlfriend and I were thinking about buying our first house. This aroused my interest into the Dutch mortgage industry further and I was lucky to find a partner in Hypsotech.

The trajectory of writing this thesis would not have succeeded without Hypsotech and the University of Tilburg. My special thanks goes out to James Small for his guidance and reflection on this thesis. Also special thanks goes out to my colleagues at Hypsotech, Tom, Hessel-Jan, Lorraine, Robert and Nony. I want to thank my colleagues at Hypsotech for the time and effort they took to train me, provide me with very interesting respondents and guidance during my first steps in the world of mortgages. I especially would like to thank Nony who was always ready to reflect on my work and was a great motivator for me.

I would like to thank my parents, my brother Lodewijk and my girlfriend Lusanne for their love, support and vast belief in my abilities throughout my educational career. I would especially like to thank my sister Madeleine for her wise words and helpful comments on my work.

Finally I would like to wish the reader of this thesis a pleasant time reading. I thank you for showing interest in my master thesis.

Sebastiaan Gielens
August 2010.
Culemborg
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Chapter 1: Introduction

§1.1 Introduction

During the last thirty years the law has become an increasingly salient feature of the business environment (Nelson & Nielsen, 2000). The turmoil in the financial world around 2007 changed, amongst others, the Dutch mortgage market. Real estate prices significantly decreased, the production of mortgages sold reduced and, most importantly, the regulatory framework changed. As Coles and Hardt (2000) state, European mortgage markets are influenced by (1) deregulation and consolidation, (2) the internal market, (3) the single currency, (4) the e-economy and (5) revised bank capital requirements. The 2007 recession impacted the first factor, (de)regulation, which is also the focus of this thesis. In the years before the recession, regulation was seen as obstructing common welfare, hence deregulation philosophies dominated resulting in the privatization of large governmental organizations. In contrast with the deregulation of financial markets in earlier years to cope with the 2007 recession, not more deregulation but new legislation is needed. At least, this seems to be the policy governments are adopting today. However, financial sector regulation is extremely difficult, and financial innovation often finds ways around regulation (Barrell & Hurst, 2008). This is especially the case for instruments such as securitization and subprime mortgages. Both phenomena stood at the foundation of the mortgage crisis but remain valid instruments in the financial industry today.

Over time, governments imposed new regulation or weakened old regulation to, for example, protect home markets or stimulate economies, or as is shown in this research, to protect customers. Regulation can either pose threats to organizations or it can create sources of improved rents. Shell (2004) repeats a commonality among legal smart corporate leaders, that incorporating 10 percent of legal strategy makes 90 percent of the difference in winning competitive battles.

§1.2 Problem indication

The financial instruments discussed in the previous section have created global uncertainty, taking away the trust of consumers in the financial industry (and not in the least) in the Netherlands. Financial products were sold exploiting consumers which decreased their trust in the financial market, pushing some organizations to the edge of bankruptcy. Faulty products pushed DSB into difficulties and although the public’s savings were guaranteed, regulation proved insufficient to prevent a bank run. Another example, adding to the decrease in consumer trust was the limited funding available for new mortgages; a direct effect of the mortgage crisis. Both examples indicate that in its current state, the regulatory system is incapable of coping with these circumstances. Hence, organizations active in the mortgage

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1 IG&H Hypotheekupdate Jaaroverzicht 2009
market can suffer as well as benefit from regulation and seek strategies to cope with this new situation. This research provides insight into the process of market regulation, the effect of regulation on the Dutch mortgage market and its future and the influence of regulation upon strategies of the main actors in the Dutch mortgage market.

§1.3 Problem statement

The situation described in the previous section has already influenced the financial industry. Government intervention became imminent and inescapable. Already, new legislation has been formed specifically focusing on the mortgage market. This process continued during the formation of this thesis. New regulation is often heavily debated because of the significant impact on organizations and their strategies. Until recently, governments encouraged market development and prosperity through deregulation. This policy changed with the introduction of the Act on financial supervision (Wft) in order to restore trust in the financial and mortgage markets. The impact of this change to a more regulated market is unknown and leads to the general question of this thesis:

*What impacts could future regulation changes have on Dutch mortgage funders and intermediaries and what strategic actions should they take in preparation?*

In this research, it is assumed that the mortgage crisis affects all actors in the Dutch mortgage industry; the customers, the funders and the intermediaries. Funders are all organizations providing the necessary funds to back up a mortgage. Intermediaries are financial advisors supporting consumers in making a decision what type of mortgage suits their needs best. The unclear future feeds the need for information and guidance. Furthermore, this thesis focuses on developments up and until February 2010 and the impact on strategy.

§1.4 Research questions

In order to construct a comprehensible answer to the general question, research questions are constructed and displayed in figure 1. This figure depicts the relationships between the different variables introduced in the research questions.

The following research questions have been formulated:

1. What is the structure of the Dutch mortgage market?
2. Who are the actors influencing regulation of the Dutch mortgage market?
3. What current legislation applies to funders and intermediaries?
4. What regulatory changes in the Dutch mortgage market will occur in the near future?
5. What impacts could future regulation changes have on the Dutch mortgage funders and intermediaries?
Research questions one and two relate to the structure of the Dutch mortgage market and the actors that shape the process of regulation. This aspect is indicated by; the structure and actors in box one, influencing the process of regulation, box two. Research question two clarifies the current state of the Dutch mortgage market. The possible impact of regulatory changes upon the Dutch mortgage market in the future are addressed in research question four and indicated by the relationship between box two and three. The fifth research question then translates how funders and intermediaries should prepare for a changing environment.

§1.5 Methodology

This research is an exploratory study and tries to find out what is happening in this market as well as seeking new insights. In this study, the focus lies on regulation and strategy as these topics are linked to the funders and intermediaries active in the Dutch mortgage market. To answer the research questions, data is needed. The required data encompasses both primary and secondary data. Primary data is gathered by interviewing experts from the field. Since this research focuses on funders and intermediaries active in the Dutch mortgage market, employees of these organizations have been interviewed. Hypsotech’s expertise and network is created in this specific market and has thus been used in the process of selecting participants for this research. These participants have been selected on their knowledge about the subject as well as their willingness to take part in these interviews. The interviews are based upon theory presented in the next chapter. More details about the methodology are described in chapter three.

§1.6 Structure of the thesis

The contents of this first chapter are already identified. The remainder of this thesis consists of two parts. Part one embraces the theoretical framework and the methodology. The theoretical framework supporting this research is explained in chapter two. The main contents of this chapter are the structure of the market, the influence of regulation upon markets, how regulation can be influenced by different interest groups and how strategy is formed and ultimately affected by regulation. Chapter three describes the methodology used to collect
the data and the techniques used to analyze the data in order to answer the research questions.
Part two of this thesis begins with chapter four and contains information on the structure of the mortgage market. First, an explanation of the concept mortgage is presented, followed by a brief history of mortgages. Because the Netherlands are also subject to regulation from the European Government, the European perspective is briefly described. Chapter five consists of two parts. Part one presents the current situation regarding the regulatory system. Part two addresses the near future perspective of regulation in the Dutch mortgage market. The sixth chapter presents the structure of the questionnaires, its contents and eventually the results of the interviews. The seventh and final chapter contains the conclusion that answers the initial problem statement of this thesis. Also important parts of this thesis are the limitations. An overview of the structure of this research is illustrated in the figure below.

§1.7 Hypsotech Management Consultancy B.V.
Hypsotech is a management consultancy bureau active throughout the entire Dutch mortgage industry, providing the industry with information on strategy, operations and technology. Keeping a sharp eye on mortgage market developments is key to Hypsotech and her clients. The most important clients of Hypsotech are funders and intermediaries.
Chapter 2: Theoretical Framework

To start out with a proper understanding of what is discussed in this thesis the difference between legislation and regulation is important. Legislation refers to laws imposed by a government. Regulation is a set of rules regarding the ways in which legislation will be or was implemented, hence the enforcement of the law. This chapter discusses the literature on regulation and strategy. Each section addresses a part of the figure below, clarifying the relationship between the four variables. First the reasons why financial regulation exists are explored. Thereafter the process how regulation is created is explained before turning to the impact of regulation on strategy. Also the opposite relationship is important, namely the possibility of organizational strategy influencing regulation. All these aspects come together in expectations for the future. The conclusion then provides a brief summary of the main concepts of this chapter.

Present \rightarrow Regulation \rightarrow Strategy \rightarrow Future

§2.1 Financial regulation

2.1.1 The need for financial regulation

Economies are ever growing. American and European societies for example, are much richer today than they were 100 years ago, and yet they are also vastly more regulated. Products, services, prices, production procedures and even methods on how to sell these products and services are subject to regulation. This regulation is imposed for a reason. Often, the reason is created by a demand stemming from the notion that markets are not perfect. Balleisen and Moss (2009:2) state the following: “In an ideal market, individuals maximize the welfare of all simply by pursuing their own interest.” But sometimes, the invisible hand of the market fails to optimize welfare, creating a demand for regulation. According to Pigou (1938), Peltzman, Levine and Noll (1989), and Barth, Caprio and Levine (2004), the reasons why markets fail to optimize welfare are market failures, natural monopolies and externalities. Benston (1998) mentions three supplemental but controversial reasons and justifications why regulation exists, these are; benefits to government, appeal to popularly elected legislators and benefits to financially regulated institutions. The controversy is discussed in section 2.1.2 of this chapter. All reasons discussed above can negatively impact welfare, and, according to Llewellyn (1999 and 2000), the objectives of regulation should be to sustain systemic stability, to maintain safety and soundness of financial institutions and to protect customers. However, regulation often has unwanted side effects, caused by inadequate information availability. Balleisen et al (2009) argue that in the best case scenario where policymakers aren’t
influenced in any way and are serving the public with the best of intentions, the regulation they come up with can still fail because of the inadequacy of information.

The requirement for regulation is further made clear, when addressing Barth et al (2004) who argued that poorly functioning banking systems impede economic progress, exacerbate poverty, and destabilize economies. They also mention that a vast literature has concluded that well-functioning banks accelerate economic growth, which in turn alleviates poverty. Another motivational influence creating a demand for regulation is discussed in the study of Laeven and Valencia (2008). They found 124 banking crises and 208 currency crises from 1970 until 2007, clearly depicting the need for action. Controversial enough, Barth et al (2004) tell another story, providing evidence that shows countries that impose fewer regulatory restrictions on bank activities enjoy better bank performance and a substantial lower probability of suffering a major banking crisis. This is due to the fact that banks can diversify their activities enhancing their stability.

A different but interesting motivation for regulation comes from countries implementing regulation to resemble more to US and EU systems. They see the resemblance of their country to western countries as an improvement of their own civilization and welfare. In 1999 the World Bank and the International Monetary Fund (IMF) started the Financial Sector Assessment Program (FSAP). This was an attempt to systematically assess the status of financial systems in countries and to make recommendations for reform, including the area of bank regulation. Wolf (FT, May 23, 2007) commented “...that there have been substantial structural improvements in Asian economies, notably in the capitalization and regulation of financial systems.” Controversially, Barth, Caprio and Levine (2008) argue that many countries have substantially reformed components of the commercial bank regulatory regimes, without reaping the benefits. Not even when implementing advanced Basel guidelines, which defines the capital framework of banks, on strengthened capital regulations and empowered supervisory agencies.

2.1.2 The process of regulation

Industries and markets are subject to regulation generally in two ways. Regulation can be thrust upon an industry, or it may be actively sought. Governments can use either method to obtain its objective because they have the power to coerce (Stigler, 1971). This means that the state can appropriate money, which is permitted by the laws of a civilized society, using taxation. It also provides the state with the ability to ordain the physical movements of resources and the economic decisions of households and firms without their consent. These governmental powers provide possibilities for an industry to increase its profitability. Stigler (1975) identified four powers, sought by an industry. These are powers to:

- direct subsidy of money
control over entry by new rivals
affect substitutes and complements
price fixing

To be able to capture these sources to increase profitability, an industry could try to influence government in a favorable way. Stigler (1971:3) provides us with a construct of government influence: “The state is a potential resource or threat to every industry in the society. With its power to prohibit or compel, to take or give money, the state can and does selectively help or hurt a vast number of industries.” This argument is acknowledged by Chong and Gradstein (2007), but they doubt whether government policies respond to commercial interests. Nonetheless, many theories on regulation are based on the concept of interest groups whose goal is to utilize these government powers. Before discussing the theories based on interest groups we need to analyze the statement made by Brunnermeier, Crocket, Goodhart, Hellwig, Persaud and Shin (2009:57): “When there is a tendency for more and stricter regulation, it is not needed, because everyone is assumed to be risk averse. But when regulation is heavily needed, it is unwanted, since the good times are expected to roll on.” This implies that the environment wants to have an influence on regulatory agencies.

