

Chapter 1 Conclusions and recommendations

1.1 Introduction

The Committee of Parliamentary Inquiry into the Financial System (hereinafter ‘the Committee’) has focused its research on the assessment of the crisis measures taken by the Dutch government during a hectic period in order to combat urgent problems in the Dutch financial system. The chapters of this report discuss the various measures and present conclusions regarding them. The report also discusses a number of topics that transcend individual cases. Conclusions are also formulated with regard to these topics. This opening chapter brings together all of the conclusions and presents them in relation to the Committee’s recommendations.

1.2 Fortis/ABN AMRO

On Friday, 3 October 2008, the Dutch government purchased the Dutch subsidiaries of Fortis, following negotiations with the Belgian government. A week earlier, the Belgian-Dutch financial conglomerate’s banking subsidiary had run into an acute crisis. The Dutch government paid Fortis €16.8 billion for 97.8% of the shares in Fortis Bank Nederland Holding, including the entire stake that Fortis held in the ABN AMRO subsidiaries, 100% of the shares in Fortis Verzekeringen Nederland and 100% of the shares in Fortis Corporate Insurance. In addition, the Dutch government assumed €34 billion in short-term debt from Fortis Bank Nederland and its subsidiaries, and it agreed that Fortis Bank Nederland would repay some long-term and subordinated loans to a maximum amount of €16 billion to Fortis on an accelerated schedule.

The Dutch government has transferred a total of €668 billion to Fortis. Since that time, Fortis Corporate Insurance has been sold, and the banking subsidiaries have been merged to form a new ABN AMRO Bank. As of the publication date of this report, a balance of approximately €32 billion remained open with regard to the Dutch government’s interventions involving Fortis and ABN AMRO, including repayments, dividends, recapitalisations, transformations of loan capital into equity capital and financing expenses.

1.2.1 Preliminary process

Fortis is primarily responsible for the problems that emerged

The problems at Fortis were caused by a combination of deteriorating market conditions and the absorption of the ABN AMRO takeover. In its business practices, Fortis attempted to exploit its opportunities to the fullest and owned a substantial portfolio of toxic assets. Fortis made a deliberate choice to pursue a takeover of the ABN AMRO consortium without conducting any prior extensive due diligence. The consortium bid was quite large. Moreover, the bid was largely in cash, thus entailing additional risk. Because of the financing, Fortis was facing considerable pressure to integrate its ABN AMRO subsidiaries as soon as possible. Insufficient consideration was paid to measures that were to be ordered by the European Commission with regard to competition, thereby resulting in the very disadvantageous agreement with Deutsche Bank. The Committee finds that the problems at Fortis were caused by its own actions.

The issue of statements of no objection by DNB and the Minister of Finance had very serious consequences

The statement of no objection for the acquisition of ABN AMRO by the consortium of Royal Bank of Scotland (RBS), Fortis and Santander was issued jointly by DNB (the Dutch central bank) and the Minister of Finance. DNB was required to make an independent judgement regarding the financial health of the acquiring parties (Criterion A) and the extent to which DNB would be able to continue to fulfil its supervisory function for ABN AMRO adequately (Criterion B). With regard to the first criterion, DNB based its judgement largely on information from the foreign chief supervisors of the

consortium partners. The independent judgement of DNB regarding the solvency of two of the three consortium partners was thus based largely on information from outside DNB. It can be concluded that two of the three consortium partners, Fortis and RBS, ended up in the greatest financial problems within a year.

The Minister of Finance was responsible for reviewing the financial stability criterion (Criterion C). In its report *Verloren krediet* ('Credit Lost'), the Committee's predecessor, the Parliamentary Committee Inquiry Financial System (TCOFS), found that the testing that was conducted in this regard was minimal and could have been approached from a broader perspective. The Committee finds that financial stability was ultimately placed in serious jeopardy. In authorising the consortium in September 2007, the Minister and DNB took a decision that has had severe negative consequences for the Dutch economy and taxpayers. The Committee finds that a different decision could and should have been taken.

DNB's supervision of Fortis and ABN AMRO was inadequate, despite major efforts

DNB began to have concerns about Fortis even shortly after the takeover. Particularly from June 2008, DNB made these concerns known to Fortis and CBFA, the Belgian chief supervisor for Fortis. Nevertheless, the initiatives arising from these concerns failed to generate positive results in the period leading up to the acute crisis at Fortis.

Even after the takeover by the consortium, DNB remained the chief supervisor for ABN AMRO. This supervisory task was particularly demanding; in addition to the regular supervision of the normal operational state of affairs, it was necessary to follow the complex separation process closely. DNB monitored this process closely and took a very strict approach in this regard. However, DNB did not have an adequate overview of all developments (e.g. the disastrous developments in the results of the London investment banking activities of ABN AMRO, which belonged to RBS). The Committee concludes that DNB placed excessive confidence in the tenability of the agreements between the consortium partners. DNB's judgement that the risks of acquisition and separation could be sufficiently controlled by setting strict conditions and requirements has proven to be in error.

Ministry of Finance lacked decisiveness and urgency

On 2 July 2008, the President of DNB informed the Minister of Finance of his major concerns with regard to Fortis. The Minister of Finance and the president of DNB then made concrete agreements that would prove of great importance during the acute crisis involving Fortis. Later, a single line with DNB was drawn and, in compliance with the agreements that had been made, primary effort was devoted to the interest of financial stability in the Netherlands. In the period from 2 July until the fall of Lehman Brothers, however, there was little sign that the Ministry felt any sense of urgency or that it had any serious concerns, let alone material action (e.g. the elaboration of possible scenarios and contingency planning or the identification and evaluation of the available legal instruments). The Committee also considers it incomprehensible that the Ministry had not taken more action with regard to the Belgian authorities since July.

1.2.2 First intervention: Benelux Agreement

On the evening of Sunday 28 September 2008, in order to save Fortis from bankruptcy, the governments of Belgium, Luxembourg and the Netherlands agreed to a total capital injection of €11.2 billion in the respective national subsidiaries of Fortis Bank in exchange for interests of around 49%. It was also resolved that Fortis would sell its shares in ABN AMRO. Although the Dutch government was to pay €4 billion for a 49% stake in Fortis Bank Nederland, this part of the agreement was never implemented, and it was replaced by the acquisition of all Dutch subsidiaries of Fortis.

The necessity of the intervention in the weekend of 27-28 September 2008 is beyond dispute

It is very likely that without intervention Fortis would have gone bankrupt on Monday 29 September 2008. The actual intervention was nonetheless extremely late, from both the Belgian and the Dutch

side. The Committee is of the opinion that intervention during the weekend was necessary in the interest of financial stability in the Benelux region, in Europe and throughout the world.

The preferred solution of the Netherlands was not realistic

The Ministry of Finance and DNB acted in accordance with the agreements that were made between the Minister of Finance and the president of DNB on 2 July 2008. In consultation between the Ministries of General Affairs and Finance, and DNB, a decision was made to deploy a private solution focusing on the interests of those subsidiaries that are most relevant to the financial system in the Netherlands. Concrete efforts were made to effect a bailout of Fortis, with ING taking over the ABN AMRO subsidiary in any case. Every effort was made to resolve issues with regard to financing and competition. Given the problems that ING experienced barely a week later, the Committee is of the opinion that the preferred option of the Netherlands was of questionable realism.

Foreign applicants for the ABN AMRO subsidiary of Fortis were discouraged

DNB considered a takeover of the ABN AMRO subsidiary by a solid foreign party (e.g. BNP Paribas) irresponsible, given the turmoil in the world, the situation of ABN AMRO in the midst of the separation processes and the lack of possibilities for private parties to conduct a thorough due diligence. It was the expressed desire of DNB to keep the ABN AMRO subsidiary of Fortis under Dutch supervision, and the Ministry of Finance supported this desire. This blockade against foreign parties was communicated at the highest levels, drastically curtailing the range of possible alternatives. From the perspective of a level playing field in Europe, the Committee finds the dismissive attitude towards potential foreign candidates, supervisors and authorities indefensible.

Too little attention was paid to alternatives

On Friday 26 September 2008, a plan began to emerge in Luxembourg, according to which the Belgian and Luxembourg governments would provide capital injections in subsidiaries of Fortis in exchange for minority stakes, thereby allowing the Fortis Group to remain intact. As part of this plan, the ABN AMRO subsidiary would be sold. In any event, the Dutch authorities were aware of this possibility from the afternoon of Saturday 27 September 2008. It can be concluded that, until the negotiations on Sunday evening, little was done with this information, which had nonetheless come from the highest echelons of Fortis. Given the sources of information, the Committee finds this difficult to understand. The Committee is under the impression that the Ministry of Finance and DNB did not consider the plan attractive, as it conflicted with their own line and because neither of the Dutch authorities felt that the plan offered a satisfactory solution for ABN AMRO. The alternatives were limited by the efforts to achieve a Dutch private solution that would at least entail that the ABN AMRO subsidiary would go to ING.

Benelux Agreement: expensive, and without offering any adequate solution

The Committee finds that, from a valuation perspective, the Netherlands agreed to pay a high price for a 49% stake in Fortis Bank Nederland. Moreover, the Benelux solution was hardly a structural solution. Although Fortis remained intact, the solution failed to restore confidence in the company, and ING did not follow through with the plan to take over the ABN AMRO subsidiary. This largely eliminated the rationale of the Dutch authorities for the Benelux Agreement, as it failed to secure Fortis and left the future of the ABN AMRO subsidiary uncertain.

Information provided to the House of Representatives: incomplete and late

Several factors that played a role regarding the Benelux Agreement were not shared with the House of Representatives. The unequivocal commitment to a Dutch solution through ING and the associated discouragement of interested foreign parties for the ABN AMRO subsidiaries were not reported. No insight was provided into how the amount of €4 billion that the Dutch government would inject was established, nor were the grounds upon which this amount was based made clear. The exclusive negotiating status of ING was not reported either. The Benelux Agreement was discussed in the House of Representatives during the general budget considerations on Wednesday 1 and Thursday 2 October 2008, when the Dutch authorities had actually already rejected the agreement and were working on further plans. As the Finance Minister himself has indicated, these debates did not include full

disclosure. The Committee concludes that the House of Representatives was not fully informed regarding the first intervention in Fortis. The Committee considers this at least partly understandable, given the state of the negotiations. Only limited disclosure of the facts was provided afterwards. The Committee is of the opinion that the House of Representatives could have and should have received additional insight after the fact.

1.2.3 Second intervention: acquisition of Dutch parts of Fortis by the State

On Friday 3 October 2008, the Prime Ministers of the Netherlands and Belgium agreed that the Dutch State would purchase the Dutch Fortis subsidiaries for a price of €16.8 billion. The agreement further specified that the Dutch State would assume the short-term and financial obligations that the Dutch Fortis subsidiaries owed to Fortis. In total, the Dutch State transferred €66.8 billion to Fortis.

The Netherlands had little patience for the Benelux Agreement: the Dutch banking subsidiaries of Fortis were to be separated one way or the other

Confidence in Fortis was hardly restored following the announcement of the Benelux Agreement on 28 September 2008. The company continued to depend upon liquidity infusions from central banks, due to the persistent outflow of funds. The tenability of such a situation is questionable. Liquidity guarantees or guarantees for the toxic portfolio of Fortis Bank could have helped. At that time, none of the relevant authorities were apparently prepared to take these steps, which were however taken later for other problematic institutions.

As early as Monday 29 September, further plans were set in motion, and these plans were ratified by the Prime Minister, the Minister of Finance and the president of DNB. From then on, there was no way back: one way or another, the Netherlands sought to acquire the Dutch bank subsidiaries from the Fortis group. In the opinion of the Committee, a structural solution for Fortis was necessary. The Committee wonders why the Dutch State made no effort at this point to make a takeover bid for only the ABN AMRO subsidiary. In part in view of the experiences with the break-up of ABN AMRO, objections and costs were associated with any solution that would involve splitting up Fortis.

Valuations used by Dutch delegations were incomplete

In consultation with Lazard, the adviser of the Dutch State, a negotiating range from €12 to €20 billion was established. This valuation range exceeded the market value of that time, which could be estimated between €10 and €12 billion. The valuations assumed that the subsidiaries had sufficient liquidity and capital, but this was not the case. The Dutch delegation was aware that the share of the remaining assets of ABN AMRO (Z-Share) had negative equity amounting to €2.3 billion. The Committee finds that neither the appreciation nor the bargaining range was adjusted for this post.

In any event, DNB was aware of the capital shortage in the ABN AMRO F-share (later known as the N-Share). The 'CSA claim' was known by DNB. This loan of €2.5 billion, to which Fortis had agreed with the consortium partners, was directly related to the capital shortage in the F-share (later known as the N-share). This information was not considered in the valuation. The Committee concludes that this information was handled incorrectly within the valuation team. The valuations that were used, and which formed the foundation for the negotiating range, were therefore incomplete and inaccurate.

€16.8 billion and €66.8 billion: a heavy price for financial stability

The amount that was ultimately paid was €16.8 billion, a price that would allow both the Dutch and Belgian authorities to achieve their goals. The price was dictated primarily by what Belgium stated as necessary in order to achieve a solution for the residual Fortis Group.

Figuring the capital shortfalls of the ABN AMRO subsidiaries at that time (amounting to between €4 and €5 billion) into the valuation, the valuation range would amount to between €8 billion and €16 billion. The price of €16.8 billion thus effectively exceeds the valuation range. Given the shortcomings in the valuation, the Committee considers this price particularly high from the perspective of business valuation. This finding is counter-balanced by the argument that it was necessary to protect financial

stability in the Netherlands. It is likely that the collapse of Fortis would have resulted in major damage to the Dutch, European and world economy, both directly and through chain reactions. It is not possible to determine how great the damage would have been. The cost of preventing such damage amounted to the current level of approximately €32 billion, although the initial transfer amounted to €66.8 billion. The Committee acknowledges the great importance of financial stability. This should nevertheless not be taken as license for the unlimited expenditure of tax money.

Transfer of the liabilities of Fortis Bank Nederland to Fortis Holding: the dealmaker

The Dutch State's assumption of €34 billion in short-term loans made to Fortis Bank Nederland by the Belgian parent company may have allowed a breakthrough in the negotiations; in this respect, it was a logical and wise move.

The last-minute assumption of €16 billion in long-term loans, an agreement that was made after the Dutch and Belgian authorities had reached an agreement, made the directors of Fortis Holding willing to provide the required signatures. The assumption of these loans provided Fortis with an advantage of €625 million.

Transfer of long-term debt: additional risks for the State

The long-term loans that were assumed, which together amounted to €16 billion, carried a high risk due to the long term and because a large portion of these loans were subordinated. The nature of these loans was therefore partly that of equity, a large part of which would later be converted into core capital. The State thus assumed an additional risk. The Committee concludes that this part of the transaction was agreed after the agreement between the Dutch and Belgian Prime Ministers had been sealed. As far as the Committee can determine, this part of the transaction was entered without the the Dutch Minister of Finance and the Dutch Prime Minister, who were ultimately responsible, being fully aware of the risks. The Committee is surprised by the lack of attention to this part of the transaction.

Information provided to the House of Representatives: incomplete and late

A number of issues surrounding the acquisition of the Dutch Fortis subsidiaries were not fully shared with the House of Representatives. The Minister referred to the cost as a 'negotiated outcome'. It was not mentioned that an amount of approximately €17 billion was actually needed for the Belgian authorities, and that the price was apparently dictated primarily by the needs of Belgium. Nothing was ever reported about the presence of an emergency scenario using legal means and the associated threat towards the Belgian authorities. Reports regarding the valuation referred to 'market price'. Given the shortcomings in the valuation, this was not the case. The character of the long-term loans, partly subordinated and perpetual, which generated a higher risk profile, was not reported initially. The private technical briefing to the Standing Committee on Finance on 14 October 2008 offered the Minister of Finance an excellent opportunity to provide additional insight and disclosure regarding the matter. This technical briefing, however, was far from complete. The Committee is of the opinion that the House of Representatives was also informed incompletely and late with regard to the second intervention involving Fortis.

