

the report of the

evaluation committee nationalization sns real

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1 the central question and the design of the research

This introductory chapter describes the assignment, the central research question and the approach of the evaluation study on the nationalization of SNS Reaal.

The significance of SNS

Reaal On 1 February 2013, the Minister of Finance informed the House of Representatives about the nationalization of SNS Reaal, which he had carried out earlier that day on the basis of the Intervention Act. The Minister of Finance had taken this decision in agreement with the Prime Minister and in close consultation with De Nederlandsche Bank.¹

SNS Reaal NV is the holding company of SNS Bank and the insurance holding company Reaal. At the time of nationalisation, SNS Bank had a consolidated balance sheet total of approximately EUR 80 billion, including approximately EUR 8.5 billion in financing and participations in real estate.

SNS Bank and its subsidiaries manage approximately one million current accounts and more than 1.6 million savings accounts, with a combined balance of €36.4 billion. This makes SNS Bank the fourth largest bank in the Netherlands. At the time of nationalisation, Reaal Insurance had a consolidated balance sheet total of approximately EUR 54 billion. Reaal's subsidiaries have a total of more than 7.5 million policies. The technical provisions for this amount to more than 41 billion euros.

De Nederlandsche Bank and the Minister of Finance consider SNS Bank to be a systemically important institution.

The assignment and the central research

question The nationalization of SNS Reaal took place on the basis of the Intervention Act. This law entered into force on 13 June 2012. The official name is the Financial Undertakings Special Measures Act. The Intervention Act was applied for the first time with the nationalization of SNS Reaal. Shortly after the nationalization, the Minister of Finance indicated that an evaluation would be appropriate, because of this first application, which he called a "far-reaching"

experience.² On 5 March 2013, the Minister of Finance informed the Lower House of his intention to have 'a thorough evaluation of the role of my ministry in the process leading up to the nationalization and the nationalization itself' carried out.³ In this letter, the Minister of Finance stated that the Supervisory Board of De Nederlandsche Bank attaches great importance to 'an evaluation of the intervention being carried out at De Nederlandsche Bank'.

The Supervisory Board of De Nederlandsche Bank and the Minister of Finance have jointly commissioned this evaluation to be carried out by independent third parties.

The central research question – as the minister informed the House of Representatives – boils down to whether De Nederlandsche Bank and the Ministry of Finance have acted in a timely and sufficient manner with regard to SNS Reaal. The cooperation between De Nederlandsche Bank and the Ministry of Finance is also the subject of research.

The Supervisory Board of De Nederlandsche Bank has added an elaboration in sub-questions to the central research question. This also applies to the Minister of Finance, who has submitted similar sub-questions to the SNS Reaal Nationalization Evaluation Committee (hereafter: the Evaluation Committee). The Evaluation Committee was instructed to include different time periods in its investigation, starting with the preparation and granting of the declaration of no objection by De Nederlandsche Bank for the purchase of Bouwfonds Property Finance BV on October 19, 2006. The investigation period ends on February 1, 2013. The investigation also includes the application of the Intervention Act on that date. It should be noted that the Ministry of Finance is also conducting a general evaluation of the Intervention Act in consultation with De Nederlandsche

Expansion of the investigation

assignment The Minister of Finance has asked the Evaluation Committee to also devote attention to the integrity of SNS Reaal's actions. He did this at the request of the Standing Committee on Finance of the House of Representatives and also on behalf of the Supervisory Board of De Nederlandsche Bank. The question was: did SNS Reaal pay sufficient attention to integrity issues when acquiring Property Finance and did SNS Reaal take the signals about possible abuses at Bouwfonds seriously? A second request was to also look at risk management within SNS Reaal. How was it

organised, how did it function and did De Nederlandsche Bank adequately supervise risk management?

The full research assignment and the institution decision are included in Appendix 1.

The approach The Evaluation Committee has obtained all relevant information relating to the central research question from both De Nederlandsche Bank and the Ministry of Finance. The Evaluation Committee had to take into account that certain information was business-responsible and confidential supervisory information. Insofar as relevant to its investigation into supervision, the Evaluation Committee also had information from SNS Reaal at its disposal.

The Evaluation Committee has been given access by SNS Reaal to all reports of the Executive Board, the Supervisory Board and the Audit Committee, insofar as these reports relate to the investigation period. The Evaluation Committee has also been given access to all reports of conversations that representatives of SNS Reaal had with De Nederlandsche Bank, the Ministry of Finance and other parties involved in the years 2012 and 2013.

In addition, the Evaluation Committee held talks with over sixty people. These included (former) board members and (former) employees of De Nederlandsche Bank and (former) civil servants of the Ministry of Finance. There were also discussions with the Ministers of Finance from the period between 2006 and 2013. The Evaluation Committee spoke with chairmen of the boards of directors of ABN Amro and ING and a member of the Executive Board of Rabobank, with (former) members of the Executive Board and (former) employees of SNS Reaal, and with (former) members of the Supervisory Board of SNS Reaal. Finally, the Evaluation Committee spoke with the external auditor of SNS Reaal, with employees of Cushman & Wakefield, Allen & Overy, the European Commission and CVC Capital Partners.

Some of these conversations were exploratory and informal in nature. In most cases these were followed up in a formal conversation. All conversations were conducted on a confidential basis. Reports were made of the formal discussions and submitted to the discussion partners for additions and improvements. All reports are authorized.

Appendix 8 includes an account of the use of the information obtained in more detail. Perhaps unnecessarily, the Evaluation Committee points out that the evaluation relates to policy questions, such as the question of whether SNS Reaal's problems could have been solved better by standards of professionalism. It is worth pointing out that such standards are not the same as those which a judge would apply if he were called upon to judge the same act. This means that the opinions of the Evaluation Committee are not contained in legal terms and cannot be translated into them.

The Evaluation Committee has submitted the texts of the chapters to the Supervisory Board of De Nederlandsche Bank and the Minister of Finance for a hearing. The chapter containing the conclusions and recommendations has not been submitted to the clients. The factual text parts relating to SNS Reaal have been submitted to SNS Reaal for factual comment. After receiving factual comments, the Evaluation Committee formulated its conclusions and recommendations.

2 sns real in motion:

IPO and acquisitions; May 18, 2006 –

November 12, 2008

2.1 The history

SNS Reaal is a financial conglomerate, the product of a lengthy merger process. Since 1997, SNS Reaal has consisted of the SNS Group (Cooperating Dutch Savings Banks) and the Reaal Group. Both groups, in turn, are also the result of mergers.

SNS

Group The SNS Group has its origins in the early years of the twentieth century, when the first savings banks were established at a local level. They usually had more social than commercial objectives. Particularly from the 1960s, the cooperation between these separate local and regional banks became increasingly close. The SNS Group was created in 1987 as a logical follow-up to this development. A number of closely linked local and regional banks decided to continue together. De Nederlandsche Bank encouraged the merger of these banks, said former chairman of the Supervisory Board Dr JL (Joop) Bouma in his conversation with the Evaluation Committee. A process called 'beading' (adding bank after bank to the whole).

Reaal

Group The Reaal Group evolved from De Centrale (1904) and Concordia (1907). De Centrale (in full De Centrale Arbeidersverzekerings- en Depositobank) was originally an insurance company that spent its profits on 'legally, politically or culturally empowering the working class'. The Hollandse Koopmansbank and the Algemene Spaarbank voor Nederland (ASN) were also part of De Centrale. De Centrale acted as the 'patron of the red family'. Her profit distributions flowed in the form of small and large donations, or interest-free and mortgage loans to numerous organizations and associations.

The Cooperative Life Insurance Company Concordia was an institution of, successively, the Union of Roman Catholic Workers' Associations

associations, the Catholic Workers' Movement and the Dutch Catholic Trade Union (NKV). De Centrale was closely affiliated with the social democratic trade unions and later the Dutch Association of Trade Unions (NVV). From 1936, De Centrale had its head office on the site where the Ministry of Education, Culture and Science is now located. Right opposite New Babylon, a real estate project with which SNS Reaal had to contend.

After the merger of the two largest Dutch trade union federations, NVV and NKV, to form the FNV, De Centrale and Concordia merged into the Reaal Group in 1990.¹

2.2 The IPO in 2006

After 2001, SNS Reaal spread its wings. New members of the Executive Board were ambitious and focused on expansion. For example, the new chairman Mr. S. (Sjoerd) van Keulen and the new financial man in the Executive Board, Mr. RR (Ronald) Latenstein van Voorst. Van Keulen and Latenstein were appointed as CEO and CFO respectively with effect from November 12, 2002. They derived their motives from the instructions they received from the Supervisory Board when they took office, according to Van Keulen in his conversation with the Evaluation Committee.

According to Van Keulen, he was given an ambitious assignment:

'The assignment was: to give SNS Reaal a new impetus. People had relatively little self-confidence and ambition. SNS Reaal consisted of more or less independent units. The Supervisory Board's task was to achieve unity of policy. A strategy was then developed to become "the favorite retailer" in the Netherlands. That was possible because the major banks and insurers are getting bigger, unwieldy and more bureaucratic became.'

The year 2006 is the starting point of the evaluation committee's investigation. A special year for SNS Reaal. On 18 May 2006, SNS Reaal shares were listed on the Euronext stock exchange in Amsterdam.² The prospectus described the purpose of the IPO as follows: 'The Company intends to

use the net proceeds from the Offering of the New Shares entirely for general corporate purposes to sustain growth and capture new growth opportunities, both organically and through selected acquisitions'.³

In the words of Van Keulen in his conversation with the Evaluation Committee:

'After a number of years, it was concluded that SNS Reaal was actually too small. It was assumed that the supervisors were of the same opinion. Subsequently, a growth strategy was chosen to acquire a leading position in core products such as mortgages, savings and life insurance. Not only in terms of quality, but also in terms of market share. Other activities, such as private banking, were discontinued. The financial objectives were aligned accordingly; the target was an annual growth of ten percent in net profit and a return on equity of 12.5 percent. During that time insurance Zurich was taken over. That was a test for taking over another company and integrating that company into our own organisation'.

SNS Reaal flourished like never before. In the year that Van Keulen took office, net profit amounted to 85 million euros. In the second year (2003) this was approximately 240 million euros. The following year it was more than 280 million euros. Gradually it became clear where the opportunities lay, also with regard to the segmentation and the type of customers. In 2005 (with a net profit of approximately EUR 330 million), the Executive Board came to the conclusion that SNS Reaal had insufficient capital to further shape its growth strategy, especially in the direction of insurers. At that time there were about 300 insurers and everyone was talking about consolidation. The Executive Board discussed this with the Supervisory Board and it was ultimately decided to prepare for an IPO. Stichting Beheer SNS Reaal, which owned all SNS Reaal shares, endorsed this choice. 35 percent of the shares would be placed on the stock exchange.

In 2006 the balance sheet total was just under eighty billion euros. The net profit for 2006 was 371 million euros. An increase of fifty percent compared to 2003. And compared to 2005 an increase of almost fifteen percent. The average number of employees was 5,609 (in FTE). In the banking section of SNS Reaal this was 3,400. In doing so, SNS Reaal amply outperformed the other major banks. At that time, 43,000 employees at Rabo were covered by the Collective Labor Agreement for the banking sector, at ING more than 20,000 and at ABN Amro 24,000.4

Listed on the stock

exchange The introduction price of the shares was seventeen euros. The IPO will yield a total of 1,368 million euros. According to SNS Reaal's annual report, that proceeds were 'used for general corporate purposes for 416 million euros.

purposes and the financing of acquisitions'. The remaining 952 million euros went to Stichting Beheer SNS Reaal. Stichting Beheer SNS Reaal, incidentally, remained a shareholder of almost two-thirds of the shares. The foundation is the continuation of the social involvement of both the original local and regional savings banks and the support of related organizations and associations by De Centrale and Concordia.

These activities were also bundled through successive mergers. The share price of SNS Reaal developed relatively stable in 2006 and fluctuated in a range from just above 15 euros to just above 18 euros.

Extensive capital position for SNS Reaal

Partly thanks to the flotation in 2006, SNS Reaal had an ample capital position. The company focused on growth and diversification of income. The insurance side in particular should bring external growth. The insurance sector at that time was more fragmented than the banking sector. It had already made considerable consolidation efforts with the merger between ABN and Amro to form ABN Amro, the merger of NMB and Postbank, followed later by a merger with Nationale Nederlanden to eventually yield ING, and the creation of the Dutch-Belgian For consists of, among others, VSB, Generale Bank Nederland and ASR (which in turn is itself a merger product of Amev and the City of Rotterdam).

Ambitions to expand

SNS Reaal continued with the strategy of 'stringing beads' – acquiring and integrating smaller players. This met with sympathy from De Nederlandsche Bank, the regulator, which, in addition to scaling up on the insurance side, also wanted to see diversification on the banking side. Lending by SNS Bank was highly concentrated on mortgages. Traditionally, SNS Reaal's resources came largely from savings, but the company increasingly used wholesale financing, in line with the banking sector as a whole. Although acquisitions in the field of insurance were therefore the most obvious choice, SNS Bank was also interested in expanding its banking activities. According to Latenstein in his conversation with the Evaluation Committee, there was soon a desire 'to broaden the bank, which was mainly a mortgage bank and originally a savings bank, in order to diversify the income. In the period between 2002 and 2006, the insurer made a number of small acquisitions based on the idea that the defiscalisation of insurance products would take further shape in the future and that the market was highly fragmented.' Between 2002 and 2006, NHL (part of Ergo Versicherung) and part of

Zurich Netherlands acquired. These smaller acquisitions could be paid for from equity. For larger acquisitions, external capital had to be raised.

The Executive Board in

2006 During the IPO, the Executive Board of SNS Reaal consisted of four persons. drs. S. (Sjoerd) van Keulen (1946) was chairman of the Executive Board. He held this position from 2002. He stated his mission in the 2006 annual report as follows: 'At SNS Reaal we are building something unique: a retail formula [delivery of services and products to private individuals] in the financial world. We distinguish ourselves through innovation and entrepreneurship on the one hand and accessibility on the other.'

He was assisted in this by CH (Cor) van den Bos RA (1952), the chairman of the Board of Directors of Reaal Verzekeringen. He has been a member of the board of directors since 2001. His challenge: 'The art is to grow strongly and still remain fast, innovative and fresh. Because decisiveness is an important explanation for our success.'

mr. MWJ (Rien) Hinssen (1956) was at that time the longest serving member of the Executive Board. He was also chairman of the board of SNS Bank. He saw plenty of opportunities for SNS Reaal: 'We are gradually becoming part of the big boys. But we remain the challenger. We are the attacker, who wants to help the customer just a little faster and smarter than the competition'.

The youngest member of the Executive Board was RR (Ronald) Latenstein van Voorst (1964). He has served as Chief Financial Officer on the Board of Directors since 2002. He too believed in opportunities for SNS Reaal: 'In the Randstad, where some nine million people live, we have only just come to look. We see there that the consumer really needs an alternative to the big banks. Moreover, we can still grow in wealth accumulation and property financing.'

Banking and insurance activities of SNS Reaal at the end of 2006

Company sub part	Brand	Product groups	Customers	Distribution Channels
SNS Bank	SNS Bank	Mortgages, savings, investments, payments, insurance brokerage, business credit	Retail, SME	offices, internet, intermediary telephone
	SNS Property Finance	Real estate financing (investments, projects, participations, structured financing, real estate lease)	Companies, professional investors, project developers, housing cooperatives	Offices
	BLG Mortgages	Mortgages	Retail, SME	Intermediary, distribution partners
	ASN Bank	Saving, investing	Retail	internet
	CVB Bank	Mortgages, savings, investments	Retail, SME	Intermediary (franchise offices)
	SNS Securities	Securities Research, institutional brokerage, corporate finance, asset management and liquidity provision	Institutional (international), wealthy individual	Account management
	SNS Fund coach	Mutual funds supermarket	retail	internet
	SNS Insurance	Insurance, pensions	SMEs	Offices, field service
Real Insurances	Real Insurances	Life individually, life collectively, damage, disability	Retail, SME, large company	Intermediary, powers of attorney, distribution partners
	Proteq	Property insurance, funeral insurance	retail	internet, phone, alliances
	Route Mobile Roadside Assistance Insurance	Retail	Retail	Internet, phone
SNS Asset Management	SNS Asset Management	Asset management, sustainable research invest	Internal	Account management

2.3 The purchase of Property Finance and the role of De Nederlandsche Bank in this

The year 2006 would prove to be the last year before the credit crisis erupted in the summer of 2007. Although there had been signs of doom before 2006, the financial world was still brimming with timism and boundless ambition. That optimism was expressed, for example, in ever-expanding lending and, as a result, growing bank balance sheets.

Perhaps the most visible phenomenon of this was the development in the housing market. Not only the prices, but also the number of transactions reached a peak there. The banks, in turn, largely financed the associated mortgage provision by borrowing from other financial institutions.

At a bank such as SNS, savings traditionally stood against lending. But now the dependence on so-called wholesale financing has increased sharply. As a result, banks also became increasingly dependent on the international capital markets. The cessation of part of those international capital markets for banks (the so-called interbank market) in the summer of 2007 would prove to be the beginning of the credit crisis. A by-product of the seemingly inexhaustible supply of credit was a hunt for yield. Stock prices seemed to reach to the sky. And the market continued to demand growth. This translated into targets of more than ten percent annual growth in earnings per share.

Hunting for profit: institutions take a lot of risks A

popular method to achieve this was to work with as little equity as possible and therefore as much as possible with borrowed capital. The use of double leverage could also help boost returns. Building up the buffers, which would prove so necessary in the years after 2006, was therefore discouraged. Acquisitions deemed lucrative were another way to boost returns. It was eat or be eaten, or so the idea was. A particular example of this was the acquisition of ABN Amro in 2007 by the consortium of Royal Bank of Scotland, Fortis and Santander. They paid a record amount for this acquisition. Nevertheless, the first dark clouds were already visible in the United States in 2006. The rise in house prices there had already come to a standstill in 2005 and the quality of mortgage loans in particular deteriorated rapidly. It was the harbinger of even more trouble in the US commercial real estate sector. The banks took over in 2006

increasingly greater risks worldwide with less and less own capital. The balance between return and risk became increasingly disturbed.

Regulators worldwide insufficient insight The

supervisors had only limited insight into this. Until 2009, external supervision focused strongly on the microprudential: the financial health of an individual institution. Issues that transcended the level of an individual institution remained underexposed. For example, the size and quality of total lending and the price levels of assets such as house prices. All reports that have appeared on the credit crisis acknowledge that macroprudential supervision, also known as systemic supervision, has failed and in fact barely existed. This also applied to the Netherlands: in the Financial Supervision Act, and also in the explanatory memorandum to that Act, macroprudential supervision is hardly mentioned.

In the Netherlands, De Nederlandsche Bank was and is charged with systemic supervision of the financial system. In *DNB's Supervision Vision 2006-2010*, little attention was paid to system supervision as part of supervision. Since 2004, De Nederlandsche Bank has had a separate Financial Stability division. This is concerned with the analysis and assessment of systemic risks and the proposal of measures. As a result of the events surrounding the credit crisis, this division has had a separate macroprudential analysis department since 1 January 2010. In the years up to 2009, De Nederlandsche Bank did indeed point out macroprudential risks. This mainly concerned the consequences of macroeconomic imbalances such as balance of payments imbalances, government debt, low interest rates and the risks of rising asset prices. In 2004 and 2005, De Nederlandsche Bank had expressed its concerns to the International Monetary Fund (IMF) about the US housing market.

The purchase of Bouwfonds Property Finance: the strategy The year

2006 was also a year of acquisitions for SNS Reaal. In June 2006, the acquisition of Route Mobiel was completed. The Supervisory Board heard about it afterwards.⁵ 'It happened very quickly,' said the Executive Board in a meeting of the Supervisory Board. This was followed by the acquisition of Bouwfonds Property Finance and the acquisition of Regio Bank.

In this way we 'strengthen the basis for future growth and spread our sources of income', was the prediction of the Executive Board.⁶ After all, Bouwfonds Property Finance was 'one of the major players in the Netherlands in the field of real estate financing and a financial healthy and

internationally operating company'. The acquisition of Bouwfonds Property Finance initially had a price tag of approximately one billion euros.

But did the acquisition fit in with SNS Reaal's strategic priorities? And what were the strategic priorities? The 2006 annual report states that SNS Reaal determined its strategic priorities on the basis of its strengths and weaknesses. Strengths included the focus on the Netherlands, operational efficiency, innovation, distribution and a moderate risk profile. The weak points included the dependence on mortgages and life insurance, the (limited) scale, the weaker brand awareness and the limited income synergy between bank and insurer.

SNS Reaal's strategic priorities The three

strategic priorities were: structural value development, focus on retail and SME clients in the Netherlands and structural growth. The annual report explicitly mentions Property Finance as the second strategic priority.

With the acquisition – as was stated afterwards – 'the strategic focus on our core products had been broadened to include products for real estate financing. This has increased the visibility and credibility in the SME market'. The annual report also emphasized the strength of the focus on the Netherlands: 'SNS Reaal focuses its financial resources and management attention on the Dutch market. In addition, we develop limited real estate financing activities abroad in order to serve our Dutch clients there as well.'⁷

In his conversation with the Evaluation Committee, Latenstein pointed out that 'the Dutch mortgage market was quite saturated. The margins realized on mortgages, especially on new mortgages, but also on refinancing, declined or were even negative. This created the need for other sources of income. One of the options was to possibly expand the smaller activities, including an existing real estate financing portfolio of SNS Reaal, as the margins on these were considerably higher.'

SNS Reaal presented its strategy in the prospectus accompanying the IPO.

The wording used left a lot of room for acquisitions such as that of Property Finance. In a later review, the Chief Financial and Risk Officer (CFRO), Mr F. (FERENCE) Lamp, who took office in 2009, concluded that, strictly speaking, the acquisition of Property Finance was not in conflict with

the strategy formulated in the IPO prospectus. Further on in the prospectus, there was a summary of the most important product groups.

Namely: mortgages, life and non-life insurance and savings and investments with a focus on the Netherlands. Bouwfonds Property Finance had clients who did not fall under retail plus and some of them were not established in the Netherlands.⁸

In presentations prior to the IPO, the emphasis was on 'the expected further consolidation of the Dutch insurance sector'. SNS Reaal had bought Zurich Nederland from Zurich Financial in 2003 and Nieuwe Hollandsche Lloyd (non-life and life insurance) in 2005. Both insurers were merged into Reaal. SNS Reaal sought synergy with these acquisitions and thus cost savings. Internally, SNS Reaal assumed that the proceeds from the IPO would benefit the non-organic growth of the insurance business.⁹

Before the acquisition of Bouwfonds Property

Finance The first meeting of the Board of Directors in 2006 was on 9 January. On the agenda was SNS Reaal's interest in parts of Bouwfonds.

In 2005, ABN Amro decided to put its real estate subsidiary Bouwfonds up for sale. Bouwfonds was not ABN Amro's core activity and required relatively much management attention. Moreover, ABN Amro was able to use the proceeds from the sale of Bouwfonds to create shareholder value.¹⁰

The parts of Bouwfonds

Bouwfonds consisted of various parts. Property Finance was involved in investment financing and project financing of commercial real estate (homes, shops, offices). Investment financing was mainly a Dutch activity. Project financing largely took place abroad. SNS Reaal already had a commercial real estate company of its own. As a result, SNS Reaal had experience with investment financing, but that was hardly the case with the riskier financing of projects. SNS Reaal hardly had any international activities; the company focused almost all of its activities on the Dutch market. This also applied to the company's existing property finance branch. Property Finance's project financing largely concerned projects abroad, often involving a Dutch client.

SNS Reaal's interest in Bouwfonds SNS

Reaal had informed ABN Amro that there was interest in acquiring parts of Bouwfonds, namely asset management and property financing. Perhaps with a third party, the project financing arm. The latter was understandable. SNS Reaal did have experience with real estate investments, but – as mentioned earlier – not with the financing of projects yet to be developed. Hinssen raised questions in the Executive Board. He pointed to the reasons for the sale that ABN Amro put forward. In addition to focusing on core activities, that was reputational risk. Hinssen wanted to investigate 'whether this is still going on and what exactly is meant by that'. A few weeks later he came back to this: 'Mr Hinssen said that Bouwfonds is looking for a party that can support international ambitions in the field of real estate. The question here is whether SNS Reaal is the right partner here.'

Initially, ABN Amro wanted to sell Bouwfonds in its entirety.

Rabobank, the other candidate, was not interested in Property Finance, but was interested in other parts of Bouwfonds. Because ABN Amro wanted to get rid of Property Finance, SNS Reaal came back into the picture. SNS Reaal made a non-binding offer that was accepted. Rabobank was not interested in this part of Bouwfonds, primarily because of the overlap between Property Finance and FGH Vastgoedbank, which is part of Rabobank, said Dr A. (Bert) Bruggink in his interview with the Evaluation Committee.

But also because of the quality 'which was found to be completely substandard'.

On 18 March 2006, the Executive Board of SNS Reaal signed the expression of intent.

However, SNS Reaal withdrew its interest at the beginning of May 2006 and did not participate in the purchase of parts of Bouwfonds. The board of directors adopted a wait-and-see attitude. But that changed after the IPO.

ABN Amro took the initiative and gauged SNS Reaal's interest in Bouwfonds, which was to be sold in parts. Interest in Property Finance revived.

Possible offer for Bouwfonds Property

Finance On 6 July 2006, SNS Reaal made a non-binding offer for the shares of Bouwfonds Property Finance. The offer amounted to one billion euros. A few days later, on 10 July 2006, the SNS Reaal team that was going to prepare a binding offer was almost complete. At the management and

about fifty people were involved in expert discussions. On 26 July 2006, Van Keulen and Hinssen informed De Nederlandsche Bank that SNS Reaal was planning to purchase Property Finance. The talks with ABN Amro about the takeover had 'accelerated'. The director of supervision of De Nederlandsche Bank, Professor Dr. A. Schilder RA, foresaw 'no reason [...] to withhold a DNO [declaration of no objection], we may impose conditions'. In the same conversation, SNS Reaal was asked to indicate with the DNO application what measures would be taken for control and internal risk management.

Doubts about the 'strategic

fit' On 28 July 2006, the members of the Supervisory Board met with the Executive Board. The report of this meeting mentions – critical – questions about the 'strategic fit' of Property Finance in SNS Reaal. The Executive Board responded as follows: 'The acquisition of BPF [Bouwfonds Property Finance] contributes to the diversification of SNS Reaal's income streams. Moreover, it fits in well with SNS Bank's business activities. There is, however, a shift from *residential lending to commercial estate lending*. SNS Reaal will immediately become the market leader in this field.' And indeed the acquisition would lead to diversification of sources of income, but not to diversification of risks.

Property Finance's assets would make up about seventeen percent of SNS Reaal's balance sheet.¹¹ The company thus took on a considerable concentration risk. Moreover, SNS Reaal was already involved in the risks of the real estate market due to its large mortgage portfolio. The Executive Board wondered whether SNS Reaal's traditionally moderate risk profile would shift. It was a choice that was largely prompted by tightening margins in the mortgage market – a market that was so important to SNS Reaal.

The Supervisory Board sets conditions

For the chairman of the board of directors, the acquisition was apparently a foregone conclusion at that time. On July 31, 2006, he announced his intention to purchase. This would happen on the occasion of the publication of ABN Amro's semi-annual figures. During the meeting, the Supervisory Board did set a number of conditions for the purchase. Firstly, the due diligence obviously had to have a favorable outcome.

This is the investigation into the correctness of the information that the seller has provided to the buyer, and into the risks and opportunities of the company. The second condition was that rating agencies' no consequences

tie the deal'. The Supervisory Board also set the condition that the management of Bouwfonds Property Finance would make the switch to SNS Reaal. The Executive Board informed the Supervisory Board that the management seemed to be a good fit within SNS Reaal in terms of culture. There was every confidence that the necessary knowledge and experience would be retained, even after the acquisition by SNS Bank. The purchase could – according to the conclusion of the Supervisory Board – be 'a welcome addition to the activities of SNS Reaal'. The then chairman of the Supervisory Board, Bouma, pointed out to the Evaluation Committee that in the Supervisory Board there were 'seven or eight votes in favor of [purchase of Property Finance]'. He resigned himself to that.

Critical voices in the media

There were doubts in the media about the alignment of Property Finance with SNS Reaal's strategic course. *The Financieele Dagblad* commented as follows: 'The day

after the IPO in May, SNS Reaal made its first major acquisition. The bank-insurer buys the financing part of ABN Amro subsidiary Bouwfonds. The previously announced plans to use the newly raised funds mainly for acquisitions in the segmented insurance market have therefore been shelved for the time being.'

On August 5, 2006, *Fem Business* took it one step further in two articles. The headlines above the articles sounded alarming: 'SNS Reaal buys risks' and 'SNS Reaal appears to be very flexible'. ABN Amro market analysts saw the takeover as 'a negative surprise'. There was also surprise at Rabo Securities. The purchase was called 'illogical'. An insurance acquisition would have been more in line with expectations. Lehman Brothers questioned the acquisition in connection with SNS Reaal's strategy. The takeover would also have cost more than Lehman Brothers

had expected. Both Lehman Brothers and Rabo Securities were involved in the preparations for the IPO of SNS Reaal. Despite the comments of the press and analysts, the share price of the SNS Reaal share reacted little on balance to the reports regarding the acquisition of Property Finance. In July 2006, the share price hovered around the issue price of 17 euros. After the acquisition was finalized on December 1, 2006, the share price even rose somewhat towards the end of the year.

Lamp, the later CFRO of SNS Reaal, was involved in the IPO of SNS Reaal as an advisor on behalf of Lehman Brothers. In a conversation with the

He stated to the Evaluation Committee that he was 'absolutely against that [the takeover of Property Finance]'. When he joined SNS Reaal, he had told the 'government commissioners' (who had already been approached but were not appointed until 15 April 2009) that 'he regarded Property Finance as a nuclear bomb. In insurance activities, the pain is acute because the markets are moving, in credit, these are silent killers.'

But it was not until 2009, the year in which he took up the position of CFRO, that Lamp – as he explained to the Evaluation Committee – was given the opportunity to phase out Property Finance. According to him, this was due to the departure of a number of supervisory directors who had been involved in the purchase of Property Finance, and to the fact that Latenstein took over the chairmanship of the board from Van Keulen.

Reactions to negative reports

The critical notes in the media were reflected in questions in the Supervisory Board. On 17 August 2006, one of the Supervisory Board members asked whether SNS Reaal's strategy was 'not stretched too much' with the acquisition of Property Finance.

In September, the Executive Board looked back on the 'roadshow' it had held for SNS Reaal's most important shareholders and investors: '[a] number of difficult conversations. Some parties with a short-term horizon have exited. The main issues were interest income and the acquisition of Bouwfonds Property Finance.'

A month later, on Sunday 8 October 2006, the Supervisory Board met for a meeting devoted entirely to the negotiations on the purchase of Property Finance. The chairman of the supervisory board asked 'whether the price for Property Finance [had] been reduced sufficiently'. The original offer had been one billion euros. The board of directors indicated that the price had been reduced from 840 million euros to 810 million euros. The due diligence investigation "did not reveal any major matters not covered by warranties or indemnities."

At the next meeting on 15 November 2006, the Supervisory Board again put forward questions and comments about the strategic significance of the purchase of Property Finance. The chairman of the Executive Board then promised that in a forthcoming meeting the Executive Board would like to 'exchange ideas in a broad sense with the Supervisory Board about the strategic direction of SNS Reaal'. The supervisory board wanted

also 'explicitly discussing Bouwfonds Property Finance's foreign activities once again. Precisely because an important part of the growth will come from abroad.'

The purchase of Bouwfonds Property Finance: the wishes and conditions of the Supervisory Board

Project Gamma appears for the first time in the minutes of the Supervisory Board on 28 July 2006. Project Gamma is the code name for the purchase of Bouwfonds Property Finance. Legally, the takeover was a fact on December 1, 2006. In the meantime, what happened to wishes and conditions that the Supervisory Board had submitted to the Executive Board?

Involving experts in commercial real estate in due diligence

First of all, the express wish of the Supervisory Board to have experts in the field of commercial real estate 'take a look' at the due diligence investigation.

About thirty percent of Property Finance's portfolio consisted of international projects and investments. Much of the growth should come from that. That is why the Supervisory Board advocated the involvement of real estate experts. The question is, however, whether this would have been possible in the short time allotted for the investigation. Moreover, it involved projects in eight countries and projects of a diverse nature, so that it would have been difficult to find the right expertise.

Ultimately, on 14 December 2010, the Board of Directors would put together a 'real estate committee' with external experts from, among others, Wereldhave, Bam, Corio and Stienstra. This was done at the request of the Supervisory Board.

Property Finance management must switch to SNS Reaal

Next, the condition that the Supervisory Board attached to the purchase: the retention of Property Finance's management for SNS Reaal. This concerned twelve key officials, two of whom resigned in 2007. Five others left in 2008 and 2009. Their departure was part of a major change of the guard at Property Finance.

In a period of less than two years, no less than nine (managerial) employees of Property Finance left. Five of these were previously on the list of key officials. With one exception, it was a forced departure. Among them was the director of SNS Property Finance.

Deal may not have consequences for ratings

The Supervisory Board had set the third condition that the rating agencies should 'not attach any consequences to the deal'. The concerns of the commissioners turned out to be unfounded. When SNS Reaal announced the purchase of Property Finance at the end of July, the news was not well received. Moody's downgraded the rating from positive to stable.¹²

The purchase of Bouwfonds Property Finance: the due diligence

investigation SNS Reaal's two main negotiators in the purchase of Property Finance were Latenstein, SNS Reaal's CFO and member of the Executive Board, and Mr H. (Henk) Kroeze, the CFO of SNS Bank. At the end of August, the supervisory team of De Nederlandsche Bank had a meeting with Kroeze about the acquisition of Property Finance and its practical details. They discussed that Property Finance would come under SNS Bank. Although Property Finance had its own banking licence, it was always funded by ABN Amro, in other words: provided with capital for the loans to be provided. Property Finance did not have its own funding options. It was therefore logical that SNS Bank would take over the funding from Property Finance.

The following points also emerged in the discussion with De Nederlandsche Bank: – There

would be a separate credit committee. Latenstein and Kroeze would take part in this.

- SNS Reaal's risk policy would become the starting point for Property Finance. The group staffs of SNS Reaal are said to be closely involved in risk management.
- SNS Reaal is said to know the market for investment financing in real estate well, but not the market for project financing.

The regulator also asked about the results of the due diligence, which was completed on August 25, 2006. There would be a carve-out for clients with a tarnished reputation. It was not yet clear within SNS Reaal what they wanted to do with the international activities (thirty percent of Property Finance's portfolio). Since 2005, Property Finance's focus had shifted from domestic to international. The unbundling of Property Finance from Bouwfonds was not seen as a problem.

Place of the supervision team in the organization of De Nederlandsche Bank At the time, supervision of SNS Reaal was the responsibility of the FSNS (Fortis-SNS) team of De Nederlandsche Bank. This team was also responsible for supervising Fortis. Both institutions were mid-sized financial conglomerates ('ficos') involved in both banking and insurance. Such a business model, also known as bancassurance or bancassurance, had become popular in the 1990s, starting with the merger of NMB-Postbank and Nationale Nederlanden in 1992. Bancassurance was thought to offer economies of scale and synergy benefits. reaches. This mainly concerned the use of mutual sales channels and the efficient use of the same capital for different activities. The diversification of income sources could also spread risk, or so it was thought. In practice, this was not always easy. The credit crisis also revealed that the popular business model also had significant drawbacks. Instead of risk diversification, mutual contamination turned out to be very possible, which could lead to bigger problems. At De Nederlandsche Bank, this gave reason to change its opinion on ficos in a negative sense.

Team FSNS was subject to banking supervision (Tba). Until 2010, supervision of SNS Reaal's insurance activities was also the responsibility of Tba. This structure was changed in 2010. Partly fueled by the experience of the credit crisis and subsequent developments, the supervisor wanted to pay more attention to supra-institutional aspects. This was done by primarily shaping supervision on a sectoral basis. This led to a separation between the supervision of an institution's banking activities, under banking supervision, and the supervision of the insurance activities of the same institution, under insurance supervision. Coordination and cooperation were arranged in one

covenant.

SNS Reaal's advisers

During the purchase, SNS Reaal received legal assistance from one of the larger law firms in the Netherlands, Houthoff Buruma. In the financial field, SNS Reaal was advised by JP Morgan. Tax advisor was KPMG Meijburg & Co. KPMG Transaction Services performed the due diligence. The team members included the current external auditor of SNS Reaal, drs. PAM (Peti) de Wit RA. In the letter of intent signed on July 30, 2006, a maximum period of 21 days was agreed for this investigation.

SNS Reaal's advisers started a vendor due diligence study by Allen & Overy and Deloitte that was commissioned by ABN Amro. In this investigation, the seller had already collected information on the basis of which the letter of intent was signed. Subsequently, the four SNS Reaal advisers each performed a due diligence. This resulted in three written reports and a presentation by JP Morgan.¹³ The main common conclusion was that the information provided in the vendor due diligence study was of poor quality. The advisers also expressed their concerns about the administration of Bouwfonds Property Finance.

KPMG Transaction services report

The main study was conducted by KPMG Transaction services. Key findings in KPMG's report were:

- The combination of SNS Reaal and Property Finance would not necessarily fit into the strategy communicated by SNS Reaal. Property Finance saw its own growth opportunities mainly lie abroad. The report pointed out that until then SNS Reaal had barely developed any international activities and that this would pose a risk.
- It was important to maintain the 'entrepreneurial culture' within Property Finance.
- The seller's virtual data room was 'not well managed'.
- Adjustment of the purchase price to the latest figures was necessary. That would happen.
- Property Finance's forecasts were rather simple. KPMG saw increasing competition in the commercial real estate market and pressure on margins.
- The quality of the loan portfolio was sound and relatively well diversified.
- Credit risk management and internal control were adequate, but 'high risk' clients needed to be looked at more closely. Especially because De Nederlandsche Bank in 2005 had given 'an unsatisfactory' to the customer due diligence.

KPMG Transaction Services questioned the strategic significance of the Property Finance acquisition and Property Finance's risk management. Property Finance was completely dependent on ABN Amro for its funding and on access to the wholesale funding market. Strategically speaking, SNS Reaal's growth plans exceeded retail funding, and with Property Finance included, that would be even more the case.

KPMG Transaction Services also predicted a decline in the rating, a

point that weighed heavily on both the Executive Board and the Supervisory Board.

The report identified a number of shortcomings in risk management. The administration was not in order and loans in default – loans that had been terminated but not yet fully repaid – were not evaluated every quarter. This meant there was a chance that the deterioration would become known with a delay. There was only limited insight into the loan portfolio. Of the large number of loans, only a few dozen were investigated. In any case, the number of 'highly risky clients' was 28 with a loan portfolio of EUR 290 million.

Report by Houthoff Buruma

Houthoff Buruma's findings were on the one hand cautiously positive, but on the other hand there were concerns. For example, Houthoff Buruma did not expect that there would be financial risks in ongoing legal disputes. But the loan documentation was simple, not detailed, not up-to-date and did not meet the requirements of the rating agencies. Furthermore, Houthoff Buruma had come across a list of clients 'with an increased reputational risk'. The list contained nineteen names with a total loan amount of 209 million euros. Six of these clients had loans of more than ten million euros.

The findings of the four advisers were not uniform and also difficult to compare. It is remarkable that JP Morgan described the acquisition of Bouwfonds Property Finance in its presentation as an 'excellent fit with SNS Reaal strategy'.

SNS Reaal follows a number of recommendations from advisers

In the final purchase agreement, the share purchase agreement, some of the shortcomings mentioned above have been (partially) resolved:

- Of Houthoff Buruma's list of nineteen clients 'with an increased reputational risk', twelve have remained behind (carved out) at ABN Amro. They accounted for a loan portfolio of 48.8 million euros. SNS Reaal was therefore saddled with seven clients with a dubious background who had outstanding loans from Property Finance amounting to 160 million euros.¹⁴ – ABN Amro granted indemnification to SNS Reaal for the consequences of reorganisations and for damage to certain projects and claims. SNS Reaal was given the opportunity to expand the loan portfolio in twelve months.

to examine the portfolio to determine whether all security interests were validly established.

- The previously agreed purchase price of 840 million euros was adjusted to 810 million euros. The decrease was related to supplementing provisions for specific projects, additional investments in IT and risk management systems and mortgages for staff.

SNS Reaal has not examined all loans in the loan portfolio.

Only ten percent of the investment loans were examined. Financing abroad was assessed 'at face value' and on the basis of 'common sense'. ABN Amro did not receive any claim.

The role of De Nederlandsche Bank in the due diligence investigation and the issuance

of DNOs On 29 September 2006, SNS Reaal requested De Nederlandsche Bank to issue the necessary DNOs for the acquisition of Property Finance.

That was not automatic. De Nederlandsche Bank wanted to discuss the results of the due diligence investigation with SNS Reaal. SNS Reaal expressed its surprise at this wish from De Nederlandsche Bank.

On October 10, 2006, SNS Reaal signed the agreement with ABN Amro in which this acquisition was established for an amount of 810 million euros.

On 19 October 2006, De Nederlandsche Bank issued six DNOs for the acquisition of Property Finance. The DNOs are signed by the head of the department and the supervisor of Banking Supervision.

Internal evaluation of the issuance of DNOs

De Nederlandsche Bank evaluated the issuing of DNOs in a memorandum dated February 2011. It states the following. De Nederlandsche Bank saw ample solvency at SNS Reaal in 2006. The arguments for the acquisition, growth and diversification of income were considered valid. De Nederlandsche Bank itself also wanted to see diversification at SNS Reaal.

In October 2006, the supervisory apparatus had no signals of a deteriorating real estate market. The regulator therefore paid little attention to the concentration risk that SNS Reaal took on and to the deterioration of the company's risk profile.

According to a memorandum from De Nederlandsche Bank dated February 2011, careful decision-making had taken place in the Executive Board and the Supervisory Board of SNS Reaal. The risk areas were adequately addressed

been in due diligence. De Nederlandsche Bank also had the impression that SNS Reaal had sufficient insight into the embedding of Property Finance in the organization beforehand. Governance and the structure of risk management were established and did not give rise to criticism. Property Finance would not be integrated into SNS Reaal and the SNS real estate portfolio would go to Property Finance.

In the opinion of De Nederlandsche Bank, the intended CEO, CFO and director of credit risk management had sufficient experience with real estate. The supervisor deemed it necessary to retain the existing management, and this was also provided for. The price that SNS Reaal paid, ten times the profit, was, according to KPMG, sufficiently substantiated by the due diligence. The amount of goodwill of 220 million euros was not considered exorbitant. There were also a number of indemnities in the acquisition agreement. These concerned tax issues and a one-year indemnity relating to 'imperfect collateral'.

SNS Reaal had - as the evaluation indicated - thoroughly probed the impact of the acquisition with the rating agencies. Property Finance would not cause any problems for SNS Reaal in terms of funding and capital. And SNS Reaal's internal capital standards would not change due to the acquisition of Property Finance. With regard to Property Finance's customer base: that had been fully reviewed and customers with an increased risk profile would lag behind with ABN Amro.

De Nederlandsche Bank has no objections. The final conclusion was therefore: 'SNS takes a well-considered and careful decision. Tba-FSNS does not recognize any objections.' At the time, the decision was discussed internally with the head of the department and then submitted to the divisional director Mr. RP (Rudi) Kleijwegt. The decision and the underlying memorandum were not sent higher up to the director of supervision and/or the board meeting. According to the mandates in force at the time within De Nederlandsche Bank, this was not necessary. Those involved cannot remember whether the DNOs for the acquisition of Property Finance were discussed in a bilateral meeting. There are also no indications in the minutes of the Board meetings of De Nederlandsche Bank that these DNOs were discussed in the Board meeting.