The concept of regulation is heavily debated and Llewellyn (1999) defines four areas that form the basis for arguments supporting or repelling financial regulation. First, distinction must be made between regulation, the establishment of specific rules of behavior, monitoring, observing whether the rules are obeyed, and supervision, the more general observation of the behavior of financial firms. Second, regulatory agencies supply regulatory, monitoring and supervisory services to financial firms, consumers, government etc. The third topic concerns the cost of regulation. Goodhart, Hartmann, Llewellyn, Rojas-Suáres and Weisbrod (1998:190) state that regulation imposes costs that are ultimately reflected in the price of financial services. If regulation exceeds what is minimally required to obtain its objectives, the costs of regulation become higher than strictly necessary, causing a debate. Fourth, regulation should proceed through externally imposed, prescriptive and detailed rules, or by the regulator created incentives for appropriate behavior.

We now return to the discussion on interest group based regulation theories with this in mind. It has been the basis for several theories that attempted to explain the observed pattern of government regulation of the economy. Posner (1974:335) defines government regulation as: “taxes and subsidies of all sorts as well as to explicit legislative and administrative controls over rates, entry, and other facets of economic activity.” Many theories build on the idea that regulation comes forth from pressure created by interest groups. Interest groups are groups of buyers, sellers, competitors, legislators and bureaucrats etc. that aim for maximization of their rents. Figure 3 presents an overview of authors who introduced specific theoretical concepts on regulation or analyzed earlier concepts.
The oldest theory, named the Public interest theory or Normative analysis as a Positive Theory (NPT), hypothesized that regulation occurs in industries plagued by market failures. Research based upon the NPT resulted in inconsistencies, providing the need for alternative theories. This was primarily caused by the inability of the theory to explain the other two factors causing government intervention, namely externalities and natural monopolies. Economists and political scientists then developed the Capture Theory (CT). The CT states that whether by design or not, the agency that is meant to regulate an industry is ‘captured’ by that industry. Hence, all rents, coming from regulation, are captured by the industry, and on the supply-side, the regulator, is neglected. Again, this theory wasn’t able to answer all questions raised, but the CT opened new lines of reasoning.

A promising theory that emerged from the CT was the Economic Theory of Regulation (ET). Viscusi, Harrington and Vernon (2005) state that the NPT and the CT aren’t actually theories but rather hypotheses or statements about empirical regularities. The ET generates testable hypotheses as logical implications from a set of assumptions. It predicts that regulatory decisions will tend to be determined by the relative strengths of various opposing interest groups without necessarily being able to predict, a priori, which particular group, if any, will dominate in a given decision. The key assumption to the Stigler model (1971), later modified by Peltzman (1976) and Becker (1983), is that the individual who controls regulatory policy (presumably the legislator) chooses policy to maximize his political support. Stigler argues that politicians are self-interested maximizers. They want to secure and maintain their political power. In doing so, he foregoes the fact that regulators usually are composed of several different kinds of agencies. Nevertheless, he assumes that the regulators do the bidding of a representative politician who ultimately has the power to decide. The ET then comes down to two aspects: votes and money. These aspects refer to the earlier analyzed controversial ideas of Benston (1998). The representative politician’s ultimate goal is to secure and even enhance their power. Therefore they prefer decisions that directly elicit favorable votes. Hence, interest
groups can use their votes and money to obtain favorable regulation. Another important principle in this theory is the argument of Stigler that voters are rationally ignorant, also referred to as the free-rider problem. This means that the larger and more diffuse groups are supposed to be even less powerful as an interest group because they can refrain from acting, expecting that others will do the work for them (Stigler, 1971).

In these theories, interest groups act as powerful actors. But they also incur costs, like information and organization costs. Members must be informed to vote for the desired outcome for example, and groups must be organized properly in order to lobby effectively. Because these actions consume resources, low-cost groups tend to be favored at the expense of high-cost groups. The theory also states that the numerically larger group will tend to be the loser. For example, the number of buyers is usually larger than the number of sellers, and thus incurs higher organization costs. Also, the buyer’s stake in the eventual outcome is minimal in comparison to that of a typical seller because the buyer will normally buy one product, and thus the possible benefits will only be for that one product. A seller can reap benefits for every product he sells. Concluding, the compact organized interest group will usually win at the expense of a diffuse group.

Peltzman’s main contribution to the ET is that no single economic interest group captures an entire regulatory body. First, he emphasizes the fact that producers will not withdraw all their support for a regulatory system when a small reduction of cartel rents occurs. Second, he states that those rents taken away from the producers need not be evenly spread to all consumers. Subgroups can organize, or be organized by the regulator, and capture a specific part of the regulatory benefit. The influence of Becker on the ET is widely debated and goes beyond the scope of this research.

But what about the ET in itself? Many case studies support the theory, but many other studies find no evidence supporting the hypotheses of the ET. Recent insights provided some powerful criticism on the ET and the other theories on regulation. Balleisen and Moss (2009) argued that every market needs some sort of sensible regulation to create the so-called rules of the game. They defined some key weaknesses to the theories addressed in this section. First, the assumption that public officials are always self-interest driven is incorrect. The issue of reputation plays an important role and thus interferes with the aspect of self-interest, creating a trade-off. They are aware of the purpose of a government and are influenced to do ‘common good’. Second, voters are not always rationally ignorant. The increasing influence of the media creates awareness of the public. Third, interest groups, managers, consumers, workers etc., do not always behave as strictly rational calculators of interest. They can act according to the wisdom (or madness) of crowds, and sometimes their choices are powerfully shaped by subtle contextual circumstances that may be beyond their control or
even beyond their awareness. Fourth, individuals are influenced by the social environment that diminishes intrinsic motivations. Ultimately, no dominant theory emerged.

§2.2 Defining strategy

2.2.1 The theory of strategy

In order to analyze what strategic actions Dutch mortgage funders and intermediaries should take in preparation for future regulation changes, strategy needs to be theoretically defined. Richard Pascale and Anthony Athos (1982:203) provide us with the 7-S model that encompasses seven different variables that have a crucial influence on to which extend organizations are successful. These seven variables in the 7-S model have been clearly defined by Kaplan (2005:41):

1. **Strategy**: a coherent set of actions aimed at gaining a sustainable advantage over competition, improving position vis-à-vis customers, or allocating resources.
2. **Structure**: the organization chart is an accompanying baggage that shows who reports to whom and how tasks are both divided up and integrated.
3. **Systems**: the processes and flows that show how an organization gets things done from day to day.
4. **Style**: tangible evidence of what management considers important by the way it collectively spends time and attention and uses symbolic behavior.
5. **Staff**: the number and types of personnel in an organization.
6. **Shared values**: the values that go beyond, but might well include, simple goal statements in determining corporate destiny.
7. **Skills**: A derivative of the rest. Skills are those capabilities that are possessed by an organization as a whole as opposed to the people in it.

![Figure 4 7-S model](http://www.floor.nl/Hitpiaatjes/mckinsey_7s.jpg)
The general idea behind the 7-S model is that the fit between and within the seven variables has to be right for an organization to be successful (Pascale & Athos 1982:202). The model is shown in figure 4. The model shows that all variables are interconnected because of their correlation with each other. This means that a change in one variable creates a change in all other variables. This correlation has the consequence that the variables should not be analyzed independently, however, due to the limited amount of time and means that were available for this research it was not possible to include them all. Strategy forms a key topic in the problem statement and is therefore solely analyzed. Therefore, for the purpose of this research, the variables of the model have been analytically separated. This creates the possibility to investigate all variables independently. A key concern with this approach is that the generated results need to be put into the perspective that all that is known about one variable is correlated with the other six from the 7-S model.

2.2.2 Factors determining strategy

To further elaborate the definition of strategy given by Kaplan, the Five Forces of Competition of Porter (1979) has been used (figure 5). This framework provides variables influencing competition and thus the profitability of an industry. The framework consists of three sources of horizontal competition; competition from substitutes, competitions from entrants and competition from established rivals, and two sources of vertical competition; the power of suppliers and the power of buyers.

In short, the five forces impact competition in an industry. The threat of substitutes refers to the availability of close substitutes which means that customers might switch to substitutes in response to price increases of a certain product. The threat of entry is linked to the incumbent firms’ profitability in terms of return on capital. If the return on capital is high enough, the firm
acts as a magnet to firms outside the industry. To protect these high earnings from falling toward a competitive level, for which profit margins can drop to zero, incumbent firms can create barriers to entry. These barriers act as advantages that established firms have over entrants. The barriers that prevent entry are summarized below within the force ‘threat of entry’. The industry rivalry between established competitors is a main determinant for the level of profitability in the industry. Again, figure 5 presents sources of rivalry that are common to almost every industry. The two remaining forces are the power of buyers and the power of suppliers. These forces refer to the inputs of a market and the outputs of a market. The buyer power relates to the outputs of a market and depends on two dimensions, being price sensitivity and bargaining power. Depending on the actual power buyers have in a certain industry, they can pressure this industry into, for example, making cheaper products. A similar story goes for the power of suppliers. This force relates to the inputs of a market and the power is determined by the ease with which firms in the industry can switch between different suppliers and the relative bargaining power of that specific party.

§2.3 Regulation and strategy

2.3.1 Regulation influencing strategy

Regulatory changes can be linked to strategy by making use of different perspectives. One perspective comes from Joseph Bain (1959), called the structure-conduct-performance paradigm. This paradigm states that the structure of an industry is defined by the factors discussed in section 2.2.1. In turn, this influences the conduct of the incumbent firms, for example their investment strategies and pricing behavior, which impacts the performance of organizations in the industry. The previously clarified Five Forces Model from Porter (1980) has similarities with Bain but focuses on specific competitive forces as the source for economic rents. This is achieved by, for example, impeding entry, or creating lower cost structures than rivals. Although the two models have similarities, from a strategic perspective, the Five Forces model is considered to be much richer. It focuses on broader principles of competitive advantage, which Porter viewed as essential. They arise from the firm finding an attractive relative position within a strategic group where it could defend itself against competitive forces or influence them in its favor (Porter 1991). Porter sees this possible attractive position as the outcome of one of two generic strategies: cost leadership strategy, which focuses on low costs, or a differentiation strategy, which aims for product uniqueness. There is actually a third strategy called focus strategy that focuses on a narrow segment in a market and is combined with one of the other two strategies. An example of a focus strategy is a low cost strategy in a market niche. Rickard (2006) argues that in Porters Five Forces model, the strategic response of a firm has to take into account the prevailing legislative environment. Regulations, trade policies and tax levels all influence the behavior and performance of firms.
Both models intertwine when addressing regulation within the factor of institutional forces. Scott (1995) defines institutions as regulatory structures, governmental agencies, laws, courts and professions that organizations face, within their external environments. The resulting regulation policies can either promote or inhibit divergent change of organizations by influencing resource flows in markets and organizations (Wade, Swaminathan, & Saxon, 1998). Regulatory policies in turn promote divergent change, for example, by increasing market competition (Dobbin & Dowd, 1997) and by reducing government financial support for organizational templates (Singh, Tucker, & Meinhard, 1991). In contrast, regulatory policies inhibit divergent change by demanding accountability and reliability from organizations, thus creating routines that promote inertia (Hannan & Freeman, 1984). Concluding, organizations can respond to institutional forces, or in this case regulation, generally in three ways: promote divergent change, inhibit divergent change or cause inertia. Oliver (1991) expanded on this subject and introduced five possible responses to what she called the institutional process, presented in figure 6.