1.2.4 Follow-up process

On 21 November 2008, the Finance Minister announced that Fortis Bank Nederland and the ABN AMRO subsidiary would be merged into a single bank. This decision was accompanied by a number of recapitalisation measures, which involved billions in additional capital outlays.

Substantiation for the decision to integrate was shaky

In the announcement on 21 November 2008 of the plans to merge Fortis Bank Nederland and the ABN AMRO subsidiary, the Minister of Finance made little or no mention of the costs of integration, either quantitative or qualitative, even though these costs were known to the hired consultants to the Ministry of Finance. The necessity of supplementary investments could have been foreseen, for example with regard to the EC Remedy, the costs of separation and integration (including the associated possible benefits due to synergy and cost savings), as well as capital additions within the banking subsidiaries.

The Committee can draw no other conclusion than that the hired consultants reported this information to the Ministry. This information was not properly disseminated further within the Ministry. As a result, the Minister's actual choice to merge the two banks was insufficiently substantiated.

Recapitalisations were largely foreseeable

The direct consequences of the transaction of 3 October 2008 for the capital position of Fortis Bank Nederland were carefully calculated. Partly because of unexpected setbacks in late 2008, a significant capital need emerged within Fortis Bank Nederland, amounting to approximately €5 billion. The Committee has established that Fortis Bank Nederland had been weakened by the acquisition and that there was no margin for unexpected setbacks.

The capital shortages in the ABN AMRO subsidiaries were known during the negotiations on 3 October 2008, which resulted in the acquisition of the Dutch subsidiaries of Fortis. The Committee concludes that the Dutch authorities should have been able to know about the additional future expenses around the time of the transaction. With the decision to merge Fortis Bank Nederland and the ABN AMRO N-share, it was effectuated that these expenditures would become the responsibility of the owner, the Dutch State.

Information provided to the House of Representatives: incomplete and late

The 'technical reallocation' that took place in December 2008 created considerable confusion in the House of Representatives, and the Minister of Finance did not clarify these matters until June 2009. The Committee is of the opinion that the Minister was initially so remiss in providing information to the House of Representatives as to prevent the House of Representatives from gaining an accurate overview of the situation.

The recapitalisation measures were communicated to the House of Representatives in June and November 2009. The existence of a large portion of the items in question was already known at the time of the transaction of 3 October 2008, if not in exact amounts, at least in terms of their presence. These items were not reported in either qualitative or in quantitative terms in the communication to the House of Representatives on 21 November 2008 with regard to the decision to merge Fortis Bank Nederland and the ABN AMRO N-share. The Committee is of the opinion that the Minister could have and should have reported at least the existence of the items that were already known to involve additional costs in November 2008, in addition to providing an indication of the magnitude of some of these items (e.g. the Z-share). The House of Representatives thus received neither timely nor complete information.

1.2.5 Conclusions in the case of Fortis/ABN AMRO

Intervention was necessary, but there were errors in the execution

The Committee finds that the interest of financial stability justified the intervention of the Dutch authorities in Fortis, and it appreciates the commitment and efforts that these authorities made during a very hectic situation. The Committee also finds, however, that almost all of the parties involved – beginning with Fortis itself – made major errors with regard to the crisis at Fortis.

The process surrounding the second intervention was poorly organised

The Committee finds that both interventions in Fortis were highly ad hoc in character. The Committee is of the opinion that the Ministry of Finance established insufficient structure between the two interventions. More and broader expertise should have been brought in at the time that it was decided to acquire the Dutch subsidiaries of Fortis. The consultants who were actually hired were underutilised. For this reason, the decision-making process within the Ministry of Finance lacked sufficient checks and balances.

The price for financial stability was high and out of proportion to the economic value

From a commercial perspective, there is no doubt that too much was paid for the Dutch subsidiaries of Fortis. This applies to the original purchase price of €16.8 billion for the shares and, to an even greater

extent, to the approximately €30 billion that was ultimately involved with Fortis/ABN AMRO. The €16.8 billion was paid primarily as the price for financial stability in the Netherlands, Belgium, Europe and beyond; the additional costs were a supplementary price for financial stability in the Netherlands. Although these investments were indeed accompanied by economic value, it is unlikely that the total investment will be recouped.

Deficiencies in the exchange of information have had costly consequences

In some cases, information that was already available was not handled properly. This applies to the Ministry of Finance with regard to its lack of action around the beginning of the acute crisis at Fortis in the summer of 2008, well before the collapse of Lehman Brothers. This also applies to the Dutch authorities involved (particularly the Ministry of Finance and DNB) during the first intervention (Benelux Agreement), when these parties held to the line of a private Dutch solution for too long. Finally, this also applies to the second intervention, which became necessary as a result. Apart from the question of their actual importance to the ultimate outcome of negotiations with the Belgian authorities, the valuations that were calculated either ignored or made improper use of important information that was indeed available. These items proved to be the most important cause of the subsequent additional costs.

Although the knowledge concerning the shortage of capital within ABN AMRO was known to DNB, it apparently failed to reach the responsible parties within DNB who would have been able to bring it to the delegation's attention. With regard to the deficit in the F/N-Share, the information was apparently not (or insufficiently) communicated to Lazard, the consultant to the State. In some ways, Lazard could also have been more thorough in its work. For example, the Committee is surprised that little or no attention was paid to the official agreements between the consortium partners.

Responsible parties were poorly informed

The Committee is of the opinion that the responsible parties within the government – i.e. the Prime Minister and the Minister of Finance – were insufficiently informed about the valuations prepared by their own officials and others involved in the delegation, including officials from DNB. The Committee has established that the Deputy Treasurer General and the president of DNB were present during the final negotiations in the residence of the Belgian Prime Minister. Both were aware of the valuation presentation and could have provided broader information to the Ministers. The Deputy Treasurer General was also briefed by the valuation team, which included consultants from Lazard, regarding additional relevant information ('Speaking notes'). As far as the Committee has been able to determine, this additional information was not shared with the Minister of Finance and the Prime Minister.

The State brought in additional expertise, partly at the urging of DNB. Nevertheless, this expertise was underutilised. Lazard's advisers were not involved in the final negotiations, and the officials of the Ministry of Finance and of DNB who were involved made limited use of the information that was generated by the consultant and provided to both the negotiating delegation and DNB.

At the same time, the responsible Ministers and officials also insufficiently probed for possibly relevant information. Fundamental questions were not asked, including whether the subsidiaries were adequately capitalised, the status of the break-up of ABN AMRO and the possibility of skeletons in the closet. The Committee was surprised to learn that the responsible parties had not posed any questions directly to the consultants, or were not able to do so, but that these consultants were still held responsible in the public hearings for errors made.

Exchange of information within DNB was deficient

The Committee is surprised that the president of DNB was only partially familiar with the information from the valuation team, in which its staff played an important role. The Committee has established that the president of DNB had no knowledge of the additional information ('Speaking Notes') that the valuation team had prepared for the negotiations on Thursday 2 October 2008. This information was indeed present within DNB. For this reason, the president of DNB could not inform the Prime Minister and the Minister of Finance about this important information. The Committee is of the opinion that the president of DNB was deficient in his role as adviser to the Ministers.

Adequate supervision is problematic, particularly in situations involving cross-border supervision

Following the findings of the TCOFS, the limitations associated with external supervision have become clear to the Committee. DNB lacked the means necessary to intervene in Fortis. Moreover, despite its diligence and efforts, it had insufficient grip on ABN AMRO and the separation and integration processes following the takeover in 2007. Finally, in late September 2008, DNB apparently had only limited insight into the problems at ING.

Insufficient balance between prudential aspects and competition aspects

The Remedy imposed by the European Commission played an important role in the problems at Fortis. It also brought serious complications and significant costs to taxpayers during the process following the acquisition by the Dutch State. In this respect, additional attention to system considerations is necessary, both in the regular supervision and in decisions regarding mergers and acquisitions; the degree of complexity and duration of such processes should be explicitly addressed. Prudential and competition considerations should not be assessed separately (e.g. through Remedies imposed by European Commission), and a more balanced assessment of these aspects is needed.

The House of Representatives was informed insufficiently and late by the Minister

The Committee is of the opinion that the House of Representatives was informed too late during all phases of the process surrounding the takeover of Fortis and ABN AMRO. This was the case with regard to the Benelux Agreement, the acquisition of the Dutch subsidiaries of Fortis by the State and the subsequent recapitalisations. The Committee is also of the opinion that the House of Representatives received incomplete information about the Benelux Agreement, about the assumption of the long-term loans made by Fortis Bank Nederland to Fortis, in the course of the technical briefing to the House of Representatives regarding the acquisition of the Dutch subsidiaries of Fortis, about the decision to integrate the banking subsidiaries, and about the ‘technical reallocation’.

The House of Representatives was not thorough enough and occasionally had an incorrect focus

The role of the House of Representatives was largely retrospective. The Committee finds that the House of Representatives paid little attention to the trans-national dimension of the problems at Fortis and the associated national reflexes during the discussions concerning the interventions. The focus on the Dutch national interest largely prevented critical reflection on the chosen solutions. The parliamentary debates did not always place appropriate emphasis in terms of major and minor issues. Although this is undoubtedly related to the information that the Minister provided to the House of Representatives, the Committee also wonders whether the MPs were given or took sufficient time to understand and use the information properly.

1.3 ING

On 19 October 2008, it was announced that ING would use the capital provision facility and receive a capital injection of €10 billion in the form of Core Tier 1 (CT1) securities purchased by the State. A new intervention followed several months later, on 26 January 2009. This intervention involved the Illiquid Assets Back-up Facility (IABF), which the State created for ING. The IABF is a special arrangement in which the State assumed the economic risks for 80% of a portfolio worth €30 billion in US Alt-A mortgage-backed securities, which were largely in the possession of ING’s US Internet bank, ING Direct USA.

1.3.1 Preliminary process: summer 2007 – September 2008

In its report ‘*Credit Lost*’, the TCOFS established that, unlike many other banks, ING avoided to invest in high-risk, complexly structured products and sub-prime mortgage products. The Committee has established that, in the period up to late 2007, ING took a number of decisions that were justifiable at that time and according to the associated knowledge, despite the negative consequences that ultimately resulted from these decisions. The company encountered problems by accumulating a large portfolio of bundled mortgages (i.e. the Alt-A mortgage-backed securities of ING Direct USA).

ING made itself largely dependent on the Alt-A market

From the start, ING Direct's portfolio of American mortgage-backed securities grew explosively. The Committee has established that the Supervisory Board had posed critical questions concerning this growth in early 2006. Nevertheless, ING chose to expand the portfolio.

Under US law, ING Direct USA, ING's internet bank in the US, was required to invest at least 65% of the collected savings in consumer credit. The company opted to make a large portion of these investments in Alt-A mortgage backed securities, many of which involved high-risk mortgages in terms of origin and type. The Committee finds that ING invested far more in Alt-A mortgage-backed securities than was required by law.

The scale and nature of the Alt-A portfolio made ING heavily dependent upon developments within a specific market with a limited number of participants. The Committee finds that ING underestimated the consequences of this concentration risk.

ING's response to the deteriorating US housing market was insufficient and late

In late 2007, it was clear that there were serious problems in the US housing market. For a long time, however, ING insisted that its Alt-A portfolio was safe, as the expected credit loss was limited. ING even continued to purchase Alt-A securities until the US regulator OTS recommended to stop in the second quarter of 2008. The accounting classification of the portfolio made it necessary for ING to maintain an increasingly negative revaluation reserve. This drew increasing attention from market participants. The market perception of the Alt-A portfolio deteriorated rapidly in early 2008.

In the hearings, ING reported that it had underestimated this effect. The Committee concludes that ING also underestimated the shifting of problems from the sub-prime to the Alt-A market, and that the acknowledgement of its problems with the Alt-A portfolio was late and insufficient. The Committee is therefore of the opinion that ING did not respond adequately to the continuously deteriorating situation within this market.

ING underestimated the effects of regulation

Under the Basel II rules, the decrease of the credit rating of the Alt-A bonds required ING to maintain more capital. In addition, the IFRS accounting rules required taking impairments on the portfolio that were in excess of the expected credit loss.

The Committee concludes that ING underestimated the effects of these rules. In the opinion of the Committee, ING is to blame for allowing itself to be surprised by the effects of the accounting and Basel II rules within a rapidly deteriorating market.

ING could have and should have reduced the risks

In the spring of 2007, ING decided to diminish its capital position by purchasing €5 billion worth of its own shares, spread over a two-year period. During the first bailout of Fortis, in late September 2008, ING was seriously considering a takeover of ABN AMRO and other subsidiaries of Fortis.

This last consideration shows that the company maintained an overly positive image of itself until shortly before it put its problems on the table at DNB and the Ministry of Finance. It was only until shortly before the company did this in early October that ING began to have serious concerns.

In the opinion of the Committee, ING had sufficient cause for action either directly (through the actual Alt-A portfolio) or indirectly (by reinforcing its capital position) in the first months of 2008, and certainly after the first quarter.

DNB based its judgement primarily on ratings and on the assessment of OTS

In response to the evolving crisis, DNB began to monitor the liquidity of the Dutch financial institutions and their exposure to assets related to the US housing market more intensively, through actions such as the establishment of a Crisis Monitoring Team in September 2007. In 2008, DNB had

frequent contact with ING regarding the company's capital position. ING continued to meet its own capital objectives, as well as the prudential standards of the supervisor. During this period, DNB especially urged improvements in the liquidity position. During the spring of 2008, DNB also began paying increasing attention to ING's Alt-A portfolio.

The Committee finds that DNB based its assessment of the Alt-A portfolio in large part on the triple-A rating, on the buffers in the portfolio that underpinned this rating, and on the judgement of the US regulator to ING Direct USA, OTS. DNB thus devoted only limited substantive attention to the Alt-A portfolio.

DNB should have taken firmer action regarding ING during the preliminary process

In the second quarter of 2008, the US regulator OTS strongly advised ING to stop purchasing Alt-A bonds. From that time, the portfolio also began to draw increasing attention and concern from DNB. DNB requested information from ING and held talks with ING executives and OTS. The situation did not become critical in the eyes of DNB until late September 2008, when ING's share price began to decline sharply following the collapse of Lehman Brothers and the Fortis crisis. Around 2 October, ING approached DNB to discuss its problems, including the Alt-A portfolio.

The Committee finds that DNB nevertheless failed to communicate to ING a clear recommendation to reduce risks during this period. In the eyes of the Committee DNB seems to have felt no sense of urgency, despite the talks with ING and its improved knowledge about the portfolio. The concerns were thus not sufficient to call for a change of course.

The Committee is of the opinion that the market signals that should have led ING to intervene should also have given DNB a reason to use existing instruments to take firmer action towards ING.

The Ministry of Finance paid insufficient attention to the vulnerability of ING prior to October 2008

As far as the Committee can determine, it was not until 8 October 2008 that the Ministry became aware of the specific problems of ING, particularly with regard to the Alt-A portfolio.

The Committee has established that the Ministry of Finance acted energetically to address these problems from 8 October 2008, when it received the request to help develop a solution to ING's problems.

Beginning in the summer of 2007, however, there were signs indicating impending problems in the financial sector and that the Dutch institutions were unlikely to prove immune to these problems. Nevertheless, it was necessary to develop the capital injection that ING received in October in an ad hoc manner.

The Committee is of the opinion that the Ministry also paid insufficient attention to the vulnerable position of ING before October 2008, particularly given the bank's systemic relevance.

1.3.2 Capital injection for ING: October 2008 – November 2008

On 19 October 2008, ING received a capital injection of €10 billion in the form of securities known as CT1 securities.