Supervisor has a positive view of 'strategic fit'

At the end of 2006 there was a meeting between Property Finance and De Nederlandsche Bank. The management of Property Finance reported knowing exactly what had been bought. Surprises were out of the question. SNS Property Finance therefore did not consider it necessary to conduct further investigation. In the supervision plan for SNS Reaal for 2007, the regulator stated that it would issue a final opinion on the acquisition of Property Finance at the end of 2007. If that were positive, Property Finance would fall under the normal supervisory regime. In April 2007, the FSNS team had a positive view of the integration of Property Finance within SNS.

New director at SNS Property Finance

On 1 December 2006, SNS Property Finance got a new director: Mr. M. (Marius) Menkveld (1956). He was a member of the Board of Directors of SNS Bank and remained so after his appointment. H. (Henk) Kroeze, CFO of SNS Bank, became chairman of the credit committee of SNS Property Finance. Loans with a value of 25 million euros and more had to be submitted to this committee.

Necessary adjustment of the financial targets

The acquisition of Bouwfonds Property Finance meant that the Executive Board had to adjust the financial targets. Growth in net profit per share per year would no longer exceed 10 percent, but would average 10 percent. Return on equity was projected at more than 12.5 percent per annum after tax. That averaged 15 percent.

At year-end 2008, SNS Bank's efficiency ratio was expected to be less than 58 percent, but was 55 percent at year-end 2009. The operating cost/premium ratio at Reaal Verzekeringen was reported to be less than 13 percent at year-end 2008. That was 13 percent at the end of 2009.

Investigating foreign activities

The reports do not state whether the Executive Board and the Supervisory Board ever reviewed Property Finance's foreign activities in their entirety in a joint meeting.

This had been the intention of the supervisory directors, expressed at the meeting of 15 November 2006. A few projects were, however, discussed separately.

Florida

For example, on December 13, 2007, a project in Florida was discussed. The project was described as 'difficult'. During this meeting, the Supervisory Board received an 'enthusiastic' presentation from the director of SNS Property Finance. In turn, the director of SNS Property Finance thanked the Supervisory Board for purchasing 'this fine company', by which he meant Property Finance. On February 20, 2008, the Florida project returned to the Supervisory Board's agenda once more.

How 'difficult' the project was was discussed in much more detail four days later in the board of directors. Kroeze handed out a memorandum at this meeting. He had been to Florida himself, so he could report 'first hand'. Many buyers had withdrawn, leaving the project developer with unsold apartments and a lower yield. Moreover, the costs had risen: from 270 to about 290 million euros. Project management showed shortcomings. The manager was forced to offer owner-occupied apartments for rent and put more money into the finishing touches.

On February 20, 2008, the Florida project was once again discussed by the Supervisory Board. They then asked how the project was going. The board of directors replied that things were going 'well in itself' and that 'things are foreseen', but that it is also certain that 'a write-off has to be made'.

Foreign projects increasingly worrying In

the course of the summer of 2008, new and larger problems arose at Property Finance. On 4 August 2008, the Executive Board issued a warning to 'prudence in the risk policy at SNS PF, in particular at the international business unit'. In the 'outlook', the outlook for the coming quarter, 'the risk of potential credit losses should be expressed, whereby it will be expressed that these concern the (international activities of) SNS PF and not the retail activities of SNS'.

A week later this discussion was repeated: 'For SNS PF's international portfolio, a provision cannot be ruled out given the developments. Property Finance's balance sheet deserves attention and shortening: there is interest from an external party.'

Spain

On 13 August 2008, the Supervisory Board discussed for the first time projects in Spain that were in dire straits. But 'in a bleak scenario'

At worst, this could result in a 'noose' of no more than EUR 30 to 35 million.

A month later, Kroeze, a member of the board of SNS Bank, gave his 'professional judgment' on Property Finance's risk profile in a short internal memorandum. The memorandum contained a list of projects that he went through point by point: '[t]he conclusion is that in the most serious case, a total negative result of EUR 50 to 60 million could result'. This led to a signal to SNS Property Finance that a temporization of production was necessary.

SNS Reaal requests state aid

At the end of October 2008, the financial market deteriorated rapidly. In November 2008, SNS Reaal had to approach the State for a capital injection. This was due to the decreased returns on investments in the insurance branch of SNS Reaal.

The Supervisory Board wanted to know whether there were any other 'sensitivities'. On November 12, 2008, the then chief financial officer Latenstein stated to SNS Property Finance: 'an additional 200 [million euros] in net losses may be added above what would be normal.' The next day – the Supervisory Board and the Executive Board were in telephone contact with each other during those days about the state aid – Chairman of the Board Van Keulen announced that he wanted to limit the risk profile of SNS Property Finance by 'for example no longer America or Spain' to continue the current activities. In granting the state aid, De Nederlandsche Bank looked at the vulnerabilities of the bank: 'Even then given that this was real estate, but no more than a loss of 300 million was foreseen. As a result, only a small part of the state aid went to the bank.'¹⁵

Hinssen had expressed his concern about the international portfolio, which consisted almost entirely of project financing. The concern was particularly directed at the United States because there is 'a different culture, a different legal system, etc. If there is a need to look abroad, then a restriction could be made to a number of core countries close to home (Germany, Belgium, possibly France)'.¹⁵

The Executive Board remains optimistic about

Property Finance At that time, the Executive Board was still convinced that Property Finance could contribute to SNS Reaal's future profits. The Supervisory Board asked why SNS wanted to keep Reaal Property Finance. The new chairman of the board of directors Latenstein replied on 1 July 2009 with the repeated argument of 'the fit [of Property Finance] with the bank's business'. His colleague Hinssen refers to the added value as 'the risk differentiation that is achieved'.

Shortly afterwards, one of De Nederlandsche Bank's stress tests showed that Property Finance was saddled with a sharply negative result. KPMG had conducted an additional investigation and scrutinized the top 50 default files. SNS Reaal commissioned Ernst & Young (now called EY) to value the foreign portfolio. At that time, Property Finance had outstanding loans of EUR 800 million in the United States and EUR 400 million in Spain. Project Schiermonnikoog, Ernst & Young's research into the value of projects abroad, was launched.

The acquisition of Bouwfonds Property Finance in time

2006	Year of acquisition
March 18, 2006	The Executive Board signs the expression of in tent for the purchase of parts of Bouwfonds.
early May 2006	SNS Reaal withdraws as an interested party for Bouwfonds.
June 2006	Acquisition of Route Mobiel.
July 6, 2006	SNS Reaal is making a non-binding offer for the shares of Bouwfonds Property Finance.
July 10, 2006	SNS Reaal is preparing a binding offer.
July 26, 2006	Chairman of the Executive Board Van Keulen and member of the Executive Board Hinssen inform De Nederlandsche Bank (Schilder) of the intended purchase. Schilder says that 'there seems to be no reason to withhold a DNO in advance, we may set conditions'.

July 28, 2006	Supervisory Board SNS Reaal considers Project Gamma, code name for the purchase of Bouwfonds Property Finance, for the first time. Critical questions from the Supervisory Board about the 'strategic fit' of Property Finance and SNS Reaal.
July 30, 2006	Drafting and signing the letter of intent.
July 31, 2006	Announcement by ABN Amro of the intention to purchase Property Finance by SNS Reaal. Critical reactions from some stock market analysts and the media to the proposed purchase of Property Finance.
August 7, 2006	Member of the Supervisory Board of SNS Reaal asks whether the acquisition of Property Finance 'isn't stretching SNS Reaal's strategy too much'.
September 2006	Review of the board of directors on the roadshow held for key customers.
October 8, 2006 (Sunday)	Supervisory Board SNS Reaal meets about purchase Property Finance.
November 15, 2006	Supervisory Board meeting: strategic significance of the purchase of Property Finance.
December 1, 2006	Takeover of Bouwfonds Property Finance is a fact.
December 1, 2006	Menkveld appointed director of SNS Property Finance. Kroeze appointed chairman of the SNS Property Finance credit committee.

2.4 The other acquisitions: Axa Nederland, Winterthur and DBV – the role of De Nederlandsche Bank in this

There was – as it became increasingly clear in 2007 – something wrong in the US housing and mortgage market. In February 2007, the British Bank HSBC warned of the negative impact of non-performing loans on the US mortgage market. In May 2007, US home prices turned out to be up

to have fallen for the first time in sixteen years. In particular, poor-quality mortgage loans (so-called subprime loans, often translated as 'rubbish mortgages') went into default en masse. In July 2007, two investment funds of the American investment bank Bear Stearns ran into acute problems due to American junk mortgages. This was followed by a number of German regional banks.

In August 2007, the entire financial sector saw significant parts of the interbank market come to a standstill. This led to large-scale global injections by central banks. The signs of a credit crunch became increasingly apparent. In the United Kingdom, there was a real bank run for the first time in 150 years when the mortgage bank Northern Rock ran into problems due to the standstill of the interbank market, which resulted in the loss of wholesale financing. In the rest of 2007, profit warnings and write-downs continued to rain at renowned banks such as the Swiss UBS, the British Royal Bank of Scotland and the American investment bank Merrill Lynch. Bear Stearns had to be rescued by JP Morgan Chase, with the help of the US central bank in March 2008. And in the summer of 2008, insurmountable problems arose at US mortgage companies Fanny Mae and Freddy Mac and the world's largest insurance company AIG.

Risks for the Dutch mortgage market Naturally, the regulators followed these developments with great attention. In 2007, De Nederlandsche Bank continued to warn about low interest rates, the hunt for yield in relation to the risks taken and other imbalances. In its quarterly report of June 2007, De Nederlandsche Bank raised the question of whether financial stability in the Netherlands would be affected by the mortgage crisis in the United States.¹⁶ De Nederlandsche Bank believed that the direct consequences for the Netherlands would remain limited. However, consequences could arise if other segments of the financial markets were pulled along. In its quarterly report of December 2007, after the interbank market came to a standstill in August 2007, De Nederlandsche Bank concluded that the financial markets had indeed been hit hard by the subprime crisis.¹⁷ In its March 2008 Overview of Financial Stability, De Nederlandsche Bank paid attention to possible risks and vulnerabilities in the Dutch mortgage market.¹⁸ It was ultimately in the quarterly report of September 2008 that De Nederlandsche Bank noted the stagnation of housing markets in Europe.¹⁹ Spain, Ireland and Portugal were mentioned

as most vulnerable countries. In the Netherlands, the risk of a price correction due to 'local circumstances' was less – according to the regulator.

Risks for the commercial real estate market On 3

September 2008, the six-monthly Overview of Financial Stability of De Nederlandsche Bank was published.²⁰ This overview again devoted attention to the vicissitudes in the housing and mortgage markets. But the market for commercial real estate was also discussed. De Nederlandsche Bank has established that conditions in that market have been deteriorating for some time in some countries. In the United States and the United Kingdom there had even been price falls in 2007. In the Netherlands, the real estate market cooled down more gradually, the regulator noted.

The bubble, which apparently occurred in other countries such as the United States, was less so in the Netherlands.

Nevertheless, the prospects were also less favorable for the Netherlands as a result of the economic downturn and financing conditions. The impact of a price correction would depend on the exposures per specific financial institution. In total, real estate loans (apart from investment exposure) amounted to roughly five percent of total lending at that time, according to De Nederlandsche Bank. It was noted: 'For some individual banks, these figures are, incidentally, considerably higher.' The potential total losses from the deteriorating real estate markets were estimated by the IMF at USD 240 billion worldwide, roughly half of which would be accounted for by banks.²¹ The overview ended with comments on the causes. To a large extent, the risks stemmed from the contagion effects of the US subprime crisis. But there was also talk of a reflection of the build-up of more or less similar risks in the US commercial real estate market. There was also an easing of credit conditions in that market, which fueled the rise in prices, followed by rising defaults.'

This was another situation in which De Nederlandsche Bank identified and – in some cases – warned against macroprudential risks. However, this has not led to measures to combat these risks. The translation of macroprudential risks to microprudential supervision was also delayed. It would take until the autumn of 2009 before SNS Reaal's commercial real estate activities would be tackled in a structured manner.

The results of Property Finance until the fall of Lehman Brothers The new acquisition of SNS Reaal grew in 2006 both in absolute terms and in relation to the previous year. Total loan production at Property Finance increased from EUR 3.5 to EUR 3.8 billion, despite the uncertainties surrounding the sale of Bouwfonds and 'fierce competition'. The annual report further stated that 'SNS Property Finance will continue to build on the successful strategy for international growth that Bouwfonds Property Finance had initiated'. At that time, the international portfolio amounted to approximately two billion euros, mainly in project financing. This portfolio thus accounted for 23 percent of Property Finance's entire portfolio, which amounted to 8.8 billion euros at the end of 2006. The real estate portfolio that SNS Bank already owned had not yet been consolidated. Net profit increased slightly compared to 2005. The pro forma calculation came to 94 million euros. In 2005, 84 million euros of this was earned. At that time, SNS Reaal saw a rosy outlook for its real estate arm. The annual report states that the Dutch market for real estate financing has 'an abundance of capital and assets available for investments in high-quality real estate'.²²

'Demand for high-quality real estate objects remains high in the Netherlands, despite a high level of investment in recent years,' is how SNS Reaal outlined the prospects a year later in its 2007 annual report. sharper division between high-quality and less attractive objects. SNS Reaal again reported a profit increase (pro forma) in 2007 to 109 million euros. The portfolio had grown further from EUR 8.8 billion to EUR 11.6 billion. Of this, 1.1 billion euros was accounted for by the integration of SNS Bank's old real estate portfolio. Organic growth therefore amounted to 1.7 billion euros. According to the annual report, the portfolio consisted of EUR 7 billion in investment financing and EUR 4.6 billion in project financing. Striking in relation to the developments at that time in the United States is the remark that 'investments in North America are limited to seven percent of the total portfolio'.²³ The steady growth of Property Finance would continue up to and including the first half of 2008.

SNS Reaal sees opportunities

Despite the credit crisis, the signs of which had become increasingly clear since August 2007, there were financial institutions that still saw opportunities. The takeover battle around ABN Amro raged on and became

settled in favor of the consortium of Royal Bank of Scotland, Fortis and Santander on 17 September 2007. Incidentally, the consortium would not experience much pleasure from this takeover. Both Fortis (in 2008) and Royal Bank of Scotland (in 2009) soon had to be rescued by the governments involved with tens of billions of euros in taxpayers' money.

SNS Reaal felt safe because of its focus on the Netherlands and its good liquidity. Moreover, the risk profile was moderate and the company could rely on the good quality of its risk management, or so SNS Reaal thought. The company even believed it saw some opportunities, especially in the insurance market.

De Nederlandsche Bank: SNS Reaal is going too fast In the middle of 2007, SNS Reaal saw an opportunity to take over Axa Nederland, Winterthur and DBV for an amount of 1,750 million euros.²⁴ De Nederlandsche Bank was concerned about the pace at which SNS Reaal made one acquisition after another. On 1 June 2007, the director of supervision Schilder had spoken with Van Keulen and Latenstein about SNS Reaal's interest in Axa Nederland. In this conversation, Schilder remarked that De Nederlandsche Bank wanted to include a remark in response to the DNO to the effect that SNS Reaal should take it easy after the acquisition of Axa Nederland. The supervisory team's memorandum to Schilder about SNS Reaal's interest in Axa noted that SNS Reaal had 'a packed agenda'. On 14 August 2007, De Nederlandsche Bank issued the DNO for the acquisition of Axa Nederland (including DBV and Winterthur). In an accompanying letter, De Nederlandsche Bank expressed its concerns about the integration of the acquisitions. In addition, the regulator requested that from now on it should be informed at an early stage if a possible acquisition was under discussion, in order to be able to form an opinion on this in good time. The share price of SNS Reaal remained relatively stable at

more than sixteen euros.

On 16 June 2007, it was announced that SNS Reaal was in talks about the takeover of FBS, a small securities bank in trouble.²⁵ Shortly afterwards, a meeting was held between a member of the SNS Reaal Executive Board and the two regulators most involved. During that conversation, they told him that SNS Reaal should slow down. Whether that message actually got across is the question for the Evaluation Committee. De Nederlandsche Bank's report states that it 'agrees with us that Reaal should not be actively looking for acquisitions for the time being'. But in the

there is no mention of this in the minutes of the board of directors of SNS Reaal. It can be read there that it was a 'good, informative conversation', in which the supervision of the mortgage provider DBV and the independence of the supervisory directors at this part of SNS Reaal were discussed.

Zwitserleven: a bridge too far?

The most involved supervisory team member at De Nederlandsche Bank wrote to Kleijwegt on 9 October 2007 that SNS Reaal was continuing with acquisitions. The group would be interested in Hollandse Bank Unie (HBU), at that time part of ABN Amro, and Zwitserleven. The FSNS supervisory team was of the opinion that SNS Reaal is 'reaching the limits of its growth'.

According to the supervisory team, the acquisition of Property Finance had already involved some opportunism on the part of SNS Reaal, stretching the company's strategy. In December, the possible takeover of Zwitserleven came to fruition. According to Latenstein, Zwitserleven was not cheap, but financing for SNS Reaal could be arranged with the help of Stichting Beheer SNS Reaal. It was intended that a large part of the acquisition would be financed by issuing a new class of shares that would be placed with the foundation. In this way, the foundation would contribute 600 million euros. This purchase, which was announced on November 19, 2007, involved an amount of EUR 1,735 million.

The initial reaction from the market was not positive. On November 21, 2007, the share price of SNS Reaal reached a price of 14.20 euros, the lowest level since the issue. Towards the end of the year, the price climbed back up to 16 euros. Nevertheless, the SNS Reaal share performed best in 2007 compared to its competitors Aegon, ING and Fortis.²⁶

On 4 February 2008, a meeting was held between the entire Executive Board of SNS Reaal on the one hand and Supervisory Director Schilder and Kleijwegt, De Nederlandsche Bank's director of supervision, on the other. The report of De Nederlandsche Bank states the following in this respect. Van Keulen indicated that SNS Reaal did not want to make any more acquisitions on the insurance side for the time being. The company was open to expansion on the banking side. Because the board of directors formed a 'good and close-knit team', he preferred a successor from his own circle. Details are missing from SNS Reaal's own reporting: 'It was a positive conversation, with a number of justified accents. DNB is not concerned about our position.' A follow-up interview with Kleijwegt was therefore not necessary for the first four to five months.

Supervisor sees major risks De

Nederlandsche Bank drew up a memorandum for the DNO application for the takeover of Zwitterleven. In it, the regulator noted that Reaal had a 'historically low solvency' at the end of 2007, which was also low compared to competitors.²⁷ The risk profile of SNS Reaal's insurance branch had actually increased due to the acquisitions.

In the memorandum, the regulator paid special attention to the internal financing constructions used by SNS Reaal. This concerned the use of double leverage, mutual subordinated loans and possible accounting interventions. At that time there was already a discussion with SNS Reaal about including the surplus value of the technical provisions in the calculation of the insurer's solvency. Permission was granted for this in the spring of 2008. De Nederlandsche Bank initially wanted solvency to continue to meet the agreed standard, even under stress, without taking into account a possible release of surplus values from the technical provision. This is particularly interest-sensitive: a change of one percentage point would lead to a change of EUR 450 million in solvency. On closer inspection, it was considered wise to work with a (higher) internal standard of 175 percent that takes into account the surplus value.

Finally, the memorandum discussed the governance of the subsidiaries within SNS Reaal. In general, the supervisory boards of the subsidiaries were filled with board members from other parts of SNS Reaal. The supervisor would also like to see external supervisory directors. De Nederlandsche Bank had also included a comment on this in the accompanying letter to the DNO for the takeover of Axa.

Supervisory conditions for the takeover of Zwitterleven

Ultimately, De Nederlandsche Bank granted the requested DNO on 28 March 2008, without including any binding regulations. Instead, there was an 'accompanying letter' containing a number of resolute conditions for the entry into force of the DNO. The most important of these concerned the capitalization of SNS Reaal and the financing of the takeover bid for

* Zwitterleven: SNS Reaal had to draw up a comprehensive capitalization plan for the entire group. That plan had to provide an answer to the concerns of De Nederlandsche Bank.

* The provisional financing plan for the acquisition of Zwitterleven had to be finalised

are concretised. Due to the difficult market – the credit crisis had been going on since August 2007 – SNS Reaal wanted to adjust the financing plan for the acquisition of Zwitterleven. In addition to funding via the foundation, SNS Reaal had wanted to place subordinated loans on the market. However, this became increasingly expensive in the market conditions prevailing at the time. Instead, SNS Reaal wanted to make use of intra-group transactions and a larger proportion of repo financing. Repo financing was a relatively cheap way of financing, but one with a short term and therefore not of a structural nature.

Finally, the letter to the vvgb explicitly stated that Reaal was not allowed to make any new acquisitions before the integration of the Axa divisions and Zwitterleven had been 'significantly' completed.

Vvgb for acquisition of Zwitterleven

On 2 April 2008, SNS Reaal presented its plans for the capital position of the group and the financing of the acquisition of Zwitterleven. In a memorandum dated 8 April 2008, the regulator reacted particularly critically. He wondered whether SNS Reaal took the conditions set by De Nederlandsche Bank seriously. Both the capitalization plan and the financing plan were not sufficient. SNS Reaal's solvency is said to have deteriorated 'significantly' in the first quarter of 2008. In stress, solvency is said to fall below the norm. The surplus value from the reserves that SNS Reaal was allowed to include in the mean was 'really needed' to achieve the targets. As it turned out, the wish to include the surplus value was partly motivated by the plans to take over Zwitterleven. According to SNS Reaal itself, the

solvency of the insurer 'under control'.

A second presentation by SNS Reaal followed on 9 April 2008. This presentation was well received by the regulator: there were leads to reach final approval. For example, the solvency forecast for 2008 appeared to meet the standards. De Nederlandsche Bank had gained more insight into the intra-group transactions that SNS Reaal wanted to use for part of the financing. And SNS Reaal had promised to replace the repo financing 'at a favorable moment' with more structural external financing. The company had sent a separate letter about this on April 16, 2008. However, that favorable moment would never come. It later turned out that the repo financing had been replaced by internal financing because SNS Reaal no longer had access to the capital market.

The divisional directors of banking supervision and insurance supervision gave their approval. On 17 April 2008, De Nederlandsche Bank gave its final approval to the acquisition of Zwitserleven. The acquisition of Zwitserleven was a fact.

SNS Reaal shares slide; supervision intensified Reaal's solvency continued to preoccupy and worry the regulators of De Nederlandsche Bank. The financial markets also had their concerns: the share price of SNS Reaal slipped in 2008 from nearly EUR 16 at the start of the year to EUR 10 in mid-July 2008. The acquisitions of Axa and Zwitserleven had put pressure on solvency.

The forecast that SNS Reaal had made in April 2008 for the approval of the acquisition of Zwitserleven had to be drastically revised downwards: from 222 to 185 percent. Furthermore, according to the regulators, there seemed to be 'artifacts' to keep Reaal's solvency up to standard. This involved, for example, the internal sale of goodwill and the passing on of senior debt from the holding company as a subordinated loan to Reaal. In July 2008, the supervisors therefore proposed intensifying the supervision of De Nederlandsche Bank on Reaal. This was effected on July 17, 2008.

3 state aid for sns real,

make a clean sweep:

November 13, 2008 to December 6, 2011

3.1 State aid in November 2008: a 'winter coat' for SNS Reaal

On September 15, 2008, the American investment bank Lehman Brothers collapsed. This brought the credit crisis into a new phase. Worldwide there was great panic and uncertainty in the financial markets. Virtually all financial institutions faced confidence problems. The Dutch-Belgian bancassurer Fortis was one of the first to run into major problems. On 3 October 2008, this led to the actual nationalization of the Dutch Fortis units. Other Dutch institutions also came under fire: their share prices dropped dramatically and CDS (Credit Default Swap) spreads shot up. There were also major shifts in balances between banks, both retail and wholesale.

SNS Reaal shares fall

SNS Reaal was hit hard, even though the company had no positions in American junk mortgages. The stock price of the SNS Reaal share was almost halved in two weeks: from 9.96 euros on 15 September 2008 to 5.27 euros on 6 October 2008. This was no cause for gloom for SNS Reaal. In May 2008, SNS Reaal reported that the company had made a profit in the first quarter of that year, despite the 'challenging climate'. That message also stated that SNS Bank's risk profile had remained moderate. A special comment because of the fact that Property Finance accounted for fifteen to twenty percent of the balance sheet total. 'The moderate risk profile was maintained and was reflected in the very limited impairments at SNS Bank. SNS Bank has no interests in US subprime mortgages,' according to SNS Reaal. The company also emphasized that the solvency and liquidity positions were strong and that shareholders' equity had remained almost unchanged compared to the end of 2007.¹ In the half-year report in August 2008, SNS Reaal reported a profit of EUR 226 million. Profits, however, fell by 3.8 percent. And the continued pressure on share prices and rising interest rates led to a decrease in the insurer's fair value reserve to a negative EUR 750 million as at 30 June 2008.² The threat of write-downs

the capital therefore hung above the company, while at the same time SNS Reaal still reported a profit.

The situation is

deteriorating At that time, apparently there was no need to worry about SNS Bank, although the first signs of problems at Property Finance appeared as early as the summer of 2008. Ultimately, the insurer's declining solvency would be the direct reason for the capital support in 2008. The deteriorating situation on the financial markets led to uncertainty about the company's financial position. Developments in the financial markets in 2007 and 2008 had eroded the buffers. For this reason, SNS Reaal already made a formal request in July 2008 to Stichting Beheer SNS Reaal to assist if necessary. On 14 August 2008, SNS Reaal announced that Stichting Beheer SNS Reaal was prepared, if necessary, to provide a maximum of EUR 500 million in additional capital.

Due to the crumbling solvency of Reaal, the insurance part of SNS Reaal, De Nederlandsche Bank decided on 17 July 2008 to intensify its supervision of SNS Reaal. After the fall of Lehman Brothers, the threat of continuity problems increased and SNS Reaal also started looking at other options. Plan B was the merger of SNS Reaal into Rabobank, whereby the assets of Stichting Beheer SNS Reaal would also be contributed. At the end of September and the beginning of October 2008, several discussions took place at the level of the chairmen of the boards of directors, according to Bruggink in his conversation with the Evaluation Committee. The proposal however, was killed in the supervisory board of SNS Reaal.

SNS Reaal considers taking over Fortis parts

On 9 October 2008, around the time these talks were taking place, there was a joint press conference by the Minister of Finance and the President of De Nederlandsche Bank. In it they announced a capital provision facility, a capital counter where Dutch financial institutions could go for a maximum of EUR 20 billion in fresh capital. SNS Reaal already had contact with the Ministry of Finance in October 2008, but those talks were about something completely different. SNS Reaal was interested in parts of Fortis that had been purchased by the State on 3 October 2008 as part of the rescue operation for the Dutch-Belgian bancassurance group.

Specifically, SNS Reaal was interested in Fortis Bank Nederland and in particular the retail divisions of that bank, such as the old VSB Bank. This was a similar institution to the old SNS savings bank. SNS Reaal was also interested in Fortis Verzekeringen Nederland, later renamed ASR.

At first glance, this was not a crazy idea, the Ministry of Finance also thought, according to the then Minister of Finance, Mr. WJ (Wouter) Bos in his conversation with the Evaluation Committee. It had been agreed internally at the Ministry of Finance that support would not be offered proactively, although the capital facility had been arranged. One would wait and see whether SNS Reaal would report itself. That happened, but not for a capital injection but for a kind of merger with the parts of Fortis that the State had just acquired in Belgium, either the banking side or the insurance side. SNS Reaal therefore saw beautiful images of Fortis Bank Nederland combined with SNS Reaal. However, it was not clear exactly how this was envisaged. The Ministry of Finance thought it was a bit strange. Dr. B. (Bernard) ter Haar, the director of the financial markets at the time, asked SNS Reaal how the capital was doing and whether state support would be requested. The answer was that SNS Reaal was working on it and an injection from Stichting Beheer SNS Reaal was being considered. About two weeks after this meeting, Van Keulen reported by telephone that the quarterly figures, which were to be presented on November 13, 2008, did not look good and that he would therefore like to receive capital support before that date. Then – according to Ter Haar – the process started with the formation of a team and the involvement of a lawyer with whom ING and Aegon had had good experiences. Negotiations then started and, despite all the complexities regarding the foundation, they quickly led to the model contract, which was finally agreed on November 12, 2008.

According to Ter Haar, SNS Reaal did not really have a problem in the opinion of the chairman of the Executive Board and Van Keulen was even proud that the institution had sufficient liquidity. In addition, Van Keulen was of the opinion that he conducted extraordinary risk management. The signal from De Nederlandsche Bank was also less urgent than from ING and Aegon. At SNS Reaal, both sides saw it more as a kind of safety valve to survive in the storm of the market at that time, and the construction was - just like at Aegon - aimed at enabling a part to be repaid more quickly .

De Nederlandsche Bank did not want to rule out the idea of such a takeover of Fortisdelen by SNS Reaal in advance. After all, there seemed to be a strategic fit and SNS Reaal would not necessarily need capital for such a takeover. That would depend on the terms of the deal. For example, how much capital would be involved in relation to the acquisition price. In theory, it was possible to make an acquisition without goodwill, or even with badwill, if the selling party, the State, agreed to this. But at the same time, De Nederlandsche Bank, as a supervisor, was also aware of SNS Reaal's vulnerable position. In mid-October 2008, the first talks took place between SNS Reaal and civil servants at the Ministry of Finance. During the interview, Ter Haar asked questions about SNS Reaal's capital situation. He wondered if the company would want – or perhaps even have to – ask for state aid. Van Keulen replied that SNS Reaal was busy looking at the capital situation and was studying a possible injection by the Stichting Beheer SNS Reaal.

The regulator focuses its attention on SNS Reaal At

De Nederlandsche Bank, concerns about the solvency of the insurance part of SNS Reaal mounted in October 2008, partly as a result of developments at ING and Aegon. De Nederlandsche Bank was generally afraid of a loss of confidence in Dutch financial institutions. An international movement was visible in which the financial markets wanted to see stronger capital positions at financial institutions.

In line with the general stock market climate, the share price of SNS Reaal continued to fall and fluctuated between five and six euros. Listed financial institutions were generally considered the most vulnerable.

De Nederlandsche Bank feared that the market perception of ING and Aegon could spill over to SNS Reaal.

SNS Reaal disagrees with the desired solvency standard

On the other hand, De Nederlandsche Bank was also concerned that the concerns about the insurance part could spread to the other part, SNS Bank.

While the solvency of the insurer was under pressure due to the situation on the financial markets, there was a discussion between the regulator and SNS Reaal about the calculation method and the desired solvency standard at Reaal Verzekeringen.

SNS Reaal disagrees with the amount of state

support required In October 2008, the capital situation at SNS Reaal was a permanent item on the agenda of the Pecunia crisis consultations at De Nederlandsche Bank. The Pecunia consultation was the consultation within De Nederlandsche Bank of the entire Executive Board, the management of the relevant divisions and involved employees from the supervisory teams. The consultations started in the spring of 2008 in response to the turbulence in the financial markets. After September 15, 2008, it met daily. SNS Reaal itself mainly focused on support from the Stichting Beheer SNS Reaal. SNS Reaal thought it would come out with the maximum amount of 500 million euros promised by the foundation. Moreover, in that case the company could arrange the conditions and reimbursement of the support itself with the foundation.

However, the regulator had other views on this. He was thinking about an amount of about 1 to 1.5 billion euros. At the end of October 2008, the regulator asked SNS Reaal for its own analysis of the capital situation. The company calculated that a stress scenario for Property Finance would lead to a loss of between 75 and 320 million euros. The discussion about SNS Reaal's capital position resulted in a meeting on 4 November 2008 between the regulator and Van Keulen, Latenstein and Hinssen.

In that conversation, the regulator stated that it completely disagreed with SNS Reaal's view.

The directors of SNS Reaal maintained their position that support from Stichting Beheer SNS Reaal would be sufficient. After all, according to them, SNS Bank had a moderate risk profile and the risk profile of SNS Reaal as a whole was more moderate than that of ING and Aegon. At the same time, on 4 November 2008, two weeks after his meeting at the Ministry of Finance about the takeover of parts of Fortis, Van Keulen again had contact with the Director of Financial Markets at the Ministry of Finance.³ The quarterly figures, which were published on 13 November 2008 were to be presented did not look good. That is why SNS Reaal may have wanted to receive capital support before that date. On 19 October 2008, ING had already concluded an agreement with the State on a capital injection of ten billion euros. Aegon was followed on October 28, 2008 with an injection of three billion euros.

Supervisor maintains own course

De Nederlandsche Bank was not satisfied with the attitude of the Executive Board of SNS Reaal. The company did not look ahead enough, the supervisor thought. Therefore, the regulator requested an additional projection of

the capital situation in the future. This projection also had to take into account the adverse effects of the crisis that, according to De Nederlandsche Bank, could be expected for Property Finance's portfolio. Apparently, the regulator did not consider the earlier estimate sufficiently prudent. De Nederlandsche Bank also decided to adhere to the internal standards applied by SNS Reaal itself. The minimum capital ratios for the bank, the requirements for the level of double leverage within the group and the solvency requirement for the insurer, which Reaal Verzekeringen was well below at that time, remained as they were. That ended the argument.

State capital injection for SNS Reaal On 10

November 2008, SNS Reaal bowed to the regulator and on 12 November 2008, SNS Reaal and the State concluded an agreement.

SNS Reaal received an injection of 750 million euros from the government's capital provision facility. In addition, SNS Reaal also received an injection of 500 million euros from Stichting Beheer SNS Reaal.⁴ According to the Ministry of Finance, the negotiations went 'in a flash'. After all, the framework of the operations at Aegon and ING was already in place. In those cases, considerable debates had been held. As the last and smallest institution to receive support, SNS Reaal went 'in the slipstream'. The condition for providing support was that the institution in question was 'basically healthy'. The Ministry of Finance relied on the opinion of De Nederlandsche Bank in this regard. In the case of SNS Reaal, this also made perfect sense because, unlike ING and Aegon, SNS Reaal had little to do with foreign regulators.

Conditions for the aid

The conditions that the State attached to the aid were significantly influenced by the European Commission's policy framework for assessing state aid. Important aspects in this respect were that the aid had to be limited to a minimum, that there could be no distortion of competition and that the aid had to be adequately compensated. In addition, recapitalization measures had to be taken to ensure the long-term viability of the company. This could be done, for example, by restructuring, as would happen at ING, or by cleaning up the balance sheet.⁵

The fact that it was a 'basically healthy' institution was all the more important because of the form the State had chosen for the support. Support out

the capital provision facility took the form of so-called Core Tier 1 securities (CT1s), a kind of mixture of a share and a subordinated loan.⁶ These instruments were part of the core capital, but had a more limited degree of loss absorption compared to shares. That is, shares lose value as the value of the company decreases, but Core Tier 1 securities retain their value.

In the event of a bankruptcy, both instruments are treated equally. The choice of Core Tier 1 securities as an instrument for capital provision was influenced by ING's wishes and needs during the first support operation. Since it was expressly intended that the State aid would be of a temporary nature, loss absorption was considered less important. In addition, the State assumed that a 'fundamentally sound' institution would be able to repay the aid within a reasonable period of time. In the case of SNS Reaal, this would turn out differently. When SNS Reaal ran into acute problems, the obligation to repay the state aid remained fully intact, while the shareholders shared in the depreciation of the company due to the falling share price.

A clean sweep at supported companies?

The Minister of Finance had emphatically said that a 'clean sweep' had to be done at institutions that would receive capital support. He said this during general consultations with the standing parliamentary committee on finance on the capital provision facility on 14 October 2008. 'If De Nederlandsche Bank, as supervisor, is of the opinion that the balance sheet is not sufficiently capital-rich or that there is otherwise no sound institution, for example because there are too many risks or unknown risks, then a clean sweep will have to be done before capital is invested on our part,' according to the Minister of Finance.⁷

The Parliamentary Committee of Inquiry into the Financial System writes about this in its findings: 'When opting for recapitalisations, the condition of 'cleaning up' was neglected in practice. This condition had been announced by both the Minister of Finance and De Nederlandsche Bank. In none of the injections examined have agreements been made in any form with the institution to 'come clean', not even in the long term.'⁸ The committee of inquiry also draws this conclusion about the support for SNS Reaal. According to Kleijwegt that could have been done: '[...] but they were already busy. In hindsight you could have. At the same time, we assessed that it was a fundamentally healthy company. When things got tough in commercial real estate, my image was

that SNS Reaal did everything it could to tackle this problem. After all, they wanted to get out of commercial real estate. As far as we were concerned, there was not much reason to put extra pressure on that. People were already very busy with that.⁹

SNS Reaal indeed stopped making new investments in foreign projects during that period. In its assessment of state aid, De Nederlandsche Bank had for the first time more emphatically identified the risks at Property Finance. Initially, however, the regulator relied on the efforts of SNS Reaal itself. At the beginning of 2009, SNS Reaal decided to phase out project financing, particularly in the United States and Spain, to be monitored by De Nederlandsche Bank. The entire portfolio went on the 'zero line'. Actual structured reduction plans at the instigation of De Nederlandsche Bank were to follow in the autumn of 2010.

That the reality of the favorable progress of SNS Reaal's efforts was subject to doubt is apparent from an exchange of e-mail messages within the Ministry of Finance. The European Commission wanted a response to its appreciation of SNS Reaal's viability plan. The Ministry of Finance's own lawyer was keen to hold all cards to the chest and put the European Commission's questions on hold. The financing directorate agreed: 'If we find SNS fundamentally sound, we still think it is necessary to comply with point 5.2.1. comply? Wouldn't it be better to say that if the [European] Commission requires further information as a result of our plan, we will probably not be able to provide that information in the short term and we would like some leniency from the [European] Commission?'

Capital injection by Stichting Beheer SNS Reaal; less favorable conditions The injection by Stichting Beheer SNS Reaal would take place simultaneously with the state aid. This was a condition for government support. The policy line was that institutions should first and foremost try to solve problems themselves. The injection of the foundation also took place in the form of Core Tier 1 securities, but the foundation received considerably worse conditions than the State had received for the state support. The coupon was lower – six percent – instead of 8.5 percent, and the early redemption premium was only 120 percent compared to 150 percent for the State. Moreover, the conditions do not contain an option to convert to shares. Finally, there was also

a loss absorption clause in the terms and conditions. The foundation should share in the losses of SNS Reaal. This was not the case for the State. And the payment of the coupon to the foundation was subordinated to the payment of the coupon to the State. These conditions had been set by De Nederlandsche Bank for the injection in order to qualify the injection as core capital (Core Tier 1). Stichting Beheer SNS Reaal was dissatisfied with the amended conditions. The foundation expressed this dissatisfaction in December 2008 in a letter to the regulator. He stated that the foundation could not derive any rights from the State's agreement with SNS Reaal.¹⁰

A warm winter coat

To the outside world, SNS Reaal mainly presented the support as a precautionary measure. In a radio interview, the then chairman of the Executive Board and CEO Van Keulen referred to a 'winter coat' instead of 'an extra warm sweater for the winter'11 – as stated by the Minister of Finance during the capital injection for ING . Van Keulen was of the opinion that SNS Reaal did not really have a problem, Ter Haar reported in the conversation with the Evaluation Committee. Van Keulen was proud that the institution had sufficient liquidity and praised SNS Reaal's risk management. The signal from De Nederlandsche Bank was also less urgent than from ING and Aegon, according to Ter Haar in his conversation with the Evaluation Committee. At SNS Reaal, the support was seen more as a kind of safety valve. As with Aegon, the construction was aimed at enabling a part to be repaid more quickly. The share price of SNS Reaal was now below four euros.

European Commission approves aid

On 3 December 2008, the State notified the aid for SNS Reaal to the European Commission. It granted provisional approval on the condition that there would be a plan within six months that dealt with the long-term viability of SNS Reaal. That plan also had to describe how SNS Reaal intended to repay the support. The final judgment of the European Commission would not follow until 28 January 2010.¹² The State's Notification to the European Commission makes no mention of the problems that would soon cause epidemic problems for SNS Reaal: Property Finance, double leverage and usury policies. On the contrary: 'Despite it being financially sound, SNS Reaal NV encountered accounting losses and was forced to revalue its investment portfolio. In view of the current volatile environment and in recognition of the fact that capital require-

ments for Financial institutions are set higher, it was necessary for SNS Reaal NV to reinforce its capital position.¹³

Government supervisory directors as a condition for state aid A

condition for the state aid to SNS Reaal was that the State should be allowed to appoint two members to the Supervisory Board. These members would be given additional powers, including the right to veto decisions on remuneration of the members of the board of directors. The appointment of government commissioners was mainly dictated by political motives and not so much by administrative effectiveness, according to the then Minister of Finance Bos in his conversation with the Evaluation Committee. The role of these government commissioners in solving the problems at SNS Reaal will be discussed in more detail below.

Candidates come and go Even

before the decision to grant state aid to SNS Reaal was announced on 13 November 2008, a former politician came forward as a possible supervisory director. On the day of the announcement, the Minister of Finance had already presented two possible candidates to the Secretary-General of the Ministry of Finance: the aforementioned former politician and another former politician. In the following two weeks, the Ministry made no progress in seeking suitable candidates – as far as the Evaluation Committee was able to determine. This may have had to do with the relatively large number of candidates that the ministry had to find. In addition to SNS Reaal, these were government commissioners for ING, Aegon, ABN Amro, Fortis Bank Nederland and ASR. The Ministry of Finance and the Ministry of General Affairs consulted each other about the intended candidates. It was important to find a representative distribution according to party political background. De Nederlandsche Bank was involved in these consultations because it was supposed to issue a statement of no objection to the nomination of individual candidates.

As far as SNS Reaal is concerned, at the end of November 2008 a stalemate had arisen in finding new supervisory directors. In this situation – without his being aware of it himself – the name of Dr. JMG (Jean) Frijns was mentioned. Initially, he was considered a candidate for the Supervisory Board of ASR within the Ministry of Finance. The Ministry of Finance considered an early appointment of a new supervisory board of ASR out of the question. They were also not sure whether Frijns was a 'certainty'.¹⁴ The Minister of Finance was advised not to decide yet.

deciding whether Frijns would be nominated for the supervisory board of ASR or for the supervisory board of SNS Reaal. The Secretary-General did add the comment, however, that Frijns would first have to complete the work of the Corporate Governance Code Monitoring Committee before he can take up his position as a member of the Supervisory Board. According to the highest official at the ministry, it was obvious to 'reserve Frijns for ASR'.

A destination that Frijns would not reach, incidentally.

Wijngaarden and Insinger appointed as government

commissioners With this, Frijns also disappeared from the scene for the supervisory board of SNS Reaal. The same day the name of Mr. L. (Ludo) was mentioned Wijngaarden, who was described as an experienced director with experience in the financial sector. Finding the second commissioner still took some doing. The Executive Board of SNS Reaal at the time did not see why this was necessary. They preferred to relabel a sitting commissioner as 'government commissioner' and have a 'real government commissioner' nominated. According to the Ministry of Finance, Van Keulen and Latenstein feared that the financial markets would interpret the nomination of two supervisory directors as something serious going on at SNS Reaal that would justify a nomination of two supervisory directors.

A candidate who was approached declined the honor because he preferred a supervisory directorship abroad. After this candidate withdrew, Ms. C. (Charlotte) Insinger agreed to be nominated as Second Government Commissioner at the General Meeting of Shareholders on April 15, 2009.

New Chairman of the Supervisory Board

At the same time as the new Supervisory Board members, Wijngaarden and Insinger, Mr. R. (Rob) Zwartendijk took office as Chairman of the Supervisory Board. He assumed the presidency after another candidate withdrew after much unfavorable publicity. The intended appointment of a new chairman of the Supervisory Board of SNS Reaal fell through.¹⁵ As a member of the Supervisory Board of the AFM, he had bought shares in Grolsch and Wolters Kluwer in April 2006, as well as shares in ABN Amro and ING. He had not complied with the rules of the AFM by not reporting these transactions. Trading in shares in financial institutions was even prohibited.

The AFM only found out about these transactions after he left the AFM. A so-called norm-transferring interview took place, but a different formal

le measure was no longer possible. The AFM did, however, report the information about the transactions to De Nederlandsche Bank. He used the information in two interviews: 'The AFM thought that my integrity was not under discussion. That is why she believed that a norm-transferring conversation would suffice. I thought that was the end of it. But (De Nederlandsche Bank board der) Schilder turned out to have major problems with the file.'¹⁶ The intended new chairman of the supervisory board of SNS Reaal withdrew his application for a declaration of no objection. He therefore waived his place on the supervisory board of SNS Reaal.