Institutional theories assume that organizations need to conform to regulation imposed upon them in order to survive. In other words, organizations need to conform to the institutional template that has been formed. The ability of organizations to dominate or defy external demands and the usefulness to organizations of pursuing this kind of strategies has been deemphasized by institutional theory. Some strategies listed by Oliver (1991) do just that what organizations are assumed not to pursue, according to the institutional theories. “Acquiesce” means to comply with current laws and regulations. Compromising seeks more negotiation with the regulator where “avoid” strategies aim at surpassing the law. “Defiance” strategies

**Figure 6** Strategic responses to institutional processes

<table>
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<th>Strategies</th>
<th>Examples</th>
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<tbody>
<tr>
<td>Acquiesce</td>
<td>Following invisible, taken-for-granted norms</td>
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<td></td>
<td>Mimicking institutional models</td>
</tr>
<tr>
<td></td>
<td>Obeying rules and accepting norms</td>
</tr>
<tr>
<td>Compromise</td>
<td>Balancing the expectations of multiple constituents</td>
</tr>
<tr>
<td></td>
<td>Placating and accommodating institutional elements</td>
</tr>
<tr>
<td></td>
<td>Negotiating with institutional stakeholders</td>
</tr>
<tr>
<td>Avoid</td>
<td>Disguising nonconformity</td>
</tr>
<tr>
<td></td>
<td>Loosening institutional attachments</td>
</tr>
<tr>
<td></td>
<td>Changing goals, activities, or domains</td>
</tr>
<tr>
<td>Defy</td>
<td>Ignoring explicit norms and values</td>
</tr>
<tr>
<td></td>
<td>Contesting rules and requirements</td>
</tr>
<tr>
<td></td>
<td>Assaulting the sources of institutional pressure</td>
</tr>
<tr>
<td>Manipulate</td>
<td>Importing influential constituents</td>
</tr>
<tr>
<td></td>
<td>Shaping values and criteria</td>
</tr>
<tr>
<td></td>
<td>Dominating institutional constituents and processes</td>
</tr>
</tbody>
</table>

neglect laws where manipulation strategies seek to alter current law in a favorable way. Why and when organizations are following these strategies is discussed in the next section.

2.3.2 Strategy influencing regulation

When analyzing the Sarbanes-Oxley Act, introduced in 2002, Akhigbe and Martin (2006) found firms benefitting significantly from the new regulation, especially those that were less transcendent to begin with. Previous studies have also indicated that shareholders benefit from well-governed organizations as they aim to maximize firm value. At the very least does this indicate that firms can actually achieve parts of their goals through seeking some sort of regulation. The instrument used to seek regulation is lobbying, which is a commonly used instrument by interest groups. However, as Lowery (2007) argues, this instrument is often mistaken to be primarily used for influencing public policies. Instead, he argues that this instrument is used by motivated interest groups in order to survive. In this light, lobbying is perhaps an even more valuable instrument for organizations, especially when struggling during a crisis, if the resources for effective lobbying are available.

The regulatory aspect is not often a main component in the process of creating strategy. However, history teaches us that it is an important factor which can greatly affect the outcome of a chosen strategy. Recently, American banks have received governmental aid to prevent the financial system from crashing. Shortly after, banks benefitted from the changing market structure and recorded record profits. Parts of these profits were invested in lobby activities against regulation that affected their strategies. Many banks embrace a growth strategy, which include the use of an important instrument called derivates trading. Recent developments have motivated regulatory agencies to restrict this instrument and as a response, banks used their lobbies to prevent this from happening. Similar events are happening in the Netherlands where the Dutch Association of Banks (NVB, Nederlandse Vereniging van Banken), which is considered the best lobbyist in the country, used and are using their influential powers to the maximum advantage of the financial sector. An example of recent success was in 2009 when a combined lobby of NVB and OvdID allegedly prevented the prohibition of provision on mortgage products.

When further exploring the link between regulation and strategy, a framework is needed as to how regulation fits into organizational strategy. Shell (2004) developed five key factors that he thinks are related to strategy success in business. (1) the legal merits of one’s rights, (2) the legitimacy of the arguments one can make in the court of public opinion, (3) the strategic positions occupied by the various rivals facing off against one another (4) the relative resources of the disputing parties and (5) which side has favored access to legal decision makers. These factors are based upon a number of firms which all formed legal teams and introduced lawyers into the board to enable regulation to be a part of their strategy.
Instruments is such a company which used a ‘litigation strategy’ so effectively that it produced more revenues than all other operations combined. This example can be combined with the theory Bain (1959) called ‘collective dominance’. In this case, a small number of firms work together to control the industry’s supply and force consumers to pay a high price for a restricted output. This instrument can also be used to capture and control the regulatory environment of the industry or market firms are active in. For this reason, the Dutch institution called the Court of Audit (Algemene Rekenkamer), emphasized in their 2009 report, that independence is an important factor considering the supervision and regulation of financial markets. Especially the agency DNB has a significant chance of being captured by the small amount of very large organizations active in this market. Adding to this is the fact that supervision is, out of necessity, based upon information that these large organizations provide.

Returning to the strategic responses to institutional processes introduced in the previous section, organizations can benefit from making the right strategic responses. This process is influenced by the strength of organizations in the industry and the position it embraces relative to competitors and possible entrants.

§2.4 The future perspective of regulation

After years of deregulation, we now see a period where much new regulation is being imposed upon the financial industry. Apparently, welfare is affected which makes it logical for consumers of financial services to demand regulation of the financial industry. This is actually the case when addressing the recent past where the public demanded regulation in regard to misleading financial products and the mortgage crisis. Research into the impact of regulation on welfare supported a positive role and economic rationale for regulation in finance but also resulted in arguments that, at best, regulation does not enhance welfare and at worse is counterproductive. Benston (1998) argues that organizations can benefit from reduced competition and Llewellyn (1999) states six major potential benefits of efficiently framed regulation. These are:

1. reduced transactions costs for consumers to the extent that these are not offset by higher transactions costs of firms and the regulatory agency,
2. efficiency gains through ameliorating market breakdown or gridlock,
3. enhanced consumer confidence,
4. the possible generation of positive externalities,
5. efficient authorization procedures which remove hazardous (solvency and conduct of business) firms from the market, and
6. enforced disclosure which enhances the ability of consumers to make informed judgments, and increases the transparency of contracts.
On the other side, regulation also has disadvantages. An important disadvantage of regulation is that it creates costs (Goodhart, Hartmann, Llewelly, Rojas-Suárez & Weisbrod, 1998:190). A large part of the costs are incurred in order to comply with regulation, however, these costs are, ex ante, often estimated too high. This is mainly due to the use of new technology which lowers these costs (Harrington, Morgenstern & Nelson (1999). Failure to comply can impose added costs, foreclose market, and jeopardize the franchise (Bagley, 2008). In addition to these costs, illegal activities can divert funds from strategic investments, tarnish a firm’s image, raise capital costs and reduce sales volume (Baucus & Baucus, 1997). Bagley (2008) continues and argues that organizations that have adequate procedures to comply should generate higher returns than firms that have not implemented such practices. He even adds that at least under certain circumstances, the ability of organizations to proactively go beyond the letter of the law can result in competitive advantage. However, the opposite might be true as well. Especially when knowing that to comply with regulation, costs are incurred. The most likely situation that will occur when regulation is imposed is compliance. Bagley (2008) argues that in this situation, compliance might be more important for firms that use reputation to differentiate their products than for those that sell based on low cost.

The future is ultimately very dependent on the kind of game currently being played. Whether one group benefits from regulation, or all stakeholders gain, greatly impacts the future and possible actions interest groups will take to influence the legislation.

§2.5 Summary

When addressing financial regulation, it can be said that markets are vastly more regulated now than ever before. Many of the regulations imposed onto the markets can be justified by the arguments discussed in the first section. The most important were market failures, natural monopolies and externalities. With regard to the process of regulation, many theories have tried to be conclusive. However, no consensus about a specific theory has evolved but the different theories have made clear that there are possibilities of influencing regulatory agencies. In turn, regulation can impact organizational strategy by influencing one or more forces of the Five Forces model. Accordingly, when the impact of regulation increases, organizations start to question if and when they should take regulation as a more serious subject within their strategies. Subsequently organizations can embrace different types of strategy to effectively cope with the situation at hand.
Chapter 3: Methodology

This chapter explains the methodology used to conduct this research and how the data was collected in order to answer the research questions. Important criteria in this process are techniques used for the analysis of the data and what threats might emerge and need to be accounted for when carrying out this research.

§3.1 Purpose of the research

Accurately predicting the future is something everybody wants but nobody is able to. Still, accounting for future developments is a big issue, especially in the financial sector. This research focuses on the impact of changing regulation on the Dutch mortgage market. Regulation is needed to control the current crisis by rebuilding trust, hence, it will have an impact on the ultimate shape of the mortgage market. These impacts are of great interest to Hypstech. Understanding the (near) future perspective is key because it determines the strategies and organizational structures of her clients. Hypstech wants to understand and use the gained knowledge in consultancy, benchmarking and training.

The aim of this research is stated above which leads to an exploratory study. As to what this holds for this research Robson (2002:59) explains it best; “an exploratory study is a valuable mean of finding out what is happening; to seek new insights; to ask questions and to assess phenomena in a new light.” That is exactly what this research tries to do with regard to the regulatory changes in the Dutch mortgage market.

§3.2 Research design

Regulation is an extensively researched topic. However, much research focused on regulation affecting a specific type of product or market. Less research is available concerning the impact of regulation on strategy. Oliver (1991) share this view, commenting that attention to strategic behavior as a response to changing institutional processes is lacking. Hence, no dominant literature is available presenting theories concerning the impact of returning to a more regulatory intensive approach of the Dutch mortgage market. The unit of analysis within this research is the Dutch mortgage market and therefore included in the problem statement. Hypstech provided the connections necessary for the gathering of relevant data. These connections are experts within the field of the Dutch mortgage market but from different disciplines. Not all experts are included in this research partly because there are no precise criteria when one is considered to be an expert, and due to time restrictions of the research. The data collection is solely qualitative and also due to the time constraints, the data collection method used was the mono-method. Consequently, the time horizon was cross-sectional. The data used in this chapter ultimately stems from February 2010.
§3.3 Sampling strategy

As previously stated, the population is too large to be included entirely in this research. A sample is therefore needed to keep the collected data to a manageable amount and conduct this research within a restricted time schedule. A non-probability sampling strategy has been chosen, utilizing the network of Hypsotech. This strategy reduces the generalizability by the absence statistical evidence, however results can still apply to a larger population (Saunders et al., 2007). Criteria for the sample were; significant working experience in the Dutch mortgage market, knowledge of regulation and strategy in the Dutch mortgage market. Efforts were made to ensure that these qualities were present to create a knowledgeable and representative sample.

The respondents for the interviews have been selected by Hypsotech. The initial selection embraced twenty individuals active at different organizations and in different functions throughout the Dutch mortgage market. After consultation, nine respondents were found willing to participate in this research. Initially, one particular type of organization was not represented in the sampling frame but was added after finding a suitable respondent. The list of respondents is given in the table below, a short description of the organizations is found in appendix A.

<table>
<thead>
<tr>
<th>Name respondent</th>
<th>Function</th>
<th>Organization</th>
<th>Organization type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bavelaar, Ron</td>
<td>Owner</td>
<td>Hypotheekshop</td>
<td>Intermediary chain</td>
</tr>
<tr>
<td>Oliekan, Marco</td>
<td>Owner</td>
<td>Oliekan</td>
<td>Individual intermediary</td>
</tr>
<tr>
<td>Jolande Brand</td>
<td>Senior Legal Council</td>
<td>ING</td>
<td>Funder</td>
</tr>
<tr>
<td>Matthijs Minderhout</td>
<td>Commercial Specialist Mortgages</td>
<td>ING</td>
<td>Funder</td>
</tr>
<tr>
<td>Tom Starink</td>
<td>Head Marketing &amp; Sales</td>
<td>Bank of Scotland</td>
<td>Funder (foreign)</td>
</tr>
<tr>
<td>Willem Oudijk</td>
<td>Manager Product-management Mortgages</td>
<td>Rabobank</td>
<td>Funder</td>
</tr>
<tr>
<td>Hans Riefveld</td>
<td>Commercial Productmanager Mortgages</td>
<td>Reaal</td>
<td>Funder</td>
</tr>
<tr>
<td>Cees Kielstra</td>
<td>Director</td>
<td>OvFD</td>
<td>Expert</td>
</tr>
<tr>
<td>Hans Mersmann</td>
<td>Director Strategy</td>
<td>NHG</td>
<td>Expert</td>
</tr>
<tr>
<td>Martin Kegstra</td>
<td>Managing Director</td>
<td>Welke Beheer BV</td>
<td>Expert</td>
</tr>
<tr>
<td>Martin Koot</td>
<td>Partner</td>
<td>Koot en Van Basten</td>
<td>Expert</td>
</tr>
</tbody>
</table>

§3.4 Data collection

Data used in this thesis consist of primary and secondary data. Secondary data has been gathered first, because of the theoretical background needed to gather the primary data. Secondary data consists of relevant academic articles, literature and many articles available in relevant magazines. One of the principal ways of conducting exploratory research is through interviewing ‘experts’ on the subject (Saunders et al., 2007). Subsequently, the primary data was gathered using semi-structured and non standardized interviews. This structure ensured that all relevant topics of this thesis were addressed but provided the possibility of altering questionnaires to the interviewee background. The focus of this thesis and thus the questionnaires is on funders and the intermediaries. Using this method, open
questions could be asked to these parties, on which one could elaborate, obtaining presumably more information than this research originally intended to. This makes sure that all relevant data is indeed collected. According to Saunders et al (2007), non-standardized interviews are commonly used when conducting an exploratory study. The interviews were held on a one-on-one basis. These were then audio-recorded and notes were taken to ensure the best possible transcription of the data. The data have been transcribed into a data-display and coded in a consistent manner. The interviewees were informed in advance that the data would be handled anonymously, ensuring their confidentiality as well as increasing the likelihood for obtaining interesting and relevant data.