Intervention was necessary on 18-19 October 2008

In early October, ING reported its Alt-A portfolio and the company's capital position as problems to DNB and subsequently to the Ministry of Finance. For some time, market players had been demanding increasing capital ratios, and those of ING lagged behind those of foreign competitors that had received capital injections. ING suffered greatly from the reduced market confidence in the company's Alt-A portfolio.

Given the position of ING within the system, the Committee is of the opinion that, under these circumstances, intervention was necessary during the weekend of 18 and 19 October 2008.

The choice for capital injection in October allowed the core problem to persist

During the weekend of 18 and 19 October 2008, an agreement was signed according to which the State would provide a capital injection of €10 billion to ING. DNB, ING and the Ministry of Finance agreed that the Alt-A portfolio was one of the core problems. Nevertheless, no specific solution was provided for the Alt-A portfolio (e.g. by placing a guarantee on the portfolio, taking over at least a part of the portfolio or some intermediate form), even though this had been the initial intention of ING and DNB.

The Committee notes that this action entailed the risk that the problem of the Alt-A portfolio would manifest itself again later. In theory, it would have been possible to structure a direct solution to the Alt-A problem such that not all of the losses would be borne by the State. This would have required the institution to pay a reasonable, possibly hefty, price for the risks assumed by the State.

The Ministry's 'unwillingness' was decisive

On addressing the Alt-A problem directly in October, the Ministry of Finance states: “we were unable” and “we were unwilling”. The Ministry’s ‘unwillingness’ appears to have been motivated by the desire to avoid saddling the taxpayer with the impaired assets of banks, in part because of the moral hazard that would accompany such action. In addition, the Minister indicated that such a solution was not possible due to lack of political support. The Committee has found no evidence that the Minister tested the political support for a solution to the asset side of the balance sheet in the House of Representatives prior to the talks with ING.

With regard to the Ministry’s ‘inability’, the Committee has established that, during the weekend of 18-19 October 2008, the Ministry of Finance had used this as an argument against offering a specific solution for the portfolio. This was because the Ministry was of the opinion that there was insufficient insight at that time into the composition and risks of the portfolio in order to conduct a proper valuation. In doing so, the State would have run an unquantifiable risk. Officials from the Ministry of Finance worked until Saturday 18 October to develop solutions to reduce the risks involved in the Alt-A portfolio.

The Committee is of the opinion that the ‘inability’ was partly because ING and DNB had failed to raise the issue of the Alt-A portfolio until it was too late. The Committee also concludes that the reluctance – the ‘unwillingness’ – of the Minister and his senior staff clearly played a decisive role. The Committee is of the opinion that this caused the process of collecting the necessary information about the Alt-A portfolio to be insufficient and late after the portfolio had been recognised as a problem.

Change in accounting rules: unclear communication led to an overly optimistic picture

One factor that played a role in the negotiations during the weekend of 18-19 October was a change in the accounting rules, which was seen as a possible solution to the problems with ING’s Alt-A portfolio. Examination of the documents has shown that both ING and DNB saw this as a possible solution and that, during the weekend, DNB informed the Ministry that this change appeared to offer support. The change in accounting rules also appears to have figured in the talks between ING and the Ministry of Finance. On 22 October 2008, during the parliamentary debate following the capital injection, the Minister stated that the change in accounting rules had made the problem ‘noticeably more manageable’. In late October, ING decided not to use this option. The Ministry made no further process agreements with DNB and ING regarding this issue.

Several witnesses made contradictory statements before the Committee regarding the extent to which ING and DNB informed the Ministry of their reservations concerning this option during the weekend. In any event, the Committee has concluded, based on the public hearings, that these reservations were not communicated with sufficient care, and that this caused the Ministry, DNB and ING to have a

different view of the possibilities offered by the change during the weekend. As a result, the Minister made a statement during the parliamentary debate that painted an overly optimistic picture. In the debates, no mention was made of the fact that the opportunities that this change offered for finding a solution were still being investigated at that time.

The lack of process agreements regarding Alt-A did not lead to "cleaning up the balance sheet", but rather to delays in doing so

Process agreements regarding the Alt-A portfolio were not made during and following the weekend. No efforts were made to ensure further investigation of the issue. Neither the Ministry nor DNB required ING to provide better insight into the portfolio (e.g. by engaging an independent party).

In the opinion of the Committee, the lack of process agreements regarding the further approach to the Alt-A problem eliminated the possibility of "cleaning up the balance sheet" in the sense of the statements made by the Minister in the House of Representatives at the time that the capital provision facility was drafted. The Committee attaches great importance to this, given the heavy emphasis that the Minister of Finance placed on the requirement of a "cleaning up the balance sheet" during the parliamentary debate on the capital provision facility.

The lack of process agreements resulted in sub-optimal utilisation of the period following the capital injection. In the opinion of the Committee, this led to delays in identifying and addressing the problem when it re-emerged after the capital injection.

1.3.3 Weekend in January 2009: IABF transaction

On 26 January 2009, the Ministry of Finance and ING agreed to the Illiquid Asset Back-up Facility (IABF). With this facility, 80% of the economic risk of the Alt-A portfolio was transferred to the State in exchange for a fee.

The complexity of the IABF was partly unnecessary and potentially counter-productive

On 26 January 2009, the Ministry of Finance and ING signed the IABF. Because of this transaction, ING was able to take 80% of the portfolio off its balance sheet, as the risks relating to that portion were no longer borne by the company. This released a large part of the negative revaluation reserve.

The Committee concludes that, although the IABF can indeed be regarded as an inventive solution, it was also complex. This complexity may have played a negative role in the European Commission's assessment of the measure. One of the arguments for its complex construction was that it would prevent the solution from contributing to the EMU debt. The Committee concludes that the complex structure ultimately did not prevent the IABF from contributing to the Netherlands' EMU debt.

ING and DNB should have foreseen that exceeding the deadline could cause problems

The fact that the US accounting rule entitled 'other than temporary impairment' (OTTI) could cause major losses became known at a late stage in the negotiation process – more specifically, in the week prior to the deal on 26 January 2009. During the negotiations, agreement between the parties emerged with regard to the need to avoid activating OTTI when drafting the final solution.

The Committee is of the opinion that first ING and second DNB and the Ministry of Finance should have foreseen that exceeding the deadline of 1 January 2009 might cause complications.

DNB drew a line in the sand

The Committee has established that, during the negotiations regarding this aid operation, DNB 'drew a line in the sand' at a high level, the crossing of which would be irresponsible from the perspective of the supervisor. This eliminated the possibility of a substantially higher fee for the Dutch State. Both the OTTI rule and broader prudential considerations played a role for DNB in this regard. In the assessment of DNB, a substantially better price for the Dutch State would have jeopardised the solvency of ING, and thus possibly financial stability in the Netherlands.

Portfolio transaction price: in line with the analysis by Dynamic Credit

The total price (i.e. the combination of the costs of transferring the portfolio and the various fees) that ING paid for the IABF transaction was not competitive from a market point of view.

The Committee is nevertheless of the opinion that the market price at the time when the deal came about did not provide a realistic reflection of the actual value of the portfolio. The Committee understands that DNB, the Ministry of Finance and ING sought connection with the analysis by Dynamic Credit, which was based on an estimate of the actual economic value.

A higher fee for the IABF would have been preferable

In these special circumstances, there was reason not to take the current market price as the basis for the valuation of the portfolio. A market-based fee should nonetheless remain the starting point when the State rescues a market participant during a crisis. In the opinion of the Committee, the fee that ING paid for the IABF did not meet this criterion. The Committee nonetheless finds that the passage of the deadline of 1 January 2009 increased the associated risks of a higher fee for the State. Although this problem could have been overcome through careful communication, it was not clear how depositors, investors and other market participants would have reacted to the publication of a major, OTTI-triggered loss in December 2008, which could not have been compensated in the same quarter for accountancy-related reasons.

The Committee is therefore of the opinion that a solution in which ING had paid a higher fee would have been preferable, although it understands that the risk of uncontrollable effects played a decisive role at the time the decision was taken.

The Minister's arguments against a new capital injection were not consistent

By providing a capital injection in the form of shares or by converting CT1 securities into shares, the State would acquire a measure of control in the company. The Committee concludes that the Minister of Finance was of the opinion that, when providing a supplementary capital injection to ING, the State would have made an investment in the same order of magnitude as the market value and that this could not be justified without the State acquiring complete control over the company. Although this argument had not posed an impediment during the first intervention in Fortis, it made the Minister unwilling to provide any new capital injections to ING. The Committee thus finds that the Minister's reasoning was not consistent.

Earlier action would have made a better solution possible

If the solution had been drafted before the deadline of 1 January 2009, several solutions would have been conceivable as a result of which the State could have received a higher fee, possibly in combination with a capital injection in order to maintain ING's solvency ratios.

The Committee is of the opinion that the pricing of the IABF was ultimately unavoidable under the compelling circumstances of the moment, and taking into account the limitations imposed by the OTTI rule and the prudential considerations of the supervisor. The Committee nevertheless emphasises that earlier action could have and should have taken place with regard to a solution for the Alt-A portfolio. This would have made a better solution possible.

1.3.4 Period following the IABF transaction

In early March 2009, emergency legislation was prepared, which would allow for the nationalisation of ING, if necessary. The European Commission assessed the support measures taken on behalf of ING and imposed radical re-structuring.

It was wise to develop emergency legislation regarding nationalisation

Beginning in December 2008, efforts were made with regard to nationalisation as an emergency scenario, in addition to developing a specific solution to the problems with the Alt-A portfolio. The emergency legislation developed for this purpose was expressly intended as a last resort, and it was

seen as a 'horror scenario'. This emergency legislation was ready for activation in early March 2009. The Committee is of the opinion that it was wise to develop such emergency legislation.

Insufficient consideration was given to the position of the European Commission; assessment of restructuring was not possible

Various parties, including representatives of the State, DNB and ING, have argued before the Committee that the European Commission has imposed excessive restructuring requirements on ING. The main requirements of the European Commission are to divest ING Direct USA, all insurance subsidiaries and a Dutch banking company. The required balance reduction was 45%. The European Commission also required an adjustment of some parts of the IABF transaction, thus increasing the costs for ING by about €1.3 billion. A number of critical remarks about the European Commission's assessment of the IABF transaction were made before the Committee. As far as the Committee has been able to determine, the European Commission did not conduct any independent valuation of the entire Alt-A portfolio. On 2 March 2012, the Court of the European Union partly overturned the decision of the European Commission, although it made no ruling on the substance of the case. This means that a new decision must be taken by the European Commission.

The Committee has established that neither the Ministry of Finance nor its adviser DNB took the European Commission's position sufficiently into account. One illustration is the Ministry's pro forma registration of the capital injection, which assumed that the capital injection did not involve state aid.

The Committee has received no supporting argumentation from the European Commission regarding the restructuring that was imposed upon ING. In Chapter 12 of this report, however, the Committee does note that, based on the volume of aid calculated by the European Commission, there are significant differences between banks with regard to the required balance reduction, with ING having to achieve a relatively large reduction.

Due to a lack of information from the European Commission and because the case is still pending, the Committee is unable to judge the specific restructuring measures and adjustment of the IABF transaction that the European Commission imposed upon ING.

1.3.5 General conclusions from the case of ING

ING board members made insufficient effort to resolve the problem

According to the documents that were reviewed, the supervisory board expressed concerns about the growth of the mortgage portfolio as early as the beginning of 2006. Beginning in the autumn of 2007, particular emphasis was placed on the importance of clear communication regarding the Alt-A portfolio, for reasons including the credibility of ING in this area. In the course of 2008, the concerns within the supervisory board increased, and more questions were asked.

The Alt-A portfolio was discussed extensively within ING's executive board at an early stage. In a later stage, in October and November 2008, the board considered several options, including reclassifying and selling the portfolio, in order to mitigate the risks of the Alt-A portfolio.

The Committee concludes that the concerns of the supervisory board generated no concrete recommendations for action. It also concludes that the board of directors ultimately made insufficient effort on its own initiative to resolve the Alt-A problem.

The actions of the ING board hindered an effective approach to the problems

At the time of the crisis measures taken by the Dutch State, ING reversed decisions on several occasions. These decisions involve the submission of a bid for ABN AMRO, participation in the guarantee facility and the capital provision facility, as well as the use of a change in accounting rules to solve ING's problems.

The Committee finds that this produces an image of a tentative and indecisive executive board at ING, which was not operating along a steady course. The Committee is aware of the unique and exceptional circumstances in which the board of directors had to operate, but this does not alter the Committee's opinion that these actions impeded an adequate approach to the problems.

The Committee notes that a change of management took place at ING Group around the time of the IABF intervention. The Minister of Finance has stated that he believes that this change resulted in more vigour within ING's executive board. The Committee agrees with this observation. The Committee also notes that the governance structure of the ING Group has undergone changes that have increased the weight of the position of Chief Risk Officer.

Information provided to the House of Representatives was incomplete and partly late

The Committee finds that, in the process of the capital injection into ING, the House of Representatives was informed only about the final signed agreement and not about the extensive discussion with DNB (and ING) concerning the possibility of a specific solution for the Alt-A portfolio. The consideration of alternatives and the substantiation of the choice that was made were not shared with the House of Representatives. The Committee finds that the Minister of Finance proceeded from the principle of avoiding to take over any risks from financial institutions, although the Minister did not explicitly communicate this to the House of Representatives.

The Committee also notes that no feedback was provided to the House of Representatives with regard to the fact that ING made no use of the change in the accounting rules after the capital injection had taken place.

The Committee further notes that DNB again brought the problems with the Alt-A portfolio to the attention of the Minister of Finance on 4 December 2008. In the opinion of the Committee, from that moment it was clear to the Minister that there were indeed 'skeletons in the closet' at ING. The Committee has also established that, in December 2008, efforts were made within the Ministry – in collaboration with DNB, ING and several hired consultants – to develop a specific solution for ING's Alt-A portfolio. Until the time of the conference call late on Sunday evening – i.e. after the IABF deal had been completed on 26 January 2009 – the House of Representatives received no (confidential) information about this at any point.

Considering the House of Representatives' wish to be informed in advance (and confidentially, if necessary) with regard to crisis measures, and given the sizeable financial consequences associated with the IABF measure, the Committee is of the opinion that the House of Representatives was informed insufficiently and inadequately of the fact that a second intervention in ING was necessary. The Committee is of the opinion that the Minister of Finance had sufficient time prior to the IABF transaction to inform the House of Representatives confidentially on this matter.

On balance, the Committee considers that the provision of information to the House of Representatives regarding aid to ING was incomplete and not timely on several occasions. The Committee finds that the Minister of Finance was negligent in carrying out his duty to provide information actively.

Parliamentary reserve could be useful if shared in a timely manner

The Minister of Finance included a parliamentary reserve clause in the agreement with ING. The Committee has established that the choice was made not to report this fact explicitly to the financial spokespersons of the House of Representatives during the conference call. Partly for this reason, the House of Representatives no longer had the possibility to exercise influence on a transaction that could involve a substantial loss for the State.

In the opinion of the Committee, a parliamentary reserve can be a good instrument, provided it is shared with the House of Representatives at a time at which the transaction can still realistically be adjusted.

The role of DNB in the support-provision process requires clarification

The Ministry of Finance is of the opinion that DNB positioned itself too strongly in favour of the interests of ING in the period leading up to the second provision of aid. At the same time, according to DNB the Ministry was paying too little attention to the financial stability and solvency of ING under these difficult circumstances. Although tensions between actors are inherent in negotiations during periods of crisis, the Committee concludes from this that DNB's position apparently requires clarification.

In the opinion of the Committee, DNB's primary task in such a trajectory is that of prudential supervisor. In addition, it has an important role as adviser and provider of information to the Minister of Finance. It follows that DNB has the responsibility to hit the brakes whenever negotiations are heading in the wrong direction. The Committee finds that DNB emphasised differing roles at different points during the negotiations.