Sensitivities surrounding the government

commissioners The presence of two commissioners nominated by the government was difficult at first. Some, including Zwartendijk, saw them as two commissioners with an assignment and with a constituency. Zwartendijk discussed the special position of Wijngaarden and Mrs Insinger and suggested to them that 'government commissioners should also commit themselves to the future of the company'. If they used their right of veto, Zwartendijk would have resigned. In practice, the special position of the two government commissioners did not cause any problems.

With the arrival of the two new Supervisory Board members, and certainly with the arrival of Wijngaarden, a gap was filled within the Supervisory Board. There was little specific financial knowledge available there, at least knowledge of the banking and insurance industry. Only Messrs RJ (Robert Jan) van de Kraats and J. (Jan) Nijhuis had knowledge in that area. Later, Mr. P. (Piero) Overmars (former banker) and Mr. J. (Jan) Nijssen (insurance expert) added their knowledge of the financial sector.¹⁷

Statutory duties of the Supervisory Board; internal supervision The Dutch Civil Code stipulates that an NV of a certain size must set up a supervisory board. The Financial Supervision Act stipulates that every bank must have a supervisory board. The Dutch Civil Code stipulates that the Supervisory Board supervises the company *and its affiliated companies*. This means that the Supervisory Board cannot limit its supervision to only the legal entity of which it is a Supervisory Board. In the case of SNS Reaal, the supervisory board of the holding company must therefore also supervise the corridor

of affairs with the daughters. The Executive Board of SNS Reaal was the Supervisory Board of the subsidiaries. That does not detract from the responsibility of the supervisory board of the holding company, otherwise it will be very easy to hide behind a holding company structure. It does raise the question of whether SNS Reaal's internal control mechanisms and risk management lines were organized adequately, i.e. sufficiently critically.

The supervisory board is charged with supervising the policy of the management board and the general course of affairs in the company and its affiliated companies.¹⁸ In performing their duties, the supervisory directors are guided by the interests of the company and its affiliated companies.¹⁹ The supervisory board's supervision of the management includes, among other things: a) the realization of the company's objectives, b) the strategy and the risks associated with the company's activities

ten,

c) the design and operation of the internal risk management and control learning

systems, d) the financial reporting process,

e) compliance with laws and regulations, f)

the relationship with shareholders, g) the

social aspects of doing business that are relevant to the company.²⁰ The supervisory board

and the supervisory directors individually are responsible for this ensure that they request all important information from the board and from the external auditor. This concerns all information that the Supervisory Board needs to properly perform its task as a supervisory body. If the Supervisory Board deems it necessary, the Board may obtain information from officers and external advisers of the company.²¹ Since the responsibility for the functioning of the internal structure lies primarily with the company itself, the role of the Supervisory Board is internal supervisor.

The Supervisory Board cannot simply be passive in fulfilling this role. It is also the task of the supervisory board to advise and assist the management of the company in (financially) difficult times and to develop its own initiatives.²² In a so-called two-tier company, such as SNS Reaal, ²³

the supervisory board to approve a number of board resolutions. This applies, for example, to: – the issue of shares or the reduction of the subscribed capital; taking a participating interest worth at least one fourth of the amount of the issued capital with the reserves in the capital of another company; – the substantial increase or decrease of such participation.²⁴

The articles of association of the company may stipulate that other resolutions are also subject to the approval of the Supervisory Board.

Finally, the Supervisory Board in a two-tier company is authorized to appoint and dismiss members of the Executive Board.

The general meeting of shareholders must be heard on both appointment and dismissal.

3.2 2009: Too rose-colored glasses?

On 15 January 2009, De Nederlandsche Bank had a meeting with Van Keulen and his successor Latenstein. They announced that SNS Reaal expected to make a profit in 2009. The developments regarding real estate in the United States and Spain caused concern at SNS Reaal, but also at De Nederlandsche Bank. At that time, SNS Reaal was in contact with an insurer about a possible merger. Rabobank was still in the picture in the background. The talks were soon stopped. In February 2009 it became clear that SNS Reaal would report a loss of around 500 million euros for 2008. De Nederlandsche Bank's concerns increased. A member of De Nederlandsche Bank's supervisory team openly wondered whether SNS Reaal could continue on its own and whether the expectations for 2009 were realistic. He expressed his doubts in an e-mail message to his superiors, division director Kleijwegt and the new director of supervision, Mr HJ (Henk) Brouwer. During this period, the regulator had various discussions with SNS Reaal. Not just about the risks of Property Finance, which were clearly on the regulator's radar at the time. But also about the models used by SNS Reaal to determine the capital requirement and about the interest rate term structure to be used.

The share price dropped even further to touch two euros at the beginning of March 2009.

SNS Reaal also had problems with the external financing of the holding company. Therefore, the company had to resort to internal financing within the group. In response to all this, one of the members of the supervisory team commented that a 'hunt for solvency' seemed to be taking place at SNS Reaal. The director of supervision of De Nederlandsche Bank saw all this unrest as sufficient reason to set up a meeting with the directors of SNS Reaal. This conversation took place on February 11, 2009.

It was about the options for SNS Reaal for the future: could the company continue on its own or would it be better to merge with or merge into another financial institution? Van Keulen and Latenstein indicated that they had confidence in an independent future once the difficult year of 2009 was over. On 13 February 2009, a discussion about SNS Reaal followed between Brouwer on behalf of De Nederlandsche Bank and Messrs Dr. R.

(Ronald) Gerritse and Ter Haar of the Ministry of Finance. Subject was, among other things, the quality of the board of directors of SNS Reaal. The board of directors had been too positive after the state aid and appeared to be surprised by the size of the loss in the fourth quarter of 2008, according to criticism. The fact that the management of SNS Reaal regularly looked through rose-colored glasses was a critical note that would return even more often. The problems at Property Finance do not appear to have been discussed in the meeting of 13 February 2009. Ter Haar stated in his meeting with the Evaluation Committee that he has no recollection of being informed about this in the meeting in question.

Optimistic annual report for 2008 On 17

February 2009, SNS Reaal presented the figures for the eventful year 2008. For the first time, the company had to report a loss: 504 million euros. This loss came from the insurance activities and was due to the 'unique proportions' of the turbulence in the financial markets in 2008. The bank was up and so was Property Finance, despite higher impairments in the project financing in Spain and North America. The Property Finance portfolio had grown further in 2008, from EUR 11.6 billion to EUR 13.6 billion, but loan production had been lower than in 2007. Property finance remained a core activity of SNS Reaal, but there would be a greater focus on margins than growth. One of the consequences of this was that the credit limits at Property Finance International would be lowered. SNS Reaal's message to the future was positive. The presentation read 'Asset position and underlying result remain strong despite annual loss'. However, the formulated objectives (ten percent growth of

the earnings per share for the period from 2006 to 2009 and a fifteen percent return on equity) would 'very probably not be achieved', according to SNS Reaal. The message also remained positive with regard to Property Finance. Property Finance's relative market position had strengthened in 2008 and the real estate market experienced a 'turning point' in 2008, after several years of declining margins and volumes, as SNS Reaal wrote in its annual report.²⁵

Supervisor focuses on Property Finance

After February 2009, when the second support operation at ING had also taken place, calm seemed to have returned to the Dutch financial system. The worst of the cold seemed to have passed: financial markets recovered somewhat and risk premiums fell. The share price of SNS Reaal also picked up a bit. From the low of two euros at the beginning of March 2009, the exchange rate rose to six euros, roughly the level it was before the State aid. SNS Reaal disappeared from the top items on the crisis agenda at both the Ministry of Finance and De Nederlandsche Bank. The calculation method of the insurer's solvency, the models used by SNS Reaal for capital requirements and double leverage, and intra-group transactions, incidentally, continued to be the subject of discussion between the regulator and SNS Reaal.

Property Finance received increasing attention from the regulator. It had become a major concern. In addition to the existing problems in the United States and Spain, problems also surfaced in Luxembourg in 2009. The concerns about Property Finance concerned not only the financial risks, but also the persistently deficient customer due diligence at SNS Reaal. De Nederlandsche Bank had meanwhile started a project on real estate and integrity.

New management at Property Finance

In August 2009, De Nederlandsche Bank examined Property Finance. The regulator now regarded Property Finance as the weakest spot within SNS Reaal, but the regulator had a positive impression of the path that Property Finance had taken in the meantime. The company had stopped new project financing abroad. This was the riskiest activity within SNS Reaal. In the half-yearly report of 18 August 2009, SNS Reaal indicated that Property Finance would focus on the Netherlands. As a result, Property Finance International would be phased out.²⁶ The management, including the chairman of the board, was

to catch. As of December 2009, Mr. C. (Coen) van der Bijl was the new CEO. He came from Boer & Croon consultants, a company with which SNS Reaal liked to do business: a few months earlier, Mr. B. (Buck) Groenhof had joined via Boer & Croon. From July 2009 as an advisor and on January 11, 2011, De Nederlandsche Bank approved his appointment as a director at Property Finance. The members of the supervisory team were enthusiastic about the changes in the management. They noticed a cultural change and an improved 'tone at the top'. Kleijwegt stated to the Evaluation Committee that De Nederlandsche Bank has not urged the departure of the old director, but has urgently asked for a fundamental change at Property Finance: from construction to phasing out.

Several SNS Reaal officials have confirmed that a different chairman of the board was the obvious choice.

Supervisor gains confidence in Property Finance

The supervisory team saw that Property Finance put a lot of energy into improving the risk culture. This gave risk management an independent position within the organisation. Partly because of the critical and expert attitude that the supervisory team perceived, De Nederlandsche Bank dared to rely on the analyzes made by Property Finance itself. The regulator did ask KPMG for a second opinion on ten relationship complexes. KPMG's findings strengthened De Nederlandsche Bank's view that Property Finance's analyzes were reliable. At that time, Property Finance's portfolio consisted of approximately EUR 8 billion in investment financing, mainly in the Netherlands, and approximately EUR 7.5 billion in project financing, mostly abroad and with a term of less than three years. The regulator saw risks as: vacancy and insufficient realizable value compared to the amount of the loan provided. Property Finance's portfolio did grow slightly in the first half of 2009, to EUR 13.8 billion. While Property Finance had contributed to SNS Reaal's profit on balance in 2008, the real estate arm now meant that SNS Reaal had to report a small loss for the first six months of 2009. But the company remained positive. 'Underlying profit up, strong solvency position improved', read the headline of the press release.²⁷

Early repayment of state aid For

the first time since November 2008 – the provision of state aid – SNS Reaal was again on the agenda of the closed board meeting of De Nederlandsche Bank on 27 October 2009. SNS Reaal wanted early

repay part of the support from the State and Stichting Beheer SNS Reaal, amounting to a total of 250 million euros. The board meeting had to decide whether De Nederlandsche Bank could approve this. A memorandum was drawn up to support the decision-making process, which also included an analysis of Property Finance. The conclusion of the note, which had already been agreed with Kleijwegt and Brouwer, was that De Nederlandsche Bank could agree to a partial repayment of 250 million euros.

The memorandum struck a balance between two interests. On the one hand, repayment of aid was in principle desirable. According to Brouwer, director of supervision at the time, repayment would send an important signal to the market. In addition, the supervisor also had to take into account the European Commission and the viability plan that had been submitted to it. In other words: not repaying entailed major reputational risks for SNS Reaal. On the other hand, redemption had to be prudentially justified. After all, repayment would result in a capital reduction. 'We have weighed up the signaling effect to the market on the one hand and the capital reduction at SNS Reaal on the other. The management has decided to proceed with the issue and to try to increase capital by other means,' said Brouwer in his conversation with the Evaluation Committee. It is remarkable that on 17 August 2009 there was already consultation between the Ministry of Finance and one of the government commissioners, Wijngaarden. He thought it was 'very strange to enter the market in a year when no dividend can be paid, to raise money to pay off the government', according to a report from the Ministry of Finance of the conversation with him. The secretary-general of the Ministry of Finance jumped at it and asked a series of critical questions.

On September 7, 2009, Gerritse had spoken to Latenstein by telephone. The latter had spoken quite seriously about repaying part of the state aid through an appeal to the capital market. That was the subject of discussion with De Nederlandsche Bank and Gerritse had given no sign of any reaction whatsoever. He did note with the necessary reservations that SNS Reaal had 'once again' shown its interest in ASR.

The successful issue had apparently given the leadership of SNS Reaal wings. On September 30, 2009, Latenstein approached Gerritse. They were scheduled to meet in Istanbul on October 3. With this in mind, Latenstein wanted to 'revisit the possible combination between SNS Reaal and Fortis Bank NL or parts thereof'. Within SNS Reaal it was then buzzing - according to a report from Finance - of 'things that had to be done at the level of CFO-Rens [the then quartermaster of participations Rens Bröcheler] and

should be elaborated lower'. But apparently Gerritse had a different perception of the conversation than the message that Latenstein had sent to SNS Reaal: 'I assume that this is about the possibilities of early repayment of CT1. I showed SNS that maybe something is possible there. But there has to be close coordination with what we do with regard to ING and Aegon'.

Result of SNS Reaal issue: 135 million euros

According to the memorandum from De Nederlandsche Bank on the repayment of a small part of the state aid, SNS Reaal had a capital surplus of 900 million euros at that time and there was an adequate buffer under stress. The uncertainties surrounding Property Finance and the insurer's solvency (and its calculation method) were not sufficient to refuse permission. A positive point was the fact that on 24 September 2009 SNS Reaal had raised 135 million euros through an issue. Although SNS Reaal did not fully meet the prudential standards, the board meeting decided that De Nederlandsche Bank would give permission for repayment, partly because of the reputational risk. The board meeting noted in the minutes that the prudential risks had been carefully reviewed and that there had been a responsible and adequate analysis.

Disagreement about calculation of solvency

At the end of 2009, an old and long-standing issue resurfaced. On 3 December 2009, SNS Reaal submitted a request to amend the adequacy test (TRT). This test is performed to determine the adequacy of an insurance company's technical reserves. The TRT is therefore of great importance for determining the solvency of an insurance company.

De Nederlandsche Bank replied on 14 December 2009 that SNS Reaal's calculation method was an incorrect interpretation of the communication that the regulator had sent to all insurance companies on 14 October 2009. De Nederlandsche Bank also said it was conducting a sector-wide investigation into this complex matter. SNS Reaal disagreed in principle with De Nederlandsche Bank, the company stated in a letter dated 29 December 2009. The company had been using its own method since 2007. Returning to that 'consistent line of conduct' would not be workable for SNS Reaal. Particularly because De Nederlandsche Bank only announced its objections in mid-December 2009. De Nederlandsche Bank replied on 26 January 2010 that the communication to the entire sector had already been made on 14 October

2009 had gone out. It was also not the case that De Nederlandsche Bank came back from a stable course of action, because it was only with the breakdown of the figures for 2008 that it could properly look at the calculation of solvency, according to De Nederlandsche Bank's reply. Finally, on 3 February 2010, SNS Reaal bowed to the regulator. As a result, the reported solvency decreased from 271 percent to 230 percent. A year later, the discussions about the solvency calculation for the insurance arm of SNS Reaal – which had been going on since the beginning of 2008 – would immediately lead to consultations between De Nederlandsche Bank and the Ministry of Finance about various emergency scenarios for SNS Reaal.

3.3 2010: apparent calm

On 28 January 2010, the European Commission gave its verdict: the European Commission accepted the viability plan and the capital support to SNS Reaal complied with the guidelines as set out in the Banking Communication and the Recapitalization Communication.²⁸ The support amounted to less than two percent of the risk-weighted assets and part was repaid in December 2009. The fact that SNS Reaal was able to raise private capital with the issue in August 2009 contributed to the impression of a viable company. The European Commission determined that SNS Reaal had to repay all aid by the end of 2013 at the latest. If SNS Reaal does not pay a dividend on the shares (and therefore no coupon on the Core Tier 1 shares of the State) for two consecutive years, the State would have to make a new notification of state support, a so-called renotification. The European Commission may then review the viability plan.

Profit obscures underlying problems

After the loss of 504 million euros in 2008, SNS Reaal was able to present a modest profit of 17 million euros on 18 February 2010, a 'return to profitability' as the press release headlined. However, the underlying result excluding provisions and non-recurring items fell from EUR 307 million in 2008 to EUR 200 million in 2009. At Property Finance, more than EUR 400 million had been written down; the contribution to the result was minus 219 million euros. Property Finance International had a minus of more than 300 million euros. On the other hand, there was a plus of just under 110 million euros at the Dutch branch of Property Finance. SNS Reaal reported that the company had started phasing out the international portfolio. That would take three to five years. This offers us the

opportunity to focus on the profitable Dutch activities,' said the group at the presentation of the annual figures. The prospects for the Dutch real estate market were good in the medium and long term, according to the report. In the short term, things looked a little less favourable. In the short term, therefore, the focus would be on value creation and 'a responsible balance between risk and return'.²⁹ Property Finance's portfolio had shrunk somewhat in the second half of 2009 and now amounted to 13.2 billion euros. Loan production had fallen to 1.8 billion euros.

Things are rumbling under the surface

Until the autumn of 2010, things seemed to have remained quiet around SNS Reaal. Although the euro crisis that had broken out in the meantime created new uncertainties and a stagnating economic climate, this did not seem to hit SNS Reaal hard immediately. The share price fluctuated. At its lowest point in March 2009, the share price was below two euros. After that it had climbed up to six euros in October 2009 and then dropped back to about four euros half way through 2010. Beneath the surface, however, things were rumbling at Property Finance. There was concern about SNS Reaal's real estate division at both SNS Reaal and the regulator. In a meeting with De Nederlandsche Bank at the end of March 2010, the chairman of the Supervisory Board, Zwartendijk, reported that Property Finance was at the top of the Supervisory Board's agenda. The Supervisory Board was satisfied with the new CEO of Property Finance, Van der Bijl. At Property Finance, Groenhof was responsible for restructuring & recovery (R&R), the phasing out of Property Finance's so-called non-core activities. De Nederlandsche Bank said it was satisfied with the 'tone at the top' of the Executive Board of SNS Reaal. The supervisor did have some comments about the supervisory board. It was considered quite extensive – the supervisory board of SNS Reaal now consisted of ten people – and could use some specific banking knowledge.

Funding becomes problematic

On 15 June 2010, De Nederlandsche Bank's annual internal risk analysis and planning on SNS Reaal was published. Due to pressure on solvency, profitability and rating and several compliance files, such as usury policies, SNS Reaal was above average sensitive to a bank run, according to the analysis of the regulator. The bank's funding was also problematic. Although SNS Reaal did its utmost to collect retail savings through attractive interest rates, there was a lot of whole-

sales funding. This included state-guaranteed loans placed under the bank loan guarantee scheme and the use of facilities from the European Central Bank. The holding company was only able to fund itself to a very limited extent. The insurer largely provided the funding for the holding company. On the horizon, the redemption of the participation certificates, the first tranche of which was due in June 2012, loomed as an upcoming problem.

Concerns about Property

Finance In its risk analysis and planning for SNS Reaal, De Nederlandsche Bank pointed out that Property Finance's portfolio quickly developed negatively and that the options for doing something about it were limited. Property Finance had hired Ernst & Young to get started with an objective market exploration and validation. De Nederlandsche Bank received a copy of the reports from Ernst & Young. Two employees of De Nederlandsche Bank visited Spain in May 2010 to ascertain the status of some of the biggest headaches within Property Finance. The group also included employees of SNS Reaal, advisers from Ernst & Young and KPMG's external auditor, De Wit. They returned with the impression that the downside risk of some projects was greater than Property Finance's most pessimistic estimates. One of the six projects visited was rated 'fair' in terms of the probability that the project could be closed without losses. Another project was qualified as 'possibly reasonable'. Of the four other projects visited, the visitors wondered whether they would yield anything for Property Finance: It was likely that all apartments would have to be sold in one sale with a hefty discount. A similar visit to the United States would follow in September 2010. The picture there was not very rosy either.

Uncertainty about Property Finance's reduction plans

In response to the findings about Property Finance, De Nederlandsche Bank organized a number of meetings with Property Finance's CEO, Van der Bijl, and financial director Mr JJ (Jaap) van Dijk. Van Dijk, who comes from DSB Bank, would succeed Van der Bijl on 1 January 2011 as the highest boss at Property Finance. De Nederlandsche Bank estimated that the provisions for the second half of 2010 would be higher than previously assumed. At that time, Property Finance's international portfolio had been reduced from 5.3 billion

euros to 3.2 billion euros, but those were mainly 'quick wins and low-hanging fruit'. The picture that the regulator received of the total reduction was clear, but at item level there was a diffuse picture. It was unclear to what extent Property Finance really cleaned up. Many exit plans ended up on ice and deals often turned out to be difficult to get around in practice. The phase-out plans had a term of three to five years. It was unclear what was happening in the Netherlands in terms of phasing out. Property Finance studied the various possibilities for the Dutch activities. The company outlined two alternatives: either to phase out everything, or to continue with investment financing alone, a portfolio of six billion euros. In addition to the purely business concerns, De Nederlandsche Bank signaled unrest within the Property Finance organization as a result of the phasing-out activities. The regulator regarded this as an operational risk.

As part of the SREP analysis for the year 2010, the supervisory team of De Nederlandsche Bank had planned to have an external expert look at Property Finance's exit plans. The supervisory team later advised against this, because if the market got wind of this, it could lead to major risks. That is why then divisional director Kleijwegt decided in August 2010 at the last minute to abandon the plan. For this reason, De Nederlandsche Bank continued to rely on the analyzes of Property Finance itself, of Ernst & Young and of KPMG. Instead of the intended external investigation, De Nederlandsche Bank now required Property Finance to produce exit plans for the 47 most important relationship complexes before 15 September 2010. The regulator also noted that Property Finance did not have the best track record in estimating downside risks. De Nederlandsche Bank was more positive about Ernst & Young's approach.

Insufficient capital, or not?

In October 2010, the periodic meeting between the regulator and the Executive Board of SNS Reaal followed. SNS Reaal indicated for the first time that the company also wanted to phase out project financing and non-core loans in the Netherlands. This should result in a significant reduction of the assets on SNS Bank's balance sheet. Together with the profits of the insurer, this should result in a capital release of 600 to 800 million euros. This release was badly needed in order to comply with the agreements with the European Commission on the repayment of the state aid. For repayment of the total support from 2008 (including the support from the

Stichting Beheer SNS Reaal) would require a total of between 850 and 1350 million euros, depending on fine payments.

De Nederlandsche Bank's concerns were formally reflected in the annual SREP analysis of SNS Bank's capital situation. It would be borderline whether SNS Bank's capitalization met the requirements of the regulator. In the November 2010 memorandum in preparation for the SREP opinion, the regulator devoted a great deal of attention to Property Finance. The rate of reduction was of great importance for the bank's capital situation, because SNS Bank had very limited access to the capital market.

Improvements in capital ratios therefore had to come from asset reductions, which in turn had to take place at Property Finance.

SNS Reaal itself was of the opinion that the capitalization of the bank was sufficient. After all, according to SNS Reaal, the standards imposed by De Nederlandsche Bank were met. The regulator disagreed. In De Nederlandsche Bank's own stress scenarios, SNS Bank came out too low and repayment of the aid to the State and the Stichting Beheer SNS Reaal was not possible without additional measures.

After all, SNS Reaal also wanted to repay part of the support from the foundation, just as the company had also repaid part of the state support in December 2009. Moreover, SNS Reaal gradually saw the repayment of the participation certificates in 2012 coming into view.

De Nederlandsche Bank imposes measures

SNS Reaal itself had proposed to phase out the assets at Property Finance. De Nederlandsche Bank concluded that this reduction of assets was not optional, but a requirement. In addition, meeting De Nederlandsche Bank's stress standards required additional asset reduction and/or new capital. This resulted in three formal measures in the final judgment on 7 December 2010. Firstly, a minimal reduction of risk-weighted assets at Property Finance International by one billion euros at the end of June 2011. Secondly, a further 500 million euros reduction at Property Finance per six months until the end of 2012. Thirdly, an additional reduction of risk-weighted assets at SNS Bank of at least EUR 2.5 billion, or a capital increase of EUR 150 million, no later than the end of June 2011.

Consultations with the Ministry of Finance

Following the situation at SNS Reaal, CEO Latenstein also contacted the Ministry of Finance at the end of November 2010. Se-

Secretary General Gerritse, also Treasurer General, informed him that SNS Reaal was not saved in 2008, only to have the company fall over two years later. However, the options were limited as far as the Ministry of Finance was concerned. Latenstein thought that it might be possible to discuss a capital injection in combination with the phasing out of Property Finance with the Ministry of Finance. Solutions for Property Finance's bad assets such as a bad bank or a guarantee were not negotiable. Lamp expressed this in his conversation with the Evaluation Committee as follows: 'At an early stage (2011 during the IMF [annual meeting in] Washington), the then Secretary-General of Finance, Mr Gerritse, was asked whether a solution à la ING, or something looks like it was possible. For example, selling Property Finance and delivering a mortgage portfolio as a means of payment. That was not a realistic option from the perspective of the ministry (and, in Lamp's eyes, from politicians). Finance was not prepared to support separating the bad assets', according to Lamp's personal assessment in his conversation with the Evaluation Committee.

The Ministry of Finance was not in favor of transferring SNS Reaal (or parts thereof) to the state participations. At De Nederlandsche Bank, people saw something in a solution in line with the guarantee that ING had received for its problematic portfolio of US mortgage bonds. On 17 December 2010, the two directors of supervision, Brouwer and Ms AJ (Joanne) Kellermann, had discussed possible measures with the Executive Board of SNS Reaal. SNS Reaal indicated in the conversation that the company was open to a fire sale, a kind of liquidation sale, to solve the problems at Property Finance in one fell swoop. to get rid of.

The problem, however, was that a potential buyer would also need to have funding for that portfolio. Whether Property Finance could (or should) have been disconnected from SNS Bank earlier is an academic question. In any case, the funding should have come from SNS Bank in one way or another. As a result, SNS Reaal would gain nothing with a liquidation sale at predatory prices.

According to the Executive Board of SNS Reaal, it was better to sell the insurer in pieces; starting with the non-life business, possibly followed later by the individual life insurance business and the pension business.

A state guarantee was also discussed. It was agreed that De Nederlandsche Bank would contact the Ministry of Finance and discuss a state guarantee again.

In the meantime, on 15 November 2010, SNS Reaal had submitted an application for approval for a repayment of 19 million euros to Stichting Beheer SNS Reaal. This would be necessary to maintain a good relationship with the foundation and to maintain SNS Reaal's reputation in the capital market. Director of supervision Brouwer hinted that he had little interest in this. He did not think it prudent to let capital run out of the group. Following this signal from the regulator, SNS Reaal withdrew the request on 3 January 2011. Stichting Beheer SNS Reaal would waive equal treatment with the State with regard to its Core Tier 1 securities.

February 2011: Panic over nothing?

On 17 January 2011, De Nederlandsche Bank received a notice of objection from SNS Reaal against the SREP ruling. In it, SNS Reaal took the position that SNS Bank did not violate the law and that therefore De Nederlandsche Bank could not impose measures.

After all, SNS Bank met the statutory minimum capital requirements. In addition, De Nederlandsche Bank's decision was inconsistent with a number of general principles of good administration, such as the principle of proportionality. In the letter, SNS Reaal indicated that the company intended to replace the participation certificates that would qualify for redemption in 2012 with other capital within the foreseeable future. In the meantime, however, an old familiar issue has re-emerged: the issue of the method of calculation of the adequacy test that has consequences for Reaal's solvency position. De Nederlandsche Bank and SNS Reaal therefore had a difference of opinion.

The precarious situation meant that on 1 February 2011 SNS Reaal was back on the agenda of the closed board meeting of De Nederlandsche Bank for the first time in a long time. SNS Reaal was also discussed in the lunch meeting between the Minister of Finance and the President of De Nederlandsche Bank. On 19 January 2011, the then president of De Nederlandsche Bank, Dr AHEM (Nout) Wellink, reported to the then former Minister of Finance, Mr JC (Jan Kees) de Jager, that SNS Reaal was in serious trouble. wrong again. Plan A consisted of the measures imposed by the regulator in the context of the SREP discussion. Emergency scenarios, such as various forms of guarantee by the Dutch State, fell under plan B. The conversation ended with an appointment to keep in touch about the situation at SNS Reaal.

On February 17, 2011, SNS Reaal would publish its annual figures. The market had taken into account a loss of 200 million euros resulting from the activities at Property Finance. In October 2010, De Nederlandsche Bank tried to clarify the method used to calculate the solvency of insurers. To this end, the regulator had sent a letter to all insurers and to the umbrella organization. The outcome for SNS Reaal would be that the reported solvency would drop drastically. Such a fall would be unexpected for the market and could lead to panic, given the already precarious situation of SNS Reaal. Suddenly there was a high degree of urgency at De Nederlandsche Bank. The Roos project group, aimed at the problems at SNS Reaal, started on 2 February 2011. Additional board meetings were scheduled on 4 and 5 February 2011 and the entire supervisory file was discussed, up to and including the DNO grant for the purchase of Property Finance. The supervisor was faced with a situation in which sticking to its own views could lead to a crisis of confidence in SNS Reaal and thus to a possible threat to financial stability.

Plans to avoid disproportionate effects In the special board meeting of February 5, 2011, it was emphasized that unnecessary disproportionate effects should be avoided, without prejudice to the need to enforce the law. Meanwhile, De Nederlandsche Bank and the Ministry of Finance were working hard on emergency plans. Eight options were identified that would come up for discussion in various variants later on. The options varied from the sale of the entire SNS Reaal, the sale of parts such as the insurer, capital injections, the establishment of a bad bank or a state guarantee on Property Finance, to nationalisation. The Ministry of Finance preferred a private solution, so without a bad bank or a guarantee on Property Finance. If a private solution is not possible, the political preference may be for nationalisation, with a strong desire for burden sharing, the distribution of the costs among certain categories of capital providers.

But it was also clear to De Nederlandsche Bank that the Ministry of Finance was not eager to deploy such a drastic measure because of the effects it could have on the entire financial sector and because of the possible risks to the creditworthiness of the Dutch Stands. In case of emergency, there was always also the bill that was made in 2009 in case ING had to be nationalized,

the so-called S-law. In a memorandum from De Nederlandsche Bank, dated 3 February 2011, the regulator referred to the European Commission as a bottleneck for state intervention in a solution.

Solvency compromise?

On 7 February 2011 officials from De Nederlandsche Bank and SNS Reaal met to seek a compromise on the insurer's solvency. The following day, on 8 February 2011, there was a board meeting of De Nederlandsche Bank. The management discussed the situation and the various solutions. It was decided that maintaining De Nederlandsche Bank's position would cause too much damage, despite objections to this decision from various quarters within the regulator. These objections concerned, for example, the violation of the level playing field by not strictly adhering to one's own interpretation, but by going along with the interpretation of the institution itself.

On 10 February 2011, SNS Reaal submitted a proposal which, on the one hand, met the requirements of De Nederlandsche Bank and, on the other hand, partially adjusted the solvency calculation. As a result, the solvency of the insurance business remained stable. On 10 February 2011, the board meeting agreed with SNS Reaal's proposal 'now that this calculated method meets the spirit of the guidance of De Nederlandsche Bank, is motivated and plausibly substantiated by SNS Reaal and is therefore acceptable in that sense'. It can be added that De Nederlandsche Bank has requested and received assurance from the external party actuary of Reaal and of the external auditors of Reaal and SNS Reaal.

Preference for a private

solution How SNS Reaal would fare at the presentation of the annual figures on 17 February 2011, however, remained uncertain. The share price of SNS Reaal has fluctuated between three and four euros since the summer of 2010.³⁰ The project teams set up at De Nederlandsche Bank (Roos) and at the Ministry of Finance (Mercurius) therefore continued to work.

One of the questions the Mercurius team encountered was why the problems at Property Finance were only now hitting SNS Reaal so hard. When preparing for the granting of state aid in 2008, SNS Reaal had already stated a maximum loss of 320 million euros on the basis of a stress scenario. This was known when the state aid was granted. Of the 13.4

billion euros of outstanding loans from Property Finance, 6% of these concerned projects in the United States (approximately 800 million euros) and 3% in Spain (approximately 400 million euros).

On 11 February 2011, there was a meeting between Latenstein, Brouwer and Dr. KHW (Klaas) Knot, who at that time was director of the financial markets of the Ministry of Finance. They list the possible solutions for an emergency situation. The outcome was that a private solution was preferred. It would then involve selling the insurance branch in parts. If that were not successful, the State would increasingly support SNS Reaal.

In the first instance this would take place via the deposit guarantee scheme, then the State could act as guarantor for parts of SNS Bank's balance sheet and finally the option of nationalization via the Social Security Act ('calling Klaas') was also discussed. . In the board meeting of De Nederlandsche Bank on 15 February, it was established that SNS Reaal had met the conditions for acceptance of the calculation method for the liability adequacy test. The condition that the change in the solvency method had to be explained to the stakeholders would be removed. For De Nederlandsche Bank, the problem of the insurer's solvency was thus resolved. On 16 February 2011, the Minister of Finance was briefed by the President of De Nederlandsche Bank.

Bankruptcy was out of the question. SNS Bank was 'unlike DSB' a systemically important bank. Bankruptcy would cost the State 'in any case about three billion euros' because of the appeal of the deposit guarantee scheme to ABN Amro and losing part of the existing state support'.

Property Finance phasing out continues

On 17 February 2011, SNS Reaal presented its figures for 2010. The market response was ultimately better than expected. There was no panic. SNS Reaal reported a loss of 225 million euros and a solvency of 195 percent, which was in line with expectations. The result was dominated by the negative contribution from Property Finance: minus EUR 596 million, of which more than EUR 500 million was accounted for by the international activities. Impairments almost doubled: from 418 million euros to 790 million euros. The run-down of Property Finance International continued and was expanded with part of the Dutch portfolio. The climate for real estate financing also deteriorated in the Netherlands, as reported in the annual report. The run-down portfolio, 6.3

billion euros, was set aside on 1 November 2010 and was to be phased out in two to four years. The phasing out in 2010 amounted to just under two billion euros (to 11.4 billion euros) and a similar amount of phasing out is foreseen for 2011. The rest of Property Finance's Dutch portfolio (5.6 billion euros) would be transferred to SNS Bank Zakelijk.³¹ The retail banking activities and the insurance activities performed well and the capital situation was 'solid', according to SNS Reaal. The company communicated its firm intention to repay the support from 2008 on time, at the end of 2011.³² At the end of March 2011, the share price of SNS Reaal even rose above four euros.

After all the commotion in February 2011, SNS Reaal disappeared from the lunch meeting agenda again until mid-December 2011. The code names of the teams at De Nederlandsche Bank and the Ministry of Finance would remain: Roos and Mercurius respectively. The dangers of the so-called fico model, in which an institution combines significant banking and insurance activities within one company, had once again become clear to De Nederlandsche Bank. One part can contaminate the other. Partly for this reason, De Nederlandsche Bank wanted to be informed in advance about all transactions that would be carried out within SNS Reaal between units, the so-called intra-group transactions.

People at De Nederlandsche Bank still had different ideas about the capital situation, which SNS Reaal itself called 'solid', at least where SNS Bank was concerned. On 10 March 2011, the hearing took place on the objection that SNS Bank had lodged against the SREP analysis for 2010. SNS Bank had come up with new figures based on additional information. On the basis of more recent figures, the capital ratios under stress have now reached a satisfactory level. This was largely due to the rapid reduction of risk-weighted assets at Property Finance.

As a result, SNS Bank had in fact already complied with the first two measures imposed by the regulator in the context of the SREP analysis.

De Nederlandsche Bank came to the conclusion that SNS Bank's objection to the SREP 2010 opinion was well founded. This was done on the basis of new data, which were previously unknown. Nevertheless, the supervision team would have liked to see the other measures maintained, but there was no longer any reason for this. The hearing also discussed the redemption of the participation certificates in 2012, due to the possible consequences thereof for SNS Bank's capital position.

Kroeze promised that SNS Bank would not redeem the participation certificates

if the capital position does not allow it. SNS thought it could manage the potential reputational risks of not repaying. According to Kroeze, this was a 'point of principle for SNS'.

July 2011: Plans for a 'clean sweep' The

events of early 2011 prompted De Nederlandsche Bank to start working with SNS Reaal in a structured manner. In the board meeting of April 5, 2011, it was concluded that the supervisory team should complete an inventory of vulnerabilities and alternative strategies as soon as possible, and that the supervisor should – as far as possible – formulate scenarios. The supervisory strategy remained focused on the greatest risk: Property Finance and the run-down of the international portfolio.

The value of that portfolio had fallen by 42 percent since the bailout in 2008. In 2009, mainly simple phasing out had taken place: 'the low-hanging fruit' had been removed. By mid-2010, De Nederlandsche Bank had commissioned specific exit plans for the 47 largest international items, which represented about three-quarters of the international portfolio.

Quality of the capital does not matter In

addition to the mandatory exit plans, De Nederlandsche Bank also imposed specific measures in the context of the SREP analysis for 2010.

SNS Bank had formally lodged an objection against this and the company had won. However, the phasing out in 2010 was slightly ahead of schedule. Both good and bad loans were reduced. The target for 2011 was further reduction, but the risk remained considerable: the regulator believed that losses of half a billion to one billion euros were possible. In principle, the capital ratios were satisfactory, but the quality of the capital fell short. The actual hard equity, the so-called tangible equity, was small in relation to the balance sheet total.

SNS Reaal no longer had access to the external capital market. As a result, the holding company was unable to repay loans from the bank and the insurer to the group. De Nederlandsche Bank considered it uncertain whether the state aid could be repaid. So there was a good chance of a response from the European Commission. The lingering issue of usury policies also continued. But for the time being, the market gave SNS Reaal the benefit of the doubt. These points would be further elaborated within the Roos project team. This team was the responsibility of Ms. PHM (Petri) Hofsté, Kleijwegt's successor as division manager.

director supervising banks. The project team identified four different flows: vulnerabilities, strategies, contingency scenarios and viability.

De Nederlandsche Bank asks for an action plan

De Nederlandsche Bank passed on its analysis to SNS Reaal during the policy discussion with the Executive Board of SNS Reaal on 21 April 2011. During that meeting, the regulator also asked for an action plan. Although this was not a formal instruction, De Nederlandsche Bank clearly indicated that it could not agree to repayment of the state aid at the end of 2011 if SNS Reaal did not take any further steps. In concrete terms, De Nederlandsche Bank was considering splitting up the company. Although this would not solve the problems at Property Finance, De Nederlandsche Bank was in any case of the opinion that the fico model had had its day for SNS Reaal. SNS Reaal thought differently at that time. The company wanted to stick to the combination of banking and insurance. That, in combination with phasing out Property Finance and cost reductions, would be best for the stakeholders. Following the policy discussion, De Nederlandsche Bank sent a letter to SNS Reaal on 29 April 2011 in which the content of the discussion was presented from the supervisor's point of view. There was also a request for an action plan to be drawn up. In response, SNS Reaal sent a letter on 23 May 2011 in which the company stated that it 'does not fully recognize itself' in the content of the letter from De Nederlandsche Bank.

On 21 June 2011, SNS Reaal submitted its action plan to De Nederlandsche Bank. On 8 July 2011, SNS Reaal presented its action plan to the supervisory directors, Dr J. (Jan) Sijbrand and Ms Kellermann.

As of 1 July 2011, a number of far-reaching changes had taken place in the management and governance structure of De Nederlandsche Bank. Wellink was succeeded by Knot, the former director of financial markets at the Treasury Department. Brouwer was succeeded by Sijbrand as director of supervision. SNS Reaal's plan focused on two points of concern: SNS Reaal's weak capital position in combination with the obligation to repay state aid, and the interdependence between bank and insurer and the resulting contagion risk. However, according to SNS Reaal, splitting the bank and the insurer was not an option in the circumstances at the time. SNS wanted to try to sell the non-life business (Liberty project) and possibly place an issue.

The repayment

schedule This intention was also in line with the agreements made with the European Commission. This included an indicative schedule with terms of repayment to the State. By the end of 2013, all state aid should have been paid off by SNS Reaal. If SNS Reaal failed to repay (including the premium), the company would automatically have to take additional measures to be able to repay the State. The sale of the insurer was one of the possible additional measures. If these measures also prevented SNS Reaal from repaying the State in full, the Netherlands would have to report the aid to the European Commission again by 31 January 2014 at the latest.

Strategy 'inadequate' – capital reinforcement

needed In an initial informal reaction, Sijbrand supported the plan, but he also made the necessary comments. More capital was needed, primarily as a buffer, not to mention repayment of the support. After the further explanation from SNS Reaal by letter on 20 July 2011, the official reply from De Nederlandsche Bank followed on 17 August 2011. The plan did not adequately address the concerns of the regulator. In the final assessment, De Nederlandsche Bank indicated that there could be no repayment of the aid if no capital reinforcement took place. Moreover, in a stress situation, achieving such a strengthening in the market was not realistic. According to De Nederlandsche Bank, the current strategy was 'inadequate'. Dependence on wholesale financing was too high. Reduction of risk-weighted assets was necessary, especially since the Basel III proposals for capital requirements would limit leverage. In addition, double leverage in the holding company remained high. This created a risk of contagion between the bank and the insurer.

For these reasons, three additional requests followed. In the first place, De Nederlandsche Bank wanted to see a further investigation into further balance sheet reduction. Secondly, an investigation into the financeability of the planned business model, given the existing dependence on wholesale financing. Finally, the regulator wanted the financial, operational, information technology and legal interdependencies within SNS Reaal to be mapped out.

Nationalization is on the agenda

At the presentation of the plan of action on 8 July 2011, the possibility of nationalization of SNS Reaal was discussed, brought up by the CEO Latenstein.

In the letter of 17 August 2011, De Nederlandsche Bank wrote that it could not be ruled out that in such a situation the State of the Netherlands would only want to rescue the bank. De Nederlandsche Bank asked SNS Reaal for a living will, an inventory of all interrelationships within a financial institution with the aim of making the institution easier to split and/or settle in the event of continuity problems.

Drawing up such plans was an industry-wide issue for systemically important financial institutions. This was a result of agreements made at the G20 with regard to the Financial Stability Board (FSB), the body that would deal with global financial stability.

Systemically important banks make a living

will A formal request to draw up a living will would follow on 23 August 2011, with a deadline of 1 November 2011. De Nederlandsche Bank sent a similar request to all systemically important institutions in the Netherlands. On 5 September 2011, the Supervisory Board of SNS Reaal objected to the drawing up of a living will. That would be a self-fulfilling prophecy. The objection was rejected. De Nederlandsche Bank's request for a living will had to do with the systemic relevance of SNS Reaal and the parts of SNS Bank and Reaal Verzekeringen. As part of the Roos project team, the financial stability department had made an analysis of the systemic relevance of SNS Reaal. This analysis is dated July 21, 2011.

The scenario of nationalization in an acute crisis had meanwhile been prepared and the draft decision for invoking the Social Security Act was ready. But then it had to be clear what exactly had to be nationalized and whether this was legally allowed. SNS Reaal scored a 4 on a scale of 1-6 (increasing in system relevance). Systemic relevance applied to the SNS Reaal group, SNS Bank and Reaal Insurance. The core of the argument was that SNS Bank was systemically important because of the consequences of a bankruptcy via the deposit guarantee scheme and the confidence effects in the market and among the public. SNS Bank's systemic relevance was not so much in size and replaceability. The insurance part was not in itself directly systemically important, but it was because of the contagion of the bank that could take place if Reaal got into trouble. The risk of mutual contamination also made the holding company systemically important. If there were no negative consequences for the insurer if the bank were nationalised, the systemic relevance of the insurer would therefore lapse.

The situation at Property Finance looks

hopeful In the meantime, De Nederlandsche Bank had also listed the situation at Property Finance. In July 2011, a memorandum on the state of affairs was published. According to the regulator, Property Finance had been proactive in the risk analysis and had engaged external parties. But market developments were not manageable and management did not have a particularly good track record in assessing downside risks. However, the company seemed to meet the targets for winding down. Up to and including March 2011, Property Finance International's portfolio had been reduced by more than forty percent. Potential losses did increase due to the write-downs. De Nederlandsche Bank says it had insufficient insight into the outcomes in a stress situation.