§3.5 Data analysis
The interviews were structured by questionnaires. The questionnaires contained five main topics and several subtopics. These topics were derived from reviewing the literature and during a process of identifying, together with Hypsotech, the relevant issues and insights needed to carry out this research. During this process, two test interviews were held with two persons active in different organizations and functions to assess the likelihood of response and usefulness of the answers on different topics (the questionnaire is found in appendix E). The main topics of the questionnaires were:

- Dutch mortgage market regulation in the period 2000 – 2007,
- Dutch mortgage market regulation from 2007 – 2009,
- Trends of regulation,
- Influencing regulation,
- The future of the Dutch mortgage market.

To prevent the build-up of audio-recordings and ensure optimal recollection of the non-verbal communication and intonation, the interviews were transcribed within 48 hours after they took place. The data was then transcribed into a data display which provides an organized overview of all the gathered data, and helped to identify relationships, key themes, patterns and trends (Saunders et al., 2007).

§3.6 Validity and reliability
Despite best efforts and precautions described in previous sections to ensure optimal quality of the data, interviewer- bias and interviewee bias can occur. Interviewer bias occurs when information, verbal or non-verbal, intonation and signing is interpreted in an incorrect manner. Interviewee bias can occur when the interviewer and interviewee have different interpretations of information (Saunders et al., 2007). The earlier mentioned precaution of analyzing the data in a short timeframe reduces threats to mortality and maturation.
Chapter 4: Analyzing the structure of the Dutch mortgage market

This research is based upon the Dutch mortgage market. This market is being influenced by many developments, especially in the last decade. But before going into detail, an introduction into the subject of mortgages is given as well as a brief history of mortgages. Following this, the Dutch mortgage market is analyzed and this provides insight into the actors who affect the variables presented in the previous chapter. The actors are limited to distributors of mortgages and the regulating agencies. Finally a framework is presented in which the cohesion between different global, European and Dutch regulating agencies is displayed, shedding light on their roles in the process of regulating mortgage markets.

§4.1 The principles of a mortgage

A mortgage resembles the first right of selling, mostly based upon an immovable property or ship. Mortgages are an important financial instrument in today’s economy, spread throughout the world. From the initial development the concept mortgage until today, the basics of this financial instrument never changed. High valued real estate is often beyond the reach of most people. To acquire the real estate currently out of reach, lending money is often the only option. The decision to obtain a mortgage and more specifically what kind of mortgage forms the next step in this process. Over the last decade, the development of mortgage products has been enormous, especially in the Netherlands which is partly due to its complicated fiscal system. With today’s vast number of possibilities, the process of selecting a mortgage can impact the financial situation of a family for decades. Finally, the similarity of mortgages between countries is low due to different regulation and innovation of financial products. Before explaining further, a brief history of mortgages is presented in the next section to give more insight into the development of this instrument.

§4.2 A brief history of mortgages

The inventor of the concept mortgages and the location where this occurred is unknown. What is known is that Demosthenes, a Greek statesman and orator in ancient Athens in 384 to 322 BC, wrote about this concept. He wrote that one person lends money from another person, to be able to acquire a piece of land. After the purchase, a stone was placed on this land on which the amount of debt was written. This ritual of placing a stone upon a piece of land was called ‘hypothèke’. Thereafter, the Romans used mortgages as well with the slight adjustment that family members were used as collateral.

As a result, the mortgage system is quite old but first incorporated into the legal system in 1190 in England. Here, common law included a law that would protect a creditor by giving him an

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2 Besluit gedragstoezicht financiële ondernemingen WFT (24-01-2010)
3 VP notarissen
interest in his debtor’s property. As this law stated, the mortgage was a conditional sale. Although the debtor held title to the property, the creditor could, in the event the debt wasn’t paid, sell the property to recover his money.

When analyzing the history of mortgages, interesting information can be derived from analyzing the word ‘mortgage’ itself. ‘Mort’ is the Latin word for death and ‘gage’ is from the sense that means a pledge to forfeit something of value if a debt is not repaid.4 Literally, a mortgage is a death pledge. The reason to call it dead was twofold. The property was forfeit or ‘dead’ to the borrower if the loan wasn’t repaid and the pledge itself was dead if and when the loan was repaid. So the basics stayed the same throughout the years, except for the fact that originally, ownership rights extended from the center of the earth to the sky. Of course, at present, they are generally limited to surface rights only. In the following sections, the topics are limited to the dimension of the Dutch mortgage market only.

§4.3 The Dutch mortgage market and its actors

The Dutch mortgage market can be analyzed by comparing its volume to the total mortgage volume of the European Union (data is based upon 27 European countries). The volume of a mortgage market is commonly depicted as the ‘total outstanding residential loans’. Figure 5 shows that this volume for the Netherlands is relatively large. This is due to the tax benefits Dutch residents can obtain by using a mortgage to finance their housing needs. Furthermore, as can be seen in the adjacent table, every year is characterized by growth. The reasons behind the growth of the European mortgage market are largely similar for the Dutch mortgage market; deregulation in the financial sector, historically low interest rates, in some countries tax advantages and the increase in disposable income (Hardt 2002, Suarez & Vassallo 2003). Tax advantages in particular have a major influence on the Dutch mortgage market.

The total of outstanding residential loans is often compared to the Gross Domestic Product of a country to indicate the level of debt used in the housing market. For the Netherlands, this ratio amounts to 100% in 2007 (Germany has a ratio of 47,7% and the UK of 86,3% in 2007).5 CBS (Statistics Netherlands) states that this high ratio is due to the strong growth of house prices, the increase in house ownership, the historically low interest rate and the changes in lending by the banking sector, all which are factors that made lending easier.

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4 Gareth Marples blog
5 EMF, Hypostat; Overview of EU residential mortgage markets 2007
6 CBS: De Nederlandse Conjunctuur 2007
4.3.1 Dutch mortgage market actors

The Dutch mortgage market provides generally four channels through which one can acquire a mortgage. These are banks, mortgage specialists, insurance companies and foreign banks, together they form the funders in this market. Banks are the traditional suppliers of mortgages and earn a profit by selling mortgages and asking an interest margin in return. This process can be seen as the difference between the purchase price of money and the selling price. Another way for banks to earn money is by selling related products along with a mortgage, like insurances, which also is the main motive for insurance companies to be active in this market.

To be actually able to sell a mortgage, a funder can make use of three different distribution channels. The two main channels are the front offices of banks and the independent intermediaries. Intermediaries distribute financial products of funders and can be split into two distinctive groups. The first are franchise chains like De Hypotheekshop (200 offices), De Hypotheker (170 offices), Huis en Hypotheek (70 offices), Hypotheekvisie (70 offices) etc\(^7\). The second group is much larger, around 2000 offices nationwide, and consists of the independent and unrestricted intermediary. These organizations have a wide variety of products and are also specialized in offering financial advice. This group of intermediaries can only sell mortgages through a mortgage funder who provides the client with the actual funds. In order to sell mortgages for a funder, intermediaries can either do business directly or use a purchase combination. A purchase combination is a service organization, aimed at the independent intermediaries. The goal is to offer support to the intermediary through

\(^7\) De Hypotheekshop, De Hypotheker, Huis en Hypotheek, Hypotheekvisie; 4th Quarter 2009
negotiating for better terms with the mortgage funders. The bundling of purchases is a key aspect here. Figure 9 provides a schematic overview of the Dutch mortgage market.

Currently, the World Wide Web is a less important retail channel. The front offices of banks only offer mortgage products of that bank. Independent intermediaries however, sell mortgage products of all brands and types. Between 55% and 60% of all mortgages are sold through the independent intermediary channel, making this the most important distribution channel. The internet mainly functions as a source of information. Its value as a retail channel is limited and the market share of mortgages sold via the internet currently lies at around 1%.8

4.3.2 Active regulators and legislators in the Dutch mortgage market
Regulation is an important factor that influences the mortgage market. Within the Dutch financial industry, the following actors are of importance: the Dutch government, the Dutch National Bank (DNB), the Authority of Financial Markets (AFM) and the Netherlands Competition Authority (NMa). The DNB was originally created to supply credit to the Dutch markets. The AFM was created as a successor of an agency supervising the stock market. Figure 8 displays the agencies that monitor the market on behalf of the government as well as their responsibilities.

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8 Hypsotech: Basisopleiding hypotheken
When addressing the regulation that is imposed upon the financial industries in the EU, a complex set of agencies come forth. To provide clarity, figure 11 below shows the way these organizations are tied together, along with the connection to the Dutch industry. A number of agencies have been left out of this picture because their activities are not of interest for this research.

From the top down, the global agencies International Monetary Fund (IMF), Financial Stability Forum (FSF) and the colleges of supervisors are working together with the European agencies, DNB, European Council for Small Business (ECSB), European Central Bank (ECB) and the Committee of European Banking Supervisors (CEBS). The national agencies DNB and the AFM

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**Figure 10: Dutch regulating agencies and their duties**

<table>
<thead>
<tr>
<th>Agency</th>
<th>Duties</th>
<th>Established</th>
</tr>
</thead>
<tbody>
<tr>
<td>DNB</td>
<td>Financial stability through:</td>
<td>1814</td>
</tr>
<tr>
<td></td>
<td>(1) smoothly operating financial system</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(2) price stability</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(3) reliable payment systems</td>
<td></td>
</tr>
<tr>
<td>NMa</td>
<td>Protecting the rights of Dutch consumers by:</td>
<td>1998</td>
</tr>
<tr>
<td></td>
<td>(1) promoting and safeguarding free competition in all industries</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(2) taking action against all parties that participate in cartels</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(3) taking action against all parties that abuse a dominant position</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(4) reviewing mergers and acquisitions</td>
<td></td>
</tr>
<tr>
<td>AFM</td>
<td>Supervision of the financial markets</td>
<td>2002</td>
</tr>
</tbody>
</table>

Source: DNB, AFM, NMa

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**Figure 11: Supervision of financial services**

Source: Court of Audit (2009)
are under direct supervision of the ministry of Finance. The mutual goal of all agencies is to form a platform where issues regarding the financial industries are discussed and controlled accordingly. The agencies have specific fields of interest and working down the ladder, providing guidelines which eventually need to be implemented and imposed upon the markets through the national agencies.

§4.3 Summary

This chapter described the concept of a mortgage and its history. It furthermore provides data on the volume of the Dutch and European mortgage market. In addition it analyzes the actors, distributing mortgages in the Dutch mortgage market as well as the regulating agencies in the Netherlands, Europe and globally active.
Chapter 5: Recent and near future legislation

This chapter analyses the impact of legislation and the self-regulatory efforts of mortgage market incumbents. The impact of legislation also includes the changed market circumstances. These aspects can affect both legislation and strategic choices of funders and the intermediary. The analysis is restricted to legislation imposed in 2009 but the self-regulatory efforts stem from 2007.

§5.1 Variables influencing regulation

Prior to the analysis, some important variables need to be explained: first the regulation policy of the Dutch government, and second, the focus within the regulation policy.