The position of the Ministry of Finance regarding toxic assets impeded a solution for too long

For the Ministry of Finance the desire to limit costs to the taxpayer was nearly always the decisive factor in addressing the problems of ING.

The Committee is of the opinion that this is a sensible desire, although it also notes that its translation into a preference for or rejection of specific solutions took on a dogmatic character at several instances. This especially concerned the position never to take over toxic assets.

The Committee finds that a comprehensive solution for ING would have been possible and desirable during the autumn of 2008. The Minister of Finance acted contrary to advice from DNB and signals from the market by refusing a direct solution for the Alt-A portfolio. This attitude on the part of the Minister and his senior officials ultimately led to a suboptimal solution for both the State and ING, with far-reaching consequences for ING and higher risks for taxpayers than were necessary.

1.4 Deposit guarantee scheme

On 7 October 2008, the European Finance Ministers decided to increase the coverage of the deposit guarantee scheme to at least €50,000. Before this decision, the applicable coverage was at least €20,000 based on European regulations. On the same day, the Netherlands decided to increase its own coverage to €100,000. The previous rate of coverage in the Netherlands had been € 40,000, with a 10% deductible for the second € 20,000.

European dynamic a reason for the adjustment

The reason for the decision to increase the coverage of the deposit guarantee scheme in the Netherlands was motivated by a trend towards higher guarantees on savings in several European countries. This dynamic had been gaining momentum rapidly following Ireland's decision to provide a full guarantee on the debts and deposits of the six largest Irish banks. The French and German governments had made a political commitment to offer full coverage for savings in their countries. This created an uneven playing field within Europe, resulting in shifts of deposits between Member States, as well as shifts between domestic and foreign banks within Member States.

The decision to increase the deposit guarantee scheme in the Netherlands was a wise one

The decision of the Minister of Finance to increase the coverage of the deposit guarantee was made within a context in which a high degree of anxiety was perceived by depositors in the Netherlands.

The Committee finds that the mobility of savings in the Netherlands was indeed high in the autumn of 2008. People had been withdrawing their savings from Fortis – which experienced a very high outflow of liquid assets in September 2008 – as well as from other Dutch institutions. Transfers of savings peaked in October 2008, indicating an increased mobility of savings in the Netherlands, a development that had the potential to threaten financial stability.

The Committee is of the opinion that, combined with the European dynamic, the turbulence in the Dutch savings market created a situation in which increasing the coverage of the deposit guarantee scheme in the Netherlands was a sensible measure.

Proportionality: the increase to €100,000 was understandable

In the European context, the decision was made to increase coverage to at least €50,000, as a gesture towards the new Member States that were unable to afford a further increase. Nevertheless, the decision of the joint Finance Ministers gave the Netherlands the option of choosing to increase its coverage to only € 50,000. The Finance Minister chose to increase the coverage further to €100,000.

Under normal circumstances, the Committee would have considered coverage of €100,000 excessive. The Committee understands that the trade-off between moral hazard and providing confidence to depositors operates differently in times of crisis than it does in normal times. For this reason, the Committee understands the choice not to limit the increase to amounts of €50,000. Moreover, a limited increase would not have resolved the problem of an uneven playing field within the European Union.

In this regard, the Committee notes that the decision of October 2008 to increase the coverage of the deposit guarantee scheme to €100,000 created a precedent and therefore casts a shadow. This fact must be considered in the decision-making and communication regarding adjustments to the coverage.

Recommendation 1: Reduce coverage of the deposit guarantee scheme and improve communication about guarantees.

Following the TCOFS, the Committee recommends decreasing the current coverage of the deposit guarantee scheme in the Netherlands to the European level of around €50,000. The European Commission's July 2010 proposal to amend the Directive on deposit guarantee schemes could offer guidelines for this purpose. The Committee further recommends improving communication and information to increase consumer knowledge regarding the deposit guarantee scheme.

1.5 Icesave

In October 2008, the Icelandic bank Landsbanki found itself in acute problems. The Icesave brand was operated by Landsbanki via a branch office in the Netherlands. Savings deposits at Icesave were guaranteed up to €20,887 by the Icelandic guaranteesystem; the Netherlands deposit guarantee applied to amounts above that. When it appeared that the Icelandic guarantee system would not immediately fulfil its obligations, the Minister of Finance guaranteed savers on 9 October 2008 that up to €100,000 of their savings would be returned one way or another.

On Saturday 11 October 2008, the Netherlands, Iceland's DGS and the Icelandic government signed a Memorandum of Understanding. This memorandum included an arrangement for the Dutch Icesave deposits that fell under Iceland's DGS. The Netherlands would pre-finance payment of the deposits.

Critical remarks on the decision-making regarding Landsbanki's accession to the Netherlands' DGS

The Committee questions the decision-making process within DNB in the context of the additional accession of Landsbanki to the Netherlands' deposit guarantee system. The Committee finds that the decision to grant topping-up was not raised on time at the highest level within DNB. Hence doubts about the desirability of granting topping-up were expressed too late to affect the decision. The Committee finds this incomprehensible.

Possible consequences of bankruptcy insufficiently analyzed

The Committee concludes that DNB recognized the limitations inherent in the Icelandic deposit guarantee system, even if this was only after the acceptance of the additional admission of Landsbanki to the Netherlands' deposit guarantee system.

Landsbanki was of relevance to the Icelandic system – in other words, a problem at Landsbanki would almost certainly lead to a systemic crisis in Iceland. The deposit guarantee system was only very marginally pre-funded and an ex-post apportionment at the other banks was not a realistic option at such a size and as a consequence of a problem at a systemic bank. Nor could the Icelandic government, in view of the scope and size of the Icelandic economy and the amount of the guaranteed deposits, be counted on to immediately act as a backstop for the Icelandic guarantee system. The Committee believes that, owing to these restrictions, the prompt and full fulfilment of the obligations arising from the guarantee system, either with or without the aid of the Icelandic State, was unlikely.

The Committee is of the opinion that the risks at Landsbanki and the limitations of the Icelandic deposit guarantee system should have formed grounds for DNB to consider taking further action in respect of the Icelandic deposit guarantee system as well.

It would, at any rate, the Committee believes, have been logical to outline the possible consequences of Landsbanki's bankruptcy. This does not, however, mean that DNB should have anticipated the actual fall of Landsbanki. It is an element of the supervisor's task to take a 'doom scenario' into account, particularly if such a scenario is not inconceivable. The Committee believes that this latter fact applies equally to the Ministry of Finance.

Necessity of guaranteeing savings not established

In the first place, the Committee notes that the savings deposits at Icesave were covered up to €20,887 by the Icelandic guarantee system. The fact that consideration had to be given to the extent to which the Dutch State would provide a helping hand was a direct consequence of continued default on the part of Iceland. The Committee considers the actions taken by Iceland to be blameworthy.

By deciding to guarantee savers' deposits, the Minister of Finance aimed to prevent the bankruptcy of Icesave having such an effect on the confidence of savers that the stability of other banks would be endangered. The Committee has not established the necessity of guaranteeing the deposits of savers at Icesave in order to ensure the stability of the financial system. The characteristics of Landsbanki/Icesave – foreign institution, small operation – entailed that problems at Icesave would not necessarily infect Dutch financial institutions, even under the circumstances in October 2008.

Understanding for the decision to guarantee savings deposits to avoid unease

The Committee acknowledges that, although Icesave could not be called a systemically relevant institution, failure to compensate would have led to greater unease. Consequently, the Committee does understand the Minister of Finance's wish to convey a confidence-inspiring message. In addition, the Committee considers it conceivable that compensation to savers at Icesave, in view of the social unease, would indeed have become politically unavoidable.

Proportionality: the decision to apply increased coverage of €100,000 was correct

On 7 October 2008, the Minister of Finance decided to increase coverage of the Dutch deposit guarantee system to €100,000. The Minister could have decided to declare that increase not applicable to savers at Icesave. The Committee believes, however, that the Minister acted correctly in not doing so and in applying the increased coverage of €100,000 to savers at Icesave. This complies with what the Committee typifies as a general sentiment of fairness; otherwise, other savers would have seen their deposits guaranteed to a higher amount, whereas those who would actually want to appeal to these guarantees would be excluded from doing so.

Proportionality: it was correct to exclude savings above €100,000 from compensation

Until 7 October 2008, savings deposits of Dutch savers were guaranteed to a maximum of €40,000; after that date the guarantee was set at a ceiling of €100,000. For savers at Icesave, it was clear – or should have been clear – that their savings were only guaranteed to a limited amount.

The Committee concluded earlier that the Minister was correct in deciding to apply the increased coverage of €100,000 to savers at Icesave. Loss compensation to savers at Icesave above €100,000

would have exceeded the coverage of the deposit guarantee system and was more than savers could count on. The Committee sees no grounds for full compensation of savers at Icesave.

Guarantee was responsible risk

At the time of the decision of 9 October 2008 to provide a guarantee, albeit provisional, for savings deposits at Icesave, there was as yet no agreement with the Icelandic authorities. Nor was it likely, in the opinion of the Committee, that the Icelandic deposit guarantee system would be able to proceed to make payments in the short term.

The Committee ascertains that in deciding to provide a guarantee, the Minister of Finance took a risk. That risk was acknowledged but was balanced against the necessity of providing a signal to savers in the Netherlands. The Committee considers the conclusion that the Minister carefully prepared his decision before telling savers that their deposits would be returned ‘one way or another’ justifiable. The Minister, the Committee believes, took a responsible risk in doing so.

Doubts about Iceland’s attitude

The Committee has reservations concerning the attitude of the Icelandic authorities in the period following the 11 October 2008 signing of the Memorandum of Understanding. Although a Memorandum of Understanding is not formally binding on the parties, the Committee finds that the rejection of every obligation during the ensuing period raises doubts concerning the good faith of Iceland.

Recommendation 2: Improve insight into the quality of banks

The Committee considers it undesirable that ‘small’ savers run a risk with their savings. At the same time, the Committee believes that, above a certain limit, savers can be expected to carry out a certain degree of research before opting to entrust their savings to a particular bank. In the light of the Icesave case, the Committee is of the opinion that savers, more than is the case at present, should be given insight into the quality of banks. The Committee refers in this context to the recommendation ‘More transparency in implementing supervision’ in the research carried out by the TCOFS. As an additional element of this recommendation, the TCOFS advised that the supervisor proceed to periodically publish solvency information. The Committee has ascertained that there has as yet been no response to that advice. It does, however, believe that this recommendation should be implemented without delay.

1.6 Capital provision facility

The capital provision facility was presented by the Dutch authorities on Thursday 9 October 2008. The government committed to providing capital to banks and insurers which, as a result of the financial crisis, were unable to meet the capital requirements which DNB considered necessary. This facility was one element of a package of measures aimed at liquidity injection and capital provision, with the aim of assuring the stability of and confidence in the Dutch financial system and to protect the financial organisations forming part of that system.

Following the announcement of the facility on 19 October 2008, ING became the first institution to receive a capital injection amounting to €10 billion. On 28 October 2008, AEGON followed with an injection of €3 billion. On 13 November 2008, it was announced that SNS REAAL had received a capital injection of €750 million. This institution was also given a further €500 million in capital via its majority shareholder Stichting Beheer SNS REAAL. AEGON has since paid the amount back in full. As from 2012, ING still has another €3 billion to remit; an amount of €565 million is still owed by SNS REAAL.

Capital provision facility was necessary

The Netherlands authorities presented the capital provision facility on 9 October 2008.

The Committee ascertains that, in the course of 2008, the pressure on financial institutions’ shareholders’ equity was steadily rising owing to developments and uncertainties in the financial

markets, such as the increase of impairments and depreciations, whereas, in fact, financial markets specifically require more and qualitatively better capital.

The Committee is of the opinion that the capital provision facility was necessary. In the first place, this is owing to the message conveyed by the government: in presenting the facility as an element of a package of measures, the government put across the requisite message that it was taking action to guarantee the stability of and confidence in the Dutch financial system. Secondly, the facility was necessary as institutions were actually in need of capital. The facility ensured that, if necessary, institutions could turn to the State.

The Committee concludes that the facility as well as its utilisation contributed to the objective of guaranteeing the stability of and confidence in the Dutch financial system and protecting the financial organisations which are part of that system.

Capital provision facility was proportionate

The facility, as presented by the authorities, left much room for customisation. Each request for a capital injection would be evaluated individually and the shape this took could, in principle, be determined for each injection separately.

The Committee ascertains that at the presentation account was deliberately taken of the possibility that circumstances might change. Furthermore, the Minister of Finance immediately made the substantial amount of €20 billion available, but no ceiling was assigned to the facility. This was in order to avoid doubts within the market as to whether the amount would be sufficient. In addition, the target group was formulated broadly: both banks and insurers could appeal to the facility, and no distinction was made with regard to systemic relevance.

The Committee is of the opinion that the facility was proportionate. Firstly, the approach opted for with the facility underlined the message of confidence which the government wished to convey. Secondly, the State had all the scope it needed to decide in each case on access to the facility and the conditions (such as issue price and coupon) that were attached to the recapitalisation.

Preparation for solvability problems inadequate on the part of DNB and Ministry of Finance

The Committee ascertains that the Ministry and DNB realised too late that fulfilling prudential standards was insufficient in times of crisis. They did not fully allow for the possible consequences of the restricted capitalisation of the financial system. It is a lost opportunity for both DNB and the Ministry of Finance that they did not jointly draw up possible scenarios and instruments aimed at addressing both solvability problems among institutions and a systemic crisis.

The Committee believes that the need for a capital provision facility would have been less substantial had both the supervisor and the financial institutions made a better and more timely estimate of the risks in relation to the low capital buffers and had acted on that knowledge. DNB could, for example, have insisted that institutions maintain higher capital buffers and, in extreme cases, ordered institutions to do so.

Capital provision by means of Core Tier 1 securities was an understandable choice

In coming forward with the capital provision facility, the exact substance of the conditions under which recapitalisation would take place were left open. The State made sure it had sufficient scope to determine its own position during negotiations with institutions. After the first injection (ING), the terms and conditions of the facility were largely established, meaning that the Minister of Finance effectively abandoned the idea of customisation.

The Committee ascertains that the government carried out all capital injections in the form of Core Tier 1 (CT1) securities. These securities contributed to the necessary reinforcement of the core capital of institutions. Also, both the State and the institutions had the opportunity to attach the desired conditions to the securities – among other things, terms relating to the coupon and repayment fees. This meant that the State would be less dependent on price developments at institutions than if the

State had acquired shares. No governance control is attached to the Core Tier 1 securities. The State did stipulate a form of control by proposing two members of the supervisory board. The Committee determines that this does not necessarily mean that less control was obtained than in the case of share acquisition. Control by means of shares is, after all, also dependent on the way in which control is exercised by the shareholder.

The Committee is of the opinion that opting for CT1 securities was a superior alternative to a construction based on shares. The Committee believes that from the perspective of efficiency, uniformity and equality, the choice of a single method of recapitalisation was well-founded. This should, however, according to the Committee, have been more emphatically communicated to the House of Representatives and the institutions.

Absence of international burden sharing

Many of the problems at Dutch institutions were caused by activities outside the Netherlands. The costs for dealing with these problems however were largely borne by the Netherlands. No agreements were made on burden sharing between governments either within or outside the European Union. Efforts were made, however, to maintain a level playing field within the European Union.

The Committee ascertains that partly through the efforts of the Ministry of Finance in respect of European coordination, a level playing field was created for financial institutions in Europe to the greatest possible extent. All Member States reached agreement on an approach in which recapitalisation would play a role. The European Commission subsequently issued further notices in which it reported how it would test this aid. The Dutch government, partly as a result of these European directives, indicated its willingness to provide capital to subsidiaries of foreign financial organisations or groups with registered offices in the Netherlands. This did, however, not occur in practice. Nor were there agreements made outside the European Union on burden sharing. The Committee ascertains that ING and AEGON did not qualify for the aid programme in the United States (the so-called TARP).