To gain that insight, the regulator had requested exit plans for the 47 most important international projects. This request replaced De Nederlandsche Bank's proposed investigation assignment to an external expert to look at Property Finance's exit plans. As mentioned earlier, former divisional director Kleijwegt had decided against this at the last minute on the advice of the supervisory team. It was believed that the risks of this becoming known in the market were too great. That is why De Nederlandsche Bank had relied on the analyzes of Property Finance itself, of Ernst & Young and of KPMG.

Things apparently calmed down for a while around SNS Reaal, although the share price continued to fall steadily: from more than three euros at the beginning of July 2011 to 1.69 euros in mid-September 2011.

On 25 August 2011, SNS Reaal presented the half-year figures. Highlights were a profit of 44 million euros and decreasing losses at Property Finance. Those losses, incidentally, still amounted to 118 million euros. But once again the capital position had been strengthened, the company reported.³³ On 30 September 2011, SNS Reaal sent a letter to supervisory directors Sijbrand and Ms. Kellermann stating that SNS Reaal was well on its way to achieving capital reinforcement and balance sheet reduction. Until 6 December 2011, the situation at SNS Reaal was no longer discussed in the board meeting of De Nederlandsche Bank. The SNS Reaal file has meanwhile been dealt with by De Nederlandsche Bank in the supervisory line. At that time, the company was no longer discussed during the lunch talks between the Minister of Finance and the president of De Nederlandsche Bank. Little was heard from SNS Reaal about the plans for an issue and the

sale of the damage company. The supervisory board of SNS Reaal also seemed to have little inclination to develop its own initiatives. The oversight team expressed its disappointment about this.

2011: Insufficient capital, or not?

At the end of October 2011, the sky cleared again for SNS Reaal. On 26 October 2011, a meeting was held between De Nederlandsche Bank and the Executive Board of SNS Reaal. It discussed the upcoming stress test of the European Banking Authority (EBA).

In June 2011, SNS Bank had still stumbled across the ditch, but now a deficit has emerged. SNS Reaal was no longer looking only at the sale of the non-life insurance business, but also at the possible sale of the life insurance business. The deadline of the European Commission was also approaching. Postponement of this deadline was unavoidable, because there was no possibility that SNS Reaal could repay the state support on time. The directors of SNS Reaal polled the mood at the Ministry of Finance. Was there perhaps a change in the Ministry's attitude towards a solution to Property Finance's bad assets? On 8 November 2011 it became clear that the outcome of the EBA stress test would indeed lead to a capital shortfall at SNS Bank, a shortfall of 159 to 276 million euros. SNS Reaal had to wriggle through all sorts of bends to make up for the capital shortfall. The conversion of subordinated capital, a further reduction in assets, an increase in double leverage and a possible contribution from Stichting Beheer SNS Reaal were examined. De Nederlandsche Bank referred to these efforts as 'gathering work'. What the supervisor was satisfied with was the living will that De Nederlandsche Bank had received on 1 November 2011.

Art and flight brings core capital to a sufficient level Despite the identified capital shortfall, SNS Reaal's message in the so-called trading update on 10 November 2011 remained more or less the same as the company's announcements in the half-year figures.³⁴ The company had booked a net profit, despite losses at Property Finance, which also continued to decrease. Losses and write-downs related to the euro crisis remained limited. SNS Reaal succeeded in getting the core capital back to an adequate level in mid-November by means of art and flying.³⁵

In the meantime, the Supervisory Board of SNS Reaal also seemed to have come to the realization that SNS Reaal had ended up in a very difficult situation. In a conversation with De Nederlandsche Bank on 29 November 2011, chairman Zwartendijk and vice-chairman Overmars indicated that they expressed the opinion of De Nederlandsche Bank.

Nederlandsche Bank shared: repayment of the state support was not realistic at that time, SNS Reaal would have to make an issue and the sale of at least the non-life business was necessary. The Supervisory Board and De Nederlandsche Bank expressed their appreciation for the efforts of the Executive Board of SNS Reaal to find a solution. The Supervisory Board itself still took no action. According to Zwartendijk, SNS Reaal had been overtaken by reality and Overmars said that Property Finance would need three to four years to wind down, but the question was whether the markets and the European Commission would allow SNS Reaal that time.

Re-establishment of joint Mercurius/Roos working group

In the meantime, the annual ICAAP/SREP procedure on SNS Bank's capital position was also underway. On 1 December 2011, the regulator indicated in a memorandum that the results of SNS Bank and De Nederlandsche Bank regarding the capital situation differed considerably. De Nederlandsche Bank ended up with a capital shortfall. This resulted from the stress scenarios used by the regulator for Property Finance. These were more negative than SNS Reaal's stress scenarios. The difference was about 500 million euros. This was largely due to differences in the non-core portfolio, the quality of which was 'very poor' according to De Nederlandsche Bank. In addition, the regulator considered the results of SNS Reaal's economic capital model itself insufficiently reliable to serve as a starting point for SREP. The standards applied by SNS Reaal for capital ratios were wholly inadequate or insufficient for De Nederlandsche Bank in the current circumstances. This prompted the Ministry of Finance and De Nederlandsche Bank to set up a joint working group. At De Nederlandsche Bank, the code name 'Roos' remained.

At the Ministry of Finance, the 'project Mercurius' was restarted on 6 December 2011.

4 search for solutions; December 6, 2011 – June 11, 2012

4.1 Phase 1: from December 6, 2011 to January 23, 2012

On the morning of Thursday 6 December 2011, the media paid a lot of attention to the warning issued a day earlier by credit rating agency Standard & Poor's.¹ Fifteen countries in the eurozone were in danger of losing their ratings. Including the Netherlands. The continued inability of European governments and central banks to come up with a solution to the financial crisis was one of the reasons for the warning from the major credit rating agency.

The Mercurius/Roos working group is set up

The same day, three employees of De Nederlandsche Bank visited the Ministry of Finance. No publicity was given to this meeting. The subject of the conversation was SNS Reaal, although the name of this institution cannot be found in the minutes of the conversation. The group consisted of seven people: three from De Nederlandsche Bank and four from the Ministry of Finance. The Dutch Central Bank spoke of 'Roos' and the Ministry of Finance of 'Mercury', the fourth planet of the solar system, the smallest and also the planet closest to the sun. If the Milky Way Galaxy and Andromeda Nebula collapse – in about four billion years, as the US space agency Nasa has calculated – there will be great instability in the universe, and there is a chance that Mercury will collide with the much larger Earth. It was decided to (again) set up the Mercurius/Roos working group. The first meeting of this joint working group is discussed below, because many of the later developments surrounding SNS Reaal already cast their shadows ahead.

The creation of a joint working group was somewhat remarkable.

The traditional view was that liquidity problems were primarily a matter for De Nederlandsche Bank and that where solvency problems were concerned, it was the Minister of Finance's turn. When Minister De Jager took office, it was agreed to break through this. In the case of SNS Reaal, the Minister of Finance was informed by the President very early on

of De Nederlandsche Bank. Initially confidential between the minister and the president of De Nederlandsche Bank, but it was quickly decided to also inform the official level. At the instigation of the Minister of Finance and the President of De Nederlandsche Bank, an interdisciplinary working group was therefore set up at shop floor level, right across De Nederlandsche Bank and the Ministry of Finance. Responsibilities and powers of the Ministry and De Nederlandsche Bank were aligned.

This used to be difficult, according to former Finance Minister Bos. In his time, the president of De Nederlandsche Bank frequently referred to the fact that he had no room under the Financial Supervision Act to discuss the situation regarding individual financial institutions with him too explicitly. Only when the Ministry of Finance was literally on the brink of large-scale intervention did that information become available. Until very far into the process, the attitude of the president of De Nederlandsche Bank was that he could not discuss individual financial institutions with the Ministry of Finance, Bos said in his conversation with the Evaluation Committee.

Supervisor informs ministry about problems at SNS Reaal

Prior to the meeting on 6 December 2011, De Nederlandsche Bank and the Ministry of Finance had shared a great deal of – including confidential – information at workplace level. The banking part of SNS Reaal had a capital shortfall, which in the stress test of the European Bank Authority (EBA) amounted to 159 million euros. SNS Reaal largely eliminated this shortfall immediately with a number of tricks. Although these measures led to a strengthening of core capital, there was no question of attracting external capital. For example, SNS Reaal subordinatedly bought back the debt at a lower price and thus 'saved' 72 million euros, and capital was moved internally. SNS Reaal had until mid-2012 to eliminate the remainder of the deficit. The outcome of the stress test would be published two days later, on 8 December 2011.

Search for capital

SNS Reaal also had an older problem with it. In April 2011, De Nederlandsche Bank had asked SNS Reaal to come up with a plan to 'address the vulnerabilities' that had been magnified by the losses on SNS Property Finance. That plan was based on a share issue of 500 million euros and the sale of the non-life insurer to clean up in one go, including repayment of the state aid. There was talk of a 'clean sweep'.

But SNS Reaal did not have sufficient opportunities to strengthen its capital. Selling parts of Reaal, the insurance branch of SNS Reaal, was an obvious way to increase capital. Sale of the non-life insurance business – in combination with a share issue – seemed feasible. The sale of the life insurance business was subject to many snags due to possible claims against the usurious policies. The sale of Zwitserleven, won at the top of the market in 2007, would result in a loss because of the amortization of the goodwill paid at the time, which would then have to take place. This left 'gathering work': sale of mortgages from SNS Bank to Reaal. But shortly after the outcome of the stress test, De Nederlandsche Bank had already sent a message to the Executive Board and the Supervisory Board of SNS Reaal: the regulator could not agree with the sale plans for the mortgages. That sale should be in line with the market, otherwise the interests of the policyholders would be harmed. De Nederlandsche Bank had asked SNS Reaal to investigate whether the interdependence of bank and insurer could be reversed.

Clean sweep no longer feasible

At the request of De Nederlandsche Bank, SNS Reaal was working on a new business model that should be on the table by 1 January 2012. That seemed too much to ask. SNS Reaal would also be unable to cope with the problems via a share issue. An issue without (partial) repayment of the state support received in 2008 would send a difficult message to the market.² Moreover, another burden weighed heavily on the shoulders of the bank/insurer. SNS Reaal had a so-called double leverage of approximately 650 million euros at that time.

While De Nederlandsche Bank in the spring of 2011 still assumed a risky but not hopeless situation, in December 2011 the regulator had come to the conclusion that SNS Reaal was unable to solve the problems on its own. The company's plans were not sufficient and the desired clean sweep was no longer feasible.

European Commission approves postponement of repayment of state aid So far the enumeration of problems and shortcomings that De Nederlandsche Bank, as supervisor, submitted to the Ministry of Finance. As a result of the state aid in 2008, the Ministry of Finance had to send a commitment letter to the European Commission on 19 December 2011 regarding the state aid to SNS Reaal and its repayment. The results of the stress test and the deteriorating market conditions seemed to

The Ministry of Finance is a good argument to adjust the repayment schedule and to ask the European Commission for permission to do so. That consent came; such decisions on aid already granted were usually dealt with as a formality.

Supervisor and ministry take emergency situation into

account In order to solve the problems in the longer term, the Ministry of Finance asked De Nederlandsche Bank for an estimate of the expected losses at Property Finance. The losses for 2011 were only half of the losses for 2010, but De Nederlandsche Bank saw the market deteriorate. That would not benefit the reduction of loans in real estate. Internally, De Nederlandsche Bank was already taking into account a loss of the order of magnitude of one billion euros in the event of a complete run-down of Property Finance's non-core portfolio. If SNS Reaal were to succeed in selling the life insurance business, there would still be a financial conglomerate that could not continue to exist on its own. Property Finance's losses could then be covered from even fewer profit sources and the rating agencies would downgrade SNS Reaal, making raising capital even more difficult and expensive.

Intervention Act must enter into force

quickly It was now clear to both De Nederlandsche Bank and the Ministry of Finance 'that more money is needed and that there is no solution that will allow the institution to cough up this capital itself'. They took into account an emergency. De Nederlandsche Bank therefore urged the rapid entry into force of the Intervention Act. In any case, the regulator would postpone the final 2011 SREP decision until the safety net was ready. The Lower House was due to discuss the bill in February 2012.³

Risk of contamination for other financial

institutions In the unlikely event that things should go wrong with SNS Reaal, the Intervention Act recently submitted to the House of Representatives should be dealt with urgently by both Houses. But the Ministry of Finance only wanted a quick treatment if it was strictly necessary. There was fear of a self-fulfilling prophecy: 'if the S&I Act [Intervetiewet] passes the House quickly, then it will be necessary.'⁴ At De Nederlandsche Bank, a bankruptcy of SNS Reaal would increase the risk of contamination for financial institutions, in particular those institutions that have a structure comparable to SNS Reaal. That danger would sooner

are sparked by a hasty action in an emergency scenario than by a preventative measure.

De Nederlandsche Bank wants a private solution

After the nationalization of the Dutch parts of Fortis, including ABN Amro, and the state aid to ING, Aegon and SNS Reaal in 2008 and 2009, De Nederlandsche Bank considered it desirable to find a private solution for SNS Reaal. find. According to De Nederlandsche Bank, both the Executive Board and the Supervisory Board had a realistic view of the situation. They were open to all possibilities. This could concern private parties or one of the state participations. There were snags to all options, for example from a competition point of view or with regard to the European Commission.

The Ministry of Finance does not want state aid

The Ministry of Finance emphasized that there was generally insufficient support in the House of Representatives for intervention by the State. The Ministry of Finance did, however, discuss the possibility of nationalizing the whole if necessary. De Nederlandsche Bank considered this undesirable and only acceptable in cases of extreme emergency, namely an acute bank run.

The Ministry of Finance and De Nederlandsche Bank therefore agreed that a working group would be formed 'to prepare scenarios'. The working group was to start on Monday 10 December.

The Mercurius/Rose working group starts

The first official meeting of the working group was on Wednesday 12 December. The working group had grown to ten employees of De Nederlandsche Bank and the Ministry of Finance. They considered the situation in which SNS Reaal found itself, in which, in addition to the core team, a first and a second layer of employees from De Nederlandsche Bank and the Ministry of Finance were involved at Mercurius/Roos. The capital shortfall exposed by the EBA stress test could lead to a loss of confidence and hence liquidity problems. The results of the stress test, published on December 8, were mildly received by the media and the market. However, the final SREP assessment of De Nederlandsche Bank was still hanging over the market. The biggest culprit for SNS Reaal was commercial real estate. The company could not absorb the losses from this. The state aid still to be repaid and the double leverage were

two other weaknesses within the fragile SNS Reaal. The fourth problem was the threat of possible claims from unit-linked insurance policies (usury policy affair).

The purpose of the working

group The aim of the Mercurius/Rose working group

was to 'work out all possible options, both public and private, to stabilize Mercury. The aim is to gain a joint insight into the advantages and disadvantages and to prepare the options as far as possible. An open approach is a requirement here: no options are ruled out in advance. The options will be included in a matrix with variables that (co-)determine the success and feasibility of the various options. The *triggers* for possible loss of confidence in Mercury will also be mapped out. It is possible that some of these *triggers* can be periodically monitored by the joint working group'.

These triggers were defined as: 'reasons that could set in motion the loss of confidence in Mercury, as a result of which the current course ('cycling fast') is no longer tenable. Triggers can be 'events' as well as (more steady) developments'.

The working group was faced with a double task in this respect. In case the triggers led to a panic reaction, a safety net construction had to be in place quickly. The attention of the Ministry of Finance focused on this with high priority. In addition – as long as such triggers did not occur – it was desirable and necessary to find a sustainable solution to SNS Reaal's problems. To this end, the Ministry of Finance wanted to investigate all conceivable solutions. This second route would therefore also take much more time.

The working group distinguished external triggers:

- changes in the rating; –
- deterioration of financial values such as the CDS spread, the share price and bonds; – funding, with
- a distinction being made between wholesale (refinancing amounting to EUR 8 billion in 2012) and savings; – claim risk on account of the usury policy affair;
- EBA stress tests/capital exercise; –
- regulatory measures such as capital surcharges for systematically important financial institutions (SIFIs);

- deterioration of prices in the commercial real estate market; – decisions of the European Commission.

She also mentioned internal triggers:

- loss and deterioration of the situation at the core company;
- sticking to the phasing out of Property Finance;
- exposures of Greece, Italy, Ireland, Portugal and Spain (GIIPS); – solvency ratios; – impairments on various assets (including GIIPS, Property Finance, intangible assets).

According to De Nederlandsche Bank, this was not a complete list and these triggers could also be a source of concern for other institutions: 'in a storm, the weak trees fall first.'

Possible solutions

In its first meeting, the working group also inventoried the scenarios for an integrated solution:

- Continuing the approach followed at the time ('cycling fast'):
 - o risk reduction, in particular through the phasing out of Property Finance, o rights issue (possibly, because it should yield enough and should not lead to a loss of confidence), o sale of parts (possibly, because it should be sufficient on to deliver).
- Private solutions: o
 - Group sales, o
 - Bank sales, o
 - Insurance sales, o
 - Sales of parts of a bank or insurance company.
- Public-private solutions:
 - o utility company to run closed-book portfolio insurer, o private-public institution SNS Reaal will warehouse and sell parts from that situation.
- Public solutions:
 - o Intervention Act:
 - ~ expropriate group,

- ~ expropriate insurer, ~
- expropriate bank, ~
- expropriate parts of bank and insurer (deposits/hypo theken).
- o Property Finance guarantees: ~
- funding guarantee, ~
- bad bank, ~
- intermediate form à la IABF.5

– Bankruptcy (default).

Testing solutions against 'variables' De

Nederlandsche Bank and the Ministry of Finance wanted to test each of these solutions against 'variables'. Such as: prudential considerations, costs for the State, redemption of the Core Tier 1 securities to the State, triple A status of the Netherlands/spreads on government bonds, market structure/competitive relationships, contagion/second-order effects, possible occurrence of the European Commission/enforced restructuring, financial stability.

The starting points and criteria adopted by the Mercurius working group were as follows. The involvement of the private sector had to be maximized, the solution had to be sustainable and contribute to the stability of the financial sector (also in the longer term). The role of the State and the contribution of the taxpayer had to be minimized.

Important factors were also: practical feasibility, political feasibility, effectiveness, proportionality and preparation time.

Ministry warns SNS Reaal SNS

Reaal was therefore subject to increased vigilance on the part of the Ministry of Finance and De Nederlandsche Bank. That was the message the chairman of the board of directors of SNS Reaal heard during his introductory meeting with the new treasurer general, dr. JA (Hans) Vijlbrief.

In that conversation, SNS Reaal stated that the company was considering various solutions, including the sale of Property Finance to Stichting Beheer SNS Reaal and the sale of the insurer.

Supervisor: the deficit is larger than expected On 19

December 2011, the biweekly lunch meeting was held between the Minister of Finance and the President of De Nederlandsche Bank. This time, the director of supervision had also come along to the ministry. According to it

In a report from the Ministry of Finance, De Nederlandsche Bank reported that SNS Reaal's capital shortfall was higher than the 159 million euros that emerged from the stress test. The Dutch Central Bank had taken into account a deficit that could amount to one billion euros. This increased the concerns of De Nederlandsche Bank. Moreover, they were encouraged by the lawyers of De Nederlandsche Bank, who were of the opinion that the Intervention Act would offer too few possibilities for intervention.

The working group responds to the

extra deficit At the second meeting of the Mercurius/Roos working group, also on 19 December 2011, De Nederlandsche Bank informed the Ministry of Finance about the provisional SREP letter. In the SREP conclusions, De Nederlandsche Bank assumed that a larger financial deficit would arise in Property Finance's non-core portfolio. As a result, SNS Reaal would run into a capital shortfall of one billion euros. SNS Reaal would not be able to achieve this on its own. The working group therefore made an initial inventory of trigger moments: the publication of the 2011 annual figures on February 16, 2012, the publication of the annual report on March 8, 2012 and the general meeting of shareholders on April 25, 2012.⁶

Which solutions are possible?

Possible solutions were discussed. The Ministry of Finance would focus on the elaboration of public solutions, while De Nederlandsche Bank worked on private solutions.

Supervisory Review & Evaluation Process (SREP) procedure

for major banks At the end of September, major banks will submit an Internal Capital Adequacy Assessment Process (ICAAP) to De Nederlandsche Bank. De Nederlandsche Bank reviews the ICAAP and decides on capitalization of the institution in a SREP panel in December. De Nederlandsche Bank draws up a letter with its findings. Only if De Nederlandsche Bank disagrees with the ICAAP is this a formal decision against which an objection is possible. The letter is shared in draft with the institution and then finalized. The letter is strictly confidential, but the institution is free to provide the letter to its supervisory board and its external auditor.

The Ministry does not want to act hastily with a sustainable solution How the Ministry of Finance viewed the situation in which SNS Reaal found itself can be read in a memorandum that was sent to the Minister of Finance. There was no reason to act (hastily) on the part of the government, despite SNS Reaal's vulnerable position. The minister was informed of the problems at SNS Reaal (Property Finance, double leverage, repayment of state aid and possible claims from unit-linked insurance). De Nederlandsche Bank was quoted in the memorandum: SNS Reaal would not be able to solve the problems independently, which could raise serious doubts about its long-term viability.

A conclusion, incidentally, which the minister questioned.

De Nederlandsche Bank wants to intervene

quickly In a memorandum, drawn up for the closed board meeting on 20 December 2011, De Nederlandsche Bank outlined how it assessed the situation. SNS Reaal would not come out on its own, according to the regulator. There was a capital shortage and a worrying situation on the markets. New state aid was a real possibility, which is why contacts with the Ministry of Finance were intensified. De Nederlandsche Bank had a strong preference for early intervention, but the Ministry of Finance, De Nederlandsche Bank estimated, would only intervene in an acute emergency – and then as limited as possible.

On 22 December 2011, De Nederlandsche Bank and the Ministry of Finance met again, this time by telephone. The state of affairs was reviewed, with the Intervention Act being discussed with a view to a safety net.

The working group discusses a whole series of

solutions During the following meeting of the working group on 3 January 2012, De Nederlandsche Bank reported that parts of SNS Reaal's capital reinforcement plan were not sufficient. The regulator had asked SNS Reaal for an analysis of the possible split of bank and insurer. Apart from the double leverage and further financial interdependencies, this so-called living will had not resulted in any 'highly critical obstacles'. Despite the fact that there were interdependencies, particularly in the field of ICT, splitting was considered possible with some time and effort. With regard to the final outcome analysis, SNS Reaal had based its plan on relatively high, unrealistic profit expectations.

When elaborating the solutions in a matrix, it turned out that a combination of solutions would be necessary. The separate options were not sufficient to solve the problems at SNS Reaal. The working group added the following solutions: sounding out the European Commission, sale in combination with conversion, sale in combination with guarantee (Property Finance in a separate foundation), a 'private' solution with one of the state participations, a capital injection and nationalization .

Irritation about secrecy by De Nederlandsche Bank In

the internal consultations between the Ministry of Finance and De Nederlandsche Bank, a problem arose. Due to a lack of information, the Ministry of Finance was unable to discuss some solutions. De Nederlandsche Bank initially refused to share certain data with the Ministry of Finance. This was done on the authority of the Legal Affairs Directorate and had to do with the possible price sensitivity of information. It took some effort for the exchange of confidential supervisory information to run smoothly, but the Evaluation Committee does not have the impression that after these difficulties at the start of the work, the supervisory confidentiality of certain information has hindered the functioning of the working group.

New trigger: redemption of participation certificates

On 12 January 2012, the fourth meeting of the Mercurius/Roos working group followed. Two new and important trigger moments have been added: the so-called call dates of participation certificates (June 28 and December 23, 2012). In fact, SNS Reaal had insufficient capital to offer the option of redeeming these depositary receipts. But if the company did not offer that option, the market would take it as a loud and clear signal that SNS Reaal was in serious trouble.

In addition, the possibility of claims for damages was very realistic in that case.

Discussion of the SREP letter with SNS

Reaal On 16 January 2012, De Nederlandsche Bank and SNS Reaal sat down together to discuss the draft SREP letter. That conversation was not easy. De Nederlandsche Bank set strict requirements for strengthening SNS Reaal's core capital. It provoked a threat from the board of directors of SNS Reaal: '[then] we have no choice but to call MinFin'.

Latenstein and Lamp would then – as they recorded in an internal report – “might have to take radical decisions or even reach final conclusions.

Pull'. Ultimately, De Nederlandsche Bank would not impose any further measures and work would continue on the search for a structural solution for SNS Reaal.

Disagreement about hiring external expertise

An issue on which De Nederlandsche Bank and the Ministry of Finance had different ideas was the hiring of an investment bank as an external expert. Opinions on this differed – including within the Ministry of Finance itself. On the one hand, it was feared that hiring an investment bank could lead to wild rumours. But on the other hand, it was a welcome addition to the knowledge and information that was sorely needed when working out the various possible solutions. De Nederlandsche Bank wanted one adviser for both De Nederlandsche Bank and the Ministry of Finance. If an adviser were to be appointed after all, the Ministry of Finance wanted to be in charge. This is for the sake of an independent opinion on the assumptions of De Nederlandsche Bank.

The discussion about hiring an external consultant took up almost half of the report and thus obscured another important topic: the working group would advise the Ministry of Finance to actively approach the European Commission with a request that the restructuring of the banking sector out of leniency.

Closure of the first phase; the findings of the working

group The first phase of the joint approach of De Nederlandsche Bank and the Ministry of Finance was concluded on 23 January 2012. The working group presented its initial findings in a memorandum to the director of financial markets and the director of financing, and the analysis was also discussed within De Nederlandsche Bank.

A number of solutions are eliminated

There were no simple solutions available for the vulnerable and complex situation in which SNS Reaal found itself. Planned capital reinforcements were insufficient to mitigate the various vulnerabilities and uncertainties.

They offered insufficient relief for the problems at Property Finance, the contagion risks between bank and insurer, the lower credit rating, double leverage, and the open-ended usury policy file. For the first time, the working group spoke out against one of the possible solutions.

Due to the systemic nature of SNS Bank, bankruptcy was not an option

option. Other possible solutions with objections were nationalization via the Intervention Act ('ultimate resort with major political and possibly macro-economic consequences') and a capital injection ('politically very difficult to sell'). Less objectionable were a guarantee on the liabilities and a stand-alone guarantee on the assets (analogous to the IABF). These would not be structural solutions in themselves.

Conversion of CT1 securities could attract interested parties

Ideally, the acquisition by another party would be ideal, but the working group believed that the chance of this happening was very limited. To make the takeover more attractive, the State could convert the CT1 securities into shares. And the State should provide a state guarantee on Property Finance's losses. Conversion of the CT1 securities would in fact mean that part of the state aid was written off, because the share price of the SNS Reaal share was far below the issue price of the CT1 securities.

Other option: takeover by one of the state-owned

companies The working group also found 'a formally private, but from an economic point of view, public option': takeover of SNS Reaal by one of the state-owned companies that had been transferred to NLF. There were pluses and minuses. A snag was the restrictions that the European competition authority was likely to impose. The working group wanted to work on this and urged efforts to persuade the European Commission to be more lenient. The help of the European Commission was also desirable with regard to the conditions and terms for repayment of the state aid that SNS Reaal had received in 2008. The working group urged the Ministry of Finance to intensify contacts with the European Commission, possibly even with input from the minister.

Intensifying contacts with the European

Commission The working group saw opportunities for leniency in the Communication on the application of the crisis support framework, which the European Commission had published on 1 December 2011. In this, the European Commission seemed to apply a less onerous regime for banks that would receive support in 2012 because of the European debt crisis. In response to this, the Treasurer General sent a letter to the Director General of Competition, Dr A. (Alexander) Italianer. He urged similar treatment for banks struggling to repay the aid they received in 2008 and 2009. The finance councils at the other permanent representations to the European Union received a copy of the letter. The plan was

to wait for the answer. If that is not favourable, the Ministry of Finance could make another attempt with the responsible European Commissioner, the Spaniard J. (Joaquín) Almunia.

Preparing last resorts Within the

Mercurius working group, there was a separate workflow that dealt with so-called safety net arrangements. In order to have a last resort in case of an emergency (the working group spoke of a 'very precarious situation'), two measures were prepared: a capital injection and nationalisation. The capital injection would take the form of a rights issue underwritten by the State, diluting existing shareholders. There were two variants for nationalization. The minister could expropriate the shares in the SNS Reaal holding company or just the shares in SNS Bank.

Matrix with twelve possible solutions

In the memorandum, the working group presented a matrix with five private solutions and seven public solutions:

– Private solutions:

1. status quo;
2. default;
3. sales group; 4. sale of insurer; 5. sell sofa.

– Public solutions: 1.

- warranty counter;
2. conversion;
3. capital injection;
4. warranty;
5. group expropriation;
6. expropriation of a part; 7. private-law takeover by state-owned companies.

4.2 Phase 2: from January 24 to April 24, 2012

In the view of the Ministry of Finance, the situation at SNS Reaal deteriorated visibly. On 26 January 2012, the concerned officials

noted that the situation was 'very precarious'. It was inconceivable that SNS Reaal could repay the state aid in these circumstances.

Joint efforts by regulator and ministry On 2 February 2012, De Nederlandsche Bank and the Ministry of Finance coordinated their efforts. In the De Nederlandsche Bank building, they discussed the first joint analysis of the problems at SNS Reaal and discussed the follow-up process. De Nederlandsche Bank also felt that SNS Reaal's position had become more fragile. The Ministry of Finance did not want to nationalize a financial institution. The Ministry of Finance and De Nederlandsche Bank therefore agreed that 'an uncontrolled bank run leading to nationalization through I-law [the Interventiewet]' had to be prevented. The Ministry of Finance pleaded for more time. For that reason, the Ministry of Finance should urge the European Commission to postpone the repayment of state aid. But then SNS Reaal had to take the first step and report that it would not be able to meet this obligation. A meeting with SNS Reaal was scheduled for 6 February 2012.

Then the interlocutors would insist on this.

Acquisition by a Dutch or foreign party?

De Nederlandsche Bank did see something in a solution in which the state participations would be involved. The Ministry of Finance could not muster the same enthusiasm for this. Concentration within the Dutch financial sector would then only increase. The Ministry of Finance would rather see a takeover of Reaal by a foreign insurance company

weird.

De Nederlandsche Bank made another attempt to change the mind of the Ministry of Finance. Any solution other than through the state shareholdings would be less realistic, with higher costs and greater risks. From a competition point of view, there was probably no problem, and the acquisition ban of the European Commission (more on this later) did not necessarily have to be a problem, according to De Nederlandsche Bank.

A subsequent meeting between De Nederlandsche Bank and the Ministry of Finance was intended to prepare for the meeting with SNS Reaal on 6 February 2012. In the run-up to that discussion, the working group suggested an approach that created some sympathy in the Ministry of Finance for possible involvement of the state-owned companies. At the

Due to the low stock market valuation of SNS Reaal at the time (450 million euros), badwill amounted to four billion euros. The badwill formed a buffer that could be used to absorb the losses of Property Finance, the settlement of claims for the usury policies and the redemption of the double leverage. The Ministry of Finance was eager to explore the consequences of this approach and therefore no longer simply rejected this option.

In the run-up to the meeting with SNS

Reaal The Ministry of Finance had done the necessary preliminary work and had heard from SNS Reaal that the Executive Board of SNS Reaal wanted to submit four options to the Ministry of Finance and De Nederlandsche Bank. The first option was: more time for SNS Reaal to run down Property Finance's portfolio. At that time, January 1, 2015 was the deadline. If SNS Reaal were given more time, there would be a chance that the market would pick up again, so that the losses on this portfolio could be lower. The second option related to Property Finance. SNS Reaal would like the State to provide a guarantee on Property Finance's portfolio, or for Stichting Beheer SNS Reaal to take over the portfolio, financed with state-guaranteed loans. The third option was to restructure the capital position. The State's CT1 securities could be converted into ordinary shares. A financially unfavorable transaction for the State, because the securities were issued at a price of 5.25 euros, while the share price at that time was 1.90 euros. The last option related to the sale of parts of SNS Reaal, mainly on the side of the insurer.

Two matters were not mentioned in the note for the Treasurer General. Namely that the Ministry of Finance wanted to sound out the European Commission in the short term. And the intention to elicit a statement from SNS Reaal in which the company would acknowledge that it was unable to repay the remaining state aid.

Preparatory meeting with the government

commissioners Before De Nederlandsche Bank and the Ministry of Finance spoke with SNS Reaal, the finance director of the Ministry of Finance had a meeting with the two government commissioners. That conversation took place on Friday, February 3, 2012. Despite the harsh weather conditions, Wijngaarden managed to reach the Ministry of Finance. Ms. Insinger joined the conversation over the phone. The initiative

before the conversation came from the two commissioners, who were very concerned. They considered the chance that SNS Reaal would be able to repay the state aid before the end of 2013 to be small. According to the supervisory directors, the amount to be written off to Property Finance could well amount to two billion euros. For five years, 250 to 350 million euros would have to be written off on Property Finance annually. As a result, the profits of the rest of SNS Reaal would evaporate and there would hardly be anything left to repay the state aid.

The meeting with SNS Reaal

On 6 February 2012, there was a meeting between SNS Reaal, the Ministry of Finance and the regulator. The Chairman of the Board of Directors La tenstein presented the yet to be published results for 2011. SNS Reaal expected to make a profit of eighty to ninety million euros, after deducting the losses at Property Finance (-331 million euros). As expected, Latenstein mentioned the four options. He also urged consultations with the European Commission. SNS Reaal hoped that Brussels would accept a merger of the whole of SNS Reaal with a state participation – a fifth option.

Working group sees no point in three of the four

options The talks with the government commissioners and the Executive Board of SNS Reaal still echoed in the next meeting of the Mercurius/Roos working group on 7 February 2012. For two billion euros in losses at Property To be able to absorb finance, SNS Reaal had a need of 829 million euros. But according to SNS Reaal, tax effects were not taken into account, which would reduce the capital gap to approximately 500 million euros. This is what the company told the regulator during a conversation in the context of the SREP procedure. The working group came to the conclusion that three of the four options were unrealistic. Only the sale of (parts of) SNS Reaal would offer solace. It was agreed that the emergency safety net would be worked out, that contact would be sought with the European Commission and that an external adviser would be engaged.

The search for this external advisor was extremely cautious. The mini The Ministry of Finance wanted to prevent the search from leaking out. If it were announced that the Ministry of Finance was looking for an external adviser for the problems at SNS Reaal, this could lead to unrest and perhaps panic reactions in the market. A careful search resulted in a shortlist of advisers with no ties to SNS Reaal and with sufficient knowledge of and experience with governments, with the Netherlands and with

insurers. The obligation to tender was waived under these circumstances.

SNS Reaal presents annual figures in a gloomy annual

report On Thursday, February 16, 2012, SNS Reaal published its annual figures for 2011. There was indeed a plus of 87 million euros. Property Finance accounted for a net loss of 248 million euros for the whole of 2011, a 'decreasing' loss, according to the press release. The finishing portfolio was further reduced: from 6.3 billion euros to 5.3 billion euros. Underlying things were gloomier than in previous years. Both the Dutch and international real estate markets remained difficult, as loans as a percentage of the value of the collateral (loan-to-value or LTV) continued to rise. The part of the old Property Finance that was placed with SNS Bank Zakelijk also generated losses. In addition, Zwitserleven now also had to write off goodwill, representing a value reduction of 107 million euros. The bank and insurer were operationally profitable. The press release stated that, as usual, solvency had once again improved. Latenstein stated that he was satisfied with the company's performance in 2011 despite the economic headwind. The SNS Reaal share ended 2011 at a price of 1.69 euros, 47 percent lower than a year earlier.⁷

European Commission prefers not to raise

the alarm yet On the same Thursday, February 16, 2012, part of the senior management of the Ministry of Finance (treasurer general, director of financial markets and director of financing) considered a number of outstanding aspects that had been discussed in the past period. had come. They decided not yet to ask for leniency from the European Commission in the repayment of state aid. This was based on a clear policy choice. It was considered better to wait until the moment had come when intervention at SNS Reaal was unavoidable. The Ministry had therefore chosen to first thoroughly list all the possibilities and impossibilities for such an intervention, then reach agreement on the route to be followed and only then approach the European Commission. Rather present a 'total plan' than share the problems with the European Commission at this early stage. In any case, at some point they would end up on the plate of the European Commission. On 17 February, the Ministry of Finance formulated this course change in a draft message to Latenstein as follows: 'With regard to the request to the EC to be given more time, we are of the opinion that

believe that such a proposal should be part of a structural solution and that more time in isolation is not a solution to the problems you have put on the table. My employees are available to help think about the content of such a structural solution and the timing/communication thereof to the EC in due course.'

External expert not always easy

Meanwhile, the search for an external expert took some time. The selection was ultimately limited to first three and later two candidates, one of whom was in danger of dropping out. A few days later, the Treasury Department expressed its preference for Morgan Stanley. The Ministry of Finance asked this company to provide initial advice on the 'safety net options' by 10 April 2012 at the latest.

Opinions differed between De Nederlandsche Bank and the Ministry of Finance about the content of the assignment to Morgan Stanley. The Ministry of Finance wanted options such as: status quo, sale of the entire SNS Reaal Group, sale of insurance company, sale of bank, conversion, capital injection, asset guarantees and combinations of options. De Nederlandsche Bank wanted to focus on two options: firstly, sale to a private party, secondly, acquisition by a state participation, whether or not in combination with another party, a solution that could, with some good will, also be called 'private'. Both the Ministry of Finance and De Nederlandsche Bank agreed with the following: 'The option of nationalization is not part of the analysis.'

Redemption of participation certificates is a dilemma for

the regulator The assignment to Morgan Stanley coincided with an unexpected development involving SNS Bank's participation certificates. These certificates could be called or bought back or redeemed by SNS Bank. For the first tranche, that was on June 28, 2012. It involved a considerable amount, 300 million euros. Under normal circumstances, De Nederlandsche Bank would not give permission for this capital to flow out of SNS Reaal. But if permission were not forthcoming, it could give rise to unrest. The issue became acute because the television program *Radars* wanted to pay attention to the uncertainty about the redemption of these certificates in its broadcast on 27 February 2012. It turned out that the depository receipt holders were counting on redemption. If SNS Reaal did not repay, the threat of claims hung over the company.

On 8 March 2012, the Financial Institutions Supervision Council, the internal supervisory body of De Nederlandsche Bank, discussed the issue of participation certificates. The regulator considered the risks of non-repayment to be greater than the risks of calling the participation certificates. A factor in this was that any claims would be charged to the core capital. The participation certificates were not part of the core capital but of the Tier 1 capital. Redemption would therefore not affect core capital (Core Tier 1). However, claims for damages as a result of non-repayment would be charged to the core capital. But De Nederlandsche Bank was most concerned about the reputational risks of non-repayment. When DSB Bank collapsed, a similar situation had contributed to a bank run on DSB Bank. In addition to their participation certificates, the depositary receipt holders had EUR 344 million in savings outstanding with SNS Reaal. There was a chance that if the depositary receipts were not redeemed, the savers would withdraw these savings from the bank. That is why De Nederlandsche Bank was 'compelled to reduce the probability of a default at the expense of the loss in a default situation'. The director of supervision would inform the Ministry of Finance about this supervision dilemma.

On 15 March 2012, the Supervisory Board decided to issue the requested DNO for the repayment. To resolve the dilemma, De Nederlandsche Bank had set the condition that the capital to be repaid would be replaced by an equal amount of Tier 1 capital or EUR 30 million in Core Tier 1 capital. For the latter, the regulator explicitly looked at Stichting Beheer SNS Reaal.

Agenda items for the Mercurius/Rose working

group In the meantime, on March 1, 2012, the Mercurius/Rose working group met again. Morgan Stanley was chosen. The unrest about participation certificates continued. The much-watched television program *Radar* would return to the redemption of the participation certificates at the end of March.

What do we do with the European Commission?

Equally prominent on the agenda was action towards the European Commission. The Ministry of Finance outlined its dilemma. ING was the focal point for the European Commission. The Ministry of Finance was concerned about setting a precedent in other files. At that time, an ING case was pending before the European Court. ING hoped to obtain an adjustment to the 'remedies' that had been imposed on the company. This made it necessary to operate with caution.

Drawing up a scenario: what do we do if we have to use the safety net?

Finally, the safety net was discussed. The working group emphasized the importance of proper reporting of all events and considerations that would lead to the decision to use the 'ultimum remedium', expropriation. The working group was unanimous in its opinion that the argumentation should be comprehensive and specific. It was also discussed for the first time that a script had to be drawn up with 'who does what when'.

Also for thorny issues such as replacing the board, giving up the stock exchange listing and the method of communication.

Morgan Stanley becomes adviser to the Ministry

On March 6, 2012, Morgan Stanley submitted a proposal for the execution of the advisory assignment. At that time, two other merchant banks were also in the running. The Ministry of Finance announced that they would make a decision within 24 hours. It was a close call the next day: 'Morgan Stanley was chosen, mainly because of experience and the need for a 'fresh eye'.'

The working group is working on

the safety net A new meeting of the Mercurius/Roos working group followed on 12 March. On the table was the monitoring report that the Ministry of Finance had to send to the European Commission. It was about SNS Reaal's options to repay the remaining state aid. Although it had been decided that the State should move towards a postponement, the Ministry of Finance did not consider the monitoring report a good vehicle for requesting a postponement. The Ministry decided that the time was not yet ripe to enter into discussion with the European Commission. At the same time, the working group members were well aware that the European Commission should be included in a timely manner in finding a possible solution to the problems at SNS Reaal.

Scenario for expropriation and rights issue

Work on the two safety net options has meanwhile progressed steadily. The aim of the safety net options was to be able to intervene as quickly as possible 'if the need is there and there is not yet an alternative to stabilize Mercury'. First of all, the Ministry of Finance made preparations for expropriation on the basis of the Intervention Act. The shares in SNS Reaal Group and in SNS Bank would be expropriated from the shareholders in the name of the State. The Minister of Finance can decide to do so on the basis of the Intervention Act if there is 'a serious and immediate threat to the stability of the financial system'. At the time of the decision, the

Minister of Finance should ask the Senate to deal with the proposal for the Intervention Act. With retroactive effect (until January 20, 2012), the law would form the legal basis for the expropriation decision.

A second safety net construction consisted of a rights issue from SNS Reaal. Shareholders would be the first to buy shares. But if there was insufficient interest, the State would buy the remaining shares. The British State had used such a construction in 2008 when it rescued the Royal Bank of Scotland (RBS). The law does not set any conditions that must be met in order to launch a rights issue. Parliamentary approval was required for this act under private law. An additional problem was that the general meeting of shareholders of SNS Reaal would have to decide on the issue.

Negotiations with SNS Reaal At the

beginning of April, SNS Reaal wanted to be informed about the ideas within the Mercurius/Roos working group. Latenstein and Lamp visited De Nederlandsche Bank on 2 April and the Ministry of Finance the following day. They were told that the regulator will only approve the redemption of participation certificates if Stichting Beheer SNS Reaal contributes thirty million euros to replace the paid-out capital. The Dutch Central Bank would put pressure on the foundation to cooperate. De Nederlandsche Bank had left the management of SNS Reaal with the impression that the Ministry of Finance first wanted to map out all the options and had therefore decided to 'do nothing' at the moment. On April 10, the three parties would sit together at the table. SNS Reaal already hinted in advance that the sale of Reaal was not an option because of the double leverage. SNS Reaal had mixed feelings about solutions via the state shareholdings, depending on the variant. For the time being, the Ministry of Finance has kept quiet about this.

Tripartite consultation: various solutions reviewed On 10 April 2012,

De Nederlandsche Bank, the Ministry of Finance and the management of SNS Reaal went through the situation at SNS Reaal. Moody's was expected to lower its rating for SNS Reaal by one or more notches in May. That would certainly have consequences for the capital requirements that SNS Reaal had to meet, but with thirteen billion euros in cash, SNS Reaal was not worried about its liquidity position.