5.1.1 Regulation policies

To cope with unwanted side effects of markets, discussed in section 2.1, governments use, with or without success, regulation in order to create efficient markets and stable economies. Some agencies, like the McKinsey Global Institute (1997), argue that regulations are to be blamed for the poorly functioning of European economies from 1970 to 2000. In the years after 2000, deregulation policies were common. Deregulation is fundamentally about reducing and redistributing rents, leading economic players to adjust in turn to this new distribution (Blanchard & Giavazzi, 2000). In other words, deregulation is the removal or simplification of government rules and regulations, with the ultimate goal of a free market. Blanchard et al continue to reason that even if deregulation proves to be beneficial, it is likely to come with both strong distribution and dynamic effects. Continuing, the transition to deregulating markets may imply the disappearance or the decline of incumbent firms. For example, incumbent firms whose position in the market was guaranteed by certain legislation. Returning to the era of governmental regulation policies, especially from 1980 until 2000, it is clear that for that period, any form of regulation was heavily debated.

As indicated, the new millennium brought change to government regulation policies. The focus changed to a more regulatory approach. Brunnermeier, Crocket, Goodhart, Hellwig, Persaud and Shin (2009) argue that regulation should always be capable of justification as a consequence of some specified market failure. Events in the new millennium, such as Enron, WorldCom and the mortgage crisis of today, proved to be worthy of justifying such new regulations.

5.1.2 Changing focus to customer protection

In the years before, but especially from 2007 onwards, regulatory agencies in the Netherlands have been focusing their efforts on the area of customer protection. The government is trying to restore trust and reestablish a healthy financial market. Figure 10 presents five general focus areas of regulation, identified by Hypsotech. Due to the impact on today’s mortgage
market and the focus on this area by the government, the area of customer protection is considered to be most important. Figure 10 shows that customer protection is expected to affect the funders and the intermediaries. The analysis is based upon regulation stemming from customer protection efforts. The impact is analyzed in the next section.

§5.2 Current legislation for Dutch mortgage market actors

Regulation can be seen as a reaction to events discussed in section 2.1. In 2007, the first of many major legislation efforts was introduced, called Wft\textsuperscript{9}, bundling and rewriting seven previously existing laws. Appendix C shows a table with all legislation that has been applied to the Dutch financial markets, as well as legislation initiatives for the near future. The impact of these rules and regulations are substantial, especially for the funders and financial advisors working at intermediaries. Contributing to this complex situation is the changing environment of the Dutch mortgage market due to the economic downfall. The legislation imposed to increase customer protection could possibly impact standard working methods and business models, but also increases costs to achieve this change\textsuperscript{10}. Combined with the economic recession, this research provides insight how regulation tries to improve customer protection and what the impacts of these efforts are. Beginning with the examination of the legislation imposed onto the Dutch mortgage market.

In 2009 the law called ‘Decree on Conduct of Business Supervision of Financial Undertakings’ (BGFO) was introduced. This law is a follow up on the bundling of important financial laws into Wft in 2007. BGFO was created to increase and improve the supervision of financial products. It is actually a part of the Wft law, emphasizing its efforts to further specify the precise contents of information which suppliers of financial products are obligated to provide to consumers and how financial advisors, working in the mortgage market, need to build up their reward structure. BGFO (Figure 11) was, due to several compliancy issues and market pressures, enacted in two stages. The first stage, called BGFO 1, was introduced in the beginning of January 2009. The second stage was introduced in January 2010 and both stages are clarified in the next section.

\textsuperscript{9} Wet op het financieel toezicht (22-01-2010)
\textsuperscript{10} Hypsotech: Masterclass
5.2.1 BGFO I

BGFO I consists of five aspects, as can be seen in figure 11. This analysis addresses each of these in order to obtain a full understanding of BGFO I and obtain the required data in the interviews to accurately assess the impact upon the funders and intermediaries.

Rules on provision – For complex financial products, the amount of provision paid by the funder to the intermediary must be communicated to the customer. Furthermore, annual arrangements have been made by the legislator, defining the percentage of provision an advisor directly receives and the percentage that will be received in the coming years.

Prohibiting turnover bonuses – Previously, arrangements were made with parties selling mortgages, that if a certain turnover was achieved, a bonus would be paid by the funder to the seller of a financial product.

Banksaving products – Banksaving products are considered as complex financial products to ensure better informed customers.

Loan commercials – Two specific commercial expressions are prohibited. The first is stating that a negative credit rating (BKR) still enables consumers to get extra credit. The second prohibited expression concerns stating anything that falls beyond the normal code of conduct.

Reward transparency – A financial mediator of complex products or mortgage credit is obligated to inform clients of the provision that he or she will receive before the product is sold. An important aspect is that no percentage can be mentioned but the absolute amount.
5.2.2  BGFO II

BGFO II proceeds along the lines of BGFO I. Creating transparency and prohibiting bonuses are the main objectives. Further analysis is presented in the next section, where the possible impacts of key aspects of BGFO are addressed.

Financial service document – A financial advisor is obligated to provide customers with a document stating the nature of service(s) provided and the way in which the financial advisor is rewarded. Most important, this document creates a guide for a financial advisor to gather all pieces of information and provide arguments for his advice. The document must be provided to the customers in the beginning of the process when providing a financial service and the customer must have had enough time to get familiar with the document.

Cost transparency – Financial products must offer nominal cost transparency for complex products and mortgages. The amount of provision needs to be specified in the financial service document.

Prohibiting bonuses for complex products and mortgages – All bonuses for complex products and mortgages are prohibited.

Financial service document also mandatory for direct suppliers – This aspect of BGFO is aimed at creating a so-called ‘level playing field’, in which funders and intermediaries are subject to similar regulation and neither of them have a cost advantage over one another due to regulation differences.

§ 5.3  Impact of regulation on the Dutch mortgage market

The issues stated in the previous section differ in their impact on the mortgage market but mostly on the business models and the standard working methods of organizations. Possible impacts for funders and intermediaries are derived from data and intelligence from Hypsotech and summarized below:

- The compensation policy from customers to financial advisors change. Three possibilities remain; fee structure (fixed amount), hourly fee and lastly provision, for which a part of the provision is paid directly and the remainder in the coming 5 years.
- The compensation policy stated above is also mandatory for bank saving products, which are now considered complex financial products.
- Commercial adverts are subject to strict guidelines.
- Financial advisors are obligated to be transparent about their reward structure. If chosen for a compensation policy based on provision, the precise amount needs to be specified in the offering to the customer.
The obligation to make a financial service document will cost the financial advisor many extra hours of work. Also, the entire document needs to be explained to the customer.

Financial advisors are obligated to be transparent about their cost structure.

Creating a level-playing-field, financial advisors at funders are subject to the same regulation as do the financial advisors at the intermediaries.

In concrete terms, this means that new competition arises. Especially when considering the different compensation policies. Prior to the formulation of these regulations, consumers did not pay directly for financial advice. Consulting more than one financial advisor in order to choose the best deal was commonplace in this market. There was no conscious awareness by consumers that financial advisors accounted for the fact that for every product sold, they conduct several pieces of advice for free. Hence, the price of a product had to compensate the pieces of advice for which they were not rewarded. This increased the price for financial advice. Most important to understand the Dutch mortgage market is the notion that this fee for financial advice could, and always would, be included in the mortgage. This created no awareness of these costs by the consumer. At present, the diversity in different compensation policies creates a complicated situation. Financial advisor ‘A’ wants to be rewarded by a fixed rate per hour or through a fixed total fee, and financial advisor ‘B’ wants to be rewarded using the old provision compensation policy. Provisions however, are paid by the funder, who therefore accounts these costs into monthly mortgage fee the consumer has to pay. Consequently, consumers choose financial advisor ‘B’ because they thought the advice was free. This misconception proves difficult to alter today and is not limited to the mortgage market. To make things more complex, getting paid on a provision basis holds that the financial advisor ‘B’ is paid, not the full amount, but a percentage. Regulation decreases the percentages paid by the customer directly to the financial advisor. Meaning, advisors working with a provision based compensation policy are struggling to cope with the decreased cash flow. Together with economic difficult times, more than thousand intermediaries, both individual as chains, were forced to leave the market. This impact is also noticed at the funders. Several labels (brands operating under the funder) that these parties created have vanished as well as some banks as Postbank and DSB. The future lies in other compensation policies but customers are not used to paying for advice. However, present regulation does not provide a solution.

§5.4 Regulation changes in the near future

Regulation is still being debated and discussed before being made definitive. Market incumbents want to participate in a platform where they can discuss future legislation with the legislator. However, financial difficult times and undesired market actions in the past created low consumer trust increasing the pace of this process. At the same time, it changed
the platform balance to one less open for discussion from the legislator side. This created a difficult situation because the legislator wants to create a more consumer friendly mortgage market but to obtain this objective, market actors are needed in this process as well.

The future of the Dutch mortgage market hinges on several factors which are discussed after the next chapter presenting the empirical data. These factors are:

- Economic revival
- Revival of the Dutch mortgage market
- Future legislation
- Pace of customer trust build-up
- Strategic actions by incumbents and entrants
Chapter 6: Results and analysis

This chapter presents the empirical data gathered from the interviews. Section 6.1 analyzes the impact of government regulation on the Dutch mortgage market. Section 6.2 discusses future regulation and the impact it might have to the mortgage market. The possibility of influencing regulation is analyzed in section 6.3. The last section considers the strategies organizations followed during the last years and their reflections on strategy for the coming years.

Chapter two introduced the five forces framework by Porter. During the interviews, this framework was used to construct the questionnaire topics introduced in chapter three to strategy. This way, the data provided in this chapter could be analyzed with the five forces model in order to form the conclusion in chapter seven. The codes after each statement refer to the respondents. Appendix B provides the table which relates these codes to the respondents. Each topic is then summarized at the end or an analytical commentary is given to provide insight how the statements need to be interpreted.

§6.1 Impact of regulation in the Dutch mortgage market

To grasp what is at hand in the Dutch mortgage market today, the differences with earlier states of this market were reviewed. The Dutch mortgage market between 2000 and 2007 are characterized by what all respondents call, ‘an unregulated market’.

6.1.1 Influence of regulation from 2000 until 2007

Before 2000, the Dutch government had a regulation policy set to let the market free to develop. Back then, regulatory agencies were relatively inactive and got frequently challenged by the market to let the market be. Consequently, the Dutch mortgage market was less restricted by regulations and incurred hardly any costs from this angle. Strategies did not take regulation into account and any setbacks due to regulation were incurred without hesitation. The motivation for this attitude were the potential profits from just staying ‘in the game’ as indicated by some respondents. Following statements and arguments support the insight of the limited impact of regulation on strategy:

<table>
<thead>
<tr>
<th>Intermediary</th>
<th>Funder</th>
<th>Expert</th>
</tr>
</thead>
<tbody>
<tr>
<td>No response</td>
<td>‘We based our maximal credit level to credit risk and how to support the dossiers then based on specific regulation.’</td>
<td>The WABB law was abolished to create a more free and open market with more competition.</td>
</tr>
<tr>
<td></td>
<td>‘Regulation defined the framework to which we wanted to comply. Strategy however, was defined without any constraints from regulation.’</td>
<td>‘The financial industry was characterized by little regulation.’</td>
</tr>
</tbody>
</table>
Limited, regulation is based upon open norms. ‘Financial regulation was very limited. The regulations were present were based upon open norms subject to many forms of interpretation.’

All possible forms of strategic responses (section 3.2) were available and avoiding regulation was common in this market.