The Committee is of the opinion that with the efforts in respect of European coordination, a form of equality and assurance among financial institutions was established in the European Union. However, the Committee does ascertain that this in no way constituted any form of burden sharing within Europe.

Following the fall of Lehman Brothers, the Netherlands successfully initiated a coordinated European approach

Owing to the emphasis placed by the Minister of Finance on the necessity of recapitalisation, a policy guideline was deployed which turned out to be both useful and necessary. Partly in response to the plans in the United States (TARP initiative), the Ministry of Finance realised that a coordinated European approach and a European response were needed.

The Committee determines that the way in which officials of the Ministry of Finance and the Ministry of General Affairs worked together, as well as the cooperation between the Minister of Finance and the Prime Minister in approaching the European government leaders – in particular the French President Sarkozy (then President of the European Council) – contributed to a successful European coordination.

The Committee is therefore of the opinion that this initiative has contributed positively to the establishment of a coordinated European approach.

Shaping and presentation of facility were actively tackled, but steering group was not informed by the Minister of Finance

As a result of the European coordination, on 9 October the Dutch government – before the European summit on 12 October and without having held consultations with the House of Representatives – presented a facility which would largely correspond to similar initiatives in other countries.

The Committee ascertains that the Ministry of Finance and DNB considered swift publication a necessity, on the one hand because of the British plans which had already appeared, and on the other because of the impending need for aid expressed by ING and AEGON. The Minister of Finance did consult with the steering group Financial Stability/Financial Markets on the policy concerning recapitalisation, but not in regard to the capital provision facility itself. Nor did the Minister inform his colleagues in the Council of Ministers.

The Committee is of the opinion that, although the shaping and the presentation of the facility were very actively dealt with, in view of his position the Minister of Finance should, at any rate, have further informed the steering group on the substance of the measures which the Minister presented on 9 October 2008.

The House of Representatives should have been involved in consultation at an earlier point, but did not fully utilise the scope for possible modifications

The House of Representatives was only informed on 10 October 2008, after the presentation of the facility to the press on 9 October 2008 and at its own request. The scope for the House to suggest any desired modifications in the facility was limited. Moreover, the scope that was available was not fully utilised by the House.

While the Committee can understand the Cabinet's and DNB's wish to quickly present the facility, it believes that this should only have taken place following consultation with the House as there was scope for some form of consultation with the House. The Minister of Finance should have pointed out the intention to create a facility to the House. The Minister had an opportunity to do so during the debate on Fortis of 8 October with the House of Representatives. The Committee ascertains that the Minister only referred to the conclusions of the ECOFIN Council of 7 October, in which recapitalisation, of which the Netherlands was an advocate, was proposed as a possible form of aid.

The Committee is of the opinion that the House was insufficiently involved prior to the announcement of the capital provision facility. The House made limited use of the opportunities to amend the form and substance of the facility. The House gave the Minister of Finance scope, within a very extensive framework, to expend up to €20 billion, which was not included in the budget and on which no consultation with the House took place.

Recapitalisation failed to include agreements on tackling causes of balance sheet problems

With regard to the implementation of the capital provision facility, the Committee ascertains that the Minister of Finance's departure point was to avoid taking over risks from financial institutions. The focus was on reinforcing the shareholders' equity and not on taking over toxic assets. Aid by means of reinforcing the capital base would, according to the Minister, require comparatively fewer resources. As the magnitude of the banks' balance sheets and the asset portfolios of some banks were enormous, tackling toxic assets would have demanded a greater deployment of resources.

The Committee concurs that the recapitalisation approach could potentially have limited the size of the required aid. It does, however, believe that recapitalisation, whether or not in combination with takeover or the setting aside of toxic assets could have contributed to increasing the effectiveness of the aid.

In opting for recapitalisation, the condition of "cleaning up the balance sheet" was neglected in practice. This condition was announced by both the Minister of Finance and DNB. No form of agreement was made with institutions to 'put their houses in order' in any of the capital injection cases examined, not even with reference to the future. This may have resulted in fundamental problems at institutions remaining unresolved. The Committee ascertains that this was definitely the case with ING. From the terms that the European Commission attached to its approval of the aid given, it appears that conditions related to putting affairs in order could indeed have been stipulated.

The Committee is of the opinion that by not stipulating the condition that institutions tackle the underlying problems if they received a capital injection, the burdens and risks incurred by the government increased unnecessarily.

Minister of Finance and president of DNB approached problems differently

The Minister of Finance and the president of DNB jointly presented a package of measures on 9 October 2008 with the aim of assuring the stability of and confidence in the Dutch financial system.

The Committee finds that, initially, the cooperation between both parties did not progress smoothly. The Minister of Finance saw recapitalisation as the answer, whereas the president of DNB also proposed takeover of toxic assets. The Minister continued to object to an approach in which toxic assets – and hence institutional risks – would be taken over by the State. In the presentation of the plans on 9 October 2008, recapitalisation was put forward as the solution.

Although a contribution by the State to a solution for toxic assets was not excluded, the Committee ascertains, with reference to the ING case, that opting for this solution was in fact deferred for as long as possible.

Minister of Finance ascribes no uniform role to DNB in determining the amount of capital required

At the presentation of the measure, the Minister of Finance indicated that capital would be provided up to the levels considered necessary by the supervisor. DNB is one of the Minister of Finance's advisers in determining the size of the aid needed and, according to the Minister, is in fact the most important advisory body.

The Committee, however, ascertains that DNB's advice on the size of the aid needed was not always followed up. In the case of AEGON, for example, DNB aimed for a higher capitalisation. The Minister of Finance actually also sought advice from a third party and did not ultimately follow the sole advice of DNB.

The Committee is of the opinion that this was an understandable decision. The Minister of Finance, also taking into account the interests of taxpayers, made an independent decision on the ultimate size of the capital provision. The Committee concludes with regard to the three capital injections that the determination of the size of these injections and the division of roles between the Ministry of Finance and DNB clearly left a lot to be desired in the way of clarity.

Injection into AEGON: adequate measure, but chaotically established

On 28 October 2008, the State and AEGON agreed on a capital injection of €3 billion, including the option for AEGON to repay €1 billion under conditions favourable to the company.

The Committee ascertains that the capital injection in AEGON was in compliance with the conditions and objectives of the capital provision facility. Initially, the Ministry of Finance and DNB did not realise the urgency and necessity of providing aid to AEGON. In fact, AEGON's request for help at that time came as something of a surprise to the Ministry and DNB. The Ministry had to carry out research to determine the necessity of the capital injections and their proportionality. This gives the Committee the impression that not only the Ministry but also the supervisor had to rely on information as provided by AEGON itself to a greater extent than they would have wished. The Committee also ascertains that DNB did not possess the dynamics of the financial position of AEGON it required in retrospect as a result of the AEGON supervisory structure. In addition to DNB's advice, the Ministry of Finance relied heavily on the advice of external adviser Rothschild.

DNB and the Ministry of Finance believed that AEGON was in fact a fundamentally sound and viable institution that, in view of uncertainties in the market, had dropped by for a 'warm blanket'. The Committee ascertains that AEGON was aware of the changing market circumstances in good time. The capital injection in AEGON turned out to be effective: AEGON realized its objective of retaining its AA rating and the aid was repaid reasonably quickly.

The Committee is of the opinion that the injection into AEGON was adequate. It also, however, believes that the process to determine the necessity and the correct form and size of the capital injection progressed chaotically. Right up to the final negotiations with AEGON, there was ambiguity about the form and the amount of aid AEGON would ultimately receive.

The Committee can appreciate the Minister of Finance's preference for a type of injection into AEGON similar to the one into ING. It does, however, believe that the Ministry should have informed AEGON earlier of objections made at the Ministry to AEGON's preference for a loan facility.

Injection into SNS REAAL: necessary

On 12 November 2008, agreement was reached between the State and SNS REAAL on a capital injection into SNS REAAL of €750 million. In addition to the State, Stichting Beheer SNS REAAL injected €500 million of capital into SNS REAAL, bringing the total amount of capital provided to €1.25 billion.

The Committee ascertains that the capital injection in SNS REAAL was in compliance with the conditions and objectives of the capital provision facility. The Committee is of the opinion that DNB correctly exercised pressure on SNS REAAL to request a capital injection from the State. A contribution from the Stichting Beheer SNS REAAL initially appeared to SNS REAAL to be sufficient. Unlike in the case of AEGON, the Ministry of Finance's decision on the size of the capital injection was primarily based on input from DNB. Both the Ministry and DNB were of the opinion that SNS REAAL was, in essence, a sound and viable institution. DNB appears to have estimated the risks at the time of the intervention at a sufficiently high level.

The Committee is of the opinion that the injection into SNS REAAL was necessary. Furthermore, the Committee believes that, in addition to a contribution from the State, the private contribution made by Stichting Beheer SNS REAAL was a positive move. According to the Committee, the construction as set up with SNS REAAL was carefully thought out. The Committee does, however, point out that no agreements were made with SNS REAAL on 'cleaning up the balance sheet' with respect to the institution's state of health.

Recommendation 3: Recapitalisation in accordance with capital provision facility

At the European level, stress tests were introduced and information was publicised on which institutions had insufficient capital buffers. The Committee confirms the importance of capital buffers that are sufficiently high, so as to safeguard the stability of organisations and the financial system. The Committee is of the opinion that if it appears that an institution does not meet the prior capital requirements stipulated, that institution is itself obliged to supplement its buffers. It should in this regard be clear to the institution and the market that if an organisation cannot independently improve its capital position, the State may proceed to order compulsory recapitalisation. The State must always have the option of making a final evaluation as to whether recapitalisation will occur and under which conditions. The Committee is of the opinion that an evaluation in 'peaceful' times can have a different outcome to one in times of crisis. In the event of crisis the risk of infection of the financial system plays a larger role and the issue of recapitalisation will arise at an earlier stage than in 'peaceful' times. If recapitalisation is called for, the Committee recommends that it be carried out in accordance with the capital provision facility. In order to ensure that capital injections by the State remain a last resort – also in view of institutions' own responsibility and the danger of the moral hazard associated with government guarantees – the provision of such aid should be framed in stringent conditions for the institutions. A balance should be sought between the necessity of reinforcing the buffers and the ultimate price to be paid by an institution.

1.7 Guarantee scheme

On 13 October 2008, the State announced the introduction of a guarantee scheme for bank loans. On 23 October 2008, the scheme took effect with a ceiling of €200 million. A total of six banks made use

of the scheme at different times in 2008 and 2009: LeasePlan, NIBC, SNS Bank, Fortis Bank Nederland, ING Bank and Achmea Hypotheekbank. Together, they issued an amount of around €50.3 billion in loans with a state guarantee. Up to the present time, the State has not needed to make any expenditure resulting from execution of the guarantees granted. Revenue has been generated, however, as the State receives a premium for granting the guarantees. Up to the reference date of 1 February 2012, the State has received some €893 million in guarantee premiums.

Introduction of guarantee scheme was necessary

The Cabinet considered the guarantee scheme for bank loans within the European context of the time to be a necessary measure. There was a risk that investors in particular would be interested in state guaranteed loans. That could have had disadvantageous consequences for the Dutch banks if the Netherlands did not introduce a guarantee scheme. The guarantee scheme was also important in terms of getting the message across to the market that tranquillity and confidence in the financial system would be restored with a coordinated approach to the crisis by the various European governments.

The Committee concludes that, within the European context of the time, the Cabinet based its assessment of the guarantee scheme as necessary on relevant grounds. The Committee also sees the guarantee scheme as an important instrument for addressing the refinancing problems of banks. In the opinion of the Committee, the guarantee scheme contributed to financial stability in the Netherlands.

The Committee considers it wise that the Cabinet did not opt to take a different course within the European Union.

€200 billion was proportionate amount

The amount of €200 billion made available for the guarantee scheme proved more than adequate.

The Committee concludes that, also in view of the gravity of the crisis and the necessity of restoring confidence, the amount opted for was proportionate. The Committee considers it prudent that the Cabinet opted to make a large amount available right from the moment the guarantee scheme was announced, thus ensuring that no doubts could arise about whether the resources would be sufficient.

Ministry of Finance should have outlined target group and conditions more strictly

The guarantee scheme was intended for banks with a Dutch banking license that carry out ‘substantial activities’ in the Netherlands. In October 2008, the Ministry of Finance was not, however, fully aware of which companies were in possession of a banking license and what should be understood under ‘substantial activities’. Thanks to this ‘substantial activities’ criterion, the Minister of Finance had in fact discretionary power to determine which banks did indeed carry out such activities. A concrete definition of the ‘substantial activities’ condition only came about in the summer of 2009, when it was decided that the amount in deposits held by a bank and/or the amount a bank held in loans in the Netherlands would serve as a basis. Minimum amounts were fixed in this regard. This interpretation of the ‘substantial activities’ criterion was never explicitly publicised. It was only in the summer of 2009 that the Ministry decided that in assessing a request for a guarantee, the role of the individual institution in the economy as a whole and its importance for the stability of the financial sector would be taken into account. This ensured that the Minister of Finance kept discretionary power.

The Committee concludes that no fundamental discussion of the target group in relation to the conditions of the guarantee scheme took place in October 2008 at the Ministry of Finance.

The Committee is of the opinion that the guarantee scheme’s defined target group – banks with a Dutch banking license that carry out ‘substantial activities’ in the Netherlands – is a logical one in principle. The Committee believes that with the ‘substantial activities’ condition, the Minister possessed discretionary power. This power should have been more sharply and more explicitly formulated, including both the aspect of substantial banking activities and the importance of the bank for financial stability. The Committee concludes that the Minister should have explicitly referred to this discretionary power in October 2008.

The Minister of Finance could and should have applied his discretionary power

The Ministry of Finance was of the opinion that both LeasePlan and Achmea Hypotheekbank fulfilled the conditions of the guarantee scheme. The requests for guarantees submitted by LeasePlan and Achmea Hypotheekbank were granted on 9 December 2008 and 28 October 2009 respectively.

The Committee believes that the Minister could and should have applied his discretionary power to reject the requests of LeasePlan and Achmea Hypotheekbank. The Committee considers that, as a car leasing company, LeasePlan was not a bank with substantial activities in the autumn of 2008. Where Achmea Hypotheekbank is concerned, the Committee questions the importance of the bank for financial stability in the autumn of 2009, one year after the introduction of the guarantee scheme.

The Minister of Finance could and should have taken more time to draft and publish the conditions

The introduction of guarantee schemes was a joint decision of the countries in the euro area, and the announcement of the guarantee scheme in the Netherlands took place directly following the decisions made in the European Summit meeting of 12 October. According to the media, the announcement of the scheme had a positive effect on the market. However, whereas DNB had left some scope for implementing the guarantee scheme at a later point in time – there was, according to DNB, no question of urgent refinancing problems at the banks in October – the Minister of Finance did not perceive this scope. The Minister believed it necessary to come forward as quickly as possible with the publication of the conditions, in order to convey the message to the market that the government was ready to offer support.

The Committee concludes that the great speed with which the conditions of the scheme were published led, among other things, to the House of Representatives only getting involved in the guarantee scheme at a very late stage.

The Committee believes that the Minister could and should have taken more time to draft and publish the conditions of the guarantee scheme. The Committee is of the opinion that the mere announcement of the introduction of the guarantee scheme would have been a sufficient message to the market.

Guarantee scheme helped to kick-start financial sector

In total, the six participating institutions issued an amount of around €50 billion in state guaranteed loans. However, the introduction of the scheme in and of itself was nowhere near adequate. The grant of a state guarantee provided no assurance of a successful issue: both LeasePlan and NIBC had difficulty in finding Dutch buyers – which is important in arousing the interest of foreign investors – for their state guaranteed loans. Various banks were reluctant about submitting a request, owing to the possible stigma associated with these loans. It was only after the Ministry of Finance had convened the financial institutions on a number of occasions and pointed out the collective interests of a successful guarantee scheme that financial loans between institutions got underway again.