The preparations for the expropriation via the Intervention Act had meanwhile been

partly completed. So that safety net was almost ready. SNS Reaal requested that the institution be given more time, among other things to find an all-encompassing solution, including the repayment of government support. But the Ministry of Finance in particular did not want to hear about this. More time could increase the chance of accidents, SNS Reaal was told. Latenstein's plea for a state guarantee for Property Finance also failed. State aid was very difficult in the political context of that time. At most, saving savers in an emergency was explicable in De Nederlandsche Bank's view. The combination with a state participation, including the preferred option of SNS Reaal itself, was considered complex by the Ministry of Finance and this solution was difficult. The Ministry of Finance wanted a well-explainable story for early intervention, and these options were certainly not that. This actually amounted to a nationalisation, whereby the State contributed (part of) its participating interest to SNS Reaal and in return received the risks from Property Finance. De Nederlandsche Bank felt that this option was not feasible for the Ministry of Finance. Another variant, the sale of SNS Bank, including Property Finance's core portfolio, was dismissed by De Nederlandsche Bank. In that case, Property Finance's non-core portfolio would lag behind, funded by the savings of SNS's retail bank; an undesirable situation, according to the director of supervision. The interlocutors agreed to meet again on 26 April 2012 for a subsequent consultation.

Possible solutions

The six solution directions mentioned by SNS Reaal on April 10, 2012:

1. emergency scenario/
safety net;
2. more time; 3. guarantee for
Property Finance; 4. capital
restructuring; 5. State
participation option 1; 6. State participation option 2.

Morgan Stanley's advice On

17 April, Morgan Stanley presented its initial findings to De Nederlandsche Bank and the Ministry of Finance. The main message was that SNS Reaal's problems would only get worse.

Waiting (with intervention) was of little use. That gave other parties involved

the opportunity to recognize the seriousness of the situation. And with that, the value (franchise value) of the company would decrease. This value played an important role in four of the five solutions described by Morgan Stanley: 1. sale of SNS Bank, 2. sale of Reaal, 3. merger of SNS Reaal, 4. placement of Property Finance with the life insurer in the Founding Management SNS Real, 5. conversion of the Core Tier 1 securities into common stock.

On 20 April 2012, the Minister of Finance received a memorandum informing him of the latest state of affairs. Morgan Stanley had recently put its first findings on paper. It was an exploration of the possibilities of possible controlled operations that stabilize Mercury in the long term (at the lowest possible cost and risk for the State). At that time, the value of SNS Reaal was at most several hundred million euros. A private solution without involvement of the State was not realistic. Morgan Stanley was convinced that the State would have to intervene in the short term and that waiting would certainly not improve the situation. The Ministry of Finance found this conclusion to be insufficiently substantiated. According to Morgan Stanley, splitting off parts of SNS Reaal was only possible to a limited extent, because there was hardly any interest in the market in acquiring those parts. That left three flavors: bankruptcy, expropriation and the options whereby SNS Reaal would merge with a state participation. The officials involved proposed to substantiate these options with figures. The intention to inform the European Commission was again postponed: 'A further monitoring report should be delivered halfway through the year. Perhaps that offers a suitable platform/time to discuss more concrete scenarios with the European Commission.' The Ministry of Finance expressly chose to first analyze the various options in more detail and then enter into discussion in Brussels after a choice has been made for a preferred variant.

The cabinet falls

There were other concerns at the time as well. On Saturday, April 21, 2012, the Rutte 1 cabinet fell, after talks in the Catshuis about further cuts failed. It initially seemed that the negotiators of VVD, CDA and PVV had agreed on an austerity package of 14.4 billion euros. But the PVV withdrew its tolerant support.

On Saturday evening, April 21, the Prime Minister offered the resignation of his cabinet to the Queen. After consultation between the political groups in the House of Representatives and a parliamentary debate on 24 April, it was decided to hold early elections to the House of Representatives on 12 September 2012.

4.3 Phase 3: from April 25 to June 11, 2012

On April 27, 2012, two days after the annual shareholders' meeting, Chairman of the Board of Directors Latenstein and his fellow member of the Board of Directors Lamp rushed to the Ministry of Finance. Contrary to what had previously been agreed, no representatives of De Nederlandsche Bank were present at this meeting. However, consultations had taken place on 25 April between the Ministry of Finance and De Nederlandsche Bank.

The ministry wants a complete picture of all options immediately.

Morgan Stanley's analysis had led to great concern for the treasurer general. He disagreed with the analysis that action had to be taken quickly and had no intention of 'doing a lot with a lot of capital right now'. He felt there were several options and he wanted to take the time to look carefully at the options. He opted to construct a schedule that would indicate what had to be done for every conceivable variant. The diagram should also indicate what the consequences would be for the State: 'a complete picture of all variants' or a spectrum or 'ruler' in which all options are ranked according to the extent to which the State was involved. The director of supervision of De Nederlandsche Bank indicated that both options, both bankruptcy and expropriation, would cost the State 3.5 billion euros. Added to this were the costs, which are difficult to quantify, of possible contamination of other financial institutions and a lower rating for the Netherlands.

The supervisor's ideas about the various options On 26 April

2012, De Nederlandsche Bank discussed the situation in the Supervisory Board. This was followed by a discussion in the private board meeting of 8 May 2012. The main issue was what exactly should be nationalized in an emergency situation. According to the supervisory directors, Sijbrand and Mrs. Kellermann, not only the bank, but also the holding company and the insurer had to be saved. Moreover, it was important to take action before an emergency had arisen: the later the intervention, the greater the damage. Naturally, the question would arise as to

because the supervisor had not intervened earlier. Early action would also put an end to the ongoing supervisory dilemmas surrounding SNS Reaal that the regulator was constantly confronted with. In order not to increase the chance of an acute crisis itself and to give the search for a structural solution a chance, De Nederlandsche Bank had given permission in a number of cases or opted for a lenient attitude, where a different judgment would have been possible on purely prudential grounds. This had happened with the redemption of the participation certificates, the 2011 SREP letter, approval for certain intra-group transactions and the determination of the insurer's solvency.

Differing interests of the ministry and supervisor The two supervisory directors suspected that the Ministry of Finance wanted to intervene as limited and as late as possible. From a cost point of view, the Ministry of Finance would also like to see the greatest possible burden sharing. This was clearly reflected in the design of the working group as one of the criteria that a solution had to meet. One of the ways to achieve that was to bankrupt the holding company.

De Nederlandsche Bank also saw little willingness from the Ministry of Finance to rescue the insurer. De Nederlandsche Bank felt that it should not ignore its responsibilities as a supervisor of the insurance sector. The problems at SNS Reaal, at least in the opinion of De Nederlandsche Bank, did not come from the insurer. Reaal was also not allowed to go under for reasons of financial stability, interdependence and possible impact on other financial institutions. In any case, the insurer's policyholders had to be protected. This would be included in the letter that De Nederlandsche Bank would send to the Ministry of Finance in which the regulator would formalize its views and considerations. After mutual consultation between the Ministry of Finance and De Nederlandsche Bank, it was decided that such a letter would be drawn up.

A solution could be to make the problem as small as possible and to remove the insurer from SNS Reaal's holding and sell it. The State would then have its hands free to save the bank. An additional advantage of this scenario was that the insurer would not end up in the settlement of the SNS Reaal holding company. De Nederlandsche Bank therefore wanted to intervene proactively. She feared the next trigger moment, the downgrade of SNS Reaal by Moody's that was postponed to June. The director of supervision had previously warned of a bank run. In May, he wanted

by the end of June an answer to the question of what should be done and when – if necessary, meetings should be held more often. However, the Ministry of Finance remained unconvinced of the need to act quickly.

But even if the decision-making could wait even longer, it would still be desirable 'to submit the case [intervention by the State or a transaction with Mercurius] to the European Commission in advance'. The Ministry of Finance received this advice from NLF on 4 May 2012. At that time, all options were still on the table for the Ministry of Finance.

NLFI (NL Financial Investments)

NLFI's main task is to exercise shareholder rights in ABN Amro Group NV, ASR Nederland NV, NLFI Financial Investments BV (formerly ABN Amro Preferred Investments BV) and RFS Holdings BV. the House of Representatives to interpret the shareholding in ABN Amro and ASR Nederland in a businesslike, non-political manner and to separate the interests in a transparent manner. The authority of the Minister of Finance is laid down in the Financial Institutions Administration Office Foundation Act. The decision on a sale is reserved to the minister

of Finance. NLFI will make a proposal for this and the transaction prepare and execute. Stability of the financial sector is an important condition for a good exit.

The 'ruler' is

finished On 7 May 2012, the treasurer general received the 'ruler' from his employees. Basically, there are six options:

A	Bankruptcy.
B	Capital injection by the sector + CT1 conversion.
C	Portfolio transfer by De Nederlandsche Bank.
D1	Sale of insurer + State saves the bank. – Instead of a rescue of the bank through a capital injection (whereby the State becomes a major shareholder), a rescue focused on bad assets is also possible (APS/bad bank). The ruler assumes a capital injection.

D2 Unbundling and State saves the bank + insurer remains undercapitalised behind – See option D1 for various options for saving the bank
E State saves bank & insurer. – See option D1 for various options for saving the bank, including nationalization. The consequence of option E is that the insurer is solvent after the takeover.

The next day, on 8 May, the 'ruler' was discussed in a meeting of the Ministry of Finance and De Nederlandsche Bank. During that consultation, it turned out that all options (and all conceivable variants of these options) had snags. Incidentally, it was entirely questionable whether the Ministry of Finance and De Nederlandsche Bank would be able to assess the various options in peace. De Nederlandsche Bank feared that SNS Reaal would slowly bleed to death in a few months' time if Moody's downgraded SNS Reaal's rating to junk status. The inflow and outflow of funds was still stable, but – as Sijbrand put it – there was no emergency situation, but a hopeless situation.

It was agreed to update the 'ruler' and to incorporate the comments of De Nederlandsche Bank. On May 11, 2012, Morgan Stanley was awarded a follow-up assignment. Among other things, to give advice on the assumptions in the various options.

INCREASING INVOLVEMENT STATE AFTER MATERIALIZE LOSSES

	➔						
	Bankruptcy	Injection of private parties	liabilities assets Handover	State saves Bank		State saves Bank + Insurer	
Option	a	B	C	D.1	D.2	E.1	E.2
Method	Bankruptcy	Injection sector + CT1 conversion	Portfolio transfer	Sell insurer + state saves bank	Split and State saves bank	Split and State saves bank & insurer	Expropriation / State saves group
Status Bank	Bankrupt	Currently alive, private parties are major shareholder	Partly bankrupt, partly transferred to a bridge institution or nationalized	In for now alive, nationalized nationalized	Alive for now,	In for now living, nationalized holding company (but split nationalized and therefore bank also available presale)	Currently alive, nationalized holding company
Status insurance weird	below capitalized, private and independent	Currently alive, private parties are major shareholder	below being in capitalized, living, private and placed with a private party	For the time being independently	Undercapitalised, private and independent	Live for the time being, nationalized (but split and thus available for sale)	Alive for the time being, holding company nationalized so insurance too

Remarkable 2011 SREP

judgment On 8 May 2012, the 2011 SREP procedure was finally finalised. He was arrested to be able to arrange the safety net first. The Intervention Act was dated May 24, 2012, and entered into force on June 13 with retroactive effect to January 20. The final SREP assessment for 2011 was that the Basel III migration target for the core company was sufficient. But it was also likely that the phasing out of Property Finance would be accompanied by much larger losses than SNS Reaal had taken into account. A remarkable conclusion at this time, given the emergency plans that De Nederlandsche Bank, the Ministry of Finance and SNS Reaal were working on. The earlier, provisional findings of De Nederlandsche Bank had also had a completely different tone. This SREP letter based on the Ernst & Young report, which was published in the course of 2012, was deliberately mild in nature as solutions were still being sought with the help of the private sector and De Nederlandsche Bank did not jeopardize these solutions wanted to bring.

SNS Reaal has less and less scope

On 14 May, the curtain fell on project Liberty, SNS Reaal's plan to sell the non-life insurance business. SNS Reaal informed De Nederlandsche Bank that this would yield too little and would affect SNS Reaal's earning capacity too much.

At the general shareholders' meeting of April 25, the board of directors had announced that it expected a modest profit. On May 15, the figures for the first quarter of 2012 were announced. The quarterly profit amounted to 23 million euros, 2 million euros less than in the first quarter of 2011. But that news was accompanied by a stream of negative reports about collapsing rents in the Dutch office property market. And about the problems that SNS Reaal had to repay the state aid. The SNS Reaal share fell to 1.30 euros, the lowest level since the stock exchange listing.

Internal loans are problematic

Meanwhile, De Nederlandsche Bank was confronted with a new supervisory dilemma. SNS Reaal had made a request to take out a number of internal loans within SNS Reaal. The company also wanted to roll over internal loans. It concerned loans from Reaal and SNS Bank to the holding company. Some of these concerned existing loans. Within the insurance branch, these had arisen as a result of the takeovers of Zwitserleven and

Axa Netherlands in 2007 and 2008. SNS Reaal had not succeeded in replacing the short-term financing used at the time with a more structural form of financing. Therefore, the company should have resorted to financing within Reaal. Another part involved replacing external loans to third parties. The holding company could no longer replace it because it no longer had access to the capital market. In April, the insurance supervision division of De Nederlandsche Bank took a close look at the internal loans within Reaal. These distorted Reaal's solvency. According to the regulator, there were unwanted cash rounds and the solvency positions were partly hot air. The double leverage was not pure because it was partly based on internal double capitalization.

From the point of view of the insurance supervision division, only one conclusion was possible: the relevant loans had to be canceled and Reaal's solvency adjusted. But seen from the perspective of supervision of the SNS Reaal Group, other factors played a role. De Nederlandsche Bank had to take financial stability into account. After SNS Reaal repeated the request again on 21 May 2012, the Supervisory Board came to the conclusion on 30 May 2012 that there was no other option than to give permission to SNS Reaal. It was noted that the responsibilities of De Nederlandsche Bank were stretched extremely at the moment, that the level playing field was being affected, but that this had to be taken for granted.

Bill provides more options for intervention at financial institutions

On

22 May 2012, the Senate discussed the bill Amending the Financial Supervision Act and the Bankruptcy Act, as well as a number of other laws related to the introduction of additional powers to intervene in financial institutions in trouble (Financial Enterprises Special Measures Act). With this law, the intervention ladder for managing systemic risks in the financial sector was expanded by two rungs at the top of the ladder. The first concerns measures for the timely and orderly resolution of financial institutions in difficulty.

The second gives the Minister of Finance the opportunity to proceed with expropriation in agreement with the Prime Minister, of course only as an ultimatum remedium.

Supervisor tries to secure the insurance branch But

expropriation was not yet an issue at that time. the Dutch bank

wanted SNS Reaal to speed up the sale of the insurer. De Nederlandsche Bank and the Ministry of Finance both saw the insurer as not systemically important, but De Nederlandsche Bank nevertheless feared that the Ministry of Finance would not involve the insurer in any intervention. Based on its responsibility as the supervisor of insurance companies, De Nederlandsche Bank considered it necessary to place the insurer in a safe haven as quickly as possible. In addition, the interdependence of the bank and insurer also played a role. On May 22, 2012, Ms. Kellermann called Latenstein to ask him about the progress of the talks with takeover candidates.

Latenstein said that he had discussed this with the Supervisory Board and that he had received the green light from the Supervisory Board to start talks. The first agreements were made, but he did not expect any results before the next meeting of SNS Reaal with De Nederlandsche Bank and the Ministry of Finance. Miss Kellermann apparently would have liked it differently, because according to her the urgency at the Ministry of Finance was low, according to SNS Reaal.

The positions of De Nederlandsche Bank

Sijbrand had meanwhile informally spoken with the CEOs of ABN Amro, ING and Rabobank about the situation of SNS Reaal. If the major banks cooperated in an orderly solution, the Ministry of Finance would be happy to talk about other measures that were in the pipeline for the banks, such as the introduction of the ex ante deposit guarantee system and the bank tax. The ministry and the regulator wanted to be careful not to overload the banks. In the closed board meeting on 22 May 2012, the position of De Nederlandsche Bank was also discussed. In the case of a private solution, Sijbrand saw a guiding role for De Nederlandsche Bank. But then it was desirable to hire your own consultant. It was noted in the meeting that nationalization need not be the worst option and would provide a good backstop.

Bankruptcy of the holding company is

undesirable On 23 May 2012, the director of supervision of De Nederlandsche Bank sent a letter commenting on a number of points in the 'ruler'. In the letter, De Nederlandsche Bank warned of the bankruptcy of the holding company. This was not justified due to contamination risks. The holding had issued an amount of EUR 900 million in loan capital and was

for repayments and interest payments on this debt depends on dividend flows from the bank and insurer. After an intervention at the bank or insurer, SNS Reaal would no longer be able to meet these obligations.

Option D2 also rejected

For this reason, De Nederlandsche Bank was not in favor of option D2 (bank takeover/capital injection). It was possible that with option D2 market parties would no longer want to do business with SNS Bank of Reaal. The regulator also feared a shock effect, such as the collapse of Lehman Brothers in 2008. Via a sudden upward adjustment of risk premiums (and a downward adjustment of ratings), this would have an even greater effect on the financial markets than the direct losses from counterparties. In this context, rating agencies would scrutinize and reassess institutions with a comparable holding structure.

The most striking example of such an institution was ING. De Nederlandsche Bank was concerned about the subordinated loans of the SNS Reaal holding company and the appearance of non-repayment of subordinated loans of the SNS Reaal holding company. In addition, De Nederlandsche Bank considered the unbundling of SNS Reaal to be difficult to implement from a practical point of view. In November 2011, De Nederlandsche Bank was still satisfied with the living will that SNS Reaal had drawn up, and SNS Reaal was also positively surprised at the operational feasibility of a demerger. Now that push came to shove, the desire not to let the holding company go bankrupt turned out to make splitting impossible.

Another objection to option D2 was prompted by the responsibility of De Nederlandsche Bank as regulator of the insurance sector. To protect the interests of policyholders in option D2, higher buffers would be required at Reaal. That would ask too much of the insurer, so that it could still go under. The Ministry of Finance was convinced by De Nederlandsche Bank's arguments to keep the holding company and the insurer afloat as laid down in the letter of 23 May 2012.

Proactive action is necessary

Finally, De Nederlandsche Bank urged 'early action'. A further loss of confidence and subsequent emergency (bank run) had to be avoided. De Nederlandsche Bank indicated that it constantly had to take this into account in its supervisory responsibility

with the fragile situation in which SNS Reaal found itself. With regard to the repayment of participation certificates, the 2011 SREP letter and the method of refinancing the SNS Reaal Group, the regulator was forced to stretch the decision-making process due to possible consequences for this fragile situation.

SNS Reaal also urges action On 23

May 2012, Latenstein contacted the Ministry of Finance.

Although there were no (signs of) a bank run yet, he was concerned about the reporting and image of SNS Reaal. He did not want to wait any longer before holding talks with the state holdings.

Also with regard to conversion, he wanted to gradually leave the analysis phase behind and move on to action. He had also informally contacted the Minister of Finance to inform him in a personal conversation about the sense of urgency at SNS Reaal.

That day there was also a meeting between the two government commissioners, Wijngaarden and Ms Insinger, with the director of financial markets. The Supervisory Board had concluded that SNS Reaal would not survive without support or connection with an external party. The Ministry of Finance's interview report described the attitude of the two commissioners with: 'no plea for direct action, but also not waiting for a moment of crisis'. The two commissioners were updated on the 'ruler' and 'the political context', which undoubtedly refers to the caretaker status of the cabinet.

Wijngaarden took a different line in his own account of the conversation: 'We discussed the situation why the "waiting scenario" might have to be replaced by a "restructuring scenario".' Restructuring meant the conversion of the CT1 securities into ordinary shares.

In this way, the State would become a major shareholder and thus provide a de facto guarantee on Property Finance's tail losses.

The Ministry of Finance had the following objections to this: it would be a form of state aid; it would not be approved by the European Commission; and it would not mean a lasting solution to the problems at SNS Reaal. According to Wijngaarden's report, the Ministry of Finance had taken a different tone in the discussion with the supervisory directors: 'The EC problem played a modest role in their deliberations. The minister preferably does not want any "hassle" until the elections

about new support for financial institutions.' According to then-minister De Jager in his conversation with the Evaluation Committee, the upcoming elections and the outgoing status of the cabinet have not presented any obstacles to his functioning in the SNS Reaal file and his actions in general. On the contrary, he took the initiative to inform the House of Representatives confidentially.

Growing concerns among the regulator and the

ministry The letter from De Nederlandsche Bank to the Ministry of Finance dated 23 May 2012 was the subject of a discussion shortly afterwards between De Nederlandsche Bank and the Ministry of Finance. More than before, the Ministry of Finance seemed to feel that tackling SNS Reaal's problems was becoming more urgent. But it was unclear how the minister would view this. The treasurer general of the Ministry of Finance indicated that the political will to save another bank with taxpayers' money was completely absent. De Nederlandsche Bank warned of disaster as a result of trigger moments. Those moments were not always clear. For example, De Nederlandsche Bank was concerned about the stamina of members of the Executive Board of SNS Reaal. It seemed as if the board of directors was 'at the end of its tether'.

De Nederlandsche Bank calls in its own adviser

When it called in Morgan Stanley, the Ministry of Finance had ensured that De Nederlandsche Bank was fully informed about the advice and analyzes of this investment bank. To the considerable surprise of the Ministry of Finance, De Nederlandsche Bank announced that it wanted to engage its own adviser, particularly for the process of selling the insurer.' De Nederlandsche Bank was not convinced by the counterarguments of the Ministry of Finance: 'Interests do not differ and there are no differences in access to Morgan Stanley between De Nederlandsche Bank and the Ministry of Finance.' De Nederlandsche Bank would hire RBS Nederland as its own advisor in June 2012.

The ministry is increasingly taking control

On 30 May 2012, the Ministry of Finance put the main concerns on paper in a memorandum that would reach the minister on 7 June. The deterioration of the situation at SNS Reaal ensured that the main concerns of De Nederlandsche Bank were clearly highlighted in the memorandum. The officials of the Ministry of Finance involved urged the minister to take action. Sharp kept the minis-

The Ministry of Finance keeps an eye on the many trigger moments. The Minister of Finance was advised to inform the House of Representatives ('for example via a confidential briefing').⁸ The waiting scenario was a thing of the past. Increasingly, the Ministry of Finance took the initiative. The first opportunity for this arose at the end of May.

SNS Reaal is unable to repay the state aid On 31 May 2012,

the Executive Board of SNS Reaal informed the Ministry of Finance and De Nederlandsche Bank about the institution's situation. Ten days earlier, the Executive Board had shared this situation with the Supervisory Board. The situation sketch first looked back at the year 2011. The company had booked a net profit of 87 million euros in 2011, compared to a loss of 260 million euros in 2010. Other developments, such as solvency and the Core Tier 1 ratio, also indicated that the core business performed positively. But the European debt crisis, developments in the financial markets and deteriorating real estate markets were very damaging. Profitability and capital generating capacity for 2012 and beyond came under pressure. SNS Reaal would not be able to 'enable the repayment of the State[said] in its entirety for 2013 in cash (apart from the increased capital requirements)'.⁹

Latenstein indicated that institutional clients were turning their backs on SNS Reaal. The Executive Board and Supervisory Board had therefore concluded that waiting any longer was not an option. It was now necessary to implement other solutions more acutely, in which a private solution was preferred. They considered restructuring the capital structure, a merger with ASR, a takeover by ABN Amro of SNS Bank and the sale of the insurer. All possibilities stood and fell with finding a guarantee for Property Finance. The director of supervision of De Nederlandsche Bank pointed out in this regard that 'the key to the solution, the pace as well as the responsibility of Mercurius lies in the sale of the insurer. As long as the insurer is in the group, this limits the possibilities of MinFin and DNB. He also emphasizes that in the event of a crisis the price [meaning: the value] is nil for the insurer and that progress is required'.

The ministry does not give in.

But there was no question of a guarantee from the State on the usury policies – as Latenstein was told by the official Finance department. For sub-

transactions with one of the state participations, according to the Ministry of Finance, it was still too early. Should that be the case in due course, the Ministry of Finance would be in charge. Latenstein also received no response with regard to the possibilities for the State to do something with regard to Property Finance. According to the Ministry of Finance, this did not belong 'in the order of things'.

The financial markets director of the Ministry of Finance, Ms. GJ (Gita) Salden, concluded the meeting by saying that 'the three parties are not far apart after this discussion and that close consultation is necessary.' On the latter point, she was supported by the director of supervision of De Nederlandsche Bank:

'Against this background, Sijbrand adds that other bumps/triggers, such as the redemption of participation certificates and group financing, do not improve the company's situation. For example, trigger events that have been made possible by mitigating actions by [De Nederlandsche Bank] pass on repetition. He emphasizes that under other circumstances this would absolutely not happen. These promotions are also not "free". We leave a situation worse. At a certain point, this becomes irresponsible towards other stakeholders. Mercurius and MinFin [the Ministry of Finance] say they are aware of this'.

But whether SNS Reaal was well aware of this is the question. Although the preparations for the possible sale of the insurer were taken up by SNS Reaal, SNS Reaal emphatically pointed out to the Ministry of Finance that a possible transaction was subject to clarity regarding the holding company and bank. On the advice of Morgan Stanley, the preparations (in which insurers would be approached) were suspended on June 13 to take some time to find the optimal process.

Action is

required On 7 June, the aforementioned official memorandum reached the Minister of Finance. The note emphasized that Mercury's precarious situation was becoming more urgent. It had become very unlikely that the situation itself would turn for the better. The rescue of SNS Reaal would involve high costs for the State: the memorandum spoke of an amount of at least 3.4 billion euros. A bankruptcy would cost the State 3.6 billion euros. The remaining banks would then go bankrupt via the deposit guarantee scheme for an amount of at least four billion euros. The Minister of Finance

wanted a discussion about the memorandum with the employees most involved. That would happen on June 12 at 10:30 am. As a shot across the bow, the Minister of Finance had written the following on the memorandum: – take into account all lessons from De Wit 1 and 2 when considering – of course this means informing the TK [House of Representatives], but also the keeping social costs low.'

From that moment on, the Ministry of Finance increasingly took control. The Minister of Finance informed the Council of Ministers on 15 June 2012. He informed the Permanent Parliamentary Committee on Finance confidentially. It was only a matter of time before the treasurer general joined the consultations with the major banks and the Ministry of Finance prepared to enter into discussions with the European Commission about a rescue variant with the participation of the major banks.

5 sns real in heavy weather;

June 12, 2012 – November 5, 2012

Phase 4: from June 12, 2012 to November 5, 2012

On 14 June, the Minister of Finance would inform the standing parliamentary committee for Finance confidentially about the problems at SNS Reaal and the possible solutions. For De Nederlandsche Bank, the director of supervision would participate in the meeting with the House of Representatives. At the same time, SNS Reaal was about to send so-called process letters to potential candidates for the insurance branch of SNS Reaal. In the end, to prevent leaks, they opted for a much more informal approach.

Many

advisers De Nederlandsche Bank had engaged RBS as adviser. This led to some wrangling with the Ministry of Finance. The number of advisers gradually became so large that the Ministry of Finance feared an unstructured process. The ministry attached great importance to clear process agreements being made about the demarcation of the activities of RBS and those of Morgan Stanley.

In addition to strategic advisers Morgan Stanley and RBS, the Ministry of Finance hired Allen & Overy for legal advice, while De Nederlandsche Bank used the services of Clifford Chance in that area. In turn, SNS Reaal was assisted by Goldman Sachs, JP Morgan and De Brauw Blackstone Westbroek.

Morgan Stanley's work did not initially fully meet the expectations of the Treasury Department. The ministry considered it necessary to make adjustments and to insist on improvements in a number of areas, for example in estimating the consequences of decisions or scenarios. There were also complaints from SNS Reaal that trickled down to the Ministry of Finance: the deployment of Morgan Stanley would feed rumors at other financial institutions about the work that Morgan Stanley performed for another Dutch insurer. The Ministry of Finance therefore thought it would be good to 'tighten the thumbscrews',

although some of the criticism directed at Morgan Stanley was certainly attributable to the ministry itself. The Ministry of Finance was very cautious about options that would involve State involvement. It is not clear how the criticism from the Treasury Department came across at Morgan Stanley. The conversation took place by telephone.

The permanent parliamentary committee

is informed The confidential meeting with the House of Representatives caused consternation. De Nederlandsche Bank was concerned about providing confidential supervisory information to the permanent parliamentary committee. Partly at the insistence of the Ministry of Finance, De Nederlandsche Bank eventually changed tack and decided that the information could be provided under certain conditions.

This enabled the members of the permanent parliamentary committee to be informed of the seriousness of the situation at SNS Reaal. The director of supervision of De Nederlandsche Bank told the members of the permanent parliamentary committee that not only SNS Bank, but also the holding company and the insurer were systemically important: 'If left to its own devices, [Mercurius holding + insurer] also cause contagion and instability. '. Bankruptcy is not desirable, in case of acute emergency we will have to expropriate with the help of the I-law, and in the meantime we try to work out private 'intermediate options'. The members of the House of Representatives were also informed about the so-called assessment framework: a solution to the problems at SNS Reaal should lead to financial stability in the Dutch financial sector; the budgetary consequences for the Dutch State had to be kept as limited as possible; the private sector should be involved in the solution; the existing financiers had to make a contribution through burden sharing; it had to be a sustainable approach; the involvement of the State had to be limited.

The previously feared downgrade of Moody's was limited to a single notch for both the holding company and SNS Bank.

Tripartite

consultation Against this background, the Executive Board of SNS Reaal, De Nederlandsche Bank and the Ministry of Finance met on 15 June 2012 in the building of De Nederlandsche Bank on Frederiksplein in Amsterdam. The review of the briefing of the standing parliamentary committee was the first item on the agenda: 'none of the committee members present has

doubts that bankruptcy is undesirable', according to the second-hand representation, namely from SNS Reaal.

Search for interested parties for Reaal Verzekeringen

The next item on the agenda was the search for buyers for the insurance branch, which had begun at the insistence of De Nederlandsche Bank. SNS Reaal itself proposed not yet to send the process letter in connection with the sale of the insurance branch. This postponement would not lead to a cancellation. Some delay was desirable because SNS Reaal had to take into account that the bids would yield lower amounts than the current market value. In that case, the auditor could impose a write-down on the goodwill, which would further weaken SNS Reaal's capital position. If that were to happen just before the publication of the half-year results on August 16, it would provide a new trigger.

Strong preference for involvement of the private sector

The Ministry of Finance and the regulator agreed to link the sale of the insurer to a solution for the holding company and SNS Bank. This was a fervent wish of SNS Reaal. Moreover, as long as there was no total solution, De Nederlandsche Bank did not consider the sale of the insurer to be responsible. De Nederlandsche Bank and the Ministry of Finance would approach the private sector (read: the three major banks). That same evening, De Nederlandsche Bank and the Ministry of Finance reached agreement on an assignment to their advisers (RBS, Clifford Chance and Morgan Stanley) to work out a solution direction 'with maximum involvement [of the] three major banks (and possibly other investors)'. A solution for Property Finance had to be part of this step-by-step plan: 'bad bank, APS, other variants.'

The variants immediately flew over the table, one of the mead reported employees of the financial markets directorate to the ministry. Also the others the financial market regulator did its part; the AFM pointed out that SNS Reaal had probably issued guarantee products to consumers with their own bonds. Expropriation of these 'simple consumers' could lead to 'a field of political tension'. The Ministry of Finance pointed to the legal 'hurdles' and the 'possible negative consequences for other Dutch institutions': 'you should preferably arrange something like this at European level first'.

Discussion about bail-in of debt capital providers

After this 'slightly chaotic' week, we had to wait for the joint proposal of the four advisers of De Nederlandsche Bank and the Ministry of Finance.

A discussion about the bail-in started within the Ministry of Finance. In the Intervention Act, a conscious decision was made not to write off or convert debts immediately. Nevertheless, the Ministry of Finance wanted to make it possible for debt capital providers to suffer the same loss in the event of expropriation that they would also have to bear in the event of a regular bankruptcy. That is why the possibility of expropriation for a fee of nil was included in the Intervention Act.

New consultations between the

three parties The consultations held on 15 June 2012 between De Nederlandsche Bank, the Ministry of Finance and SNS Reaal continued on 27 June. Latenstein explained the state of affairs in discussions with insurers about the possible sale of Reaal. On 2 and 5 July, SNS Reaal would hold talks with the candidates 'with serious interest'. The parties that wanted to continue after that would be given access to a data room. But Latenstein insisted that 'if the insurer were to be sold, [there should] be an immediate solution for the holding company/bank'. An important part of that solution was a guarantee for Property Finance (asset protection scheme or APS). He had understood from the director of supervision of De Nederlandsche Bank that talks were being held about this with the chairmen of the three major banks.

Tricky point: redemption of participation

certificates During this consultation, the discussion about the redemption of participation certificates flared up again. De Nederlandsche Bank had very reluctantly agreed to this repayment, on the condition that Stichting Beheer SNS Reaal would contribute thirty million euros. This was to prevent SNS Reaal's capital position from deteriorating even further. Stichting Beheer SNS Reaal had informed De Nederlandsche Bank that it did not want to cooperate in this.

Very against the will of Sijbrand, as can be read in the report recorded by the Ministry of Finance:

'De Nederlandsche Bank indicates that in this situation there is no other option than to issue the DNO, in order not to cause a trigger itself, but that this is actually unacceptable. The only reason that De Nederlandsche Bank is cooperating in this is that at this stage, now that solutions are being actively explored with the private sector and the State, it is not desirable for a trigger to arise. This situation does underline the seriousness of the situation and the urgency of a solution in the foreseeable future.'

Supervisor annoyance about Stichting Beheer SNS

Reaal De Nederlandsche Bank was certainly not happy with the attitude of Stichting Beheer SNS Reaal. In the Supervisory Board meeting of 28 June 2012, those present agreed that Stichting Beheer SNS Reaal, as shareholder and provider of capital, should in any case bear a share in the restructuring costs. With a view to the upcoming repayment date of 20 December 2012, the regulator had made it clear to SNS Reaal that the issuance of the DNO and the cancellation of the binding condition 'certainly [was] no precedent for new cases'. The members of the Supervisory Board were particularly upset about the supervisory dilemmas. They discussed when De Nederlandsche Bank should choose its own course. One of those present then suggested that from now on it should be stated in the relevant DNO that it had been issued with the consent of the Ministry of Finance.

On the same day, the supervisory directors of SNS Reaal spoke with De Nederlandsche Bank. The supervisory director of De Nederlandsche Bank pointed out – as can be read in the SNS Reaal report – that 'the situation of SR is deteriorating over time and the pace [of deterioration] is increasing'. He repeated that he had had a confrontation with the board of Stichting Beheer SNS Reaal that week and he made no secret of the fact that he was not very pleased with it.

Ministry keeps all options

open On 28 June 2012, Latenstein, Lamp and Zwartendijk, chairman of the supervisory board of SNS Reaal, spoke with the financial markets director and the finance director of the Ministry of Finance.

The treasurer general was unable to attend at the last minute because of a meeting in Brussels about the European debt crisis. Ms. Salden made it clear to the top of SNS Reaal that all options were still on the table, but also that there was no commitment whatsoever for any solution. The fact that the Treasury Department was willing to explore a guarantee on Property Finance's tail loss did not mean it was the preferred option. The director of financing indicated 'that the European Commission only comes into the picture just before the execution of a possible transaction. The European Commission will have to be approached for this, but not too early: only when the contours are clear can MinFin be proactive. MinFin expects sensitivities at the European Commission regarding possible participation of other banks, competitive landscape, etc', according to the report by SNS Reaal.

Positions are recorded in an exchange of

letters. The possibility of a capital injection by the banking sector, possibly combined with an asset guarantee from the State, was examined by the various advisers of De Nederlandsche Bank and the Ministry of Finance. On legal advice, the Ministry of Finance already wanted to formalize shared views and judgments between civil servants and employees and record them in an exchange of letters. This letter, which would eventually be sent on 31 July, has been prepared since the beginning of July 2012. First of all, the letter stated that the Ministry of Finance applied the principle that 'a financial company must solve its own problems, for example by issuing new shares, restructuring or merging. If a company fails to do so, the company should be able to go bankrupt. However, the ministry recognized that a financial company can be so large, intertwined or irreplaceable that, in certain circumstances, a (imminent) failure of the company leads to unacceptable, negative consequences for the financial sector, the real economy or society as a whole.'

The letter asked De Nederlandsche Bank's opinion on the situation in which SNS Reaal found itself at that time and on the development that this company had undergone since the autumn of 2008. The Ministry of Finance also wanted the regulator to indicate why SNS Reaal was unable to find an internal or external solution itself. A second set of questions related to the systemic relevance of

SNS Reaal. The Ministry of Finance wanted De Nederlandsche Bank

know why the failure of SNS Reaal would lead to a serious and immediate threat to the stability of the financial system, and what percentage of the claims could be met in the event of bankruptcy.

The letter also discussed the 'ruler'. De Nederlandsche Bank was asked under what conditions certain options would be unfeasible or undesirable. The letter concluded with a request to the regulator to send the Ministry of Finance much more regular, weekly and if necessary even daily information about SNS Reaal. De Nederlandsche Bank wanted to avoid any misunderstandings about this exchange of confidential supervisory information. Therefore, at the request of De Nederlandsche Bank, the Ministry of Finance included in the letter that the information exchange was based on Article 6.5 of the Financial Supervision Act.

Communication with the outside world

At the same time, the Ministry of Finance also drafted a letter for the House of Representatives. This letter was to be sent to the House of Representatives when the Minister of Finance had to decide to expropriate the shares of SNS Reaal 'due to the acute loss of confidence in SNS Reaal and the outflow of deposits at SNS Bank'. An acute crisis situation was therefore not imaginary. On 5 July 2012, SNS Reaal held an exercise involving a bank run. The exercise was 'very successful'. In case the media got wind of all the preparations, SNS Reaal had drawn up a spokesperson and a list of difficult questions and answers. On 11 July 2012, the company made it available to the information officers of De Nederlandsche Bank and the Ministry of Finance.

That was not a moment too soon. On July 12, 2012, it became clear that *Het Financieele Dagblad* would come up with big news the next day, Friday, July 13.

The article appeared on the front page under the headline 'Goldman advises SNS Reaal on rigorous future interventions'. The newspaper reported that SNS Reaal was looking for buyers for Reaal and Zwitsersleven. The share price, which was still 1.27 euros on 12 July, fell below the level of one euro. A bank run failed to materialise. The content of the reporting in *Het Financieele Dagblad* was not crisis-like; the search for solutions predominated. The director of financial markets urged others to keep calm.

Those interested in the insurer want guarantees

The contours of a 'total solution' were visible at that time. On 10 July, there was another meeting at De Nederlandsche Bank between the Executive Board of SNS Reaal, the Ministry of Finance and De Nederlandsche Bank. Latenstein said that a number of serious candidates had remained for the takeover of SNS Reaal's insurance branch. The sale should raise 1.4 billion euros or more to help SNS Reaal financially. A lower amount made no sense. The costs for reducing the double leverage and for the unbundling were so high that nothing would then be left over to reduce SNS Bank's capital shortfall.

The problem was that the other insurers wanted to give an indication of the amount they had left over for the insurance branch, but they made that indication dependent on 'adjustments for risks', for example for the usury policies. There were no foreign applicants; they did not want to burn their fingers on the usury policy file.

A possible sale could only be effected once it was clear how the bank would be recapitalised. 'After all, sales provide little or no capital relief,' according to De Nederlandsche Bank. As the majority shareholder, Stichting Beheer SNS Reaal only wanted to agree to the sale if it was part of the 'total solution'. The Ministry of Finance and De Nederlandsche Bank approached the Executive Board of SNS Reaal. The Ministry of Finance had no objection to involving ASR in the insurer's sales process.

De Nederlandsche Bank would increase the pressure on other insurers. The regulator wanted to convince these companies to waive guarantees in connection with the usury policies; that should not become a stumbling block. The director of supervision of De Nederlandsche Bank also announced that a consortium of the three major banks would take over the holding company and the bank through a capital injection, once the insurer had been sold. A possible variant was that the three large banks would first take over the holding company and then take some time to sell the insurer.

Finally, there was a third variant: takeover of the bank by the three major banks and bankruptcy of the holding company. After the consultation with SNS Reaal, the director of supervision of De Nederlandsche Bank reported internally that the consultation with the three major banks was 'not going great'.

De Nederlandsche Bank saw it as its task to bring the major banks and the State together in a rescue package. The Ministry of Finance pointed out to De Nederlandsche Bank its own interests and the fact that the Ministry of Finance would not allow others to negotiate about the use of taxpayers' money.

Again tripartite consultation; everyone is waiting

for each other On 19 July 2012, the Executive Board of SNS Reaal met De Nederlandsche Bank and the Ministry of Finance. They looked back at the reporting in *Het Financieele Dagblad* and the reactions to it. 400 million euros in savings had 'run away'. The share price had taken a big hit and of course SNS Reaal was now under a magnifying glass.

Nevertheless, there were four parties that were seriously interested in the insurance branch. Now the next step could be taken for the sale of the insurer. The supervisory director of De Nederlandsche Bank distinguished three 'moving parts':

the sale of the insurance branch, the capital injection into the holding company and the asset protection scheme. According to him, the greatest risk at that time was 'that everyone is waiting for each other (the data room will not open as long as there is no clarity about injection into the holding

and asset protection scheme on Property Finance, the injection will not take place as long as there is no clarity about injection in the holding company, etc)'.

Which deadline is feasible?

Ernst & Young's analysis could serve well to break through this impasse. At the time, Ernst & Young was analyzing Property Finance's loan portfolio. That analysis would be ready within six weeks, ie no later than early September. The Ministry of Finance did not want to make a final decision on an asset protection scheme before the new Standing Committee on Finance had been formed. After the elections on September 12, that could take another two to three weeks. Incidentally, this pace was not in line with the timetable ('roadmap') used by De Nederlandsche Bank. According to the Ministry of Finance, on 17 September they wanted clarity about a 'total package': sale of the insurer, capital injection and asset protection scheme.

A deadline of 6 November (the publication of the figures for the third quarter) seemed 'more realistic' to the Ministry of Finance.

Consultation with the major banks is difficult

According to the Ministry of Finance, too, the consultations between De Nederlandsche Bank and the three major banks did not go very smoothly. The problems did not lie with the top of the major banks and De Nederlandsche Bank. That consultation at the highest level went relatively smoothly. But at the shop floor level, it turned out to be much less easy between major banks and the regulator. The Ministry of Finance wanted not only the major banks but also the insurers and pension funds to make a significant contribution.

Supervisor thinks November 6 too late De

Nederlandsche Bank continued to resist a deadline of November 6. The Ministry of Finance was aware of De Nederlandsche Bank's preferences for rapid action and the motives behind it, but did not want to be pinned down to a date.

European Commission informed Now

that the contours of a 'total solution' became visible, it was also important to inform the European Commission about the situation. On 25 July 2012, the Finance Director of the Ministry of Finance was advised to contact the European Commission's Deputy Director General for Competition, the Dutchman Drs. GJ (Gert Jan)

Koopman' to indicate that (i) Mercury is in a precarious state

(ii) Finance is investigating the possibilities for a restructuring with DNB and (iii) we want to involve the Commission in good time in shaping such a restructuring'. The Ministry of Finance thought it could have a plan for such a restructuring ready by 6 November.

The financing director had to ask Koopman to indicate how 'the solution direction can best be initiated with the European Commission: what matters should the State [take] into account if the European Commission is to be able to issue an approval?' The Ministry of Finance also wanted to know whether a plan for SNS Reaal could have consequences for the process at the European Commission in which ING and ABN Amro found themselves. And finally, the Ministry of Finance wanted to know the best time to make formal contact with the European Commission. At the beginning of August, the Ministry of Finance decided to have the treasurer general or the finance director, who was on vacation at the time, call Koopman. It was finally decided on 6 August that the treasurer general would call Koopman in the week of 13 August 'to ask which person from the European Commission can MinFin speak to about the situation at Mercury as soon as possible'. He would also ask Koopman to discuss the situation of SNS Reaal with the European Commission in the short term (end of August).