In addition, regulation did not impact the cost structure of their products. Regulation was based upon open norms, free for interpretation of any kind, and costs were hardly worth mentioning in this industry as depicted by the following statements:

<table>
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<th>Intermediary</th>
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</thead>
<tbody>
<tr>
<td>‘No costs stemming from regulation activities.’</td>
<td>There was supervision for which you had to pay and costs to redesign your IT-structure, but altogether these costs were not significant.</td>
<td>There were costs but the industry was not fully aware of them due to the lack of significance.</td>
</tr>
</tbody>
</table>

Regulation did not pose a threat from the organizational perspective either. Strategy was determined freely of constraints and as already mentioned, costs were low:

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<tr>
<th>Intermediary</th>
<th>Funder</th>
<th>Expert</th>
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<tbody>
<tr>
<td>‘Organizational issues did not arise.’</td>
<td>Lot of entry to the market so apparently, regulation formed no constraint.</td>
<td>No response</td>
</tr>
<tr>
<td>‘No organizational change in this era.’</td>
<td></td>
<td></td>
</tr>
<tr>
<td>‘There were plans to impose new regulation, but plans were to be criticized and bent all ways desirable.’</td>
<td></td>
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</tbody>
</table>

Analytical commentary:
The intermediary was not affected by regulation, but funders to some extent. However, the insignificance of the impact on funders made them unaware of costs stemming from regulation and unwilling to rethink their strategies. Strategy was solely based on risk-allocation. Regulatory agencies were also seen as easily persuadable creating confidence among market actors that their profits were safe.
6.1.2 Influence of regulation from 2007 – 2009

The freedom given to the market created unwanted side effects and ultimately led to the creation of the AFM. This agency’s task was much stricter and created an enormous shift in the market. Organizations thought that regulation policies would not change and initiatives for new regulation by the AFM would be stopped in its tracks by the market. History teaches us a different lesson that all players active in this market have learned the hard way. Nearly all respondents concluded that the impact of regulation is of significant magnitude and changed their strategies and business models. This conclusion is drawn from following statements:

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<tr>
<th>Intermediary</th>
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<tbody>
<tr>
<td>‘The business model on earnings based on related insurance policies disappeared.’</td>
<td>‘Strategy is still determined freely, but today regulation determines the playing-field in which strategy needs to fit in.’</td>
<td>‘The impact of BGFO is enormous. BGFO created awareness and some organizations see it as a chance to restore or improve their trustworthiness.’</td>
</tr>
<tr>
<td>‘From 2009 on, we sell mortgages completely without any form of provision.’</td>
<td>‘Huge. The entire organization is set on complying with every part of regulation.’</td>
<td></td>
</tr>
</tbody>
</table>

Especially the business models changed, creating room for new models. Not all incumbents would or even could accept these changes and ended up leaving the market. Not only did regulation pose a big change for organizations active in this market, it also required an effort by the consumers, which is still relevant today. Business models changed creating different ways in which customers could reward their financial advisors. In earlier times, financial advice was perceived to be free because they did not pay for these services directly. Today, regulation pushes towards a market in which payment of services need to be done in full and direct, creating awareness among customers that financial advice is expensive.

These new regulations affected organizations in different ways, some more than others. The section above mentions the remuneration dimension but the cost dimension became important as well. The following arguments support this:

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<tr>
<td>‘The industry has to pay for her own supervisory agencies. These costs are huge.’</td>
<td>‘Before 2007, 1 compliance officer could handle all regulation issues. At present, 3 officers can barely handle the workload.’</td>
<td>The BGFO law has, without a doubt, created a huge cost pressure.</td>
</tr>
<tr>
<td>‘Huge. The entire organization is set on complying with every part of the regulation.’</td>
<td></td>
<td>The supervision agency AFM has grown from 180 employees to 480. These costs are rolled off to the market.</td>
</tr>
</tbody>
</table>
‘To cope with the cost-transparency regulation, IT implementation costs alone were € 800,000, not mentioning the costs of employees working long hours to accomplish this implementation.’

Compliance costs are now a substantial part of the costs and could lead to a decision to take a product of the market.

Foreign entry has stopped because of the regulation and the subsequent costs.

Costs have risen dramatically for both the supervision agency as well as the support for the intermediary advisor who has to produce the DVD.

This increase in costs has created awareness of an active legislator and that compliance departments are essential for understanding new laws. This understanding is necessary to provide feedback to the legislator, and more important, to adjust products accordingly. However, some respondents do not see an increase of costs or do not feel that this should lead to panic in the market. They argue the following:

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<th>Intermediary</th>
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<tbody>
<tr>
<td>‘Not so much in costs. We can alter our systems fairly easy. The costs are more relevant for the funders.’</td>
<td>No difference between the costs before and today.</td>
<td>Costs are stemming from products. Only funders are feeling pressure from this angle.</td>
</tr>
<tr>
<td>All costs stemming from regulation are rolled off to the customer.</td>
<td>Regulation has not caused an increase of costs for a service provider.</td>
<td></td>
</tr>
</tbody>
</table>

**Analytical commentary:**

This cost dimension illustrates that funders were targeted at first by the regulator but the intermediary, who assumed to stay out of the legislators grasp, is hit as well. And where a funder is assumed to have more power to cope with these changes, the intermediary struggled. However, costs of regulation are not considered to prevent intermediaries from this market. As indicated, fewer actors are present in today’s market, spreading the same amount of legislation costs over fewer actors. Still the real issue is creating a business model to generate income in a way that the legislator approves of. For this aspect, a level playing-field is needed and all legislation is made to affect all players in the market. Hence, funders need
to abide to similar law as the intermediaries. Funders also have to cope with another cost of legislation which is penalties for products containing inconsistencies with the law. These penalties range from relatively insignificant, to very large amounts of money. These issues are also reason for some respondents to state that foreign entry has not stopped because of the recession but because of regulation. Experts see all these changes as an opportunity to restore trust in the market and for actors to repent their sins.

§6.2 Regulation and the future of the Dutch mortgage market

To put all earlier topics in perspective, insights on current regulation in the Netherlands and initiatives from a European perspective as well were addressed. This enables respondents to continue onto an assessment upon the impact on the Dutch mortgage market.

6.2.1 Future regulation

Results were very different, dividing the respondents in roughly two groups. Some respondents feel that more regulation is imminent for this market. The industry has not shown that their best interest lies at the customers thus creating effects unwanted by the market. Funders have got more assets and ways to cope with setbacks than the much more limited intermediaries. Funders generally expect more regulation, and the intermediaries are divided. The general view tends towards more regulation, although (or maybe because) the market is currently in a state of overreaction by the government. Their responses were:

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<tbody>
<tr>
<td>‘Yes more regulation is forthcoming. We plea for a law that forbids provision altogether.’</td>
<td>‘We expect more regulation on the topic of remuneration. First a maximum of provision within this year, followed by a total prohibition of provision, like in the UK (United Kingdom).’</td>
<td>‘The trend of more regulation will continue because the market cannot ‘clean’ itself.’</td>
</tr>
<tr>
<td>‘There will be a Basel 3, 4 and 5. A lot more regulation is coming.’</td>
<td>AFM officials stated that self regulation leads to nothing. Keeping this in mind, regulation activities will not diminish.</td>
<td></td>
</tr>
<tr>
<td>The expectation is that the HRA will disappear rather sooner than later.</td>
<td>Regulation follows the tide. We are still in the high tide of new regulation and this will continue for some time.</td>
<td></td>
</tr>
<tr>
<td>There are some issues left at remuneration policies, top mortgage and the HRA of</td>
<td></td>
<td></td>
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</tbody>
</table>
course. There will be more regulation.

These arguments are contrasting with the views of other respondents who are expecting a change. They see an overreaction by the government which has reached its upper limit and with all new initiatives, poor regulation has been introduced as well. Therefore, regulation will be reduced and thus more realistic in their opinion. This is derived from following statements:

<table>
<thead>
<tr>
<th>Intermediary</th>
<th>Funder</th>
<th>Expert</th>
</tr>
</thead>
<tbody>
<tr>
<td>If already is an overreaction, there cannot be any more regulation. There will be moderation.</td>
<td>No response</td>
<td>It’s often a tide movement but you also need adequate supervision. The governmental can fail as well.</td>
</tr>
<tr>
<td>BGFO III will likely be less rigid or more realistic.</td>
<td>Due to many wrongs by funders and insurance companies, an overreaction of the government has occurred.</td>
<td>An overreaction is likely. Regulation imposed onto the market will be evaluated with market actors and the government during this year (2010).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>‘The regulation policy has swung from hardly any regulation to an overreaction. The expectation is that it will swing back a little towards the middle.’</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No further extension of current regulation.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>It would be a good thing to ease current regulation.</td>
</tr>
</tbody>
</table>

Analytical commentary:
The intermediaries are divided in their opinion. This is hardly strange considering that one party is considered to be the one that has already implemented all changes specifically aimed at the aspects that the legislator wants to implement in the entire market. The other party represents the individual intermediary for which changes are much harder to cope with and regulation is rather a curse then a blessing. Funders are more in line with each other in expecting new legislation. Although in relation to the specific areas for which new regulation will arise differ, they acknowledge that certain issues still need the intervention of a legislator. Experts however are divided. Again, the backgrounds explain their differences. Being the representatives of almost all intermediaries in the Netherlands, they fight for their own interests, and not for those of the consumers. Experts with no commitment to specific interest
groups are divided. Regulation seems hard to predict, especially from the point of view that they share that the government is overreacting.

### 6.2.2 Regulation coming from a European level

Recent times have created a new player which had and will have a big influence on financial markets, namely the European Government. All respondents seemed to have little knowledge of what to expect exactly from this perspective. This insecurity is illustrated by the variety of answers and their relevance to different subjects. One particular aspect shows some commonality among respondents, which is the feeling that the Netherlands have an advanced regulatory system, superior to many but not all other European countries. They further assume that the European Government will address countries with weaker regulatory systems sooner than the Netherlands, especially since the Netherlands have made such a great effort in reshaping the regulatory system already.

<table>
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<th>Intermediary</th>
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<th>Expert</th>
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<tbody>
<tr>
<td>‘I don’t know.’</td>
<td>Create a level-playing field for all countries. Thus there will be some discussion about the HRA.</td>
<td>Regulation in the Netherlands is more advanced in comparison to many other countries, but not as advanced as in the UK.</td>
</tr>
<tr>
<td>‘I think that we are ahead in our regulatory system compared to other European countries. Hence, I do not expect many, if any, new regulation stemming from the EU.’</td>
<td>‘I think that we are ahead in our regulatory system compared to other European countries. Hence, I do not expect many, if any, new regulation stemming from the EU.’</td>
<td>From the EU, many new regulations will find its way to the Netherlands.</td>
</tr>
<tr>
<td>‘No new regulation from the EU for the Netherlands. But we keep a sharp eye.’</td>
<td>Because of the recent history of troubles in the housing market and the regulation that already addressed these issues, there will be no new regulation.</td>
<td>The Netherlands have an advanced regulatory system but not as developed as in the UK.</td>
</tr>
<tr>
<td>The HRA could form an issue.</td>
<td>This institution will develop various new laws and regulations that could affect the Dutch mortgage market as well.</td>
<td>The Dutch government is trying to be best in class. If and when new European regulations affect other countries, the Dutch government will try to implement this as well.</td>
</tr>
</tbody>
</table>

**Summary:**
The intermediaries have almost no knowledge concerning this topic and think that they are relatively safe from this perspective. Funders however see possibilities that the European
government can offer, but also the threats that it poses. They are cautious but do not expect much involvement directly in the Dutch market. Experts share the general opinion is that the Dutch law is relatively superior to many other countries but that the Dutch legislators continue to look for ways to improve the market and thus the regulatory system.

§ 6.3 Influencing regulation

Due to the significant impact regulation has on this market, influencing this process is of great interest for the market actors. From a historical perspective it can be said that the market had a significant influence on regulatory agencies and thus regulation. Today, experts agree that regulation can still be influenced. Most parties have several reasons for why influencing regulation is so important for them and as a result use more resources for this process. When asked about the results of their efforts to influence regulation, most respondents agree that regulatory agencies are unwilling to listen to the market (any longer). There is a lack of trust in the market. A more effective approach seems to be to lobby at the European level. The following sections point out arguments concerning the possibility of influencing regulation:

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<tbody>
<tr>
<td>'Sure you can influence regulation. Regulation stems from proposals and you can influence those.'</td>
<td>‘Yes, but with a market share of 2% we do not have the influence within the NVB, AFM and Ministry of Finance, as do ABN and Rabobank.’</td>
<td>Yes it is possible. Legislators and supervision agencies are open to discussion.</td>
</tr>
<tr>
<td>Hard. Individual organizations are too small to make a difference. You are a part of the market organization that conducts the lobby for their stakeholders.</td>
<td>Experiences from the past have learned that the AFM hardly deviates from their view, hence you should fundamentally disagree with something before creating a fuss about it.</td>
<td>Adjustments to the law are stated in documents containing the process of creating a certain law. Hence, commenting makes absolute sense.</td>
</tr>
<tr>
<td>Influencing regulation is inefficient.</td>
<td>Possible by maintaining contacts.</td>
<td></td>
</tr>
<tr>
<td>It is possible. Regulatory agencies consult the market and through this route, one can influence regulation.</td>
<td>The influence is shown through the prevention of the initiative of the legislator to prohibit provisions in the Netherlands.</td>
<td></td>
</tr>
<tr>
<td>Influencing regulation is done foremost through the NVB, because this organization has the most power.</td>
<td>Trying to influence regulation could create increased resistance at the legislator with the result that they become even more strict.</td>
<td></td>
</tr>
<tr>
<td>It is possible and if we disagree with certain regulation, this process will be enacted.</td>
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<td></td>
</tr>
</tbody>
</table>

The lack in trust makes lobbying more difficult and less effective. The earlier mentioned arguments expressing the importance of understanding regulation and at the same time
being able to keep the negative effects of regulation to a minimum, explains the increased importance of regulation in organizations active in the Dutch mortgage market.