The Committee believes it is plausible that the guarantee scheme helped to kick-start the financial sectors in the Netherlands and hence, according to the Committee, contributed to financial stability in the Netherlands.

No direct link between guarantee scheme and credit provision demonstrated

According to the banks, the guarantee scheme offered a solution to the refinancing of expiring loans, which meant that no other interventions, such as reorganisations or the disposal of credit portfolios, were required. Such interventions could, the banks believed, affect credit provision to companies and private individuals.

The Committee concludes that a direct link between the guarantee scheme and the extent of credit provision by the banks to companies and private individuals was neither investigated nor demonstrated.

Ministry of Finance acted from incorrect assumptions regarding problems

DNB was less concerned about the absence of requests for guarantees in the autumn of 2008 than the Ministry of Finance. With DNB's insight into the liquidity position of the banks, it did not consider the situation quite so urgent at that point. Moreover, DNB was in a position to, if necessary, 'enforce' banks to take recourse to the guarantee scheme, an event which, however, did not come about. The Ministry appears to have been insufficiently aware of this and was led by signals from individual bankers. The Ministry therefore saw reason – when no other banks reported to the office after LeasePlan and NIBC – to urge banks to utilise the guarantee scheme.

The Committee concludes that the Ministry of Finance acted from the assumption that various banks in the Netherlands would find themselves in serious refinancing problems if they did not make use of the guarantee scheme.

The Committee is of the opinion that there was insufficient communication between the Ministry of Finance and DNB. As a result, the Ministry did not realise there was no need to promote the use of the guarantee scheme. The Committee believes that DNB should have informed the Ministry of the exact size of the refinancing problem among Dutch banks. And the Ministry, for its part, should have requested this information from DNB. On the grounds of this information, the Ministry could also have concluded that, based on the need for refinancing, there was no call for a hasty publication of the conditions of the scheme.

Financial institutions insufficiently aware of collective interests

All parties involved believed the Ministry of Finance's initiative to reach agreements with a number of banks regarding the order of the first issues under the guarantee scheme to be a good idea. The Ministry of Finance's preference to have a large bank such as ING give the kick-off to the scheme also met with consensus. According to the Ministry, an international bank with a large customer base would find it easier to place state guaranteed loans than a relatively small and unknown bank. The Committee attributes full blame to the banks for the failure of the Ministry of Finance's efforts to coordinate the issues.

The financial institutions only started to change their behaviour when the Ministry of Finance emphatically highlighted their collective interests and their responsibility to society. It took until the meeting in January 2009 for the Dutch financial institutions to show any willingness to buy state guaranteed debt paper. The Committee concludes that the Dutch financial institutions were insufficiently mindful of their collective interests in an effectively functioning capital market.

The interests of individual financial institutions are sometimes diametrically opposed, particularly in times of financial crisis. In addition, fear of stigmatisation certainly played a role. However, the Committee fails to understand why the financial institutions and the banks did not appear capable – not even within the Dutch Banking Association (NVB) – of coming forward with solutions for problems affecting everyone in this serious systemic financial crisis.

Minister of Finance should have communicated risks and conditions more clearly

The introduction of the guarantee scheme entailed two types of risk. The first consisted of a risk that the State would have to pay out a certain amount at a time when a bank could no longer meet its obligations to repay a state guaranteed loan. Secondly, this risk also had an impact on the costs at which the Dutch State could borrow. It was, however, unclear just how great these risks were. Prior to the introduction of the guarantee scheme it was impossible to make a realistic estimation of the risks for the State, as they depended on too many different factors.

With the introduction of the guarantee scheme the government assumed financial risks. The Committee concludes that the Minister of Finance did not clearly communicate what these risks entailed.

The Committee believes that the Minister of Finance should have communicated more clearly on the risks. While a minister must exude confidence in times of crisis, he must, however, also provide insight into the risks. A clear explanation of the possible, but perhaps less likely, risks would have also created the desired effect. The Committee is of the opinion that, in his communication, the Minister should have pointed out the fact that guarantees do not come for free: the risks affect the costs for Dutch state loans. The Committee moreover believes that the communication with the House of Representatives on the risks of the guarantee scheme could and should have been more effective. The Minister could, for instance, have more explicitly and transparently informed the House of the risks of the guarantee scheme for the State, possibly in a confidential meeting.

The conditions of the guarantee scheme could also have been communicated better and earlier; despite the narrow window for the decision-making process, the House could and should have received the draft conditions. Finally, the Committee is of the opinion that the House of Representatives itself could have examined the risks and conditions of the guarantee scheme more carefully.

The House was given and took little time for discussion on guarantee scheme

The Minister of Finance declared that the necessary speed of publication left him with no scope to hold an in-depth discussion with the House prior to the implementation of the guarantee scheme.

However, the Committee ascertains that, according to the banks and DNB, there was in fact scope, as the banks' refinancing problems were not yet urgent.

The Committee considers that the Ministry could and should have used this scope in the decision-making process. The interest of involving the House properly weighs heavier, the Committee feels, than the anticipated effects of a hasty publication for the market, which are largely unforeseeable. The Committee, however, also feels that following publication of the conditions, the House could and should have scheduled more time to discuss and, where necessary, adjust the conditions of the guarantee scheme.

Recommendation 4: Include guarantee scheme in comprehensive package

The Committee ascertains that the financial crisis of 2007-2009 and the drying up of the capital markets made banks aware that a major dependency on those markets could lead to financing problems. It can be ascertained that, right up to the present time, the capital markets no longer function as they did at the time when the first signs of the credit crisis became visible. The Committee believes that the guarantee scheme is good to have as a contingency back-up plan. Provided it is adjusted – not only with respect to target group and conditions but also where implementation and follow-up are concerned – to the context and circumstances of a subsequent systemic financial crisis, a guarantee scheme forms part of the comprehensive package of instruments that the government should have in place in order to adequately tackle a financial crisis.

The Committee does believe in this regard that banks with sufficient capital buffers will have less need for a guarantee scheme. A reinforced capital position among banks is therefore, in the eyes of the Committee, a priority in order to minimise as far as possible the risk of having to fall back on State guarantees.

1.8 Crisis management: action taken by the authorities

Crisis management can be defined as a systematic approach that aims to avoid or at any rate control possible crises. Four phases of crisis management can generally be distinguished. In the preparation phase, under normal circumstances, preparations are made to withstand a possible crisis. This phase focuses on planning activities, such as drafting scenarios and manuals setting out the agreements made on the division of tasks, communication lines and the anticipated responses of different bodies. In the alarm phase, possible risks are identified and analysed. The acute crisis phase begins if the crisis does indeed occur and focuses on monitoring and controlling the crisis situation. The last phase of crisis management concerns follow-up measures. This phase can comprise a broad range of highly divergent

aspects and is largely determined by the type of crisis that unfolded. An element that almost always crops up in this last phase is the evaluation of the response the crisis elicited from the bodies involved. Therefore it is generally referred to as the evaluation phase.

1.8.1 Action prior to the crisis: preparation phase and alarm phase

The Committee investigated how the Cabinet, the Ministry of Finance and the supervisory bodies prepared to control a possible financial crisis and to what extent they anticipated the possible threats to the Dutch financial system. The Committee stresses the fact that financial institutions themselves are first and foremost responsible for an effective and sound business model.

DNB focused primarily on the issue of liquidity in the course of 2007 and 2008

Sometime during the summer of 2007, DNB started to intensify its regular monitoring activities. In mid-September 2007, a special crisis monitoring team was set up. At the end of 2007, DNB established that a liquidity crisis was occurring. DNB also concluded that the Dutch institutions would be confronted with impairments and depreciations but would experience limited effects of the subprime problems. DNB did not warn the Ministry of Finance that institutional solvability problems were a reason for concern. The Committee ascertains that in the course of 2008, DNB maintained its focus on the issue of liquidity. DNB saw no reason to tighten up capital requirements for financial institutions.

The Committee is of the opinion that the intensified monitoring by DNB did not lead to the desired result. According to the Committee, DNB's actions demonstrate a major shortcoming, in that the distinction between liquidity and solvability problems at financial institutions was upheld for too long. Until the fall of Lehman Brothers, too little account was taken of the possibility of solvability problems among Dutch institutions, whereas it is precisely in a crisis that the distinction between liquidity and solvability becomes less relevant; the one can lead to the other. The Committee believes that DNB failed to adequately follow up on the signals and problems which it had itself observed.

DNB, the Ministry of Finance and the Cabinet insufficiently prepared for intervention during the financial crisis

In the spring of 2008, DNB investigated the intervention instruments (bankruptcy laws) and came to the conclusion that they were insufficient. It also became clear to DNB that the fall of a systemic bank could have extremely major consequences. The Committee finds that before the fall of Lehman Brothers, DNB did not reflect on the possible instruments to be deployed to tackle these consequences, nor involve the Ministry of Finance in relevant consultations. Policy decisions or scenarios that could have played a role in providing solvability aid or the provision of guarantees were not thought through. DNB did, however, prepare for the provision of emergency credits.

In September 2008, the Ministry of Finance set out guidelines for controlling financial crises in the financial sector (*Handboek beheersing financiële crises in de financiële sector*). The Committee has found that these guidelines did not contain any concrete policy decisions or descriptions of possible crisis measures in the event of solvability problems arising at individual financial institutions. The Committee also ascertains that at the Ministry of Finance no other preparations were made to deploy crisis measures.

At the Cabinet level, no exercises took place in which a financial crisis was simulated and such scenarios were never worked out. Although the National Crisis Decision-Making Handbook (*Nationaal Handboek Crisisbesluitvorming*) was drawn up at the Cabinet level, this handbook, in the Committee's opinion, is aimed at controlling threats to national security or public health but offers no guidelines for dealing with a financial crisis.

It is the Committee's belief that DNB, the Ministry of Finance and the Cabinet should have been better prepared for a financial crisis before it occurred. According to the Committee, plans should have been in place for the event of solvability problems at financial institutions or problems within the system as

such. Owing to the lack of such plans, the instruments to protect the financial system and tackle the financial crisis, including all relevant policy decisions, were only developed during the acute crisis phase.

Existent agreements between the Ministry of Finance and DNB not sufficient in case of solvability crises

Prior to the crisis, DNB and the Ministry of Finance took part in a number of exercises in which problems related to a financial institution were simulated. Based on these exercises, in 2007 DNB and the Ministry of Finance agreed in a Memorandum of Understanding (MoU) to exchange information and consult on matters pertaining to financial stability and crisis management. The Committee ascertains that this MoU was not used as a guideline during the crisis. Contrary to the agreements in the MoU, it was not DNB but the Ministry of Finance that functioned as crisis manager. The Committee ascertains that no clear agreements were made in the MoU regarding the time at which DNB would report situations potentially giving rise to solvability problems at financial institutions to the Ministry. The Committee believes that the initiative for sharing information lies with DNB and not with the Ministry of Finance. During the crisis, DNB only informed the Ministry when government intervention was unavoidable. DNB shared more information in those cases than was possible on the basis of the MoU.

As solvability problems did arise during the crisis, the Committee considers it understandable that the MoU was not adhered to. The Minister of Finance is, after all, the only authorised party to deploy public resources and is therefore the designated crisis manager. His judgement of the financial position of institutions depends on confidential supervisory information which can only be provided by DNB. The MoU insufficiently provided for this. The Committee is of the opinion that the agreements set out in the MoU were too focused on solving a liquidity crisis. Moreover, the Committee believes that in sharing information, including confidential supervisory information, DNB made the right decision. The Committee believes that the Minister of Finance should be able to form promptly an independent opinion of the need, proportionality and time of intervention.

DNB identifies macro-economic risks but focuses on action at individual institutions

DNB observed macro-economic imbalances, such as the increasing housing market problems in the United States, but undertook no action such as adapting the solvability requirements. In implementing its supervision, DNB tried to strike a balance between restricting the risks and avoiding unnecessarily damaging institutions, for example by compromising their competitive position or putting across a negative message to the market. The Committee ascertains that, in weighing up these two aspects, DNB put the interests of institutions first. In the TCOFS report 'Credit lost' it has already been pointed out that the supervisor operated primarily from a legal perspective and was insufficiently quick in taking actual measures. The Committee ascertains that prior to the crisis, DNB focused for too long on individual institutions and on meeting micro-prudential standards. The Committee concludes that DNB had too little insight into the interwoven nature of the financial institutions and the possible problems that could arise on the scale of a systemic crisis.

The Committee believes that DNB in executing its monitoring activities took insufficient account of the possible harmful consequences of macro-economic imbalances for the financial system. The Committee furthermore believes that, prior to the crisis, DNB inaccurately assumed that if the risks within individual financial institutions were manageable, the stability of the system would be sufficiently assured. During the credit crisis it became clear that the requirements imposed by the supervisor were inadequate in avoiding a systemic crisis.

At no point did the Netherlands Authority for the Financial Markets (AFM) play a leading or contributory role in drafting crisis measures

The AFM was not directly involved in the crisis measures. Prior to the summer of 2008, the AFM identified and analysed risks relating to the valuation of assets on financial institutions' balance sheets. It had already pointed out the possible risks in relation to financial reporting to these institutions in August 2007. At the time when the crisis measures were being created, AFM was continually

informed of the imminent measures by DNB and the Ministry of Finance. Insofar as could be established by the Committee, the AFM, where necessary, deployed enforcement instruments and took trading measures. The Committee ascertains that at no point in time did the AFM play a leading or contributory role in drafting the crisis measures. This is logical considering the AFM's specific tasks and responsibilities. The Committee believes that, insofar as can be established, the AFM duly acquitted itself of its tasks.

Insufficient insight into possible solvability problems on the part of both the Ministry of Finance and the Cabinet

At the Ministry of Finance, no analyses were made of the way in which the American mortgage crisis might form a threat to the Dutch financial system. The Committee ascertains that the Ministry did not receive any warning signs from supervisors or financial institutions – with the exception of Fortis – that could have formed reason for concern about the solvability position of these institutions. The Committee concludes that up until September 2008, the Ministry of Finance concentrated primarily on the problems at Fortis. The Committee also ascertains that practically no activities were organised at the Cabinet level to identify the signs of an impending financial crisis.

The Committee believes that, within the Cabinet, the primary responsibility for identifying and analysing possible financial crises lies with the Minister of Finance. The Committee, however, ascertains that the information available to the Ministry was tardy and incomplete. Neither DNB, nor the AFM, nor the financial institutions provided the Ministry of Finance with information indicating that the Minister might perhaps have to provide solvability aid to individual financial institutions within the foreseeable future. The Committee does, however, believe that, based on the existing signs, the Cabinet, the Minister of Finance and the top officials should have more incisively investigated how the problems on the financial markets were to be interpreted and what consequences for the Dutch financial system could ensue from these problems.

1.8.2 Performance during the acute crisis phase

The third phase of crisis management commences if the crisis does indeed occur and focuses on monitoring and controlling the crisis situation. The Committee investigated how crisis management progressed during the acute crisis phase. A distinction was made here between the decision-making structure and the specific approach to the crisis.

Minister of Finance and DNB act decisively in acute crisis phase

The Committee ascertains that the Minister of Finance and DNB, also owing to the limited preparation for a systemic crisis, were forced to reflect on the drafting and implementation of crisis measures in a short space of time. Taking into consideration that there were no prior policy instruments in place, the Committee is of the opinion that the Ministry of Finance and DNB prepared decision-making on a number of drastic measures under high pressure. The Minister of Finance played a leading role in this process. The Committee believes that decisive action was taken by the parties involved at the time it became clear to them that individual institutions and the financial system as a whole were experiencing great difficulties.