Major banks sputter against De

Nederlandsche Bank's talks with the three major banks continued to be difficult. It became clear what they did not want, but the discussion partners were very cautious and reserved about possible solutions. The supervisor kept the Ministry of Finance informed of progress. The three major banks were indeed apprehensive about bankruptcy or expropriation of SNS Reaal. But at the same time they wanted a reasonable investment case that they could explain well to their own stakeholders and the financial markets. However, when developing the proposal for an asset protection scheme and the participation of the major banks, they immediately pointed in the direction of the European Commission. There was talk of 'health the reluctance'. The major banks also wanted the other banks, insurers and pension funds to participate in the consultations.

CVC Capital Partners appears on the scene On

August 6, 2012, there was another meeting between the Executive Board of SNS Reaal, the Ministry of Finance and De Nederlandsche Bank. Such consultations were now taking place with the regularity of the clock. The name of CVC Capital Partners was mentioned for the first time. The private equity invest-

The company had previously reported to SNS Reaal as an interested party for the non-life insurance business.

Is Ernst & Young independent?

Meanwhile, there had been a meeting between Property Finance and Ernst & Young on the one hand, and De Nederlandsche Bank and the Ministry of Finance plus a number of their advisers on the other. Property Finance and Ernst & Young had updated the others on Ernst & Young's approach to reviewing Property Finance's loan portfolio. Ernst & Young had been involved with Property Finance (Schiermonnikoog project) for much longer. And that raised questions about the independence of Ernst & Young. For the Ministry of Finance it was 'essential that the valuation is EC-proof'. Therefore, an external, independent valuation would be necessary.

Supervisor and ministry differ on burden sharing In the preceding bilateral consultations between De Nederlandsche Bank and the Ministry of Finance, the issue of burden sharing also came up again. Opinions on this differed. The Ministry would prefer to see as much burden sharing as possible. In any case, it wanted a partial or partial bail-in of subordinated creditors and owners of hybrid loans. De Nederlandsche Bank was wary of this because of the possible consequences for other Dutch financial institutions and their financing options and costs. Surprisingly enough, the major banks themselves indicated that they preferred a high degree of burden sharing. With far-reaching burden sharing, the 'voluntary' contribution of the major banks would be lower. Apparently, this lower contribution outweighed the risks to funding and financing for the major banks.

De Nederlandsche Bank adjusts its opinion

The half-year figures of SNS Reaal were published on 16 August 2012. Net profit rose to 115 million euros (first half of 2011: 53 million euros). The figures beat expectations, but the gain was due to non-operating activities, such as higher appreciations on interest rate derivatives. The Supervisory Board of De Nederlandsche Bank met that same day. They discussed a reply to the Ministry of Finance in response to the letter of 31 July 2012. De Nederlandsche Bank now agreed to the ministry's later deadline. In the response letter, she would include the date of November 6, 2012 as the deadline for a resolution.

Although the regulator still declares bankruptcy of the SNS Reaal holding company

considered undesirable, De Nederlandsche Bank wanted to weaken its position in this regard. A bankruptcy of the holding company could be a possibility, provided that the senior debts were paid and would therefore not have to contribute. Sijbrand had doubts whether the market had recognized the subtlety that it was a holding company and not a bank, which is why he was not in favor of a bail-in of senior creditors of the holding company, said Sijbrand in his conversation with the Evaluation Committee.

A difficult point was De Nederlandsche Bank's preference for a private solution. This would require an asset protection scheme, and that was a sensitive issue in The Hague. Dealing with the European Commission was also a tricky issue. The Supervisory Board discussed whether it was wise to send the letter at all or whether it was better to first coordinate with the Ministry of Finance. In the end, the final letter would not be sent to the Ministry of Finance until October 2, 2012.

The state of affairs discussed with the main parties On 20

August 2012, the Minister of Finance held a meeting with the president of De Nederlandsche Bank, the director of supervision of De Nederlandsche Bank and the chairman of the AFM. Immediately followed by a meeting of the Executive Board of SNS Reaal, the Ministry of Finance and De Nederlandsche Bank. In it, the treasurer general summarized the conversation between the supervisors and the minister. There was talk of an asset protection scheme for Property Finance, the cooperation of the three major banks on a solution, and the importance of the existence of a fourth bank in the Netherlands from a competition point of view. For his part, Latenstein announced that the private equity party CVC Capital Partners had come forward. The Treasurer General announced that he would meet on 24 August 2012 with Koopman, Deputy Director General for Competition of the European

Commission.

Shareholder dissatisfaction with burden sharing The

meeting also marked the arrival of a number of new players. The Stichting Beheer SNS Reaal came off badly in the proposals that were available at the time. The same applied to the other shareholders. Stichting Beheer SNS Reaal had therefore engaged an adviser and, together with this adviser, Oyens & Van Eeghen, wanted to consult De Nederlandsche Bank shortly. The supervisory board of SNS Reaal was also concerned about the considerable burden sharing that had been proposed in the plans.

to see. This would have negative consequences for the shareholders and therefore also for Stichting Beheer SNS Reaal.

SNS Reaal had contacted NLFI about the sale of the insurer, but also about a possible merger of the insurer with ASR.

Talks with major banks are in a hurry

At the beginning of September, talks with the major banks were to resume. Just before the parliamentary elections, the Ministry of Finance was apprehensive about leaking the possibility of recapitalization in this way.

Serious talks with ASR

Immediately after his talk in Brussels with Koopman, the treasurer general would go to a conference, in which the chairman of the board of ASR would also participate. There was therefore a chance that the treasurer general would be approached by the chairman of the board of ASR. This was a sensitive issue, because ASR was in the race to take over the insurance branch of SNS Reaal. ASR was part of Fortis Verzekeringen NV and was managed by Stichting NLFI, which had taken over Fortis Verzekeringen NV. ASR was well capitalized and had ample solvency at that time. NLFI had already spoken with SNS Reaal. There had been talk of a takeover of Reaal, but a merger of the two insurers was also possible.

NLFI had mentioned conditions: a takeover via a stock exchange listing was not negotiable. Instead, ASR's capital above a solvency of two hundred percent could be used for the acquisition. The state interest in SNS Reaal then had to be redeemed or converted. Should there be a capital shortfall, this could be resolved by bringing minority shareholders on board. The Ministry of Finance asked the treasurer general to exercise restraint if the chairman of ASR put his wishes on the table.

Naturally, ASR also used an advisor: the Swiss bank UBS.

De Nederlandsche Bank, supervisor of ASR, was not enthusiastic. The regulator intended to make it clear to ASR that a takeover of SNS Reaal was not a viable plan. According to De Nederlandsche Bank, the chance of approval for such a plan was negligibly small.

The ministry is referred to the case team

It is not possible to trace how the discussion with the European Commission went.

in the paper archive. The agreement of 24 August 2012 between Vijlbrief and Koopman was in any case the first time that solutions for SNS Reaal were discussed at European level. Koopman initially made the suggestion to at least approach the case team of the European Commission.

In his conversation with the Evaluation Committee, the treasurer general stated that he had initially spoken to Koopman without underlying papers. The initial reaction was not entirely positive, but at the end of the conversation Koopman suggested that Vijlbrief should talk to the case team. A case team deals with a specific state aid case and has far-reaching powers. Advice from the team is usually adopted. In addition, a European Commissioner also has his own cabinet that can also look at a case.

The note that Vijlbrief used during his conversation with Koopman contains a few short notes about the conversation. Reference is made to the 'acquisition ban' and the loan portfolio of Property Finance, which was analyzed by Ernst & Young at that time. The handwritten notes conclude with 'second interview', which no doubt refers to the discussion with the case team.

There must be an independent valuation of Property

Finance Within the Ministry of Finance, it was noted about the meeting with the European Commission three days earlier on 28 August 2012 that SNS Reaal would be curious about the outcome of the meeting with the European Commission, just like De Nederlandsche Bank. It was decided to give them feedback indicating that the discussion with the European Commission had made it clear that the public-private solution depended on the valuation of Property Finance and the effects of an asset protection scheme. The Ministry of Finance was more or less forced to have a new, independent assessment made by its own expert. Together with a memorandum on an APS, this would be submitted to the minister or the treasurer general: 'we envisaged a second opinion in which we continue to work with EY results [the analysis by Ernst & Young]. It was concluded from Wouter [Raab]'s email about the conversation with Koopman that that is not enough. Main (but not only) target of valuation is APS. If the European Commission nevertheless puts an end to a public-private solution, this reason will lapse, but it can still be useful.'

De Nederlandsche Bank does not want to lose time on independent valuation De Nederlandsche Bank still wanted to act quickly. The regulator was of the opinion that there was no time for the new external valuation of the Property Finance portfolio that the Ministry of Finance deemed necessary.

SNS Reaal shares do not respond to half-

year figures On 26 August 2012, SNS Reaal published its half-year figures. The figures showed a familiar picture: profit (115 million euros) in spite of a substantial negative at Property Finance (minus 131 million euros). The completion portfolio had decreased to 4.7 billion. SNS Reaal investigated a range of measures, according to Latenstein in the press release, but no decisions had yet been taken.¹ The share price, which now fluctuates between 88 euro cents and 1.30 euros, barely reacted.

Various parties put forward objections Now

that the focus had shifted to the Ministry of Finance, new visitors appeared at the Korte Voorhout. On 28 August 2012, Stichting Beheer SNS Reaal reported for a meeting that was to take place in September. The supervisory board of SNS Reaal had reported to the director of supervision of De Nederlandsche Bank. It raised similar objections as Stichting Beheer SNS Reaal. Sijbrand was not impressed. In the event of bankruptcy, the foundation and other shareholders would be even more affected. The supervisor was also not very keen to take the interests of the foundation into account. The refusal of Stichting Beheer SNS Reaal in June 2012 to replace the capital that was lost due to the redemption of the participation certificates had not done the regulator's attitude towards the foundation any good.

Favorite solution: private-public with

APS On 1 September, the French Minister of Finance announced that the French State had granted a guarantee to Cr dit Immobilier de France (CIF) subject to approval by the European Commission. CIF had run into problems because of its mortgages. The French bank was about half the size of SNS Bank, measured by its balance sheet total.² That report caused a stir at the Ministry of Finance, which was preparing itself for talks with the European Commission about SNS Reaal. Those discussions would determine whether the European Commission could agree to the solution that was favored at the time: a private-public solution with an APS for the major banks and the sale of the insurer.

As far as the latter is concerned, there was still 'no news' at the beginning of September. The data room could be operational soon, but SNS Reaal did not want to open the data room until there was clarity about the solution for the holding company and SNS Bank. At the beginning of September, De Nederlandsche Bank once again sat down with the three major banks. The interlocutors started working out a solution with an APS, despite a report from De Nederlandsche Bank that 'an APS generates little or no capital release'. In that case, the major banks had to cover the full deficit. After all, if Property Finance were to be lifted out of the bank, this would lead to a substantial write-off. Later that month, the regulator would prepare a more extensive memorandum on the APS.

And what happened next in early September...

After the meeting with Koopman of the European Commission, the Ministry of Finance made an appointment with the 'EC case handler'. That conversation was prepared in early September with the help of Morgan Stanley.

Various talks planned At the

beginning of September, a talk between De Nederlandsche Bank and the Ministry of Finance with the Executive Board of SNS Reaal was planned. In addition, the agenda also included talks with Stichting Beheer SNS Reaal and with Wijngaarden, one of the government commissioners at SNS Reaal.

The value of an APS An

APS is an instrument with which the government sets a floor under the value of banks' risky assets. At SNS Reaal, this would be a guarantee against possible losses on Property Finance's loan portfolio from a certain level, the so-called attachment point. This ensures that the downside risks are removed, as a result of which private capital will be more inclined to cooperate in the envisaged private-public solution. The first losses lie with the institution, in this case SNS Reaal, so that sufficient incentives remain for the institution to manage the portfolio properly. Determining the amount of the initial losses requires extensive knowledge of Property Finance's portfolio. The European Commission therefore prescribes a valuation that has been verified by an independent party.

Report of the government commissioner on the situation at SNS

Reaal On Wednesday 5 September, Wijngaarden, one of two government commissioners at SNS Reaal, visited the ministry at Korte Voorhout. According to the report of the Ministry of Finance, Wijngaarden was extremely gloomy about the independent continuation of SNS Reaal: 'Within Mercurius/RvC, Wijngaarden tries to highlight the interests of the State: "Why should the State do something? The I-law can also be an alternative". According to Wijngaarden, less attention is paid to this within Mercury'. According to his own report, Wijngaarden had asked the treasurer general and his deputy whether the ministry had a preference for intervention via the Intervention Act or for SNS Reaal's solution scenario. According to his report, there was no clear answer to that direct question. SNS Reaal would like to see the Ministry become a (co-)commissioner of Ernst & Young's research. The Executive Board of SNS Reaal had asked Wijngaarden to plead this with the Ministry of Finance. The study is already underway and the results are expected to be available by the end of September. The ministry indicated that 'an independent valuation is necessary'. And Ernst & Young's research failed to meet the independence requirement. According to Wijngaarden's report, the Ministry had stated that it 'could not afford to pass on EY's commissioning to the House of Representatives and the European Commission'.

Wijngaarden had drawn the conclusion from his conversation that 'the solution [...] lies entirely in the hands of MinFin. The timeline is ultimately determined by MinFin.'

Wijngaarden immediately passed on the most important points from the conversation to the Supervisory Board and the Executive Board, who were on their way to a meeting with De Nederlandsche Bank. In this conversation, the director of supervision pointed out that time worked against SNS Reaal. The problems only got worse. De Nederlandsche Bank also made it clear that the solution to these problems was not yet within reach. The three major banks were not eager to 'finance the insurance activities and the risk of the usury policy file in particular'. The response of the European Commission to the APS had been 'not positive'.

Interview with the case team of the European Commission

The next day, the director of financing, the coordinating policy officer of the Ministry of Finance and an employee of De

Nederlandsche Bank, with the case team of the European Commission. In that conversation it was 'quite tough' at times. The European Commission should have taken a decision on SNS Reaal twice before, namely when approving the state aid and when renotifying. This was therefore the third time that the European Commission was asked to take a decision on one and the same institution. That was virgin territory, it was made clear. The Ministry of Finance promised to issue a memorandum within two to three weeks with 'more substantiation and figures [...] and the solutions we propose'. These include alternatives, such as selling the bank instead of selling the insurer, and a bad bank instead of an APS. Naturally, the acquisition ban for ING and ABN Amro was discussed. On Friday 7 September, SNS Reaal received a summary of the conversation. On September 10, the company was informed in more detail about the progress of the conversation and the steps to be taken for the follow-up.

APS or bad bank?

The discussion with the case team of the European Commission led to a thorough exploration of two options, that of an APS and that of a bad bank. An APS (a guarantee of assets) differs from a bad bank (purchase of assets) in a number of ways.

As far as financing is concerned, an important difference between APS and bad bank is that with a bad bank the entire portfolio is set aside and must be financed with own capital. But with an APS, the portfolio – with a guarantee – remains within the bank. The portfolio then floats on the capital of the entire bank. With a certain probability, a financial injection in a bad bank should also be larger than in the case of an APS. When a bad bank is formed, all losses on the transferred assets must be taken in one go. With an APS, these losses are spread over a series of years, so that the bank remains loss-making all those years.

On the other hand, if the bad bank were to be lifted, part of it would flow back. Another difference concerns management. In an APS, the management of the assets remains in the hands of the institution. In a bad bank, management is taken over, which can be complex and requires specialist knowledge.

Difficult conversation between the ministry and the Stichting

Beheer SNS Reaal The Ministry of Finance was already thinking about the meeting with the Stichting Beheer SNS Reaal, which was scheduled for 11 September 2012. On the one hand, the ministry had little desire to share information about possible solutions with any stakeholder and there was still too little insight into the interpretation of possible solutions. On the other hand, the foundation could well be of great importance in ensuring that solutions are implemented successfully.

Three-quarters of the delegation from Stichting Beheer SNS Reaal on 11 September 2012 consisted of advisors from Oyens & Van Eeghen, who were engaged by the foundation. The foundation saw no role for itself in 'the solutions that are being considered to stabilize Mercury in the long term'. At that time, the foundation still had 160 million euros in cash for its activities: representing the interests of SNS Reaal and financially supporting charities. But it was not the intention to use these resources in the final solution for SNS Reaal.

The relationship between SNS Reaal and Stichting Beheer SNS Reaal; a brief

history Until the flotation of SNS Reaal, Stichting Beheer SNS Reaal was the sole shareholder of SNS Reaal. Part of the proceeds of the IPO, 952 million euros, had benefited the foundation.

The interest of Stichting Beheer SNS Reaal fell to 65 percent due to the IPO. After the second issue in 2007, to finance the acquisition of Axa Nederland, the interest was further reduced to 54.3 percent. As a result, another 250 million euros came in to the foundation. At the end of 2007, the assets amounted to just under 1.3 billion euros.

To finance the takeover of Zwitterleven, the foundation made an injection of 600 million euros into SNS Reaal in the second quarter of 2008, in exchange for six so-called B shares. Subsequently, during the support operation in November 2008, the foundation injected another EUR 500 million, this time in exchange for Core Tier 1 securities. At the end of 2008 there was still about 130 million euros in house. At the end of 2009, this had grown to more than 180 million euros. Subsequently, the resources fell slightly to 160 million euros at the end of 2012.

After 2008, in material terms, on balance, no more transactions took place between Stichting Beheer SNS Reaal and SNS Reaal.³

Stichting Beheer SNS Reaal was not very enthusiastic about the solutions preferred by the ministry. That was especially true

for the sale of the insurer. It would be better to help SNS Reaal with an APS and a merger with ASR. The Ministry of Finance politely listened to the concerns of the foundation and its advisers and kept its mouth shut. The foundation was referred to the board of directors of SNS Reaal for more information.

The foundation did not stop there. On 2 October 2012, the chairman of Stichting Beheer SNS Reaal sent a letter to the Ministry of Finance in which the foundation expressed its appreciation for the constructive attitude it had experienced in the discussion with the ministry and for the acknowledgment of its special position. Little could be expected from the foundation itself. Over the years, it had already made 1.1 billion euros of its assets available to SNS Reaal. She wanted to use the remaining part of her assets to promote her second objective, making benefits with an idealistic or social purpose.

The foundation did not seem to see much in the referral from the Ministry of Finance to the Executive Board of SNS Reaal; she insisted on the wish to be 'informed in good time about relevant developments and analyses'. The foundation pointed out that various scenarios seemed to be underexposed. Only the option to sell the insurer had received ample attention.

Tripartite consultations on the position of the

European Commission On 12 September, the Executive Board of SNS Reaal, the Ministry of Finance and De Nederlandsche Bank met for a joint discussion. The feedback from the discussion with the case team of the European Commission was the first item on the agenda. One of the key points was that the European Commission wanted to be involved from the outset in an independent valuation of Property Finance's portfolio. The Treasurer General announced that the Ministry of Finance would shortly decide on the choice of such an independent valuation. It was then SNS Reaal's turn, which informed the other attendees about the state of affairs in the elaboration of the solutions. It was necessary for the Ministry of Finance to take the step towards an APS. Without an APS, the conversation with the major banks would not get going. And the interest of private equity parties such as CVC Capital Partners would also wane.

An independent valuation of Property Finance's portfolio was required for both an APS and a bad bank. And it could only be drawn up

when the Ernst & Young analysis was completed. During the deliberations, all parties stated that they wanted to keep to the time limit as much as possible, ie the deadline of November 6, 2012. But it must have been clear to all those present that this would not be possible. In the preliminary discussion between De Nederlandsche Bank and the ministry, the treasurer general had already stated that there was a good chance that 6 November 2012 would prove unfeasible. The Ministry was not only looking for a good solution, it also struggled with the question of how to explain that solution to the taxpayer.

A contribution of one billion?

In the course of that week, on September 13, 2012, the three major banks dug in their heels in a meeting with SNS Reaal. For the three major banks, the discussion about their participation in a solution was only just getting started. The three representatives of the Executive Boards of Rabobank, ING and ABN Amro were clearly instructed not to speak their mind. They considered a contribution in the amount of one billion euros far too high for their institutions. They therefore advocated inviting even more parties. They even thought of a number of twenty parties. They could therefore contribute to the solution. Necessity and urgency were not well understood at the major banks at that time.

SNS Reaal and the ministry set the clocks

right On 17 September 2012, Latenstein, Zwartendijk and Lamp visited the Ministry of Finance 'to set the clocks right'. The discussion between SNS Reaal and the major banks and the role of the European Commission formed the main part of this discussion. The Ministry announced that it was investigating the idea of the bad bank (as an alternative to APS plus capital injection) put forward by Brussels.

The Ministry of Finance announced that no final solution could be found on November 6. We hadn't gotten that far yet. But the announcement of the third quarter figures on that day could well be a trigger moment. SNS Reaal also found the date of 6 November for the presentation of an all-encompassing final solution unrealistic.

The ministry is exerting pressure on the major banks

The month of September marked the beginning of the Ministry of Finance's involvement in De Nederlandsche Bank's talks with

the three major banks. On 19 September 2012, the Treasurer General joined De Nederlandsche Bank in a meeting with the three major banks.

It was made clear to the major banks that the pace had to be increased.

Left or right they would be asked to contribute. In the event of a bankruptcy of SNS Reaal, an appeal would have to be made to the deposit guarantee scheme. This would feel firmly in the wallets of the banks. It was therefore better to prevent this and participate in a capital injection of a more modest size. The three chairmen of the Boards of Directors still saw an opportunity to also allow the insurers and pension funds to participate. The State would invest fresh capital in SNS Reaal and then transfer these shares to insurers and pension funds. When asked, all three major banks considered an APS indispensable. Although the three presidents also saw the European Commission as a stumbling block, they pledged to instruct their organization to work constructively on a solution

Conversation between the minister and

Latenstein A day later, Minister De Jager spoke with Latenstein. In that conversation, the chairman of the board of directors of SNS Reaal – insofar as this can be deduced from his own notes – first of all expressed his frustrations about the training of the major banks. He apparently struck a chord with the minister, who indicated that all options should be seriously considered.

He would ask De Nederlandsche Bank not to constantly focus solely on a solution (APS) in which the major banks would play such a major role. Latenstein's account and De Jager's recollection of this conversation differ. According to Latenstein, the minister preferred a solution with a private party, such as CVC Capital Partners, a company of which he knew one of the partners well – according to Latenstein's report. But also in that case, Latenstein noted, rather without APS.

Furthermore, according to Latenstein, the minister himself came up with the idea of linking the CVC Capital Partners option with ASR. The interpretation of this conversation on the part of the Ministry of Finance is different. There, the conversation was seen as an exchange of ideas about various possible solutions for SNS Reaal, including the option of connecting private equity and ASR.

That same evening, Latenstein called the chairman of the NLFI Foundation, but was surprised to hear that NLFI was not allowed to spend time on ASR talks with SNS Reaal by order of the Treasurer General. After some back and forth calls with the Ministry of Finance, the

soup eaten less hot than it was served. SNS Reaal and NLF I made an appointment for a meeting on 2 October 2012. According to the chairman of the SNS Reaal Executive Board, that meeting went well: 'in that meeting, both parties discussed their mutual vision and interest in a combination between ASR and SNS Reaal pronounced. It emerged that the parties have similar thoughts about the strong business rationale and structure of this possible combination.' Latenstein wrote to the Ministry of Finance. But in a letter from NLF I to the Ministry of Finance it sounded very different. While Latenstein in his letter assumed a combination of SNS Reaal with ASR, NLF I pointed out that from the narrow shareholder interest of NLF I, the option of a purchase of Reaal Verzekeringen by ASR was preferable. So here too there were different readings.

The state of affairs according to the regulator

De Nederlandsche Bank held a board meeting on 25 September 2012. Here matters were listed at the highest level. De Nederlandsche Bank preferred the public-private solution, but there was a fear that the major banks would drop out. After all, that had also happened in 2009, at DSB Bank. In the meantime, the regulator felt increasingly uncomfortable about the supervisory dilemmas at SNS Reaal. In order not to endanger SNS Reaal itself, De Nederlandsche Bank had to make decisions that had disadvantages from a micro-prudential point of view.

Two such trigger situations were imminent: De Nederlandsche Bank had to decide on a DNO for the redemption of the second tranche of the participation certificates. And about a vvgb for rolling over internal loans within SNS Reaal. On September 7, 2012, a letter from SNS Reaal had fallen on the doorstep of De Nederlandsche Bank. SNS Reaal requested permission to repay the second tranche of the participation certificates issued. The redemption would lead to a reduction in Tier 1 capital, just as it had with the first tranche. SNS Reaal indicated that the company had no options at that time to replace that capital. Nevertheless, SNS Reaal asked for a DNO. The reasons given by the company were: the occurrence of new complaints procedures, possible reputational risks and the lack of alternatives. In addition, SNS Reaal had to replace a number of loans that expired during that period. It concerned loans from SNS Bank and from Reaal Verzekeringen to the SNS Reaal holding company. In fact, the holding company was increasingly financed by the insurer.

Since external financing to replace these loans was completely impossible, new internal loans would have to be taken out to maintain the holding company's capital.

If De Nederlandsche Bank refused to issue the DNOs, the regulator would in effect pronounce a death sentence on SNS Reaal. Several times before, De Nederlandsche Bank had had to make supervisory decisions that it could not really support. This was done to avoid an acute emergency. Namely with internal capital transactions within SNS Reaal at the end of 2011 and in June 2012, with the permission to redeem the first tranche of the participation certificates in March 2012, and in May 2012 when the regulator did not attach any consequences to the capital shortfall observed at the SREP analysis.

De Nederlandsche Bank had done this to gain time and create space for an orderly solution for SNS Reaal. In this way, the regulator wanted to limit the threat to financial stability. But that could not go on indefinitely. That is why De Nederlandsche Bank wanted to see a solution before 6 November 2012 at all costs. After November there would be only one way, as the minutes of the board meeting of 25 September 2012 noted, and that was nationalisation, however much that De Nederlandsche Bank also opposed it.

Supervisory positions set out in formal letter On 2 October

2012, the director of supervision of De Nederlandsche Bank sent a letter to the Minister of Finance. It was a response to the letter sent on July 31, 2012 by the Ministry of Finance on behalf of the Minister. In this letter, the ministry had submitted a number of questions to De Nederlandsche Bank about the points raised in the consultations between the regulator and the ministry. The letter of 2 October 2012 formally confirmed what had been exchanged in previous consultations. The draft of the letter had been agreed with the Ministry of Finance in advance and most – but not all – of the Ministry's suggestions had been adopted by De Nederlandsche Bank.

Like the Ministry of Finance, De Nederlandsche Bank was of the opinion that the private sector and existing financiers should be involved as much as possible in the solution. In this way, the consequences for the State could be limited as much as possible. But it was emphatically not the intention to take measures that would be risky for the

financial stability. Or that would not offer a structural solution. For example, the regulator called it risky if, in anticipation of European bail-in legislation, 'debt securities are unexpectedly tampered with'.

Preference for a public-private

solution In the letter, the regulator mentioned November 6, 2012 as the target date for finding a responsible solution. The regulator wanted to hurry, partly because of the supervisory dilemmas that De Nederlandsche Bank had been confronted with for almost a year. As mentioned earlier, this date was no longer realistic in the eyes of the officials of the Ministry of Finance. De Nederlandsche Bank reiterated its preference for a public-private solution, whereby the insurer would be sold, the bank would receive a recapitalization by the major banks, and the State would provide a guarantee on the portfolio of Property Finance (APS). De Nederlandsche Bank saw two obstacles to such a solution: the attitude of the European Commission and the contract conditions of a possible APS that can be agreed in advance and unconditionally.

If such a solution is not possible, the minister should intervene on the basis of the Intervention Act. But that was certainly not the preference of De Nederlandsche Bank. The regulator warned the Ministry of the costs and risks that nationalization would entail.

Change of minister hanging over the talks

The day after this letter was sent, 3 October 2012, consultations were held between the Ministry of Finance and De Nederlandsche Bank. In particular, the elaboration of the bad bank and APS still had the necessary hooks and eyes. The meeting decided to discuss this in two rounds with the major banks. The first round at shop floor level and the second round with the chairmen of the boards of directors 'so that – DNB hopes – the intention for a solution can be expressed in November'. But the Ministry of Finance indicated 'that a few things depend on the change of ministers (could be just mid-November)'. The Ministry of Finance reported to the Ministry of General Affairs that the deadline of 6 November 2012 'is not so hard anymore'.

Confusion at

ASR On 4 October 2012, the finance director of the Ministry of Finance had a meeting with the chairmen of the supervisory board and of the board of directors of ASR (advised by UBS). That

turned out to be confused about NLF's role: 'they asked whether ASR could still bid for the insurer'. The combination of Reaal with ASR had the advantage that ASR would participate in the 'inevitable consolidation battle in the insurance sector, which in itself already creates value for the shareholder, but in terms of synergy and cultural fit, this combination offered additional opportunities, the benefits of which would be greater than the knock down taxpayers'. In the words of the finance director, it was 'a useful and enlightening conversation'.

The advisers are busy The

Ministry of Finance has recruited a number of (partly new) advisers. In the week of October 8, 2012, the director of the financial markets signed a contract with Allen & Overy for legal advice in the SNS Reaal file. The selection of an advisor for the valuation of Property Finance's portfolio was approaching its final phase. The Ministry of Finance would ask the two remaining candidates for a presentation of their approach. The follow-up contract with Morgan Stanley had been negotiated and could be submitted to the minister for approval.

The advisers from the Ministry of Finance, the advisers from De Nederlandsche Bank and the advisers from SNS Reaal were hard at work. It was precisely during this period that new developments took place. On 17 October 2012, there was a meeting between SNS Reaal, CVC Capital Partners and the lenders of CVC Capital Partners, which, according to *NRC Handelsblad*, also included the Dutch pension fund PGGM.⁴ That meeting lasted six hours. Ernst & Young's study should have been completed by the end of September, but would not be ready until the end of October.

The integrity issue plays a role In the

meantime, the issue of the integrity of the business operations at Property Finance has also played a role, in particular the reliability and integrity of Groenhof (see chapter 8). This was a painful issue for the management of SNS Reaal. On the one hand, the Executive Board was hard at work, largely in consultation with De Nederlandsche Bank, to find a solution for SNS Reaal and its main problem, Property Finance. On the other hand, the council received a firm slap on the wrist from the supervisor.

However, according to those involved, this has had no influence on the search for a solution for SNS Reaal. The Ministry of Finance was not even aware of this matter at the time.

Proposal to merge SNS Reaal with ASR On

23 October 2012, SNS Reaal presented its proposal to the Ministry of Finance for the combination of all of SNS Reaal with ASR. This should take place along the following steps: –

- Convert CT1s from the State and Stichting Beheer SNS Reaal and to parts B of the foundation into ordinary shares.
- The State/NLFI will receive ordinary shares in SNS Reaal for the contribution of ASR to SNS Reaal.
- The assumed surplus capital of ASR (one billion euros) is used as a provision for future losses of Property Finance.
- Property Finance is set apart in SPV (special purpose vehicle) under the SNS Reaal holding company. Double leverage will be phased out over a period of three years. There will be separate governance structures for insurance and banking activities.
- Issuance of loss absorption instruments at bank level (300-500 million euros bought by major banks)/liability management operation for subordinated loans (would raise approximately 100 million euros additional CT1)/major banks provide backstop facility of 550 million euros for part refinancing of double leverage.

The Ministry of Finance had a long list of questions about this proposal.

Opinions on this option were divided at De Nederlandsche Bank.

Such a merger would create an even larger bank-insurer, while De Nederlandsche Bank had serious doubts about the viability of that business model. And ASR's alleged capital surplus was largely trapped and therefore unavailable for the much-needed capital injection into SNS Bank. But perhaps this was preferable to the ultimate remedium of nationalization and this option could be better explained to the House of Representatives and the European Commission.

The situation is getting

dire Meanwhile, SNS Reaal made it clear that 'time is running out'. It would not be due to the figures for the third quarter. SNS Reaal looked forward to its presentation on 6 November 2012 with confidence. But De Nederlandsche Bank had already hinted that it would not approve the next redemption of participation certificates in December. That is why the next trigger moment came to SNS Reaal. The consultations with the major banks on 22 October 2012 had been disappointing. SNS Reaal therefore urged a shift in approach: no longer searching for the ideal

solution, but find the second best solution. Immediately after the meeting with the Ministry, Latenstein and Lamp would fly to London to continue the consultation with CVC Capital Partners.

CVC Capital Partners

CVC Capital Partners Group (hereafter: CVC) was founded in 1981. In 1993 CVC (Citicorp Venture Capital) bought itself out of its parent company Citicorp. The private equity house has financed hundreds of management buyouts. In 2010, CVC was among others the buyer of insurer Brit Insurance for 950 million euros. In the Netherlands, CVC is co-owner of Van Gansewinkel, Raet, Accordis and VolkerWessels, among others.

The CVC

option At the time, the impression prevailed at the Ministry of Finance that the option with CVC would be 'difficult to explain politically'. CVC would undoubtedly want to have full control over SNS Reaal's strategy. Only in this way was CVC able to optimize its return. Against that objection was the possibility of using CVC's fresh capital for the solution with the three major banks. At the end of October, the contours of the CVC option were not yet entirely clear. It seemed that CVC and its consortium partners together wanted to contribute a maximum of 1.2 billion euros.

That consortium consisted of CVC itself, as well as Dutch pension funds. CVC insisted that there be a guarantee or a bad bank for Property Finance. Input from ASR, as Minister De Jager had suggested in their conversation in September, according to Latenstein, CVC thought it was desirable, but it was not a must. This also applied to the participation of the major banks in a deal. ASR itself did not listen to CVC's plans, but saw more in the NLF1 proposal. CVC gained access to SNS Reaal's data room. This was different for the insurers that were in the race to take over the insurance branch of SNS Reaal. SNS Reaal blocked access for the insurers as long as there was no clarity about a total solution for the entire group. In other words: a guarantee for the losses in Property Finance and the fate of SNS Bank and the holding company.

The state of affairs at the end of October...

It wasn't that far yet. The Treasury Department was about to commission Cushman & Wakefield for the valuation of the

loan portfolio of Property Finance. During a meeting of De Nederlandsche Bank and the Ministry of Finance on 24 October 2012, discussions with the European Commission were also discussed. The ministry was preparing a non-paper. It would submit this non-paper to De Nederlandsche Bank for comment. Consultations with the major banks stalled. The three banks had proposed an alternative whereby only SNS Bank would be kept afloat with fresh capital. The holding company (including the State's CT1 securities) would go bankrupt. De Nederlandsche Bank saw risks and the Executive Board of SNS Reaal would most likely not agree with this solution – at least that was the expectation of the regulator and the ministry.

... and early November

The deadline of November 6 was no longer feasible; that was clear to De Nederlandsche Bank and the Ministry of Finance. A new minister would probably take office in the middle of November. 'Soon after that, let the minister speak to Jan (and Klaas)', the Ministry of Finance noted, indicating that a meeting of the new minister with both members of the board of De Nederlandsche Bank was desirable.

The press gets wind of the approaching

disaster The intensive search for possible solutions and the associated busy communication between De Nederlandsche Bank, the Ministry of Finance and SNS Reaal, all kinds of other financial institutions and a large number of advisers could not always go unnoticed by the public. Outside world. On 1 November, *Het Financieele Dagblad* reported that Property Finance had been transferred to a bad bank.⁵ The real estate loans and assets had grown from a 'pebble in the shoe' to a condition that 'now cripples the entire company'. The newspaper cited sources who reported that the major banks were not eager to lend a helping hand to SNS Reaal: 'The banks tell De Nederlandsche Bank: you made it happen. You should never have allowed SNS to take over Bouwfonds, says an anonymous banker.'

Major banks come up with new variant

That same morning, the major banks spoke with De Nederlandsche Bank and the Ministry of Finance. Advisors from RBS and Morgan Stanley were present. It was an 'open conversation', in which there was 'common ground' about 'cleaning up' the real estate loan portfolio-

le according to the 'stress scenario valuation'. Incidentally, the portfolio not only consisted of loans from Property Finance, but also approximately four billion euros in real estate loans from the business part of SNS Bank. These loans had previously been transferred from Property Finance to SNS Bank Zakelijk. In total, it would be about nine billion euros. The major banks did not consider it reasonable under the circumstances that they should contribute heavily to a solution, while 'holders of debt securities at holding level' would not be hurt. The major banks also wanted a construction that would not result in 'fire sales' in the management of real estate.

A viable, small SNS Bank had to be the ultimate goal. Due to their own large property portfolios, ING and Rabobank in particular benefited from an orderly settlement of the Property Finance portfolio.

A fire sale at knock-down prices could have a negative impact on the value of all Dutch real estate. As early as May, ING and Rabobank had preferred a 'bad bank' variant, partly because of the potential impact of Property Finance's problems on their own property portfolios, according to Mr JHM (Jan) Hommen in his conversation with the evaluation committee. In line with this construction, the major banks no longer considered a guarantee (APS) necessary, provided that the write-down on Property Finance's portfolio would be large enough to produce a 'clean' bank. The figure of two billion euros was doing the rounds. This was based on preliminary estimates from Ernst & Young. De Nederlandsche Bank was somewhat hesitant about a solution without the APS, but at the same time expected that the Ministry of Finance would be interested in this. As had already become apparent, the Ministry took a particularly critical stance when it came to guarantees because of the alleged complexity. In addition, the ministry feared that guarantees would be difficult to explain to the House of Representatives and the public. Once again the major banks insisted on certainty about the attitude of the European

Commission.

Major banks don't care about insurers But

there was also an important difference of opinion. The major banks only wanted to provide SNS Bank with a capital injection. The holding company would be allowed to go bankrupt and the State would lose its CT1 securities as a result. What this would mean for the insurer was not their problem.

The major banks wanted the State, the banking sector and the holding company to each inject 535 million euros into the bank. The holding company's investment would consist of a bridging loan from the banking sector. This credit would be repaid by the proceeds of the sale of the insurer.

The major banks counted on a sale amount that would make it possible to pay off part of the holding company's debts. Subsequently, the holding company would end up in bankruptcy.

Bankruptcy of the holding company not acceptable to regulator and ministry The latter was a step too far for De Nederlandsche Bank and the Ministry of Finance: 'mainly operationally and legally, but also because of CT1s from the State.' The Ministry of Finance had previously questioned the need to keep the insurer and the holding company afloat, but in the meantime the Ministry agreed with De Nederlandsche Bank's views on this. It was beyond dispute that the proposal from the major banks would not be acceptable to the board of directors of SNS Reaal, due to the statutory requirements of protecting the interests of the shareholders.

Uncertainty on two fronts The

search for a solution for SNS Reaal was made more difficult by uncertainty on two fronts. First of all, the arrival of the new minister was imminent. On November 2, the outgoing minister was to have a meeting with his successor. He would take office as a minister on November 5, 2012. The outgoing minister received official advice for the upcoming meeting with his successor. It had to be clear that SNS Reaal could not solve its problems independently. After all, that was the conclusion of De Nederlandsche Bank. The discussion memorandum focuses on the positions of De Nederlandsche Bank. The Ministry of Finance had made its views known to the new minister in oral consultation.

The case team of the European Commission

In addition, there was consultation with the case team of the European Commission. The Ministry of Finance had not awaited the arrival of the new minister.

The so-called non-paper was sent out on 1 November. The non-paper begins with the warning that 'this non paper of the Dutch ministry of Finance does not present any formal position. SNS Reaal has not been involved in writing this non paper and has not provided any view whether it considers the scenarios set out in this paper realistic or feasible'.

The non-paper then focuses on removing 'the uncertainties regarding the property finance portfolio.' This would be best done in a 'public-private scenario', which would offer the opportunity 'to stabilize the situation regarding SNS Bank's property finance portfolio through a significant level of

private sector involvement, thereby minimizing the budgetary impact on the Dutch State'. The non-paper then requests the European Commission to answer the ministry's questions. Namely about: an asset protection scheme guarantee or a bad bank structure, the conversion of the CT 1 securities of the Dutch State and the acquisition bans of ABN Amro and ING.

SNS Reaal outlined for the case team The

non-paper describes the significance of SNS Reaal for the Dutch banking and insurance sector: the fourth largest bank in the Netherlands, the second largest life and pension insurer (Reaal and Zwitserleven) and the fifth largest non-life insurer . A total of approximately six million policyholders.

As far as the bank is concerned, this concerned 'approximately 1 million account holders' and a balance sheet total of 83 billion euros. Furthermore, EUR 35.5 billion in deposits, of which approximately EUR 32 billion is guaranteed under the deposit guarantee system. The Evaluation Committee cannot properly compare these figures with an overview that De Nederlandsche Bank has drawn up for the Ministry of Finance. This shows that SNS Reaal had EUR 35.6 billion in savings, of which EUR 30 billion was covered by the deposit guarantee scheme. SNS Reaal had 922,968 account holders, of which 616,686 accounts were 'fed' with regular deposits. See also page 7.

SREP letter can trigger bank run The

non-paper then outlines the course of time with the triggers that are important for the continued existence of SNS Reaal. Added to this is the announcement of the annual SREP letter in January of 2013 which 'likely has to be explicit about the fact that SNS Bank cannot autonomously raise sufficient capital to overcome the capital shortage. According to DNB, this will likely result in a crisis situation with a high risk of depositors withdrawing their savings in a short period of time. It is of importance that such a situation is avoided, considering the impact it would have on SNS Reaal's customers, the stability of the Dutch financial system and the Dutch economy as a whole'.

In short, a striking description of the scenario of a serious and immediate threat to financial stability. It is remarkable that the regulator and the Ministry of Finance apparently already had contact about the SREP analysis at the beginning of November, even though it is in principle the result of a dialogue between the bank and the regulator. It should be noted here that the Ministry of Finance was not aware of the final content of the SREP analysis at that time.

The value of the real estate portfolio has plummeted

There were also important developments in Property Finance at the beginning of November. On 1 November 2012, the quarterly meeting was held between the Board of Property Finance and the supervisory team of De Nederlandsche Bank. Groen hof had meanwhile been put on hold. The most important message was that the counter at Property Finance now stood at minus 230 million euros for 2012. That was worse than expected, and the risk profile of the portfolio continued to deteriorate.

All indicators had deteriorated: the loan-to-value percentage, the number of non-performing loans (NPL) and the default percentage.

At the beginning of November, Ernst & Young also completed the analyzes intended to give direction to the run-down of the Property Finance portfolio. The results were split between the core part of the portfolio, called project Rottum, and the non-core part, called project Schiermonnikoog. Ernst & Young came to a total of necessary write-offs of 1.3 to 2 billion euros. Those results were not far from the estimates of Property Finance itself. Ernst & Young's analysis made it clear how much the market in the Netherlands had deteriorated. This is because the majority of the write-offs should take place in the Dutch part of the portfolio. SNS Reaal would also have to make write-offs in the core part that ran into the hundreds of millions. These results were of great importance to De Nederlandsche Bank because it was now able to estimate the capital shortfall and the size of the required capital injection.

Constructive talks with the major

banks A day later, on 2 November 2012, De Nederlandsche Bank and the Ministry of Finance held another meeting with the major banks. The major banks were represented by their chairmen of the board of directors. Still no structure had 'crystallised' for the contribution of the three large banks to solving the problems of their smaller counterpart. This did not mean, however, that the negotiations went smoothly. On the contrary, relief prevailed, especially at the Ministry of Finance. The attitude of the major banks was experienced as 'constructive'. At the end of November, the major banks wanted to finalize a scheme for their contribution. But the ministry also noted that De Nederlandsche Bank was adopting a 'more pragmatic' attitude: use of the Intervention Act was 'no longer unacceptable' and could also be discussed 'as an instrument to achieve a burden-sharing solution with financiers in the private sector'. The big banks of

the bad bank was 'not a viable option' because it was 'unmarketable to their stakeholders'. According to De Nederlandsche Bank, the option to merge SNS Reaal with ASR was an unfeasible card; that option had the 'probability of zero'. De Nederlandsche Bank would not give permission for this for prudential reasons, but it might allow a merger between Reaal and another insurer. The chance of success of the variant with CVC was considered low. The regulator estimated that it would be extremely difficult to reach a deal that would be acceptable to all parties involved – CVC, the State and the major banks. CVC's proposals were still not very concrete at this time. The conclusion of the consultation was that the total solution to the problems at SNS Reaal should be on the table in January 2013, including an independent valuation of the loan portfolio. After the consultation, the Ministry of Finance and De Nederlandsche Bank had a discussion. It was suggested by the ministry that the regulator should contact the board of directors of SNS Reaal to 'correct them if they spend too much time on non-feasible variants'.