Actors have different motives for influencing regulation. These motives change over time and with it the effects that their efforts have on legislators. Common motives are the inability of regulatory change to create regulation that provides benefits to the market and have a major impact on organizations and their business models. A summary of the statements made is given below:

<table>
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<tr>
<th>Intermediary</th>
<th>Funder</th>
<th>Expert</th>
</tr>
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<tbody>
<tr>
<td>If you do not agree with regulation, make it better, make it more strict.</td>
<td>Put more energy into influencing regulation than ever before. Especially because regulatory agencies make decisions that we do not agree with.</td>
<td>Despite the knowledge of banks of the market, politicians are more interested in community interest.</td>
</tr>
<tr>
<td>You put more effort into influencing regulation, but it is based upon hope. You want to survive and are willing to do whatever it takes.</td>
<td>Lobby to get prejudiced law to fit the organizations shoe.</td>
<td>Market organizations are thinking about how to recover the ‘damage’ created by the AFM.</td>
</tr>
<tr>
<td>Regulatory agencies do not have the same level of knowledge as do market participants. Therefore, new regulations are often not in the best interest of the market.</td>
<td>New punishment policies have lowered the bar for taking a fine to court. This will probably lead to more legal issues with the legislator.</td>
<td>The efficiency changed since the AFM is taking its job more serious.</td>
</tr>
</tbody>
</table>

As can be derived from previous statements, it can be said that organizations are putting more effort into the process of influencing regulation. Arguments below support this statement. However, a one respondent states that their efforts have not increased. This does not mean that they do not find regulation important, but rather that they are already putting a lot of effort into this process. Together with the other arguments in this section, it seems that the efficiency of influencing regulation seems worse than ever before. Nonetheless, the impact is of such magnitude that parties seem at the very least unwilling to let their voice be unheard.

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<tr>
<th>Intermediary</th>
<th>Funder</th>
<th>Expert</th>
</tr>
</thead>
<tbody>
<tr>
<td>Put more energy into</td>
<td>The degree of effort put into</td>
<td>The lobby is not less strong,</td>
</tr>
</tbody>
</table>
the aspect of regulation. Especially because of the wish to develop regulation with the regulator, influencing regulation has not changed. maybe a little, but foremost less influential. This is due to the image problems organizations in the Dutch mortgage market deal with.

| Hiring professional lobbyists, also active at a European level. | You have to intensify this process, especially towards the European Government. |
| 'The so-called lobbying is a lot harder today.' |
| Regulation takes more time and resources today because there is more regulation and to be able to provide qualitative feedback to the AFM. |

Summary:
All respondents share the view that regulation can be influenced but individual efforts are ineffective. Joint efforts are much stronger and parties indicate that they increased the effort into this process. Intermediaries are concentrated through organizations that protect their interests because these parties are too small to make themselves be heard individually. The reasons why these parties try to influence regulation differ. Some see this as a way to ensure their survival in this market and some to improve the market and the value they can offer to their customers. Respondents share the view that influencing regulatory agencies today is a lot harder. Therefore, some focus shifts to the European legislator but only the funders use this route. Experts add that influence should be used to create benefits for consumers and not for actors themselves.

§6.4 The future perspective
Strategic choices are partially made based on perceptions of what the future will look like. Respondents were therefore asked what the least attractive, most attractive and most realistic future will look like.

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<tr>
<th>Intermediary</th>
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<th>Expert</th>
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</thead>
<tbody>
<tr>
<td>No response.</td>
<td>Removal of the HRA.</td>
<td>Governmental cut backs focused on the housing market, especially targeting the HRA. This will enlarge insecurity and eventually damaging the market in 2011.</td>
</tr>
<tr>
<td>Early repayment of top mortgages will create a difficult beginners market, impacting the entire chain.</td>
<td>A delay in the recovery of the market by regulation. For example, the removal of the top mortgage.</td>
<td></td>
</tr>
<tr>
<td>The HRA will disappear. Consequently, the development of products will be very difficult.</td>
<td>Tight regulation of the business model based on earnings will prevent entrepreneurship.</td>
<td></td>
</tr>
</tbody>
</table>
A totally transparent market where competition is solely based on the interest rate. Economic recovery but no recovery in trust which will increase default rates.

A shrinking market volume because of a HRA change or removal.

The worst future mainly hinges on the regulations around the HRA. Changes in this dimension can turn the entire mortgage market upside down. Respondents agree that HRA regulations will change, but when this will take place remains uncertain.

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<tr>
<th>Intermediary</th>
<th>Funder</th>
<th>Expert</th>
</tr>
</thead>
<tbody>
<tr>
<td>No response.</td>
<td>Continuation of HRA rules. This will keep housing affordability high.</td>
<td>Financial advisors with at least HBO education.</td>
</tr>
<tr>
<td>A period of strict regulation will be followed by a period of a less active legislator.</td>
<td>Recovery of the securitization market.</td>
<td>Enduring professional relationships with customers.</td>
</tr>
<tr>
<td>A market on which competition will be based on quality.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A market where the regulator focuses on unwanted actions.</td>
<td>The consumer is an optimist and will reenter the market.</td>
<td>The consumer complains at unions about affordability, putting the pressure at the government.</td>
</tr>
</tbody>
</table>

The best possible future for the Dutch mortgage market contains a variety of aspects where the regulator but also the consumer and the economic climate play a role.

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<th>Intermediary</th>
<th>Funder</th>
<th>Expert</th>
</tr>
</thead>
<tbody>
<tr>
<td>There will be a prohibition of provision. Parties that have foreseen this action will have a competitive advantage over those who didn’t.</td>
<td>‘Next to the internet, the intermediary channel is important to us and we will always use this channel but be more critical.’</td>
<td>‘Products become simpler. Product assortments are cleaned and products become safer because of transparency and simplicity.’</td>
</tr>
<tr>
<td>Funders choose to do nothing and let the intermediary take the hit. This way they shake off the intermediary and might approach customer directly.</td>
<td>Regulation makes the supply of mortgages easier. The amount of mortgages sold through the internet lies at 15% in the UK. The Netherlands only distribute 1% via the internet, indicating that this channel has a future.</td>
<td>‘Funders will regain a part of the mortgage distribution market.’</td>
</tr>
<tr>
<td>‘The internet is also generating revenue. Parties like Ditzo and InShared.’</td>
<td>Products are not so different between funders and every funder will have an adequate trust.</td>
<td>Trust will be regained around 2012 and 2013. This is also the time when foreign parties will enter this market.</td>
</tr>
<tr>
<td>Product for each consumer.</td>
<td>'Products will be simpler.'</td>
<td>Cost reductions through efficiency and product simplicity.</td>
</tr>
<tr>
<td>---------------------------</td>
<td>-----------------------------</td>
<td>----------------------------------------------------------</td>
</tr>
<tr>
<td>Competition on transparency.</td>
<td>The increased simplicity of the products and the reduction in the number of intermediaries active in this market, funder might consider doing the distribution of mortgages themselves.</td>
<td></td>
</tr>
<tr>
<td>Consolidation will lead to less but bigger funders and intermediaries. (F2)</td>
<td>There will be a discussion about payments between the funder and the distributor.</td>
<td></td>
</tr>
<tr>
<td>Products might be altered with changing regulation in mind, or to prevent regulation.</td>
<td>Defy strategies are unlikely by parties who are supported by the government. The intermediary is independent and thus more likely to act defiant.</td>
<td></td>
</tr>
<tr>
<td>'Expect that the market will be more lucrative but entrants need to be solid and not base their business models on securitization.'</td>
<td>'Expect more competition because the ING and ABN were focused more on foreign markets and today are focusing on the Dutch market.'</td>
<td></td>
</tr>
<tr>
<td>'Internet sales are done. They are over. You need to get an advice first before you can buy your product online.'</td>
<td>Entry is based on the development of regulation.</td>
<td></td>
</tr>
</tbody>
</table>

A most realistic future is often based upon assumptions made by looking to the market in the United Kingdom. The Dutch mortgage market is said to follow the UK mortgage market and from this perspective, respondents are fairly optimistic about the future because of where the UK market has developed into. However, they do think that regulation will make products simpler and that there will be less variety in the total assortment of products. The economic climate has reduced the number of players in this market and this trend is expected to continue. Foreign entry is also expected because the Dutch market remains interesting based on the history of low default rates.

Analytical commentary:
The possibilities in the future are hard to predict, but respondents find it easiest to provide a worst case scenario. It seems that they are preparing for the worst and hoping for the best. Eventually they do tend to arrive at a realistic scenario for which less product variety and simpler products are most likely. Organizations are also provided with another competitive force they can use to stand out from the rest. These are; trust, transparency, and winning the consumer but not based on costs but on service.

§6.5 The future put into perspective

Ultimately, these questions need to be put into perspective when trying to provide future insights. This section begins with the strategic reactions that organizations were used to make between 2000 and 2009. Then the focus shifts toward the strategic reactions organizations make today and will likely make in the near future.

6.5.1 Strategy and market sentiment in the past

The following statements indicate what type of strategy was common in this market and why:

<table>
<thead>
<tr>
<th>Intermediary</th>
<th>Funder</th>
<th>Expert</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;Well, I think that the market has been in a state of defiance. That is absolutely the case. Especially the trade organizations.‘’</td>
<td>No response</td>
<td>Following the law but preferably avoiding the law.</td>
</tr>
<tr>
<td>Connected to the OvID but critical because they are trying too much to obstruct the government.</td>
<td>For a long period, the Dutch Association of Insurers, NVB, NVA and NBVA have used a defiance strategy.</td>
<td></td>
</tr>
</tbody>
</table>

Consequently, organizations changed their strategic perception, but some parties did not. This created an unbalance as indicated by a member of the funder panel.

- Accelerated alteration of funding norms, meaning stricter demands for customers wanting to acquire a mortgage. This created a significant competitive disadvantage. This strategic change was mandated by the AFM but some parties were less obedient and could benefit from the time span using an "avoid" strategy.

Referring back to the analytical framework in chapter two, the benefits of an “avoid” strategy became even clearer from arguments from experts and funders.

- Parties tried to achieve a competitive advantage by creating new strategies upon their expectations of new law. But the misperception of the severity of the problems in the market, the law proved to be more strict then these parties had foreseen. Organizations eventually ended up with a competitive disadvantage because the new strategies and products of became unfit by the eventual outcomes of the law.

- Implementing regulation sooner will provide no benefits.
Not anticipating new law and acting on based on your assumptions.

‘Were there is room for deviations from the law, you try to take advantage of it. Especially when considering the low default rate – the percentage of households that cannot pay their mortgage due’s.’

The last argument does not directly imply an “avoid” strategy but does indicate that when altering your strategy at the last moment, organizations can benefit from exploiting the possibilities left open by the legislator.

6.5.2 Strategy and market sentiment in the future

The final topic of the interviews concerned the future of the Dutch mortgage market. Respondents shared insights about the best, worst and most likely future that the Dutch mortgage market could find itself in over the coming five years. Organizations seem to have switched to a compliance strategy as the following statements indicate:

<table>
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<tr>
<th>Intermediary</th>
<th>Funder</th>
<th>Expert</th>
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</thead>
<tbody>
<tr>
<td>‘I’m more into the harmony model. Try to develop together. You indicated this as a peaceful strategy didn’t you? It is also important to do a bit more then what the regulator asks of you.’</td>
<td>Aimed at preventing the AFM investigating your organization.</td>
<td>‘Doing just that what the regulator asks of you is definitely insufficient.’</td>
</tr>
<tr>
<td>Regaining customer trust.</td>
<td>‘Banks are focusing on compliance. They are subjecting to the code of conduct.’</td>
<td></td>
</tr>
<tr>
<td>Creating trust by acting very careful.</td>
<td>Compliance, but when everyone is compliant, and fines keep on coming, defiance is not far away.</td>
<td></td>
</tr>
<tr>
<td>Avoiding is not a popular strategy en neither is finding gaps in new legislation. The image must rise.</td>
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<td></td>
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</tbody>
</table>

Still, strategic change is not seen as a requirement to compete in this market. Other principles of strategy can be used to compete as indicated by all respondents of this research.