Close cooperation between Minister of Finance and Prime Minister

The Committee ascertains that ultimately all decisions concerning the crisis measures were taken by the Minister of Finance in close consultation with the Prime Minister. From the Committee's research it appears that the contact and exchange of information between the Minister and the Prime Minister progressed effectively.

Shortcomings in decision-making on crisis measures by Council of Ministers and steering group

Within a short space of time, the nature and extent of the problems during the crisis became so pressing that they exceeded the Minister of Finance's portfolio. The Committee ascertains that all crisis measures were only clarified in the Council of Ministers in retrospect. No concrete decision-making took place in the Council of Ministers.

The Committee ascertains that the course of affairs in respect to the crisis measures within the Council of Ministers did not lead to objections among other government officials. A steering group was set up in order to keep the majority of government officials in the loop about the crisis measures to be taken. The Committee ascertains that the steering group was not a contributory party in the decisions concerning a number of important measures with far-reaching financial consequences (the individual capital injections and the IABF for ING) and was only marginally involved in other intervention measures. The Deputy Prime Minister was not more involved in the decision-making than any of the other Ministers in the steering group.

The Committee is of the opinion that it would have been a logical step to put forward the measures for agreement in the Council of Ministers. The Committee understands the fact that not all crisis measures were presented in advance in the Council of Ministers. The situation during the crisis was exceptional and one which required a rapid response. The Committee is, however, of the opinion with regard to the general measures (the guarantee scheme and the capital provision facility) and the IABF for ING that there was time which should have been utilised to involve the Council of Ministers in the establishment of the measures.

In view of the importance of quick consultation and the sharing of sensitive information within a small group, the Committee considers the appointment of the steering group a sound way of getting the relevant government officials involved in the crisis measures. In view of the fact that, in practice, the steering group primarily exchanged information, the Committee believes that the steering group, as it functioned during the crisis, provided insufficient added value. The Committee is of the opinion that, considering that decision-making did not take place either in the Council of Ministers or in the steering group, the Prime Minister and the Minister of Finance did not sufficiently involve the other Ministers in the decision-making concerning the crisis measures. The Committee believes that the Deputy Prime Minister, in view of his function as leader of a government party, should have been more extensively involved.

Tension between DNB's role as adviser to the Minister and its role as prudential supervisor

The Committee ascertains that DNB has two roles in a crisis situation. On the one hand, DNB is prudential supervisor, on the other, it is adviser to the Minister of Finance. The Minister of Finance has the right not to follow the advice given by DNB or the advice of an externally engaged adviser. The Committee ascertains that, at the end of the day, DNB clearly pointed out any potential prudentially irresponsible measures proposed in the total package of crisis measures. The Minister acquiesced to DNB's advice in these cases. The ultimate responsibility for the decisions taken, lies with the Minister of Finance.

Taking the crisis measures into consideration, the Committee ascertains that tension may arise between DNB's role of adviser for the purpose of decision-making on the part of the Minister and DNB's role of prudential supervisor. Seeing that in the acute crisis phase, the supervisor acted primarily from its responsibility for the stability of the financial sector, other interests such as minimising the costs and risks for the State and taxpayers formed a secondary focus.

The principles guiding DNB's actions were important in counterbalancing the input of financial institutions and the Minister of Finance's perspective, which tended toward restricting aid in as far as possible. DNB's outlook was to stay on the safe side and take things a little further than the minimally required aid. This was also in the supervisor's own interest, as failing institutions can result in substantial damage to its reputation.

In the opinion of the Committee, DNB's primary task in such a trajectory is that of prudential supervisor. Moreover, DNB plays an important role as adviser and information provider to the Minister of Finance. According to the Committee, the prudential test functioned adequately during the crisis. The uncertainty regarding the role of DNB when providing advice is not desirable, the Committee believes. In the Committee's opinion, clearer and more specific agreements should have been made prior to the crisis.

1.8.3 Performance during the evaluation phase

The evaluation phase is the last phase of crisis management. This is the time to reflect on the action taken in the acute crisis phase and analyse which elements were lacking or need improving in the crisis management structure. Based on these evaluations, existing agreements and contingency plans can be supplemented or upgraded. The Committee investigated how the Ministry of Finance, DNB and the Cabinet evaluated their performance during the crisis.

No thorough evaluation of the crisis at the Ministry of Finance or the Cabinet

A financial crisis demands a quick response. The Committee is of the opinion that it is desirable to have prior agreements in place on the manner in which the relevant government officials can be involved and participate in shaping the proposed crisis measures. An evaluation of the course of affairs during the crisis can offer important insights to this end. In view of the fact that the Prime Minister bears primary responsibility for the promotion of general government policy, the Committee believes that evaluating the decision-making structures during the crisis should have been undertaken by the Ministry of General Affairs. The Committee is moreover of the opinion that the Ministry of Finance should also have assessed its performance during the crisis. Particularly concerning policy decisions that were made during the crisis and which may also be relevant in the future, it is incumbent upon the Ministry of Finance to draw lessons from the crisis.

DNB evaluated its performance during the crisis and has drawn lessons for the future

The Committee is positive about the evaluation that DNB has made regarding its performance during and prior to the crisis. In the Committee's opinion, based on its evaluation, DNB has drawn valuable lessons and made progress in undertaking action in addressing the relevant issues.

Recommendation 5: Development of a special crisis structure for financial crises analogous to the existing National Crisis Decision-Making Handbook

The credit crisis has shown that a financial crisis can carry over to other policy areas. The National Crisis Decision-Making Handbook (*Nationaal Handboek Crisisbesluitvorming*) offers an extensive spectrum of task divisions, decision-making structures and communication lines in relation to crises that form a threat to national security or public health. However, this handbook is not designed to offer guidelines for controlling a financial crisis. The Committee is of the opinion that an effective and detailed crisis management system should be developed to deal with financial crises. Among other things, this should include a clear division of tasks within the Cabinet and between the Cabinet, DNB and the AFM. Furthermore, agreements will have to be made on information exchange (during liquidity as well as solvability crises), both between DNB and the Ministry of Finance and within the Cabinet, and also between the Minister of Finance and the House of Representatives. Finally, contingency plans should be compiled, setting out the form which solvability aid or other possible crisis measures (such as guarantees) should take. As each crisis is different, the Committee advises that the crisis management system be structured in such a way as to assure flexibility and applicability in a number of different situations. The handbook should be submitted for approval to the Council of Ministers to ensure that the Council of Ministers is in agreement with the underlying principles of the crisis measures.

If, analogous to the steering group, a limited group is opted for, the tasks and responsibilities should be set out clearly in advance.

Recommendation 6: Create cross-border supervision with mechanism for burden sharing

In view of the Icesave case, the TCOFS has already questioned the home state control system within the European Economic Area (EEA) in its report 'Credit Lost'. This system is based on mutual trust between national supervisors. Outside the EEA, DNB is dependent on 'voluntary' agreements with foreign supervisors.

The Committee ascertains that supervision of internationally operating financial institutions gives rise to problems owing to branches crossing national borders. Another complicating factor occurs when the main supervision of an institution of systemic relevance to the Netherlands takes place outside the Netherlands. The Committee has found that when problems emerge at financial institutions with cross-

border activities within the EEA, national interests will undermine the trust-based system. During the crisis, this led to problems with regard to upholding the supervision and the relevancy of that supervision.

The Committee concludes that the structure of supervision in cases of cross-border activities has proved insufficiently adequate. The events surrounding Fortis/ABN AMRO on the one hand and Icesave on the other deepen the Committee's conviction that the creation of cross-border supervision, preferably in the form of a single powerful European supervisor along with an appropriate mechanism for burden sharing, takes the highest priority. This is in concurrence with the recommendations of the TCOFS.

Recommendation 7: Assign DNB's various responsibilities at the time of a crisis and ensure a clear dividing line in those responsibilities

The Committee is of the opinion that in the event of a financial crisis a clear distinction should be made between DNB's role as prudential supervisor and its role of adviser to the Minister of Finance. The Committee recommends that the Minister of Finance consult with DNB in allocating these responsibilities and a modus operandi to this end is formulated. The Committee moreover recommends that this division of tasks also be reflected in the division of roles played by DNB personnel.

1.9 The role of the House of Representatives

In the measures it took during the financial crisis, the Cabinet deviated multiple times from the regular procedures concerned with providing information to the House of Representatives (hereinafter: 'the House'). The general line was that parliament was only informed about the crisis measures after or very shortly before the announcement in the media. Entering into financial commitments without first following the proper budget procedure (or budget amendment procedure) puts the House's right to approve the budget under pressure. The fact that the House consented to the measures afterwards makes no difference. The provision of information has repeatedly been a subject of discussion between the House and the Cabinet and forms the basis for the decision to order a parliamentary inquiry into the crisis measures.

The two major roles of the House in this context are co-legislation and holding the government to account. With respect to financial commitments, the House's role in the legislation process is expressed in the right to approve the budget, whereby the House gives advance authorisation to the Cabinet to make expenditures as set out in the budget for the national government. The role of the House in holding the government to account is exercised prior to Cabinet policy decisions and when the Cabinet renders account afterwards for the policy pursued. This accountability process in parliament is extremely important, as it relates to providing accountability for the proper expenditure of billions of euros of public funds.

In order for the House to perform its roles properly, the Cabinet is obliged to follow the existing legal and other procedures and to provide the House with accurate and relevant information in a timely manner, based on the passive and active obligations to provide information. The House puts its roles into practice by familiarising itself with the information and, on this basis, as well as its own knowledge and understanding, decides on whether it will authorise the Cabinet to make the proposed expenditures or approve the proposed policy.

1.9.1 Provision of information prior to the crisis measures' taking effect

The Minister of Finance did not provide information at the appropriate stage during the crisis

The Committee finds that, in virtually all of the cases, the Minister of Finance only informed the House afterwards about the crisis measures, after a statement had been provided to the press. As a result, the interventions taken for Fortis/ABN AMRO and Icesave did not respect either the House's

material or formal right to approve the budget. Also for the IABF, the capital provision facility and the guarantee scheme, the formal right to approve the budget was not respected. The Committee's opinion is that the material right to approve the budget had in fact little value for these three measures, because they had already been announced to the public as a resolution at the time when the House debated on them with the Minister. As a result, also in view of the exceptional circumstances, the House would have had only a very limited capacity to reverse these measures.

In an exceptional situation such as during the crisis, it is not always possible to follow regular legal and other procedures, and information must be provided in a more limited timeframe. However, the Committee believes that, for all the measures taken during the crisis, with the exception of the first intervention in Fortis/ABN AMRO, the Minister did in fact have the opportunity to inform the House in advance about the crisis measures at hand, and should have done so. The Committee realises that, in a number of cases, this should have been done confidentially. Entering into financial commitments without first following the proper budget procedure or budget amendment procedure put the House's right to approve the budget and the parliament's position under serious pressure. Given that the House was informed about most of the measures after they were announced to the press, the Committee is of the opinion that the Minister made it impossible for the House to scrutinize the proposed policy in advance.

1.9.2 Accountability and supervision

To ensure that the House can properly carry out its supervisory duty, the Cabinet is required to provide the House with the relevant and correct information in a timely manner. The House's supervisory duty is exercised prior to Cabinet policy decisions and when the Cabinet renders account afterwards for the policy pursued and the associated income and expenditure.

The information that the Minister provided was incomplete and late

The Committee has observed that, during the financial crisis, the information provided by the Minister of Finance to the House was in some cases incomplete or not provided within the required time frame. First of all, the Committee's opinion is that the Minister of Finance must at all times carry out his duty to provide information to the House. If it is not possible to do so in advance, in exceptional circumstances, such as in an emergency situation, the Committee finds that the House must be given a full account of the decision-making process involved afterwards. After all, in such a situation the House can only assess whether it wishes to provide political support for the measure. The Committee believes that the Minister did not fully inform the House, and that the Minister interfered with the House's role in holding the government to account.

The House does not sufficiently use parliamentary scrutiny instruments

The Committee has observed that, during the crisis, the House could have used its parliamentary scrutiny instruments better. The House made virtually no use of the ability to modify the rules concerning allotted speaking times and interruption possibilities and did not sufficiently make use of its right to information. The House was informed twice by means of a technical briefing. Various MPs found the information and time available during these briefings insufficient, but did not take any subsequent steps to obtain the information they desired.

Given that crisis measures were accompanied by large expenditures that were not included in the budget and that the House, as the representative body, should hold the government to account with respect to proper expenditure of public funds, the Committee's opinion is that the House should have taken a more active role and should have given the discussion of the crisis measures a higher priority.

The House did not pay sufficient attention to communications from the Minister

The Committee finds that, in a number of cases, the House did not pay sufficient attention to communications from the Minister. In the parliamentary debate on the Benelux Agreement and the acquisition of Dutch subsidiaries of Fortis, the House paid little attention to the cross-border dimension of the problems at Fortis and the national reflexes that came into play. Furthermore, the House did not address the violation announced by the Minister of the 30-day term of the Government Accounts Act in connection with the technical reallocation in the debate about the Financial Report the

government issues every autumn. With respect to the capital provision facility, the House gave the Minister the scope to spend – in a very broad context – up to €20 billion, which was neither provided for in the budget nor discussed with the House.

The Committee is of the opinion that, in the parliamentary debate on the cases of Fortis/ABN AMRO and the capital provision facility, the House performed its role in holding the government to account only to a limited extent and did not make use of the opportunity to exert influence on the proposed policy.

1.9.3 Confidential supervisory information and accountability

The information provision to the House must be the starting point

A starting point for a parliamentary democracy is that the executive power must publicly provide accountability to the representative body. This fact is at odds with the Minister of Finance's very hesitant attitude towards providing information about the policy and decisions of regulators such as DNB. During the crisis, it emerged that the Cabinet only provided the House with very limited information concerning the various crisis measures. No information about specific institutions was publicly shared with the House during the crisis. Furthermore, virtually no use was made of the ability to inform the House in a confidential manner.

The Committee is aware of the fact that the confidentiality information plays an important role in the proper performance of the supervisory duty. However, the Committee believes that, in those situations where substantial government interventions are on the table, the starting point must be the provision of information to the House. Where this concerns potential State expenditures, the representative body must be able to hold the government to account with respect to these expenditures, before and afterwards, with the possibility to provide the information in a confidential manner. In the Committee's opinion, holding the government to account in this kind of situations is of such importance that the option of providing this supervisory information confidentially cannot be rejected too easily by invoking the interest of the State.

The debate between the Minister and the House about the provision of information during the crisis did not lead to concrete results

The Committee has observed that the House repeatedly insisted on agreements improving the provision of information during the credit crisis. On the one hand, the Minister has not taken any specific steps to accommodate this request from the House. Nor has he followed the policy that he proposed to the House, where he indicated that he would submit new measures and any increase in the amount of existing instruments to the House in advance. On the other hand, however, the Committee concludes that the House did not show sufficient decisiveness in the debate with the Minister of Finance. Only after the IABF measure for ING on 3 February 2009 did the House reach a consensus about the question in which situations the House should be informed confidentially. The Committee finds that the House subsequently did not adequately effect the implementation of the Vendrik/Irrgang motion, in which the Cabinet was called to inform the House in a timely manner (except in emergency situations) and to do so confidentially if necessary. A decision was made to involve this entire discussion in the amendment of the Government Accounts Act, but at the time when this report was completed – more than three years after the motion was submitted – it is still not known when this will take place.

Recommendation 8: Further efforts should be made to amend the Government Accounts Act

The financial crisis has demonstrated that the Government Accounts Act is not equipped to deal with possible forms of capital provision or risk-bearing financial transactions other than the acquisition of share capital by the State. This was revealed, for example, by the IABF and the individual capital injections. The Committee believes that the preliminary scrutiny procedure should also be applicable to such constructions. This will prevent the Cabinet from providing large amounts of risk-bearing or other capital to individual institutions without the prior (possibly tacit) consent of the House. The Minister has made various proposals with respect to amending the Government Accounts Act. One of these proposals is to declare the preliminary scrutiny procedure applicable to all forms of capital provision by the State to companies with essential characteristics of equity capital. The Committee

views this proposal from the Minister as supporting its conclusion and urges the House to undertake further efforts on the amendment of the Government Accounts Act.