The new minister starts his duties On

Monday 5 November 2012, the new minister of Finance took office. Mr JRVA (Jeroen) Dijsselbloem assumed the position of minister. On 3 November 2012, he had spoken with his predecessor De Jager about the SNS Reaal file. Later on the first working day of the new minister, the ministry was informed about the quarterly figures of SNS Reaal that would be published the next day. The profit figures of the bank and the insurance company were fairly constant compared to previous quarters. However, higher provisions for the property portfolio weighed increasingly heavily on SNS Reaal. Previously, the provisions amounted to sixty to seventy million euros per month, now that has risen to one hundred million. The Core Tier 1 ratio fell from 9.6 percent (first quarter) to 8.8 in the third quarter. It was clear that SNS Reaal was upset with a real estate portfolio of 8.5 billion euros and would actually like to get rid of it. The third quarter ended with a profit of 34 million euros.

A new proposal from CVC

That day, the Ministry of Finance received a first presentation of CVC's new, second proposal. Lamp had deliberately come to The Hague without Latenstein to explain CVC's new proposal. The board of directors had considered the proposal and wondered whether it should make a judgment on the proposal. were in the proposal

elements in which SNS Reaal was the direct object. Nevertheless, the board felt that they should explain the proposal to the Ministry of Finance. The new proposal consisted of three main elements: a capital injection, conversion of the CT1 Securities and contribution of ASR.

The capital injection amounted to 1.2-1.4 billion euros, including a contribution from the major banks. This amount was intended to absorb further losses expected on Property Finance's loan portfolio. In the proposal, the APS was extended to the entire real estate of SNS Property Finance (core and non-core totaling 8.5 billion euros). In the old proposal, the APS was limited to the non-core part of Property Finance (4.6 billion euros). The conversion of the State's securities into cash could be done, but without the penalty. De Nederlandsche Bank had informed RBS through its advisor that ASR would not be allowed to distribute the entire excess capital of approximately 900 million as dividend. CVC assumed 600 million euros in dividend.⁶

The presentation was not particularly enthusiastically received at the ministry of Finance.

6 government intervention inevitable; November 6, 2012 – December 13, 2012

Phase 5: from November 6 to December 13, 2012

The publication of SNS Reaal's quarterly figures on 6 November 2012 did not lead to a panic reaction. The SNS Reaal share lost eight percent of its value and closed at 1.03 euros. One bad news followed another in the media. The precarious situation in which SNS Reaal found itself was widely covered in the media. Newspaper articles appeared with analyzes of the possibilities for SNS Reaal to climb out of the deep valley. The press came up with a complicated combination of numerous sub-solutions.¹ The integrity issue at Property Finance received extensive publicity following revelations in *Het Financieele Dagblad* on 15 November 2012. (See also Chapter 8). The same day the announcement of a second reorganization at SNS Reaal followed. In an earlier reorganization 300 jobs disappeared. Now another 450 jobs would be cut.² The investor day that had been held that day had hung by a thread. The board of directors had considered postponing this possible trigger event, but ultimately decided against it.

A DNO for redemption of participation certificates, yes or no?

Another possible trigger moment was discussed on 8 November 2012 in the meeting of the Supervisory Board at De Nederlandsche Bank. The agenda included SNS Bank's request to issue a DNO for the redemption of the second tranche of the participation certificates as of 23 December 2012. De Nederlandsche Bank had previously hinted that, given the circumstances in which SNS Reaal found itself, it would not allow to drain capital from the bank. That was the regulator also inform the Ministry of Finance.

But there were great risks associated with a rejection of the request. Refusal of a DNO could cause a bank run, just as happened with DSB Bank. In addition, the chance of damage claims was very high. This had already become clear with the repayment of the first tranche at the end of June 2012. The analyzes that SNS Reaal had drawn up by the lawyers of

Nauta Dutilh and De Brauw Blackstone Westbroek, were confirmed by the legal advisor of De Nederlandsche Bank. Such claims would be at the expense of the core capital (Core Tier 1), while the participation certificates did not constitute core capital but so-called Tier 1 (T1) capital.

Repayment would harm the capital position of SNS Bank and SNS Reaal less than the claims for damages that the company would receive if it did not repay the participation certificates. The Supervisory Board concluded that there was little other option than to issue a DNO. But the permission could put a spanner in the works in the consultations with the major banks. And it could also go down badly with the Ministry of Finance. After all, those parties had to contribute the capital to rescue SNS Bank and/or SNS Reaal, while in the meantime capital would flow out of SNS Bank – with the permission of De Nederlandsche Bank. The supervisory council of De Nederlandsche Bank decided to postpone the final decision to the board meeting, with the advice to issue a DNO for redemption of the second tranche of participation certificates.

The measure is full for the supervisor

The situation regarding participation certificates was high at De Nederlandsche Bank. The regulator felt that the limit had now been reached with this umpteenth supervisory dilemma. This comment is contained in a memo that was drawn up for the supervisory meeting of 19 November 2012 between the Minister of Finance, the president and chairman of supervision of De Nederlandsche Bank and the chairman of the AFM. A solution for SNS Reaal had now been worked on for almost a year. During that period, De Nederlandsche Bank had exercised its supervision, sometimes against its own line, in such a way that an emergency situation was prevented as much as possible. If there was no confidence in a solution now, that approach was no longer possible. It was decided to inform the minister about the dilemma De Nederlandsche Bank was wrestling with. That would happen in the supervisory meeting of 19 November 2012.

SNS Reaal sees no point in burden sharing

On 9 November 2012, Latenstein and Lamp had a discussion with De Nederlandsche Bank. At the time, one of the preferred options was to allow the major banks to participate in SNS Bank, while also allowing the burden sharing to rest on the shoulders of the shareholders. This idea elicited great resistance from the board of directors of SNS Reaal. They felt that there were other options that were much more attractive to shareholders. Because this option meant a financial loss for the shareholders as great as a bankruptcy. Latenstein hinted that

the board of directors would not cooperate with this solution. Lamp pointed out that such a solution would require shareholder approval. In that case, SNS Reaal had to convene a shareholders' meeting. And after the invitation to that meeting, SNS Reaal would be 'full of wind' for 42 days. According to Lamp, the company would not survive that.

What does the European Commission think of participation by the major banks?

The director of supervision of De Nederlandsche Bank has publicly pointed out that the Ministry of Finance and De Nederlandsche Bank have carefully examined the question of what objections the European Commission might have to participation by the major banks in a solution for SNS Reaal: 'The conversation with the [European] Commission is being conducted by the

ministry. That's the interlocutor. Those talks started sometime last year. The ministry and we ourselves thought that participating in a safety net by the banks with an acquisition ban, such as ING and ABN Amro, would not count as an acquisition. The text in the accompanying legislation also provides grounds for this. There is also case law on this point. We didn't just think that. In November it initially appeared that the European Commission was not in favor of banks with an acquisition ban, being ING and ABN Amro, participating in the good bank part of the new SNS.'

This position was based on an opinion on possible legal obstacles to the participation of the three major banks. In the non-paper that the Ministry of Finance sent to the European Commission on 1 November 2012, the Ministry states that the three major banks would acquire an interest in SNS Bank, or in SNS Reaal, and possibly also an interest in APS/ bad bank where the real estate portfolio would be housed.

Acquisition ban not an obstacle?

Merger supervision would not apply as long as the major banks took a so-called non-controlling interest. Certainly not if the participations of the major banks were placed in a foundation. The major banks were then not given the right to influence strategic commercial policy. And they were denied access to commercially sensitive information. From a competition point of view, the participation in the bad bank would be less sensitive. According to the legal adviser, it need not be an obstacle that two of the three major banks were subject to an acquisition ban. Certainly not for ING. The rule applied to ING

that they 'will refrain from acquisitions of financial institutions'. And this was not an acquisition, but a minority interest. For ABN Amro it was a bit more complicated. There the acquisition ban was formulated in such a way that ABN Amro Group would not acquire 'control' with a limited share in any 'undertaking' whatsoever. This provision could be overcome by placing ABN Amro's participating interest in a foundation. In that case, the European Commission would not have compelling reasons to refuse an exemption. The director of supervision of De Nederlandsche Bank has also publicly pointed this out: 'In January, our lawyers and those of the European Commission held consultations to see whether another interpretation was possible, namely that a rescue operation is not the same as an acquisition. The lawyers have not been able to resolve that'.⁴

Conversion can be regarded as state aid. SNS

Reaal had to redeem the CT1 securities by 31 December 2013 at the latest. The rescue plan meant that the securities were converted before that date. This could be interpreted as state aid. The APS that the major banks wanted, the guarantee on the tail risks in the real estate portfolio, could also be seen as state aid. The European Commission could object to this. This also applied to a merger of ASR and Reaal, if the price received by the State was less than the market value

from ASR.

Supervisor on CVC option For the

time being, other concerns obstructed the view of these legal snags. De Nederlandsche Bank had serious reservations about CVC's new proposal, and De Nederlandsche Bank made no secret of this. When De Nederlandsche Bank once again sat down with the major banks on 16 November 2012, Latenstein was also invited. In his own words, he saw the director of supervision 'shocked and stiffened' when he explained the CVC proposal. When asked, Sijbrand does not recognize himself in this description of his state of mind at the time.

On 8 November 2012, telephone consultations took place between the Ministry of Finance and De Nederlandsche Bank about CVC's proposal. The Treasury Department had asked Morgan Stanley for an initial assessment.

Only then would the ministry start talking to the NLF Foundation. Incidentally, the SNS Reaal Executive Board had already agreed to consult with the NLF Foundation without involving the Ministry.

The minister keeps a finger on the

pulse The minister, who has been politically responsible for ten days now, was soon able to become acquainted on various occasions with the problems in the Dutch financial sector in general and at SNS Reaal in particular. On 8 November 2012, the standing committee for Finance requested the minister to inform the committee in writing about possible state aid to SNS Reaal and the establishment of the bad bank.⁵

That request coincided with the preparation of a confidential briefing in the third week of November. On 16 November 2012, SNS Reaal was discussed in the Council of Ministers. In between, the new minister got acquainted with the chairman of the Executive Board of Rabobank (originally scheduled for November 15, postponed to December 10), with Latenstein (15 November), with the chairman of the Executive Board of ABN Amro (19 November) and with his colleague from ING (November 21). On 19 November, the Minister met with the president and director of supervision of De Nederlandsche Bank and the chairman of the AFM.

Discussion with Stichting Beheer SNS

Reaal The problems at SNS Reaal were also discussed at official level. On 12 November 2012, a second meeting followed between the ministry and the adviser to Stichting Beheer SNS Reaal, namely Oyens & Van Eeghen. He said that the foundation preferred a merger with ASR. The foundation had objections to CVC's proposal and to the variant with the three major banks.

CVC explains its own proposal In a

tripartite meeting on 14 November 2012 between the Ministry of Finance, De Nederlandsche Bank and SNS Reaal, CVC explained the proposal it had submitted to the Executive Board of SNS Reaal. This proposal looked like this. CVC would provide a capital injection of 900 million euros. The three major banks would together put 300 million euros on the table. Subsequently, the State would 'introduce' ASR. The State received a one-off dividend of 600 million euros for the excess capital in ASR.⁶ The State had already obtained securities in the context of state support. Its value was 850 million euros, including a fine. The State would receive 565 million euros in cash for these securities. The State had to provide a guarantee for the real estate problem.

Minister discusses the remaining variants with

Latenstein On Thursday, November 15, 2012 at 1 pm, Latenstein visited the new minister. In preparation for that meeting, the minister received a memorandum with information. At that time three variants were still in play. Although the private-public solution with the major banks was preferred, all three – some more than others – had objections. The preferred option was the public-private variant with a capital injection from the three major banks, with conversion of the securities of the State and with a

This was only attractive to the major banks if they could contribute the capital to SNS Bank. In that case, the holding company would go bankrupt, to which De Nederlandsche Bank objected. The second variant concerned the merger between ASR and Reaal. In that case, the State would become a major shareholder in this new institution, with a market share of approximately twenty percent. This meant that the State would be given a new task. That was neither intended nor desired. The third variant concerned CVC's proposal.

Those who prepared the memorandum were not sure about Latenstein's attitude to this.

Judging by Latenstein's own report, the minister's conversation with Latenstein lasted almost two hours. In addition to the problems of SNS Reaal, they discussed subjects related to the Association of Insurers, of which Latenstein was a member of the board at the time. As far as SNS Reaal is concerned, the minister indicated 'his conceptual framework'. A major involvement of the private sector was an essential part of this. He feared – as can be read in Latenstein's report – that there is 'no or very limited political and social support for bailing out banks'. Latenstein kept almost all options open. He only considered the so-called major banking scenario 'impracticable'. In all scenarios an APS would be necessary.

The minister considers government

intervention inevitable The next day, the minister first consulted the prime minister, the vice prime minister and the minister of Economic Affairs. He was supposed to convince the other ministers that 'an intervention is inevitable'. That intervention should take place in January 2013 or at the latest in February 2013. There wasn't much stretch. Any variant would cost the government money. Moreover, they had to be prepared for a disorderly outcome, which could be triggered by a 'moment of crisis'. However, it was still too early to express a preference for one or more variants: 'first more guidance from the European Commission is needed. In addition, it is wise that we have the results of our independent

property valuation (planned mid-December)'. Later that morning, the Council of Ministers took place, where the minister informed his fellow ministers.⁷

Rating of SNS Reaal down

On 16 November, the rating of Standard & Poor's for all parts of SNS Reaal went down. For SNS Bank, this meant a downgrade from BBB+ to BBB flat with a negative outlook. The next day, a publication in *Het Financieele Dagblad* underlined the precarious situation from which the new minister tried to rescue SNS Reaal.⁸

Conversation between the minister and

Gerrit Zalm On Monday, November 19, 2012, the chairman of the Executive Board of ABN Amro, Dr. G. (Gerrit) Zalm, paid a visit to the minister. The conversation had a twofold purpose. First of all, Zalm also received the message that intervention at SNS Reaal was unavoidable and that the three major banks should provide financial support in every variant. In addition, the minister wanted to gauge his opinion; what did he think of a solution for the real estate loan portfolio, what were his thoughts on the acquisition ban and its significance for the public-private solution?

The European Commission becomes

involved At the moment when the new minister and one of his predecessors weighed up possible solutions for SNS Reaal, a meeting was held in Brussels in the building of the European Commission's Directorate General for Competition. Finance officials hoped to get the green light from the European Commission for an independent valuation of Property Finance's loan portfolio. There was also a discussion that would reverberate that evening in a meeting between the Ministry of Finance and De Nederlandsche Bank.

Lunch in The Hague

During lunch on 19 November 2012, the Minister of Finance had a meeting with the chairman of the AFM and the president and director of supervision of De Nederlandsche Bank. The conversation was about the problems at SNS Reaal. The Treasurer General and the Director of Financial Markets were also present. SNS Reaal was the only item on the agenda. The pros and cons of nationalization were discussed. De Nederlandsche Bank was still very apprehensive about this. Nationalization could have far-reaching consequences for the reputation of the Dutch financial sector and possibly also for the rating of the Dutch State. From the report of De Nederlandsche Bank

can be deduced that the Minister of Finance wondered whether it would not be better if the State solved the problem. He was – according to this report – open to a solution involving the major banks, but the major banks would have to contribute at least one billion euros. If that contribution did not come amicably, then that amount would still be recovered from them when it came to nationalization. CVC was also discussed. The interlocutors doubted whether the return requirements of the private equity investors were compatible with a fair distribution of the benefits and burdens between CVC and the State. Despite the skepticism, this variant was not written off. There was no enthusiasm for the variant with ASR proposed by NLF: too complicated and no added value.

De Nederlandsche Bank once again substantiated the systemic relevance of SNS Reaal. The regulator had once again looked at the possibility of bankruptcy of the SNS Reaal holding company. The conclusion was that the consequences of such a bankruptcy could be limited, provided that the continuity of the bank and the insurer were guaranteed. De Nederlandsche Bank continued to advocate for the insurance branch. Although this in itself was not systemically important, if the insurer were to go under – and that could happen when the double leverage was wound up in the event of a bankruptcy – it could be regarded internationally as mismanagement. In addition, De Nederlandsche Bank still considered the continued existence of the insurer to be important to the bank in view of the financial and operational interdependencies between the bank and the insurer. The possible redemption of the participation certificates, which De Nederlandsche Bank was so upset about, was also discussed. Ger ritse, as chairman of the AFM responsible for conduct supervision, argued in favor of having the participation certificates redeemed. The information in the prospectus and the earlier repayment of the first tranche created a certain obligation towards the depositary receipt holders to also have the second tranche repaid. There would be no trigger moment with a repayment. The minister announced that he had a deadline for a solution in mind: 14 February 2013, the day on which SNS Reaal would publish its annual figures for 2012. This deadline was partly prompted by a possible next trigger that was imminent. It was highly questionable whether the auditor would be able to approve the annual accounts on the basis of going concern if there was no certainty yet about the recapitalization of SNS Bank.

The evening in Amsterdam...

After the lunch meeting, two of the discussion partners hurried to Amsterdam: the director of supervision of De Nederlandsche Bank and the director of financial markets of the Ministry of Finance. They planned to make progress together that evening. In other words: they hoped that De Nederlandsche Bank and the Ministry of Finance could together provide 'focus' to the shaky situation in which SNS Reaal found itself.

... with a reverberation from

Brussels It was a 'spirited discussion' at the Frederiksplein in Amsterdam. The Ministry of Finance had to make it clear to De Nederlandsche Bank that the European Commission's response had to be taken seriously.

What those comments of the European Commission related to is clear from the discussions of the Evaluation Committee and public statements by the director of supervision of De Nederlandsche Bank, which have already been mentioned: 'The

discussion with the [European] Commission is conducted by the ministry. That's the interlocutor. Those talks started sometime last year. The ministry and we ourselves thought that participating in a safety net by the banks with an acquisition ban, such as ING and ABN Amro, would not count as an acquisition. The text in the accompanying legislation also provides grounds for this. There is also case law on this point. We didn't just think that. In November it initially appeared that the European Commission was not in favor of banks with an acquisition ban, being ING and ABN Amro, participating in the good bank part of the new SNS.'⁹

The comments of the European Commission therefore related to the variant with the three major banks. The European Commission had problems with the participation of ABN Amro and ING in a good bank. But Brussels did think creatively in the direction of a bad bank in which the three major banks would participate. That was a good sign for the Ministry of Finance, which had 'nothing against a bad bank construction' and was in favor of maximum burden sharing (thus not only affecting shareholders, but also subordinated debt holders). Even the participation certificate holders should not get away unscathed. It was clear that the Ministry of Finance and De Nederlandsche Bank differed on the scope of burden sharing. The director of supervision smoothed out the bumps.

He ensured that De Nederlandsche Bank now took this variant seriously.

It had to be, because things seemed to go wrong with the other variant, a valuation of ASR had yet to be determined. If this were to become higher than assumed in the CVC proposal, it threatened to throw the glass into the CVC proposal. A similar problem arose when determining the amount of the APS fee, the compensation that the State would receive for issuing a guarantee on the tail losses in the loan portfolio. These changes represented an entirely new proposal from CVC.

The Ministry of Finance expected that CVC would drop out.

De Nederlandsche Bank was not in favor of a merger of ASR with SNS Reaal. The use of state aid that would lead to the creation of a larger insurer in the Netherlands could be problematic for the insurance landscape in the Netherlands. But despite these setbacks, progress was made: towards a public-private solution with the major banks.

Confidential briefing for the Standing Committee on Finance

The next step was a confidential briefing for the Standing Committee on Finance. The briefing was given by the Minister of Finance and the Director of Supervision of De Nederlandsche Bank on the morning of 22 November 2012.

The director of supervision outlines the problems

The Minister of Finance recalled that the standing committee had asked him for more (written) information about the bad bank. He wanted to share the information with the members of the House of Representatives through this confidential briefing. Furthermore, he wanted to suffice with a short, formal response to the request for more information. The minister indicated that there was no immediate need to intervene. But in the short term, early 2013, intervention would be inevitable. The Director of Supervision of De Nederlandsche Bank then outlined the problems that arose at SNS Reaal. SNS Reaal was unable to solve these problems itself. The reasons for this were: the choices the company had made in the past to purchase Property Finance; the (expensive) expansion of the insurance business; the structural impact of the financial crisis; and the risks of Property Finance and the usury policies.

Because of those risks, a completely private solution was impossible.

The minister discusses possible solutions

The Minister of Finance then went through the possible solutions. Bankruptcy was not an option. De Nederlandsche Bank considered that irresponsible

because of the consequences for the stability of the financial system. The second possible solution was expropriation. The minister could opt for this in the event of an (acute) emergency. Between bankruptcy and expropriation there were a number of variants with private involvement. The minister did not express an opinion on this, because all the advantages and disadvantages still had to be mapped out. The variant with CVC was not received negatively.

There must be a solution at the

beginning of 2013 The Minister of Finance indicated that a solution should be in sight by the first quarter of 2013 at the latest, preferably as early as January/February. That period saw a number of tense moments that could lead to concrete problems: the publication of the annual figures and the auditor's report, the redemption of participation certificates, the assessment by De Nederlandsche Bank of the capitalization (the so-called SREP letter) and the refinancing in March. The minister indicated that he would inform the standing committee confidentially again in mid-December.

The major banks are not

happy This was followed by a meeting with the major banks at De Nederlandsche Bank, in the presence of Allen & Overy. The conversation started unhappily because the major banks had got the impression that it would only be about the legal aspects of a possible major banking variant. This led to irritation at a number of major banks. Things didn't get any better when one of the officials from the Ministry of Finance gave feedback on the conversation with the European Commission. The fact that the major banks would have to participate in a bad bank went down the wrong way with some of them: 'if this is the structure, we might as well stop, we don't want this.' De Nederlandsche Bank did not make things any easier by indicating that, according to an official from the Ministry of Finance, this was a 'dull' proposal from the European Commission.

After this deliberation, one of the major banks rubbed extra salt into the wound. In a highly irritated message to De Nederlandsche Bank, the major bank made it clear that it was not working in this way. 'Our competitor has run into serious problems because of the policy pursued in the past. The three banks have no part in this,' was the opening sentence. The conclusion was formulated questionably: 'Wouldn't it be much more logical to keep the three banks completely out of this file? We are not waiting for it, but cooperate out of good will, only to be punished for cooperating. It's an unworkable situation.'

The major banks introduce the holding ploft

variant On 28 November 2012, De Nederlandsche Bank sent an invitation to the three major banks to meet at the Ministry of Finance the following day. Because the discussions have 'now reached a stage where parties who intend to conclude a transaction must discuss this together'. The three major banks raised a new sub-variant, the so-called holding ploft variant: the State, the three banks and the holding company would inject capital into SNS Bank, and the real estate would be transferred to a bad bank. The holding company would then go bankrupt and this would mean a bail-in for the holding company's creditors: they would have to contribute to the rescue of the bank. This variant had several advantages for the large banks. Due to the bail-in at holding company level, they would probably have to contribute less. Moreover, this option was easier to explain to their supporters, because they contributed to the rescue of the bank but not to the rescue of the holding company or the insurer. Moreover, if they were to inject into the holding company, as in the previous rescue variant, the major banks would become to a certain extent dependent on the - uncertain - proceeds from the insurer. After all, the sale of the insurer was necessary to pay off most of the debts of

Pros and cons

In the meantime, with the help of a large number of consultants, a series of calculations were being carried out, all of which were related to each other. How high should the depreciation at Property Finance be? Was an APS or bad bank really necessary, if the write-down was large enough? What should the insurer have to pay for the sale and when would that be possible? How much was ASR worth? And how would burden sharing take place?

Ultimately, all these questions resulted in the question: how much money should we inject into SNS Reaal for the various variants and who is going to do that?

Tripartite consultation takes

stock On 27 November 2012, there was another consultation between De Nederlandsche Bank, the Ministry of Finance and SNS Reaal. During that conversation, the balance was taken of two weeks of almost non-stop consultation. The day before, CVC had explained a new proposal to the Ministry of Finance and asked to discuss this with the European Commission in the short term. It was therefore not surprising that the new CVC proposal figured prominently in this meeting. In any case, the Ministry of Finance wanted to hear CVC, attracted by the prospect of a billion euros in fresh, external capital. Also De Nederlandsche Bank

wanted to keep CVC at the table. But the variants with the major banks also remained negotiable. After all, the regulator still regarded expropriation by the State as the least desirable solution. Only an uncontrolled bankruptcy would be worse.

Ministry sees dangers in the holding-flop variant

The interlocutors also extensively discussed the proposal of the banks whereby the holding company would go bankrupt. Although De Nederlandsche Bank had previously been against such a solution, the regulator no longer completely ruled out the possibility. There were operational and legal risks involved, but this was offset by an estimated return of between 100 and 300 million euros. According to De Nederlandsche Bank, this variant was ultimately a better alternative than nationalisation.

Can the accountant approve the annual accounts?

Another topic of discussion was the content of a letter that KPMG, SNS Reaal's external auditor, would soon send to SNS Reaal.

Two days later, on November 29, 2012, the letter arrived at the chairman of the board of directors of SNS Reaal. The auditor stated that 'it now seems plausible that for the preparation of the 2012 financial statements of SNS Reaal and SNS Bank there is a material uncertainty with regard to the independent capital of SNS Bank in order to meet the capital requirements. , which results in reasonable doubt about the continuity of SNS Bank and therefore of SNS Reaal'. The content of the letter could already be discussed in the tripartite meeting, because the external auditor had shared this concern with Latenstein and Lamp on 19 November.

The letter was sent by SNS Reaal to the Ministry of Finance on the same day. De Nederlandsche Bank was already aware at that time.

The auditor's doubts about continuity meant that the Ministry of Finance and De Nederlandsche Bank also had to look at liquidation scenarios. The accountant outlined three possibilities. In the first place, SNS Reaal could explain the uncertainties. With sufficient substantiation, the annual accounts could be drawn up and approved on a going concern basis. The auditor would then add an explanatory paragraph addressing the going concern uncertainties. The second option was an adverse statement. The auditor would issue an adverse opinion if the uncertainties were not sufficiently disclosed and the going concern assumption was therefore insufficiently substantiated.

Finally, there was the option to prepare the annual accounts not on the basis of

tinuity but on the basis of liquidation. Formally speaking, the uncertainties had to be resolved before March 7, 2013, but there should be clarity earlier, namely at the presentation of the annual figures on February 14, 2013, De Wit wrote to Latenstein on behalf of KPMG.

Duties and responsibilities of the external auditor; external supervision

The primary task of the external auditor is the statutory audit of the financial statements.¹⁰ The auditor assesses whether the financial statements, in accordance with standards that are regarded as acceptable in society, provide such insight that a responsible opinion can be formed regarding the assets and liabilities, the results, solvency and liquidity of the company.¹¹

In addition, the accountant assesses whether the annual accounts meet the statutory requirements. These requirements are broadly included in the Civil Code.¹² The Civil Code contains a basis¹³ for applying the very detailed International Accounting Standards and the International Financial Reporting Standards (valuation standards) of the International Accounting Standards Board.

When auditing a bank's annual accounts, the accountant must also carry out an outline test and assessment with regard to the adequacy of the organizational structure and risk management.¹⁴ As part of his general audit assignment for the annual accounts, the external auditor reports in his report to the Executive Board and the Supervisory Board, his findings on the quality and effectiveness of the functioning of governance, risk management and management processes within the bank.¹⁵

The auditor presents the result of his audit in a statement regarding the fairness of the annual accounts. The auditor's report takes the form of an unqualified opinion, a qualified opinion, an adverse opinion, or a disclaimer of opinion.¹⁶ The performance of the audit work is strongly regulated by legal regulations¹⁷ and very detailed professional rules.¹⁸

Because the external auditor has in-depth knowledge of the (financial) affairs of a company, he can be an important source of information for the regulator. The Financial Supervision Act therefore stipulates that accountants are obliged to inform the supervisory authorities (De Nederlandsche Bank and the AFM) if they find that a financial company is acting in violation of certain statutory rules, if the continued existence of the company is threatened or if it intends to issue an adverse opinion or a statement with reservations^{19,20} In addition, the Financial Supervision Act stipulates that financial statements that banks must provide to the supervisor, for example on solvency ratios, must be accompanied by an auditor's report. ring (declaration of fidelity).²¹

Consultation between KPMG and De Nederlandsche

Bank The consultation between the external auditor and De Nederlandsche Bank took place on 30 November 2012, one day after the letter was sent. This was Mrs Hofsté's last working day at De Nederlandsche Bank. The accountant was informed of the deadline for a solution for SNS Reaal. That would be mid-January 2013. The accountant said that this was just in time to adjust the annual figures to a 'very simple solution'. For example, new state aid in the order of two billion euros. But too late to adjust the annual figures to more complex solutions, including a split of SNS Reaal.

The NMa becomes involved

On Friday 30 November 2012, a new institution came forward that became involved in the search for a solution to SNS Reaal's problems, the NMa (Netherlands Competition Authority, now ACM). For some time now, De Nederlandsche Bank has been keeping the NMa generally informed about the developments surrounding SNS by means of a weekly telephone conversation. At the end of November, De Nederlandsche Bank had informed the NMa of the major banking variant; namely the counter-proposal of the major banks, which was opposed by the Ministry of Finance and which De Nederlandsche Bank was still hesitant about.

NMa prefers foreign takeover For the NMa, the information prompted the investigation of the competition aspects of the holding plot variant. The NMa has the result from her

investigation laid down in a letter from the NMa published by the Minister of Finance on 27 February 2013.²² In a meeting on 30 November 2012 with De Nederlandsche Bank and the Ministry of Finance, the NMa stated that 'from an economic perspective it is not desirable believes that the banks participate in Mercurius'. The NMa preferred that a foreign financial institution take over SNS Reaal. The officials of the Ministry of Finance had to talk like Brugman to make it clear that this was a dead end. In the absence of foreign interest, the holding would go bankrupt. This would lead to the entry into force of the deposit guarantee scheme. Nevertheless, the NMa continued to hold on to the idea of a foreign takeover. The NMa referred to an interest of BNP Paribas in SNS Reaal that had grown in recent days to five percent of the total number of shares in SNS Reaal. But the Ministry of Finance had inquired about this with the AFM and was able to report that this was not a strategic purchase. The total value of BNP Paribas' stake, taken by the asset management arm, was no more than fifteen million euros.

NMa tests solution against Competition Act

At the end of the discussion it became clear that the NMa could not be ignored in the decision-making process. It is true that the banks' participation in the bad bank did not fall under Article 6 of the Competition Act, but the NMa nevertheless saw reasons to pass judgment on the holding ploft variant. The State's involvement in this solution provided sufficient starting points for this.

On 18 December 2012, the NMa laid down its position in writing in a letter to the Minister of Finance. Although the possibility had already been superseded by recent events, the NMa maintained its preference for 'acquisition of SNS Bank by a wealthy investor with no ties to the major banks'. At first glance, merger control did not apply to the option discussed: capital injections by the major banks in exchange for share ownership. But the NMa would nevertheless test this option against Article 6 of the Competition Act and Article 101 TFEU (cartel prohibition).

Dilemma about vvgb

again On that day, De Nederlandsche Bank also had to decide whether it wanted to issue a vvgb for the next redemption of participation certificates. Earlier in 2012, De Nederlandsche Bank had already found itself in a supervisory dilemma.

around the redemption of the first tranche of the participation certificates. It was also irresponsible to let Tier 1 capital flow away. But withholding approval could be a trigger event, thus triggering the very effect that was so anxiously avoided. Burden sharing should affect all parties. If the participation certificate holders did not contribute to the solution, a problem with the European Commission could be expected. The Ministry of Finance took this very seriously and had previously become irritated by what it considered to be the hesitant attitude of De Nederlandsche Bank. The supervisor had reservations about maximum possible burden sharing from the perspective of financial stability.

The regulator devises a ruse On 4

December 2012, De Nederlandsche Bank sent a letter to SNS Reaal about a DNO for redemption of the second tranche of participation certificates. Because repayment by SNS Reaal had become de facto mandatory and had turned out not to be optional, the regulator ruled that the participation certificates no longer met the requirements for Tier 1 capital instruments. De Nederlandsche Bank therefore no longer considered participation certificates to be part of qualifying capital. And so no DNO was required to proceed with the repayment. De Nederlandsche Bank had to give permission for redemption on the basis of the original prospectus when the depositary receipts were issued. Because the qualifying capital was not reduced by the repayment, De Nederlandsche Bank reasoned in the letter, SNS Reaal was given permission for the repayment. On 5 December 2012, the Ministry of Finance received notice from the regulator that De Nederlandsche Bank had decided, all things considered, to approve the repayment.

On the same day, SNS Reaal issued a press release announcing the redemption of participation certificates. It concerned an amount of 116 million euros.

Irritation among the supervisor about the formal attitude of

the ministry It did not help mutual understanding that the Ministry of Finance once again wanted to submit a letter with questions from the minister to De Nederlandsche Bank. This is a follow-up to the letter from De Nederlandsche Bank dated October 2, 2012. On December 3, 2012, a draft was submitted to De Nederlandsche Bank, to which the regulator responded a day later. According to De Nederlandsche Bank, 'a new formal round' had no added value. In this phase it came down to 'making decisions': 'in that sense, a new exchange of letters slows things down.' Also the question

genes in the draft letter caused irritation. 'What is the relevance of the questions asked – which are based on a bankruptcy of Mercurius bank – in the light of the fact that the systemic relevance of Mercurius bank is undisputed?', was a rhetorical question from De Nederlandsche Bank. That same evening, the Ministry of Finance made at least one decision: the letter would still go out with the omission of two questions about the insurer. In one respect, the irritation at De Nederlandsche Bank was justified.

The Ministry of Finance now really had to make decisions, and internal squabbles diverted attention from that. That insight ultimately led to the decision not to send the letter.

The advisers

The variant with CVC requested further consultation with ASR and NLF1 (who were accompanied by their advisers, UBS and Lazard respectively) on 5 December 2012. On 10 December 2012, consultations were to be held again at the ministry between De Nederlandsche Bank, the Ministry of Finance and SNS Reaal.

The number of advisers had grown so high that the Ministry invited the participants in the invitation to limit the number of advisers at this meeting to one per investment bank and law firm. The Ministry of Finance had also reached an agreement with SNS Reaal about the payment of the advisers; Finance was able to charge the costs for its advisers (Morgan Stanley, Cushman & Wakefield, Allen & Overy, Pels Rijcken) to SNS Reaal. On 13 December 2012, Lamp, a member of the Executive Board of SNS Reaal, received the letter in which this agreement was laid down in writing. All in all, the consultancy costs amounted to five million euros.

The advisors

Authority	Advisors
Treasury Department Morgan	Stanley, Allen & Overy, Pels Rijcken, Cushman & Wakefield
De Nederlandsche Bank RBS,	Clifford & Chance
SNS Real	Goldman Sachs, JP Morgan, Ernst & Young LLP, The Brauw Blackstone
Stichting Beheer SNS Reaal	Oyens & Van Eeghen
NLF1	Lazard
ASR	UBS

The major banks stick to their own variant

And the battle for the major banks variant was not yet over. Every word of Finance was weighed on a gold scale. When, at the end of November 2012, the director of the financial markets let slip, according to one of the major banks, that the major banks would have to pay the bill, Leiden was in trouble. The major bank was 'displeased' with this statement and the irritation simmered for several days. In a consultation with De Nederlandsche Bank on 4 December 2012, the major banks stood their ground: the holding ploft variant was not allowed to go off the table. The major banks therefore wondered whether it made sense to sit down with the Minister of Finance. A meeting was scheduled between the minister and their chairmen of the boards of directors on the afternoon of December 10, 2012.

Another sore point at the major banks was the valuation of the real estate loan portfolio. On December 6, 2012, Cushman & Wakefield provided an explanation to the major banks about the methodology to be used. It was the same explanation that Cushman & Wakefield had previously provided to the European Commission on 19 November 2012. The major banks pointed to the constraints Cushman & Wakefield faced, but 'seemed to understand'.

The minister now wants to make a

decision At the Ministry of Finance, Minister Dijsselbloem took control. He wanted to inform the Standing Finance Committee of the House of Representatives before Christmas. That meant that he wanted to make a number of decisions in the week of December 10. The first knot was the determination of the level of the capital injection by the major banks. For the time being, an amount of one billion euros was mentioned for this. Not a new amount, but a clear message for the chairmen of the boards of directors he was due to meet soon. If the valuation of Cushman & Wakefield also ended up on his desk that week, he could inform the standing parliamentary committee before Christmas about the solution with the major banks. He was unable to make a decision on the CVC proposal at the time, which was still on the table. There were too many questions that couldn't be answered before Christmas. Those questions would be addressed in part once the valuation of Cushman & Wakefield was completed. Another part had to wait until after the due diligence investigation by ASR's CVC.

The minister in talks with the major banks

On 10 December 2012, a meeting was scheduled between the Minister of Finance and the CEOs of the major banks. In preparation for this meeting, De Nederlandsche Bank listed the options.

Overview of the different solutions

The first variant was the option that the State and the major banks would jointly inject capital into the holding company. That was the most responsible option from a prudential point of view. This variant was therefore preferred by De Nederlandsche Bank. And also, according to the regulator, from the Ministry of Finance. The problem was that the major banks did not want this. She should be forced to participate. The second variant was the proposal of the major banks: threatening nationalization and thus forcing SNS Reaal to agree to the greatest possible degree of burden sharing. De Nederlandsche Bank did not consider this solution acceptable because SNS Reaal was a systemically important institution. In an attempt to reach a compromise, De Nederlandsche Bank had devised a third variant. In addition, the holding company would remain intact, but the debts of the holding company would have to be restructured. The insurer had to be sold in due course. The sale would yield enough to keep the holding company afloat. A bridging loan was then required for the holding company until the insurer was sold. But the actual capital injection went to SNS Bank, in accordance with the wishes of the major banks. In this way the holding company could continue to exist, there would be some degree of burden sharing and the banks would not have to invest capital in the holding company. This variant was, however, dependent on the cooperation of SNS Reaal and the consent of the shareholders. The option was complex and involved significant operational and legal risks.

Advantages and disadvantages of the various

solutions The first option, injection into the holding company, would cost the State and the major banks the most capital because no burden sharing took place. The option of the major banks was the most favorable in terms of capital input and the compromise of De Nederlandsche Bank was somewhere in between. And finally there was 'Comet', as the CVC variant was called. That was an interesting option but surrounded by uncertainties. There was great doubt as to whether the risks and burdens would be fairly shared between CVC and the State. For all four options, the results of Cushman & Wakefield and the attitude of the European Commission would be decisive.

Finance proposal

The chairmen of the boards of ABN Amro, ING and Rabobank had to deal with a minister with a crystal clear message. The minister's kick-off consisted of two parts. That day it was about money (how much) and time (the pace had to be increased). He proposed dividing the contribution of capital fifty-fifty between the State and the major banks. With an assumed write-down of EUR 2.0 billion, approximately EUR 2.0 billion was needed (1.5 billion in a clean entity and 500 million in a bad bank). And so he wanted to ask 1.0 billion euros from the major banks. The director of supervision of De Nederlandsche Bank objected that it was not responsible to simply withdraw a billion euros from the banks. As a concession to the banks and the regulator, the minister said that a more gradual introduction of the proposed bank tax increase could be discussed. Or, if the banks are (temporarily) overloaded, a later introduction of the ex-ante funded deposit guarantee scheme. After all, the banks were not happy with the ex ante financing of this. For example, the main march route should be ready before Christmas.

The reaction of the major banks

At the same time, there was work to be done on the CVC variant, but that should not stop work on the main march route. The major banks reacted divided. One pointed to the alternatives (bankruptcy and expropriation) and preferred to choose the lesser evil. The other was willing to cooperate, but also had an obligation to repay the state aid. The third had doubts and preferred to do nothing as long as the valuation of the property portfolio was not known. What the major banks did agree on, however, was their desire for the greatest possible neighbor sharing. If anything, subordinated creditors and hybrid loan holders should bleed. In principle, the ministry wanted to go along with this, provided that the process would proceed in an orderly manner. De Nederlandsche Bank had more reserves. In order for the rescue plan to succeed, the cooperation of the councils of SNS Reaal was required: the Executive Board and the Supervisory Board. Ultimately, the general meeting of shareholders would also have to agree to significant burden sharing.

The Ministry had to increase the pressure on SNS Reaal as much as possible to ensure that people there agreed to the greatest possible burden sharing. For example, with the argument that only with expropriation would burden sharing be maximized. The major banks emphasized that the threat of expropriation had to be realistic. And that in turn entailed risks for an orderly settlement.

The major banks will respond the following morning. At the end of the meeting, it was agreed that the three major banks would make known by telephone what they thought of a contribution of one billion euros and the design of capital in the bad bank plus in a clean entity through the holding company. One of the three chairmen gave his approval before the end of the meeting. The minister was confident that all three major banks would eventually agree.

That is why he ordered immediately afterwards to agree on a date and time for a confidential consultation with the permanent parliamentary committee.

Major doubts at the regulator about the

right course De Nederlandsche Bank was in a split. On the one hand, the regulator wanted a structural solution for SNS Reaal as quickly as possible because of the financial stability. On the other hand, De Nederlandsche Bank continued to object to the ultimate remedium option of nationalisation. Nationalization could also pose a threat to financial stability, because Dutch financial institutions, and possibly also the State, would have to deal with higher funding costs. Moreover, there was a risk of reputational damage for the Dutch financial sector and for the regulator of that sector, namely De Nederlandsche Bank. Finally, De Nederlandsche Bank was also concerned about the contribution that the major banks had to make. It was precisely in a period when the buffers had to be updated that it was not prudent to simply impose a considerable additional burden on the major banks. For De Nederlandsche Bank, there were therefore limits to the contribution that the ministry could ask the major banks.

The European Commission makes

itself heard The first comments about the analysis by Cushman & Wakefield and the response of the European Commission were not favourable. It looked like Cushman & Wakefield's results would be significantly worse than Ernst & Young's numbers. The necessary write-down on Property Finance could well exceed two billion euros. This made the feasibility of the (semi-)private options less likely.

The chance of nationalization actually increased.

After De Nederlandsche Bank's decision to agree to the redemption of the participation certificates, a reaction from the European Commission was imminent. After all, it was difficult to pretend that De Nederlandsche Bank acted consistently by no longer considering the participation certificates as Tier 1 capital. An artifice that made SNS Reaal the

could redeem certificates. The European Commission requested access to all correspondence between SNS Reaal, De Nederlandsche Bank and the Ministry of Finance. But De Nederlandsche Bank had been triggered by earlier questions from the European Commission to review the classification of the certificates and the regulator was annoyed about the attitude of the European Commission. However, the Ministry of Finance decided to iron out this ripple in a telephone call from the Treasurer General to the European Commission. The treasurer general explained and explained that the state of affairs certainly did not deserve the beauty prize.

The major banks are delayed

The minister expected a favorable response from the major banks to his proposal of 10 December. But that was disappointing. One large bank had already agreed during the consultation with the minister. The second responded on December 12, 2012 with the statement 'not being able to say yes to the proposed structure'. The attitude of this large bank aroused the necessary irritation with both the Minister of Finance and the president of De Nederlandsche Bank. During the lunch meeting of December 14, 2012, both agreed that this attitude was totally unacceptable. But the major bank offered to work out an alternative proposal, in consultation with the third major bank. They would submit this proposal to the minister and De Nederlandsche Bank in the week of December 17.