- A substantial increase of fines opens up the route for defiant strategies.
- Avoiding is not a popular strategy en neither is finding gaps in new legislation. The image must rise.
- “Avoid” strategies will always exist.
- Compliance, but when everyone is compliant, and fines keep on coming, “defiance” is not far away.
• You do not have to take everything for granted. You have to engage into a healthy discussion to ensure your profits.

Finally, the respondents shared the view concerning the main drivers of future strategy. A focus on customers seems to be unanimously supported but with the notion that regulatory changes were no necessity when looking at the historically low default rates in the Netherlands.

<table>
<thead>
<tr>
<th>Intermediary</th>
<th>Funder</th>
<th>Expert</th>
</tr>
</thead>
<tbody>
<tr>
<td>‘When you put your customers interest first, and you are paid for the services you provide, regulations should pose no imminent threat for your organization.’</td>
<td>Credit risk wise, regulations were unneeded.</td>
<td>‘When looking at what is asked from the financial sector, the answer is returning to the customer driven focus the once embraced before. And with that, being compliant is not enough.’</td>
</tr>
<tr>
<td>Life planning, the offering of a total package of financial services to a customer will be important.</td>
<td>System flexibility.</td>
<td>‘Transition to a focus on a customer driven organization.’</td>
</tr>
<tr>
<td>Time-to-market. Creating a flexible facilitating process might provide a desired unique competitive advantage.</td>
<td></td>
<td>‘Keep on making little adjustments to your business model to comply with regulation is insufficient.’</td>
</tr>
<tr>
<td>Rethinking the entire business model of how you want to be rewarded for your services and products is desired.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Analytical commentary:
The Dutch mortgage market is changing and the general consensus in this research is that current strategies need to be compliant with the law. However, there seems to be no objection to seeking benefits from gaps left open by the government. In this situation, organizations seem to be driven by the image that they are pursuing. The risk of customers not being able to pay their mortgage is seen as low, but caused by faulty products or insufficient information, the damage to their image can be unrepairable. Focusing on the needs of the customers and creating sound products and services is indicated as a prime component of today’s strategy. To do this, legislation has had a much too large impact on current working methods and business models to allow this to be solved by rewriting existing business models. New models need to be developed and implemented to cope with the needs of an on customer focus driven organization.
§6.6 Summary
The five topics addressed in this chapter have been analyzed from three different views. Respondents working at funders, intermediaries and experts share the opinion that before 2007, there was hardly any regulation, and if there was any, the impact was insignificant. This changed when the Dutch government started to intervene in the mortgage market and created new laws, focusing on customer protection. Costs did rise and became significant, however, these costs should still pose no continuity problems for the actors in this market. New business models became needed to comply with new regulation partly because influencing these new regulations is seen as not effective. However, more effort is put into this process because of the impact that it can have on stakeholders. Parties are trying to combine forces to increase their influence but the regulator is not easily persuaded. The future of regulation is therefore very uncertain. What is certain is that organizations need to alter their focus to the needs of the consumer which is partly supported by the realistic future perspective which holds a reduction in the variety of products and a simplification of the remaining products.
Chapter 7: Conclusions and implications

§7.1 Conclusions

Regulation has had and continues to have a noticeable influence on the Dutch mortgage market. All funders expect an extension of current legislation over the coming years. The intermediaries and experts are divided as a result of different interests that they have. New legislation can be initiated by the AFM or by the European legislator. The economic recession gave actors in this market no time to get used to the legislation that has already been introduced and faced them with a situation of an active legislator, a situation the market was not used to. Furthermore, it is necessary to stress that this research focuses on customer protection and therefore the specific area of HRA falls beyond the scope of this research although respondents indicate its significance to this market. The following section will address the strategic actions for funders and intermediaries.

This research is created to answer the following problem statement: ‘What impacts could future regulation changes have on Dutch mortgage funders and intermediaries and what strategic actions should they take in preparation.’ The conclusions presented in this chapter are based on the results from the interviews described in chapter six. From the gathered data, commonly shared opinions by the respondents have been gathered. On occasion, results are categorized by respondent origination. To describe the impact of regulation on the funders and intermediaries, the Five Forces model by Porter has been utilized.

7.1.1 Market scenarios

Resulting from the data, four distinct scenarios have come forth. These four scenarios, displayed in figure 14, consist of two main factors that influence the future of the Dutch mortgage market; regulation and the economic perspective. Regulation is the main topic of this thesis and the economic perspective has been identified during the interviews as a determinant for future mortgage market developments.

![Figure 14 Market scenario's](image-url)
Data in chapter six showed that most respondents expect more regulation. Therefore, scenarios A and B are excluded. Scenarios C and D remain relevant since they are both based upon a more regulated mortgage market future.

7.1.2 Impact of future regulation changes on Dutch mortgage funders and intermediaries

This section focuses on the conclusions that can be drawn based on the outcomes of the interviews. These findings relate to the Five Forces model and specifically to the ‘threat of entry’ and ‘industry rivalry’ within scenarios C and D of figure 14.

Threat of entry

1. As more regulation is imposed on the Dutch mortgage market, funding will become more difficult.

Respondents indicated that especially for the funders new Basel guidelines may become stricter decreasing funding possibilities for funders. This argument is strengthened by the fact that a Basel committee is still active.

2. As more regulation is imposed on the Dutch mortgage market, fewer organizations will be active in this market.

An increase of regulatory burden creates the need for new business models. Not all organizations have been able to adjust their practices to these new needs in time. Therefore, the number of organizations active in this market decreased and will continue to decrease as more regulation is imposed on the Dutch mortgage market.

3. As more regulation is imposed on the Dutch mortgage market, costs will increase.

Regulation increases costs pressure in various ways. An increase in compliance costs is commonly noted. Furthermore, BGFO created a huge costs pressure by demanding additional activities during the process of selling mortgages. Another cost increase stems from fines that actors can receive when the supervisory agencies checks their activities. Not only is the likelihood of a fine significant, the amount is expected to increase tremendously. Lastly, an increase in costs occurs because actors need to pay for the increased activity of supervisory agencies.

4. As more regulation is imposed on the Dutch mortgage market, entry will decrease.

Regulation creates barriers to entry for both domestic as foreign entrants. Entrepreneurship will diminish because of increased regulation pressure and required knowledge. Foreign entrants lack knowledge in this market that acts as a barrier to entry.
5. As more regulation is imposed on the Dutch mortgage market, use of internet as a distribution channel will decrease.

Regulation does, in the form of BGFO, demand more interaction between the buyer and the seller of a mortgage. In the future this might even increase forming a serious threat to the internet as a distribution channel. The internet has limited possibilities to fully incorporate all requirements made by the legislator.

**Industry rivalry**

1. As more regulation is imposed on the Dutch mortgage market, products will become simpler.

The data indicates that regulation will decrease product complexity. The legislator wants to simplify products in order to create consumer trust and prevent misconceptions about the product in the market.

2. As more regulation is imposed on the Dutch mortgage market, products will become more transparent.

Similar to the notion that future products will become simpler, products will also become more transparent. Efforts of the legislator to improve the trust in this market lead them to include transparency in BGFO. It is expected that this trend will continue and form even more transparent products in the future.

3. As more regulation is imposed on the Dutch mortgage market, business models will change (provision).

Future regulation greatly impacts the business models if, for example, provision is prohibited. New business models will then arise, which is already the case according to the intermediaries interviewed in this research. This development is expected to increase and impact currently existing models greatly and making adjustments to existing models will not be sufficient. These new regulations ask for newly developed business models.

4. As more regulation is imposed on the Dutch mortgage market, strategic freedom will be limited.

After having created strategy largely free from any restrictions over the last years, regulation today is defining a framework where strategy needs to fit in. Strategy in the past focused on risk and with it the default rate, being customers not able to repay their debts. This aspect still remains important because the default rates during the recession remained low and
manageable. But new laws put pressure on organizations and need to be taken into consideration in today’s strategic decisions.

5. As more regulation is imposed on the Dutch mortgage market, costs will decrease.

Costs stem from products and thus only applicable to funders. Their costs will decrease if and when product complexity as well as product variety decreases. The benefits are partly based upon improved economies of scale. Similar amounts of mortgages will be distributed through a less broad product range.

7.1.3 Impact of economic developments on the Dutch mortgage market

Respondents indicated that economic developments influence the eventual future of this industry. Therefore, two specific conclusions are elaborated upon in this section.

1. Economic developments can positively or negatively influence the diversity of actors.

Funders and intermediaries are the biggest actors in the Dutch mortgage market. Funders are large organizations with enough funds to cope with a setback. Intermediaries do not possess this advantage. During the recession, intermediaries suffered more and funders take advantage and capture a part of the distribution channel at the expense of the intermediaries. Also due to the lack of funding during a recession, the pressure on the labels can further increase, creating an even less diversified market. Less players means more focus on the most attractive and dominant segments. Being in a flourishing economy, funding is easier and creates new possibilities for organizations to either enter new markets or increase their market shares. This will likely enhance the diversity of actors.

2. Economic developments can positively or negatively influence the number of actors.

During the recession, many intermediaries were forced to leave this market partly because of the diminishing demand for mortgages. Also the labels created by the funders suffered. The lack of funding vanished most of them from the Dutch mortgage market. During a recession, respondents expect the market to consolidate, negatively influencing the number of actors. The past has shown that in a thriving economy, the opposite occurs. Labels that are now leaving this market were originally created to increase the market shares of the funders and fully utilize the funding possibilities.

7.1.4 What strategic actions should funders and intermediaries take in preparation of new regulation?

Respondents have generally commented that two aspects are key in the situation the market finds itself in. The first is to acknowledge an active legislator that is very hard to influence. This means that the “acquiesce” strategy needs to be followed, also called a “comply” strategy.
Other strategies like “avoid” or “defiance” are indicated as irrational or impossible by the respondents. Especially because trust is lacking at the consumers and avoiding the law can create a huge negative effect. “Defiance” is mentioned as possible, or justifiable, when looking at the cost aspect of regulation. However it is unwanted because the AFM can punish actors in the mortgage market with fines when the law is not obeyed. Any resulting struggle with the legislator will damage the image of the organization, no matter who is right. A “defiance” seems to be an emergency action that is more likely during an economic recession when costs are of the essence. Returning to the “comply” strategy that is recommended, arguments are based upon the lack of understanding of market actors how legislators want them to act. To prevent image problems and fines and creating trust, compliance seems provide the necessary tools for both intermediaries and funders.

The second aspect is the focus of organizations in this market. Respondents indicate that strategies need to be consumer driven. Intermediaries are likely to be prohibited of using provision based models and therefore need to alter their strategies. Funders also need to focus on consumer driven strategy. To provide the best services possible to their customers, funders need to focus on what is best for their customers and communicate this to these customers. Respondents indicate that this is a difficult task but hardly impossible because this strategy has been their core strategy once before.

§7.2 Recommendations

Chapter six already recognized that organizations are preparing for the worst and hoping for the best. This strategy seems very viable concerning the uncertainty of today’s market. Forming strategy based upon assumptions of how future laws will look like seems unrewarding because of the discrepancy between the legislators point of view and the actors point of view regarding regulation. A consumer based strategy seems most rewarding as could be seen in recent times. Parties that benefitted the most were not the ones that had the lowest interest rate but had a good images and products. When addressing the internet, this distribution channel is worthwhile investing in since costs will be relatively low and potential outcome high. Especially when considering the fact that this distribution channel currently produces an estimate of 1% of the total Dutch mortgage market an in the UK internet mortgage distribution lies at around 15%.

In addition, intermediaries need to become more transparent as quickly as possible and make an effort to inform the consumers that financial advice is not for free. This transparency must be created together with the funders because only then the price of a mortgage can be fully transparent.

Hypsotech can build on the information created in this thesis and investigate the possible impact of HRA. Other interesting research can be conducted to shed light on the possible
new situation of the mortgage market, being a consolidated market with fewer actors, and the impact it has on customers. The main question will then address whether regulation has been beneficial to customers.

§7.3 Limitations
Arguments presented in this research could be stronger when the legislators point of view could be included in the respondent sample. As this could unfortunately not be the case for this research, future research could include this view to create a more biased view from all possible angles. Another limitation comes from the uncertainty in the market. Because of this, many parties are overly cautious and might express themselves differently then otherwise could be the case. This weakens the power of their arguments. Although the interviews were held shortly after one another, the Dutch mortgage market was such a vibrant topic in that each day developments in the market influenced the arguments made by the respondents.
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## Legislation in the Dutch mortgage market

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<td></td>
</tr>
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