Recommendation 9: An information protocol for information provision before crisis measures are taken

To improve the information provision to the House of Representatives before any potential crisis measures are taken, the Committee proposes drawing up an information protocol that applies to crisis situations as addressed in the present inquiry. Developing a structural working method and laying this down in an information protocol would, in the event of a crisis situation, prevent a lack of clarity about the way in which the relevant communications between the government and the House take place. However, when compiling a protocol for the information provision about proposed crisis measures, account must be taken of the speed of the crisis process, and it must also be acknowledged that, under certain conditions, information will be provided to the House confidentially. The Committee can imagine that, when drawing up an information protocol, an attempt will be made to align it with the working method used in the context of the procedure of Article 100 of the Constitution, which relates to providing information to the parliament before action is undertaken with respect to deploying or making available the armed forces. An assessment framework has been created for this procedure. This framework also sets out how the information must be provided by the government to parliament during the different stages of the decision-making process. The procedure of Article 100 of the Constitution assigns a formal advisory role to the Commander of the Armed Forces. The Committee can imagine that a comparable role would be assigned to the responsible party within DNB.

Recommendation 10: The government is required to provide an ‘accountability memorandum’ afterwards if the budgetary authority of parliament is violated

The Committee is of the opinion that, if the budgetary authority of parliament is violated and the House was not in fact given the opportunity to prevent certain crisis expenditures, there is an obligation for the Cabinet to subsequently provide the House with the necessary information. The Committee proposes that, if the Cabinet violates the House’s budgetary authority, an obligation is imposed to draw up an accountability memorandum afterwards, providing public accountability for the measures taken and the arguments on the basis of which these measures were taken. In any case, this memorandum must provide information about the possible risks, the alternatives discussed during the negotiations and the costs. Regulators such as DNB and the AFM can also play a role, in the sense they are also given the opportunity to present their view on the measures taken. Starting point should be that the accountability memorandum is publicly provided to the House. If necessary, in light of the confidential nature of the information, parts of the memorandum may – under strict conditions – be provided to the House confidentially. It is preferable to set down such an information provision procedure in law. The planned reform of the Government Accounts Act can offer points of reference in this respect. Further details of the information obligation can subsequently be given shape in a procedural regulation.

Recommendation 11: The House’s information position regarding financial measures must also be strengthened independently of the government

During the crisis, the House had to become familiar with a large amount of new and complex information in a very short term. As a result, it was difficult for the House to hold the government to account. It is not inconceivable that, in the future, technical financial dossiers will demand the House’s attention. It is therefore important that the House gathers information independently, in addition to the information it receives from the government. In line with the findings of the Parliamentary Self-Reflection Steering Committee, the Committee finds it important for the House to collect information itself, so that this information can be examined alongside the information received from the government. The Committee therefore also considers it important that the House has the opportunity to gather extra knowledge by engaging external or other experts. The research capacity of the standing committee for Finance has been increased, and there is an annual sum of €50,000 available to engage experts ad hoc. It must be added that the research facility has been used only to a limited extent (to date, once in 2009 and once in 2010), but in both cases, the added value of the facility was evident, as specific expertise could rapidly and flexibly be mobilised. The Committee urges the House to make

use of its options for gathering additional knowledge more frequently. In the Committee's opinion, the size of the research budget and the way in which the budget is used should be evaluated regularly in order to optimise the working method in this context.

With respect to the expertise within the House organisation itself, the Committee finds it important to point out the TCOFS's recommendation concerning information provision on macro-economic risks for the financial system. Based on this recommendation, the CPB (Netherlands Bureau for Economic Policy Analysis) and DNB are now separately drawing up reports about national and international macro-economic developments in connection with developments in the financial sector. These reports will be jointly submitted to the House in spring. The director of the CPB and the president DNB are available to provide further information about their reports to the House, for example in an open session. In this context, an appeal can be made to the internal official support of the House. The Committee suggests submitting these reports for commentary to the House's Research and Government Spending Office (*Bureau Onderzoek en Rijksuitgaven*, BOR), after which debates can be held with the CPB, DNB and the member of government involved.

Recommendation 12: The concept of supervisory confidentiality must be defined in a more material sense

With regard to confidential supervisory information, it should be noted that no clear definition exists as to which information is and which is not subject to the duty of confidentiality in Article 1:89 of the Financial Supervision Act. Based on this duty of confidentiality, it is not so much the content of the information that is important, but the question whether the information was provided and received in the context of the supervisory relationship in accordance with the Financial Supervision Act. The Committee therefore considers further definition of the concept of supervisory confidentiality in a more material sense a good idea. If regulators then invoke supervisory confidentiality, specific criteria will be available to test whether or not this is justified. In view of the fact that this concerns (implemented) European regulations, it may be necessary to consult with the European Commission on this subject.

In addition, the Committee questions whether confidential supervisory information should have this status indefinitely. The Committee recommends investigating whether situations are possible in which the supervisory confidentiality of information can be discontinued. An example in this context would be information that can no longer damage the competitive position of a financial institution.

1.10 Actions of the European Commission

Each aid measure from a European government to a company must be approved by the European Commission on the basis of the Treaty on European Union. For this reason, the European Commission determines to a significant extent the conditions under which aid may be provided and also the potential consequences, in the form of restructuring measures, that financial support can have for the companies receiving aid.

When the crisis erupted after the collapse of Lehman Brothers in September 2008, the European Commission acknowledged that this was an exceptional situation that required an exceptional assessment. In the course of 2008 and 2009, the European Commission set out its exceptional framework for the assessment of state aid in the crisis in four 'communications'. These were the Banking communication of 13 October 2008, the Recapitalisation communication of 5 December 2008, the Impaired Assets communication of 26 March 2009 and the Restructuring communication of 23 July 2009.

Is the regular aid framework a suitable point of departure with regard to the crisis?

The various communications are explicitly based on the regular crisis and restructuring aid framework that the European Commission used before the crisis. At the same time, the crisis framework has a number of special provisions. For example, the European Commission accepts rescue aid without

subsequent restructuring. Under the regular framework, rescue aid is always accompanied by restructuring at a later time.

The regular aid framework was developed to make it possible to provide aid to companies which, because of their business model or due to their own choices, found themselves in difficult circumstances. This situation is substantially different from the situation faced by the majority of the financial institutions during the crisis.

For that reason, the Committee raises the question how much the point of departure, i.e. the regular aid framework, was suitable for the crisis. In the Committee's opinion, using this as the basis for the rescue and restructuring aid framework also raises the question whether the European Commission in its assessment focused too much on the regulation of the market and too little on the very exceptional circumstances.

European Commission laid down assessment framework afterwards

The Committee has found that the exceptional framework of the European Commission for the assessment of aid measures only took shape in phases. The Banking communication published on 13 October 2008 contained general principles and guidelines that were elaborated in detail months later. When these details became formally available, a large number of interventions had already taken place. This applied in particular to recapitalisation and measures that were focused on resolving problems with toxic assets.

The Committee has ascertained that the Dutch authorities stated that they had experienced a disadvantage as a result of the guidelines only becoming available afterwards (e.g. the so-called '2% benchmark'). The Committee believes that the question is justified as to how appropriate is it that detailed guidelines, on the basis of which the assessment of aid measures was performed, were only provided afterwards. The Committee is of the opinion that a clearer but less detailed framework, which could have been drawn up quickly after 12 October, would have been suitable and could have prevented many problems.

Mandatory participation concerning state aid not a substantial element

An important distinction between the exceptional state aid framework during the financial crisis and the regular framework is that the European Commission also agreed to non-institution-specific regulations for such things as government guarantees and recapitalisations. As such, recapitalisations of individual banks that were performed based on a regulation approved by the European Commission did not have to be submitted to the European Commission in advance. France chose to create a recapitalisation regulation in which the largest French banks were more or less required to take part.

It was stated before the Committee that this mandatory participation was the reason why the European Commission assessed the aid to the French banks less severely than the aid to the Dutch institutions, for which mandatory participation was not chosen. According to the European Commission, it was not so much the characteristics of the regulation or the mandatory participation that caused the French banks to 'escape' restructuring, but rather the financial soundness of the French banks. This was apparently demonstrated by the fact that the French banks all received less than 2% of the risk-weighted assets in aid, while this was not the case for ING and AEGON.

The Committee concludes that it is not likely that mandatory participation in the capital provision facility in the Netherlands would have led to a different assessment on ING, AEGON and SNS REAAL by the European Commission.

Lack of clarity regarding consistent application of assessment framework by European Commission

Witnesses stated before the Committee that the European Commission had imposed overly severe requirements on companies in a number of cases, more in particular with respect to ING. The European Commission allegedly took too little account of the exceptional circumstances. On this basis, the required restructuring in some cases was apparently disproportionately large in scope. In

addition, it was stated that the European Commission did not always consistently apply its own framework.

The Committee has observed that there are substantial differences in the balance sheet reductions that the European Commission demanded in the context of the restructurings. The Committee has observed that ING also had to carry out an extensive balance sheet reduction. However, the Committee is unable to assess the extent to which the differences are justified by the conditions under which the aid was provided or by other parts of the restructuring.

Stalemate between prudential supervision and competition supervision unacceptable

The Committee has established that a stalemate can occur between the European Commission as the competition supervision authority and the prudential supervisor. This tension was present in the assessment of the aid to ING and the integration process of ABN AMRO and Fortis after the acquisition of ABN AMRO by the consortium. In the public hearings, DNB proposed creating a conduct or conflict regulation at the European level. However, the European Commission believes that the current system is sufficient.

The Committee believes that the European Commission does not take sufficient account of the interest that should be promoted by the prudential supervisor. The Committee concludes that, if the solidity of financial institutions and therefore the stability of the financial system are at issue, a stalemate between the prudential supervisor and the European Commission is undesirable. The Committee considers a confrontation, which cannot be addressed in an orderly manner to be unacceptable.

Dutch authorities do not always accurately anticipate the response of the European Commission

The Dutch authorities are well aware of the fact that the European Commission plays a role in government interventions. This is expressed, for example, in the Ministry of Finance's desire to arrive at a 'market conforming' transaction for the capital injection into ING.

At the same time, the Committee observes that the Dutch authorities were unable to correctly anticipate at several points the outcomes of the different processes at the European Commission. The Committee refers to the following in this context: the notification of the capital injection into ING; the fact that the modification of the repayment conditions of the €10 billion in capital aid for ING was unexpectedly characterised by the European Commission as €2 billion in additional aid; the assessment of the IABF by the European Commission and the resulting scope of the restructuring; and the complications surrounding the EC Remedy involving ABN AMRO.

Recommendation 13: Supra-national financial stability test in the event of fundamental changes in systemically relevant institutions

Systemically relevant banks can be 'too big to fail'; sometimes they are also 'too big to save'. This problem has been acknowledged, which has resulted in the development of the Basel III guidelines in additional capital requirements for systemically relevant institutions. Along the same lines, a special regime must be created to assess significant changes within and between systemically relevant institutions, such as mergers, acquisitions and radical restructurings. Because such changes often have cross-border implications and because national interests play a role, such a test must take place at a supranational level. This test must be distinct from the competition test that the European Commission performs, and should be conducted by a body outside the European Commission to ensure the proper countervailing power. The test could be performed, for example, by the European regulator with overriding authority, which the Committee also proposes, or by one of the new European supervisory bodies, such as the European Banking Authority.

Recommendation 14: Regulation for preventing a stalemate between the competition supervisor and the prudential supervisor

The Committee recommends that efforts must be undertaken in a European context to create regulation that could prevent a stalemate between the competition supervisor and the prudential

supervisor. In the Committee's opinion, the newly established European Systemic Risk Board could play a role in this, for example.

1.11 On the financial sector

The Committee has conducted an inquiry into the measures taken by the Dutch government in 2008 and 2009 to prop up the financial sector. At the same time, the Committee believes that there is good reason to identify which steps should be taken to increase the long-term stability of the financial system. After all, prevention is better than cure. In addition, the Committee believes that it should be investigated how the effectiveness of the government's actions, both before and after a crisis, can be increased.

Recommendation 15: Separation of retail and investment banking activities

The Committee recommends developing the TCOFS's recommendation to separate the retail and investment banking activities within an institution by keeping separate high-risk commercial activities that are not directly related to customers. Such activities must have separate funding that is independent of the funding of the other activities. The details of the criterion of 'high-risk commercial activities that are not directly related to customers' will have to be worked out by the Minister of Finance in consultation with the regulators, DNB and the AFM.

Furthermore, the Committee recommends drawing up a living will that sets out in advance all the steps that make it possible to make changes in the structure of a financial institution.

Recommendation 16: Ringfencing of international activities

The Committee believes that there is reason to investigate whether it is possible to improve the ringfencing of the activities of Dutch financial institutions outside the EU more than is currently the case, to prevent contagion from spreading to the Netherlands. In the EU, an effective framework of cross-border supervision and burden sharing must be created to limit the risks of cross-border activities. As long as no such framework provides for this, the possibility of ringfencing inside the EU as well should not be automatically excluded.

Recommendation 17: Investigation of higher capital requirements

The Committee believes that as long there is no effective European framework of cross-border supervision and burden sharing, individual Member States must continue to have the option of imposing additional capital requirements.

The Committee also believes that there is reason to investigate the extent to which higher capital requirements should also be imposed on Dutch institutions. Consequences for the real economy should be carefully weighed in these considerations. The specific characteristics of the Dutch financial sector as they are expressed on both sides of the balance sheet must also be taken into account. The Committee believes that the simple fact that higher capital requirements could possibly disrupt the level playing field for Dutch financial institutions is not sufficient reason to reject such a consideration.

Recommendation 18: Investigation of a binding framework for interventions

The Committee believes that, in addition to the expansion of the set of intervention instruments, it is desirable to investigate further the extent to which a binding framework for regulatory interventions based on the US model should be imitated in the Netherlands.

Such a framework prevents a delay on the part of the regulator by requiring regulators to take certain measures if the financial health of a bank exceeds certain thresholds set in advance. This would prevent the regulator from postponing interventions at problem banks for too long. The Committee finds it important that, after the threshold has been reached by an institution and the regulator therefore

must intervene, there will be sufficient scope to arrive at a tailor-made solution for the problem at the institution.

Recommendation 19: Banks must discuss their attitude during a crisis

The Committee believes that the Dutch Banking Association (NVB) is in a position to not just talk about joint problems, but also propose joint solutions. The Committee recommends that the banks engage in discussions on this topic and put forth proposals regarding the stance the NVB should take in a financial crisis and how it should act with respect to the Ministry of Finance and the two supervisory bodies DNB and AFM. The Committee believes that the banking sector's taking such a position in the Netherlands would make an important contribution to protecting the stability of the Dutch financial system.

It can be said that, in the past ten years, the financial sector and the political world have grown further and further apart. The Committee finds that steps should be taken to narrow this gap. The Committee therefore makes an appeal to the NVB and other special-interest organisations from the sector to take action together with politicians, not just to represent the interest of the sector itself and the institutions, but to work together towards a sustainable, healthy and stable financial system.

1.12 Parliamentary Inquiries Act

The Parliamentary Financial System Inquiry Committee is the first parliamentary inquiry Committee to work with the new Dutch Parliamentary Inquiries Act (WPE 2008) which entered into force on 1 April 2008.

Recommendation 20: Amend the Parliamentary Inquiries Act of 2008

In view of its experiences, the Committee recommends that the House examine possible improvements and measures to tighten up the Parliamentary Inquiries Act of 2008 and the Rules of Procedure of the House of Representatives.