Nationalization becomes a realistic

option The Ministry of Finance seriously considered the possibility of expropriation, now that it remained unclear whether the major banks would cooperate. Until then, the director of supervision of De Nederlandsche Bank had opposed the nationalization of SNS Reaal. Such a drastic intervention would have a serious negative effect on the rating and therefore also on the funding costs of Dutch banks. But if the valuation of Cushman & Wakefield were indeed so unfavorable, with losses well in excess of two billion euros, the regulator could also support the expropriation of the holding company. De Nederlandsche Bank therefore continued to work on the nationalization scenario. The legal requirement of an 'immediate and serious threat' to financial stability caused headaches. Formally, the minister had to judge that there was such an immediate and serious danger. The contribution of De Nederlandsche Bank was, however, indispensable for such a judgment and, de facto, almost decisive. Previously, the regulator had defined a bank run as an 'imminent and serious danger'

didn't seem to come right away. De Nederlandsche Bank now worked with the definition that there was 'immediate and serious danger' in the combination of a significant capital shortfall plus the demonstrable absence of viable alternatives, so that the situation was hopeless.

Three variants remain

Three variants were worked out for the briefing of the permanent parliamentary committee scheduled for December 20, 2012: two variants of the large banks solution and the CVC variant. Variant A entailed that all real estate loans – after write-down – would go to the bad bank. The State and the three major banks would provide capital to the bad bank and to the holding company. Variant B resembled variant A, but the State would then proceed to expropriate the holding company. This variant would only be relevant if variant A and CVC's proposal were not possible or too expensive. Naturally, expropriation was discussed as a safety net, just like at the previous confidential meeting between the minister and the standing parliamentary committee.

The search for a solution to the problems in which SNS Reaal was entangled would visit the European Commission in Brussels in the week of December 17, 2012. The light on that route was also green. In any case, green enough for the minister to inform his colleagues in the Council of Ministers on 14 December 2012 about the state of affairs. At that time, three variants were still possible. For the discussion of variant B, a meeting was planned between the minister and the chairmen of the boards of directors of the three major banks. That appointment was on December 18, 2012. Then the valuation of Cushman & Wakefield would also be known.

7 towards nationalization;

December 14, 2012 – February 1, 2013

The Ministry determines the order of the

variants On December 14, 2012, Cushman & Wakefield would announce its valuation of the loan portfolio. When the valuation was much lower than Ernst & Young's figures, the preferred variant became unfeasible. That was: all real estate loans in the bad bank, and a capital injection in bad bank and holding company. Then the CVC proposal was discussed. But CVC would have to adjust the proposal to the new figures, and CVC's proposal may have become too expensive because of those adjustments. Only then was expropriation the appropriate course of action. This also had to be done gradually. If SNS Reaal could not provide a feasible solution, De Nederlandsche Bank would ask the external auditor what consequences this had for the approval of the annual accounts. The auditor would probably give a negative opinion on going concern. De Nederlandsche Bank would then inform the Minister of Finance and give its own assessment of the situation. On that basis, the minister could d

The Stichting Beheer SNS Reaal points out its

interests While all this was going on, the Stichting Beheer SNS Reaal, together with its advisor Oyens & Van Eeghen, wanted to visit the ministry again. The foundation wanted to inform the Ministry of Finance of its objections to the CVC variant. In that variant, the foundation came off badly. CVC had informed the Ministry of this and they searched diligently for an appointment with the foundation and its adviser in the jam-packed agendas. The interview with the foundation took place on December 19, 2012 at the ministry. The foundation considered turning to the European Commission because, as a shareholder, it felt underserved in CVC's proposal. That proposal turned out rather poorly for the shareholders, incidentally at the instigation of the European Commission. On the same day, the management of SNS Reaal announced that the works council of SNS Reaal wanted to speak with the Ministry of Finance

The figures from Cushman & Wakefield are decisive On

Friday 14 December the results of the study by Cushman & Wakefield were announced. The book loss in the two scenarios used was 2.150 billion euros and 2.850 billion euros respectively, excluding the write-down of the Real Estate Owned portfolio with a book value of 500 million euros. The difference with the numbers previously used by Ernst & Young amounted to more than one and a half billion euros at best.

This meant that more than EUR 800 million in additional capital would be required. "Killing," was what Cushman & Wakefield's valuation was dubbed in emails between Treasury officials. That email exchange took place over the weekend of December 15 and 16. 'Killing' for the CVC variant. CVC itself recognized this.

Without the Cushman & Wakefield report, there would have been less reason for the Ministry of Finance to find the CVC option unattractive, said Mr R. (Rolly) van Rappard in his conversation with the Evaluation Committee. But the variants in which the big banks would participate in the bad bank also became more difficult. After all, the much higher write-down meant that the capital shortfall in the good bank became much greater, while the capital requirement of the bad bank actually became much smaller. And that while the State had to inject capital into the good bank and the major banks into the bad bank. Expropriation of the holding company with a bad bank now became much more likely.

European Commission draws a line The higher write-

down of losses resulted in a turnaround at De Nederlandsche Bank. The supervisor no longer considered expropriation unacceptable. This was announced by the director of supervision of De Nederlandsche Bank to the relief of the Ministry of Finance. But at the same time, Brussels was also on the phone. The Directorate-General for Competition would advise negatively to the European Commission about the participation of ABN Amro and ING in the bad bank. For Sijbrand this was – as he stated in his conversation with the Evaluation Committee – the irreversible moment towards expropriation or nationalisation.

In the opinion of Ms Salden, director of financial markets at the Ministry of Finance, the attitude of the European Commission was 'a turning point'. In her interview with the Evaluation Committee, she stated:

'Mrs Salden indicates that just before Christmas it became clear that the participation of major banks for ABN Amro and ING would come up against the acquisition ban. This is not unquestioningly accepted. Messrs Vijlbrief,

She and Sijbrand themselves went to Brussels just before Christmas and tried another variant in January, bearing in mind the thinking framework of the European Commission. Each bank had to participate in the other variant, in which a choice could be made between a levy or a participation certificate. So people have been working with a lot of creativity and thinking. In mid-January it turned out that the European Commission offered no certainties/guarantees that this variant would actually work. The Minister of Finance then consulted with the three major banks, because it was far too risky for ING or ABN Amro to pull them into an uncertain restructuring/opening of their agreements via this route.

The turning point just before Christmas surprised Mrs Salden unpleasantly, for she had the impression that there was room for one or more alternatives. She thought that the European Commission understood that efforts were being made to keep the bill as low as possible by striving for a solution with as little market disruption as possible, a correct write-down of the property and as few costs as possible for the State. Mrs. Salden thought that the solution of the bad bank was worked out in consultation with the European Commission and was therefore displeased by the reaction of the European Commission.'

The European Commission's response was immediately put on the agenda for official consultations between the European Commission and the Ministry of Finance. That consultation was scheduled for December 17, 2012. The briefing of the permanent parliamentary committee that was being prepared did not take place.

Second meeting between the minister and CEOs of the major

banks The next day, 18 December 2012, was the second meeting of the minister with the chairmen of the boards of directors of the major banks. They were not yet given access to the Cushman & Wakefield report. That would happen as soon as possible, after a final factual check of the report by the ministry. The minister did, however, explain the main findings of the report. The write-down would amount to EUR 2.3 billion in the first scenario, and EUR 3.1 billion in the other. This time including an estimate of the write-down of the Real Estate Owned portfolio. CVC had taken into account a write-down of 1.4 billion euros in its proposal.

The minister's original proposal to the three major banks was therefore not feasible. There was a chance that the State would have to proceed with expropriation. In addition, the three major banks would also have to leave a financial spring.

The European case team mumbles the various variants

In the meantime, a meeting had taken place between the director of financial markets and the deputy director-general for competition of the European Commission. In that conversation there was still a glimmer of hope for an opening; participation of the three major banks in the bad bank seemed a possibility.

The deputy director general was probably not aware of the valuation of Cushman & Wakefield at the time. But this option also failed. This emerged during a telephone consultation between the Ministry of Finance and the team leader of the case team, in which the legal advisers of the Ministry and De Nederlandsche Bank also participated. According to the official coordinator of the Mercurius/Roos project: 'He calls this disappointing, but people have resigned themselves to it.'

The director of supervision at De Nederlandsche Bank expressed the same degree of disappointment:

'We were disappointed by the very narrow legal interpretation of what acquisitions are. We felt that helping in a safety net was not an acquisition. It is a complaint that you often hear about that part of the European Commission, namely that the legal basis is strongly based on individual cases, and less on the financial stability that we are trying to achieve.'¹

The CVC proposal was also severely damaged by the judgment of the European Commission, as the Evaluation Committee has shown in discussions held with it. The case team felt that the CVC proposal had become less viable due to the valuation of Cushman & Wakefield. The European Commission would not give permission for two of the three major banks to participate in the bad bank. Instead, the European Commission wanted to see an auction of Property Finance's assets. This was an incomprehensible idea, at least for De Nederlandsche Bank. That would be a fire sale. The proceeds would lead to an even greater capital shortfall than was already foreseen on the basis of the figures from Cushman & Wakefield.

As Sijbrand's words show above, De Nederlandsche Bank could show little understanding for the European Commission's attitude towards the major banks. If the major banks were not allowed to participate in the bad bank, this would necessarily lead to a greater contribution from the State. And that was precisely from a competition point of view not a good thing.

The supervisory council of De Nederlandsche Bank called for heavier guns to be deployed at the European Commission; the conversation should be conducted by the minister or the prime minister.

New consultations in Brussels fail

On 20 December 2012, the Treasurer General, the Director of Supervision and the Director of Financial Markets traveled to Brussels. The conversation there was a repetition of moves. The proposed structure for the bad bank was not acceptable to the European Commission. It was agreed to continue the conversation in the new year. The interlocutors then wanted to investigate which forms of banking contributions were acceptable to the European Commission. This concerned contributions from the entire banking sector, not just the major banks. After consultation with the minister, it was decided that the minister would discuss this again with the chairmen of the boards of directors of the major banks. On 21 December 2012, the chairmen were personally called to inform them of the outcome of the Brussels deliberations.

Real estate gives SNS Reaal a headache

The year 2012 ended with a number of well-informed articles in *NRC Handelsblad* about SNS Reaal's real estate portfolio. On 24 December 2012, two journalists from *NRC Handelsblad* approached SNS Reaal with a list of thirty questions. The questions revealed that the journalists had been in contact with insiders; the questions betrayed knowledge about studies commissioned by SNS Reaal. The two articles in *NRC Handelsblad* of 29 December 2012 once again drew attention to the real estate portfolio as SNS Reaal's main headache issue.

On December 29, a detailed and provocative response from Latenstein went to the editor-in-chief of *NRC Handelsblad*. A copy of this reached the Ministry of Finance and De Nederlandsche Bank. Sijbrand and Mrs. Salden found Latenstein's response counterproductive. For the Ministry of Finance and De Nederlandsche Bank, the measure was full. On 30 December, there was a meeting between the director of financial markets and the director of supervision of De Nederlandsche Bank about the reporting in *NRC Handelsblad*. In fact, De Nederlandsche Bank and the Ministry wanted the Executive Board of SNS Reaal to be able to go public only with their consent in this final phase. And they had to make way for a new crew at short notice. The director of supervision had already submitted a list of possible successors to the Ministry of Finance. On New Year's Day, the minister urged the use of a selection agency for a new chairman of the board of directors and chief financial officer.

A full agenda

In the new year, the work agenda of the Mercurius/Roos working group was filled with: the CVC proposal and ASR, the major banks including their request to consult with Cushman & Wakefield, the preparation of the replacement of the pipeline of SNS Reaal and the elaboration of variants A and B.

SNS Reaal is discussed in the board meeting

De Nederlandsche Bank was also preparing for an intensive next round in the search for a solution for SNS Reaal. From now on, the Roos file would be discussed weekly in the management meeting and no longer in the supervisory board. The first board meeting of the new year was on January 8. The new project leader of De Nederlandsche Bank after the departure of Ms Hofsté summarized the state of affairs. The solution direction with the major banks, to which De Nederlandsche Bank had invested so much time and effort, had become unfeasible. The European Commission did not want to cooperate and the results of Cushman & Wakefield gave the final blow. The non-cooperation of the European Commission was partly prompted by similar situations in other countries, it was understood. Sijbrand would repeat that in the hearing of the permanent parliamentary committee on March 8, 2013. But the project leader had agreed with the Ministry of Finance that a delegation would immediately travel to Brussels if any real space was seen.

The regulator goes a long way with the European

Commission Direct contact between the minister and the European

Commissioner for Competition was also an option. Perhaps room could be created if the entire Dutch financial sector contributed to the rescue in the form of a proposition with a low return and no control.

From a prudential point of view, De Nederlandsche Bank was not very keen on that route, but anything was better than the ultimate remedium of nationalization – that was and remained the view of the regulator. The results of Cushman & Wakefield had meant that more capital was needed. De Nederlandsche Bank refused to tax the major banks for more than one billion euros. Due to De Nederlandsche Bank's refusal to tax the major banks for one billion, a balanced transaction was no longer possible between the State and the major banks. After all, a 50/50 ratio was no longer possible.

The supervisor must provide substantiation for nationalization By now it had become clear to De Nederlandsche Bank that the transfer of business units, one of the powers of De Nederlandsche Bank, was not possible. Due to the risks associated with SNS Property Finance, there was no private party to whom the shares or assets and liabilities of SNS Bank could have been transferred by means of the transfer instrument. Such a transfer would not have been able to fill the capital shortfall identified by De Nederlandsche Bank. Even after the transfer of shares or assets and liabilities to a bridge bank financed by the State, SNS Reaal and SNS Bank would remain so weakly capitalized that their bankruptcy had to be taken into account.

The responsibility now lay with the Minister of Finance. If the Minister wanted to intervene on the basis of the Intervention Act, the Minister of Finance would have to consult De Nederlandsche Bank. The supervisor had to provide a solid substantiation for the use of the Intervention Act. The mere existence of a capital shortfall was not sufficient to speak of an 'immediate and serious danger'.

The SREP

analysis The size of the capital shortfall would appear from the 2012 SREP letter on which the regulator was working at the time. If the SREP letter was final, the clock would start ticking for SNS Reaal. De Nederlandsche Bank first wanted to update the SREP analysis based on the results of Cushman & Wakefield, the ICAAP and the dialogue with SNS Bank. Only then did the regulator want to adopt a final SREP decision. The conclusion of the SREP decision was already established: SNS Bank had a capital shortfall that the company could not solve independently and all external options, including the CVC proposal at the time, had been exhausted or fell short. Perhaps the auditor would already refuse to issue a continuity statement on the basis of the SREP letter.

Supervisor will refuse vvgb

In addition, there was another problem for SNS Reaal: certain external debts were due to expire at the beginning of March 2013. SNS Reaal was unable to refinance those debts externally because the company had no access to the capital market. Therefore, the company would once again have to resort to internal financing within the SNS Reaal holding company. But this time De Nederlandsche Bank would no longer allow that.

Letter to the

Ministry The Board intended to send a letter to the Ministry of

Finance, containing an explanation of the SREP decision and the DNO issue.

The minister should then consult De Nederlandsche Bank. The supervisor made a suggestion for the content of the consultation letter.

It should include: that De Nederlandsche Bank had informed the Ministry of

Finance in December 2011 about the precarious situation at SNS Reaal, that the options examined had been exhausted and that expropriation of the holding company was inevitable.

The key question was what triggered the Minister to apply Section 6:2 of the Financial Supervision Act. The criterion in the Intervention Act was 'serious and imminent danger'. There was no doubt that there was a 'serious danger', but was the danger also 'immediate'? De Nederlandsche Bank had to advise the ministry on this. There was no question of a bank run yet, but was it sufficient that the chance of one was significant?

Ultimately, the minister would have to discuss the intention to nationalize in the Council of Ministers and he would have to inform the House of Representatives. The practical aspects of nationalization were also on the agenda of the board meeting: whether or not a bad bank, the degree of burden sharing and the required size of the capital injection by CVC. This last proposal was not yet out of the picture. It was revised again and a meeting was scheduled between CVC and the Ministry of Finance on January 11, 2013. But De Nederlandsche Bank doubted whether a deal was possible. This doubt was partly prompted by the fact that CVC requested explicit cooperation from the regulator. For example, De Nederlandsche Bank should stop paying coupons on subordinated loans. Those loans would then go into default and could be repurchased at a lower price. In this way, De Nederlandsche Bank would de facto contribute to a bail-in of the subordinated debts:

'Our reasons were that De Nederlandsche Bank was expected to

it would stop the coupons on the subordinated loans that were in the structure of SNS. We can do that for capital reasons. Then CVC would have bought those loans for next to nothing.

It is a variant of expropriation, but the State has done so in the interest of the taxpayer. In this case, therefore, we would have to force a kind of expropriation, in the interest of a private consortium. The question is whether that will hold up in court. We saw very serious objections to that, if we had wanted to do it at all'.²

In addition, the CVC proposal did not solve two major bottlenecks: ASR's possible price tag and the amount of the write-down at Property Finance. CVC based its proposals on the rosier figures of Ernst & Young.

The meeting decides to take

action The director of supervision thought it was a good thing. The SREP letter had to be sent. It was the task of De Nederlandsche Bank to act in the event of identified capital problems. SNS Reaal then had to be given some time to come up with a solution itself. De Nederlandsche Bank should ultimately give the signal to the State to intervene. The president of De Nederlandsche Bank agreed. He noted, however, that De Nederlandsche Bank had to insist on careful decision-making by the Ministry of Finance. The ministry sometimes tended to push alternatives aside too quickly.

The ministry argues with ASR about CVC option

On January 9, 2013, the Ministry of Finance focused all attention on ASR. On December 4, 2012, ASR was informed of the CVC proposal. On December 14, ASR had submitted a counterproposal. The core elements of CVC's proposal were retained. But CVC was out of the proposal. ASR's own plan was based on a takeover of Reaal by ASR. On 19 December 2012, the ministry informed ASR that it saw too few leads in the counterproposal. The ministry did not want to explore that path any further. The Ministry of Finance requested ASR to adopt a positive tone and to grant CVC access to information that was important to CVC. ASR was not convinced. ASR maintained many of its objections to CVC's proposal. The ministry, for its part, wanted to give the CVC proposal a fair chance. To make this possible, the parties involved had to gain insight into Property Finance's losses, the possible set-up of a bad bank and the valuation of ASR. That is why the Ministry wanted to give NLF, SNS Reaal and CVC access to the information they needed from ASR.

On substantive grounds, the Ministry of Finance had already come to the conclusion that the CVC proposal at that time was unacceptable. But they wanted to avoid creating the impression that the proposal had failed 'for procedural reasons (ASR obstruction)'. The ministry wanted a full assessment of the CVC proposal including

the contribution of ASR and saw - if that would lead to nothing - only two possible solutions: expropriation with the participation of the three major banks or expropriation with a contribution from the financial sector.

The conversation with ASR was 'tough, but fruitful'. The Ministry of Finance and ASR agreed that, among other things, the write-down of Property Finance's losses in the CVC proposal was 'not good'. The CVC proposal would therefore 'drop out'.

SNS Reaal sees CVC option disappearing

The board of directors of SNS Reaal saw CVC's proposal as its last lifeline and therefore reacted strongly to the Cushman & Wakefield report. Due to the high write-down, a gap of 500 million euros had arisen in CVC's proposal. This left the CVC proposal hanging by a thread. To be on the safe side, the Treasury Department had given Cushman & Wakefield a follow-up assignment. The company had to re-examine the principles of its valuation.

First of all, it was about updating macroeconomic assumptions, such as the expected growth of the gross domestic product and the expected inflation. Cushman & Wakefield had estimated the value of the portfolio as at 30 June 2012; this had to be updated to December 31, 2012. The ministry also requested a further analysis of the effect of outstanding commitments, equity commitments and hedges on Property Finance's portfolio. In addition, the ministry wanted to see a new calculation for the value in the event of an exit after ten or fifteen years. The report assumed an exit after five years. Finally, Cushman & Wakefield had to substantiate the discount rate, the stumbling block for the board of directors of SNS Reaal.

The board of directors of SNS Reaal may have preferred the CVC proposal, but that was not the case for the board of Stichting Beheer SNS Reaal. On 7 January 2013, the foundation turned to the chairman of the board of directors of SNS Reaal. On its own initiative, the foundation had spoken with CVC twice about CVC's proposal. During these two discussions it had become clear to the Foundation that the CVC proposal 'assigned no significant value to the B shares and the capital securities of the Foundation'. In other words, the foundation would get an almost full bail-in in the CVC proposal. The foundation called on the Executive Board to make a case for the interests and position of Stichting Beheer SNS Reaal.

Consultations with the European Commission on bad

bank construction De Nederlandsche Bank and the Ministry of Finance still saw the benefits of ABN Amro and ING participating in the bad bank.

They had not yet completely given up hope that they could find an opening for this at the European Commission. On 10 January 2013, the Ministry sent a message to Koopman, Deputy Director-General for Competition. In that message, the ministry made another attempt to have ABN Amro and ING participate in a bad bank in a slightly modified construction. As an alternative, a levy was proposed for the entire Dutch banking sector. Including, incidentally, SNS Reaal itself and the Waterschapsbank and the Bank Nederlandse Gemeenten, both of which were directly or indirectly owned by the State. Coordination with European Commissioner Almunia was promised on this. The Hague would be informed on 14 January.

Joaquín Almunia (Bilbao, 1948) has been Commissioner for Competition since February 2010. Before that, he was Commissioner of Economic and Monetary Affairs from 2004. In Spain he was a member of the Cortes for the PSOE. From 1982 to 1991 he was Minister of Social Affairs and Employment. He studied law and economics at the University of Bilbao.

Almunia difficult to reach

The first attempt to hear from Almunia how he viewed the bad bank with the big banks failed. A second attempt also did not yield the desired result. It is true that there had been brief consultations with European Commissioner Almunia and his officials. The European Commissioner had spoken neither positively nor negatively. The European Commissioner then traveled to Strasbourg.

Even before Almunia could comment on the question put to him by the ministry, *Het Financieele Dagblad* found out that the participation of two large banks in the bad bank in Brussels was difficult. The newspaper reported on this on 16 January 2013.³ The newspaper referred to 'several sources'. The message was confirmed the same day by a spokesperson for European Commissioner Almunia.⁴

The alternative: a levy for the entire banking

sector The director of financial markets made a plan for the campaign in case Almunia – as expected – showed a definitive no. A meeting of the most concerned ministers was scheduled for 15 January. There, the Minister of Finance could ask his fellow ministers for a mandate for the alternative: a levy for the entire banking sector. He would need that if the European Commission pronounced the expected definitive no. On January 16, the minister had scheduled a meeting with the chairmen of the boards of directors of the three major banks. He could immediately hit nails with heads.

Questions to the minister about

nationalization At the time, the Ministry of Finance seemed to have resigned itself to the inevitable outcome of a nationalization. This can be deduced from a note that was put 'in the minister's bag' on 11 January. It was a note from the finance director and the financial markets director. Mrs Salden had discussed the memorandum with the minister in the afternoon. The memorandum goes straight to the point about the reason for the advice. The expected losses on Property Finance would be substantially higher and the European Commission had objections to the way in which the three large banks had to participate in the bad bank. In the memorandum the minister was asked the following question: 'In our opinion, expropriation is the only solution that remains. Do you agree with this?'

The Evaluation Committee has received the copy that has been read and commented on by the Minister. He indicated with 'a curl' that he agreed to expropriation. It is also unclear whether this means that the minister considered expropriation inevitable or that the alternatives still under consideration would have no effect. As far as the Evaluation Committee has been able to ascertain, 'the curl' was added to the memorandum on or shortly before 14 January 2013.

When asked in what context this response from the minister should be seen, Ms. Salden told the Evaluation Committee the following: 'Besides this, an approving "curl" has been placed by the Minister of Finance. At that time, CVC's option was also being explored. Ms Salden agrees in response to this remark [only the possibility of expropriation would remain] that CVC was still being explored and says that the option with the major banks was also open. At the time, she had not dared to advise against the CVC proposal that was on the table at that time

lay, to accept. The decision that expropriation was the only option was not suggested in the memorandum. This is also evident from the many questions that the Minister of Finance has asked on the memorandum. Ms Salden has also been in contact with the Minister of Finance about this and was told to be prepared for a possible expropriation, but at the same time he asked many questions about CVC and wanted those discussions to continue. The Minister of Finance did not want to return the memorandum with a lot of comments without an explanation, because this could be demotivating for the team. The mindset was followed by him. He also recognized that the solution with CVC was not sufficient at that time. However, it could not be ruled out that CVC would move even further. In short, the intention of the approving initials is not as interpreted by the Evaluation Committee: the Minister of Finance did not decide on expropriation at that time and did not demand that a decision be made, but preparations for possible expropriation.'

Minister Dijsselbloem himself noted the following in his conversation with the Evaluation Committee:

'Mr Dijsselbloem only agreed to the advice of expropriation from SNS Reaal in the night of January 31 to February 1. He remembers the relevant memorandum of January 11, 2013 very well, because it described and peeled off the various options quite extensively. . That's why he wrote so many questions in the margins. In his experience, there was not much time between asking those questions and answering them. This may have to do with the fact that he spoke to Mrs Salden shortly after the note of 11 January last. He then informed her that he had many questions that needed to be answered correctly, but that he followed the main lines of reasoning (if his questions were answered adequately). His questions should therefore not be interpreted as a signal that people were at a dead end. Incidentally, he spoke to Mrs Salden and a number of other people daily during that period and these issues were always reviewed. That is why the answers may have been written down precisely later on. The curl in the memorandum of 11 January must therefore be interpreted as meaning that the preparations for the possible expropriation and the conditions under which it had to proceed with reservations.'

On 11 January, the minister had the meeting with the director of the financial markets referred to above. Then the minister had already spoken

know that nationalization had to be taken into account, said a feedback from Ms Salden. In that conversation he also – she noted – had already given thought to the best way to announce the expropriation decision ('on 4 or 11 February'). He wanted good coordination with De Nederlandsche Bank about the spokesperson. And the director of supervision of De Nederlandsche Bank should be present at the press conference. It was clear that the write-down of the real estate portfolio was worse than expected and that the route to Brussels was 'difficult'.

After this conversation, which began at 3:30 p.m., the note was put "in his bag." On Monday, January 14, 2013, the minister briefly telephoned the director of the financial markets to 'report that he has put many questions on notes, we should not take this the wrong way, the minister agrees/has not started to doubt, but for proper dossier formation /substantiation'.

Busy contacts between SNS Reaal and the

ministry The minister was not the only one in charge. This was apparent from a letter dated Sunday 13 January 2013 from the Executive Board and the Supervisory Board of SNS Reaal. What preceded this letter? Presumably at the same time as the minister was talking to the financial markets director, the chairman of the Executive Board Latenstein called the financing director and the coordinating policy officer of the Mercurius/Roos working group.

Prior to this call, Latenstein had had two other conversations. According to a report drawn up by SNS Reaal, the first meeting was with the director of supervision of De Nederlandsche Bank. He had sworn to Latenstein that nothing was final yet, but that a 'fall-back scenario' could very well become a 'main scenario'. Latenstein knew exactly what this could mean. Then Latenstein called Van Rappard from CVC. He had been to the Ministry of Finance that morning. He indicated 'that MinFin is now really preparing a nationalization route and that it is likely'. This was followed by Latenstein's telephone call to the Ministry of Finance. In that conversation he heard for the first time that the European Commission was not interested in the large banks variant. Logically, he then asked whether this would bring previous alternatives such as a capital injection back into the picture. According to his notes, the answer was in the negative: 'the State had a preference [...] for intervention, because in intervention the burden sharing is maximal.' Latenstein reacted to this

disappointed in his own words and finally asked how things would now proceed in the direction of nationalisation. The ministry said it did not yet know.

SNS Reaal suspects the ministry of

unwillingness In response to this information, SNS Reaal sent the aforementioned letter to the ministry on Sunday, January 13, 2013. The management of SNS Reaal stated that on 11 January they had 'understood that the ministry has doubts as to whether it wishes to continue on the chosen path and that the ministry would instead consider possibly proceed to measures based on the Intervention Act'. The financial markets director said internally that she found SNS Reaal's response understandable, but it was 'not reality, no will/preconceived plan, but an inevitable consequence if there are no alternatives'.

SNS Reaal contests Cushman Wakefield's report

The letter of 13 January 2013 was not the only correspondence with the Minister of Finance. Another letter in English followed about the write-down of Property Finance's portfolio. In the addendum to the letter, the Board of Directors listed its objections to the course of events and the contents of the Cushman & Wakefield report. Cushman & Wakefield was accused of making only limited use of the available information and that it had concentrated in particular on an analysis of the so-called loan tape. Another reproach was that Cushman & Wakefield had not fed back its findings to the management of SNS Reaal and Property Finance. The board of directors of SNS Reaal even blamed Cushman & Wakefield for not sending a draft version to CVC. SNS Reaal was also displeased that the Ministry had sent the report to the European Commission without enclosing the Ernst & Young report. This emerged during a discussion of the report on 19 December 2012 between the Ministry of Finance, Cushman & Wakefield and SNS Reaal. Then SNS Reaal learned that the report had already been forwarded to the European Commission on 14 December 2012. No doubt this was done in the hope that the European Commission would agree to the major banking variant. The Ernst & Young report was not included at the time. The ministry would still send that report to the European Commission in mid-January. This was at the request and with the permission of SNS Reaal and Ernst & Young.

Other objections from SNS Reaal concerned the discount rate used. It was called exceptionally high. It is remarkable that SNS Reaal in its crit-

does not indicate which discount rate would be realistic. In Chapter 13, the Evaluation Committee will return to this issue in more detail. Furthermore, SNS Reaal protested against a 'double counting'. In addition to the increased discount rate, Cushman & Wakefield also included expected losses. It also applies to this accusation that SNS Reaal does not specifically indicate the financial consequences of (correction of) any double counting.

Stichting Beheer SNS Reaal warns against nationalization The letter from the Executive Board was followed a day later, 14 January 2013, by a letter from Stichting Beheer SNS Reaal. In a previous letter, the foundation had stated that CVC's proposal was not in its interest. Now that the foundation had heard that 'the path of measures based on the Intervention Act was being seriously considered', it wrote to warn against expropriation. All the more, the foundation wrote to the minister, because private solutions (read: CVC) were within reach. Coincidence or not, a letter from CVC also arrived in the letterbox of the ministry that day. The content of this letter was seamlessly in line with the letters from the Executive Board of SNS Reaal and Stichting Beheer SNS Reaal.

The board meeting about CVC and the SREP letter

In the board meeting of De Nederlandsche Bank on 15 January 2013, nationalization was seen getting closer. The chances for the other options seemed to decrease again. At the Ministry of Finance, the ultimate remedium was seen as increasingly unavoidable.

On 11 January 2013, the director of supervision had spoken with the director of financial markets about the current state of affairs. Sijbrand gave feedback on that conversation at the board meeting of 15 January. According to Sijbrand, CVC's proposal to nationalize first led to Mrs Salden seeing no other option than nationalization at that time. But the letters from SNS Reaal, Stichting Beheer SNS Reaal and CVC, which were sent over the weekend, suggested that a solution with CVC was indeed still possible. In line with the Intervention Act

sees nationalization as the ultimate remedy after the minister has convinced himself of it verified that there are no reasonable alternatives, the Ministry of Finance decided to investigate this option.

CVC's new proposal

After the conversation on January 11, CVC again made adjustments

came up with her proposal, but whether that could offer the solution? CVC's proposal, called 'project Bergkamp', was now to nationalize first and then to do a transaction with CVC. In this way, maximum burden sharing could be achieved. And the contribution of the State was minimized. According to CVC, the other problems were also solvable.

Although CVC disagreed with Cushman & Wakefield's analysis, it wanted to increase the write-down on Property Finance towards the amount in Cushman & Wakefield's report. The European Commission's objection was also surmountable if a so-called go-shop commission was used whereby other bids are possible. According to CVC, a solution with CVC would be the best for the Netherlands. After all, the entire Dutch financial sector would suffer considerable damage from a nationalisation. Moreover, a private party like CVC would be better able to create value from SNS Reaal and ASR.

De Nederlandsche Bank had deliberately kept its distance from the negotiations between CVC and the State. After all, in the event of a deal, the supervisor would have to decide on the issue of DNOs. But on the other hand, the state of affairs between CVC and the State was of great importance for the consultation letter to the minister. The regulator had to be able to determine that all options had actually been explored and exhausted.

The SREP

letter The SREP analysis was almost complete. The amount of 1.9 billion euros short was almost fixed and the regulator had informed SNS Reaal of this. The question was whether De Nederlandsche Bank would inform SNS Reaal of this in a letter or whether De Nederlandsche Bank would do so in the form of a proposed (SREP) decision, whereby SNS Bank would be given time until a moment to be determined. to resolve the deficiency.

SNS Reaal combats 'serious and immediate danger'

At the same time, SNS Reaal could no longer function properly; the company itself knew that too. However, the board of directors did not want to throw in the towel yet. In the letter of 13 January, the Board of Directors pointed out to the Minister that all options had to be considered before he could use the Intervention Act. According to SNS Reaal, not all options had yet been explored, even if the State did not want to do business with CVC. The criterion of 'serious and imminent danger' was also not met. There were no substantial outflows, liquidity was sound and the core

capital was still above the legally required minimum. Nationalization would do more harm than good to the Dutch financial system. It would also affect the funding costs of other Dutch financial institutions. SNS Reaal also stated that other Dutch financial institutions would be adversely affected if their property portfolios were valued according to the method of Cushman & Wakefield.

The Ministry of Finance, which had the draft SREP letter, consulted one of its legal advisers. This underlined the importance of De Nederlandsche Bank's conclusion that the alternative plans contained uncertainties and were also completely inadequate given the size of the capital shortfall.

Final preparations for sending the SREP letter

The board meeting of De Nederlandsche Bank decided to send the SREP letter that week. But first the director of supervision Sijbrand had to discuss the content with the minister. And the ministry had to confirm that it was prepared for action once the deadline passed. Although SNS Bank was still relatively liquid, a plan was also needed in case panic broke out and SNS Reaal had to be nationalized sooner.

Sijbrand made an appointment with the minister on 15 January 2013 via the director of the financial markets of the ministry. The minister was advised by his officials to agree with Sijbrand that the ministry and De Nederlandsche Bank would not reject each other externally if tough questions were asked.

Ministerial

consultations On 15 January 2013, there was a consultation between the Minister of Finance, the Prime Minister and the Minister of Economic Affairs. During that deliberation, the Minister of Finance was given the green light to prepare for the nationalization without any significant problems. Part of this was a bank levy of one billion euros. The Minister of Social Affairs and Employment could not be present. He got stuck in the snow on his way to The Hague. On January 25, 2013, the minister would announce the intended expropriation in the Council of Ministers, and on January 30, 2013, he would inform the standing parliamentary committee confidentially. This fast pace was necessary because the risk of leaks increased. Moreover, SNS Reaal got into deeper and deeper problems. More and more savings flowed out of the bank. On January 15, the counter only stood at 7 million euros, but on January 16 it reached an amount of 58 million euros. On January 17, it was more than 300 million euros.

The minister has doubts about the adverse

case scenario. However, the race was not yet over. It was the Minister of Finance himself who had another reservation. On 15 January 2013, he proposed not to use the Cushman & Wakefield adverse case scenario for the valuation of Property Finance's losses, but to use the base case scenario. The director-general for the national budget and the director of the financial markets convinced the minister of the risks of a valuation based on the base case scenario. Although this would lead to a lower capital shortfall, it also meant that there were still higher risks associated with Property Finance's portfolio.

The major banks are

inconvenient One obstacle was the lack of cooperation from the major banks. The Minister of Finance spoke to them on 16 January 2013. He proposed introducing a bank levy if the European Commission did not lift the acquisition bans. The spread would be two years and the planned pre-financing of the Deposit Guarantee Scheme would be postponed for two years. But the big banks didn't bite. In the meeting with the minister they agreed to cooperate, but the next day they expressed reservations and objections to the bank levy. They felt that was not the appropriate way to contribute to the solution of this problem.

Consultation with SNS Reaal: will the company make it to February 14?

On the same day, the SNS Reaal Executive Board spoke with the Director of Financial Markets and the Director of Financing of the Ministry of Finance. The board of directors had prepared a presentation of possible solutions. But it was not discussed. According to SNS Reaal's report, the discussion focused on the question of whether SNS Reaal would still meet the date of 14 February 2013. That was difficult to estimate, said the chairman of the board of directors.

Bilateral first...

On 18 January 2013, bilateral consultations were held at the Ministry between De Nederlandsche Bank and the Ministry of Finance. The regulator said the SREP letter was now final. The legal and procedural snags had been satisfactorily dealt with. De Nederlandsche Bank had opted not to withdraw SNS Bank's banking license with immediate effect. And after some consideration, the AFM had announced that it would not adhere to the disclosure obligation in this case. There were good reasons not to do so. SNS Reaal was given a week to do so

to express its views on the SREP decision. The director of financial markets was pleased that the bullet was through the church.

The timetable is fixed The

timetable was also discussed during the bilateral consultations. The deadline was 24 January 2013. That was the last day on which SNS Reaal could submit its views on the SREP decision. The day after, on Friday 25 January, the Council of Ministers should give a formal mandate for the nationalization of SNS Reaal. The minister could then inform the permanent parliamentary committee on finance.

On Monday, January 28, the minister would formally inform the chairman of the executive board and the chairman of the supervisory board in a meeting. That was the day when everything had to be ready, because it was not inconceivable that the planned, but not yet final, nationalization would become known in some way. The question of whether SNS Reaal should announce the SREP decision also hung over the market, despite the AFM's ruling. Friday 1 February 2013 was the formal date on which the State could intervene.

... and then tripartite

consultation Following the bilateral consultation, there was a meeting between De Nederlandsche Bank, the Ministry of Finance and the Executive Board of SNS Reaal. The meeting started with a discussion of media reports about the position of the European Commission towards ABN Amro and ING. The director of supervision of De Nederlandsche Bank announced the SREP letter.

Later that day, at 2:20 p.m., De Nederlandsche Bank would send the SREP letter to SNS Bank. SNS Bank had until 25 January to present its views on the provisional SREP decision. SNS Reaal had until 31 January to present a solution that, in the opinion of De Nederlandsche Bank, had sufficient certainty of success and that would actually lead to a supplement to the capital shortfall in the short term.

The SREP letter concerned SNS Bank and was also addressed to SNS Bank NV. For the sake of readability, SNS Reaal is used below as an actor, even where SNS Bank NV is meant in a strict legal sense.

Preparations for nationalization continue In the

meantime, between 16 and 21 January 2013, 977 million euros had run away from SNS Reaal. A lot, but not enough to speak of an immediate and serious danger, the Ministry of Finance concluded. On

On 22 January 2013, the intended new chairman of the Executive Board of SNS Reaal had an appointment with the Ministry of Finance. That same morning, Lamp and Latenstein, the incumbent chairman of the board of directors, also had an appointment at the ministry. Latenstein, according to his own report, called on the Ministry to make optimum use of all possibilities to prevent nationalisation. But in the course of the conversation it must have become clear to him and Lamp that a private solution was no longer possible. When asked what preparations SNS Reaal had to make for the expected nationalization, the ministry stated that it could not respond to that question.

The supervisor draws up the consultation letter

Now that the SREP letter was out, De Nederlandsche Bank was able to devote itself to the consultation letter for the Minister of Finance. The draft for this was discussed in the board meeting of January 22, 2013. Although it was a procedural letter, the content and wording were of great importance. Because, as the president of De Nederlandsche Bank pointed out, it was likely that at some point the letter would become public and would have to undergo judicial review. The argument for the advice to nationalize SNS Reaal was twofold.

First argument

SNS Reaal did not have a proper defense against the provisional SREP decision, and if SNS Reaal was unable to make up the shortfall by 31 January at the latest, De Nederlandsche Bank no longer considered it responsible for SNS Bank to continue to conduct its banking business. At that time and under those circumstances, according to De Nederlandsche Bank, the criterion of 'immediate and serious danger' was met due to SNS Bank's systemic relevance.

Second argument

According to De Nederlandsche Bank, an emergency situation was to be expected at SNS Bank. SNS Reaal had to postpone the publication of the annual figures, while there was no prospect of a total solution. This would further increase the loss of confidence in the company. There was already a loss of confidence and an outflow of resources. That outflow could have been much higher. The fact that this was not the case was because the market and SNS Reaal's customers trusted that the State would offer a safety net to an institution that was explicitly designated as systemically important.

Other points in the consultation letter

De Nederlandsche Bank could not give permission for new loans from SNS Bank or Reaal Verzekeringen to the holding company. This would become topical at the beginning of March 2013 and would probably lead to payment problems at the holding company. And that would have an effect on SNS Bank. For example, the bank could lose access to much-needed ECB facilities. That would inevitably lead to liquidity problems. Up to that point, however, the outflow of liquidity seemed to be not too bad. There was indeed a steady outflow, but it was not a bank run.

The regulator also discussed possible alternatives to nationalization in the consultation letter. CVC was briefly discussed. De Nederlandsche Bank thought it was primarily up to the Ministry of Finance to express an opinion on the CVC option. In addition, due to its role as prudential supervisor, De Nederlandsche Bank had kept aloof as much as possible from the discussions with CVC. After all, in the case of an agreement between CVC and the State, the supervisor would have to make a judgment on whether or not to grant a declaration of no objection.

The letter did discuss in detail the position of the European Commission with regard to the acquisition bans for ING and ABN Amro. The supervisor cited this attitude as the reason for the impossibility of alternatives.

De Nederlandsche Bank, having received legal advice, deemed the letter convincing enough to withstand a judicial review. That was primarily a matter for the Ministry of Finance. Things would have been different when DSB Bank's banking license was revoked. But now it was the ministry that had to intervene. The responsibility therefore lay primarily in The Hague on the Korte Voorhout.

Response of SNS Reaal to the SREP

letter On 22 January 2013, the Board of Directors of SNS Reaal requested De Nederlandsche Bank to reconsider the SREP letter. The points that SNS Reaal contested were: the level of the write-down at Property Finance, the size of the capital shortfall at SNS Bank and the period within which this shortfall should be made up.

The financing of the nationalization

On January 24, the board meeting of De Nederlandsche Bank bowed

about the required capital injection after nationalisation. In mutual consultation, the ministry and the regulator arrived at a capital injection of 2.1 billion euros in the good bank. That number was based on three factors: (i) an average of the outcomes of Cushman & Wakefield in the base scenario and the bad scenario, (ii) a conservative profit expectation of the management of SNS Reaal and (iii) the Basel III standards. The write-off on Property Finance would amount to 2.8 billion euros. The bail-in of the bank's subordinated debt was supposed to yield 634 million euros and that of the holding company 396 million euros. The bad bank would need about 400 million euros for a write-off of 2.8 billion euros. A considerable amount was also needed to support the holding company. De Nederlandsche Bank and the ministry had agreed that the State would contribute 300 million euros as assets and 1.1 billion euros as a loan to bridge the period until the insurer would be sold.

The intention was therefore that the State would inject a total of 2.8 billion euros in capital. In addition, a bridge loan of 1.1 billion euros was added. In November 2008, the State provided capital in the form of the CT1 securities. That money was lost to the State. The good bank would then provide a loan of 5.5 billion euros to the bad bank to fund it. As the owner, the State would guarantee that loan.

The final stretch

That same day, 24 January, was the deadline for SNS Bank's written response to the SREP letter. The letter had to be received by 12 noon. The session would take place that afternoon where SNS Reaal could explain its point of view. The liquidity situation was still worrying but not dire. SNS Bank still had liquidity of approximately EUR 7.5 billion, although a steady outflow was underway. The last CVC proposal, dated January 21, 2013, was still on the table. The financing director of the Ministry of Finance had already indicated that he did not yet see a solution for the level of depreciation on Property Finance. The results of Cushman & Wakefield made that very difficult. The ministry did not write off the CVC option. In any case, a meeting was scheduled for 29 January 2013 between the Minister of Finance and CVC's managing partner, Van Rappard. The supervisor kept a bit of a blank slate. De Nederlandsche Bank did not want to take a position, because it would eventually have to make a DNO decision if the CVC option became reality. She noted, among other things, the lack of a large number of commitments that were necessary for the