Should Banks Own Industrial Firms?
Remarks from the German Perspective.

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Other than in Belgium, German banks may hold even controlling equity participations in industrial firms (and such firms may own banks) and do so to a large extent. Vis-a-vis the European development this leads to two questions: From the perspective of the (Belgian and other) competitors of these banks, whether their own domestic system might be disadvantageous to them. And from a public interest perspective, which advantages and drawbacks are connected with the different regulations in Europe.

The article first informs about the legal framework and some statistical facts. Then the various and different reasons why banks acquire and hold shares on own account are analyzed. The following parts deal with the various public policy arguments whether equity links between banks and industrial firms should be prohibited or not (safety and soundness of banking; "autonomie de la fonction bancaire"; abuse of confidential information and conflicts of interest; antitrust considerations; negative and positive impacts on the respective firm). In its last part the article deals with recent proposals in the German political debate to limit stockholdings of banks. The article argues that a step-by-step approach to the single problems and issues (conflict of interests; anticompetitive effects etc.) should be preferred to a general limitation of stock ownership of banks.

I. Introduction

The reactions of the various nations and states to the worldwide economic crisis after 1929 in the banking area were different and varied widely. The United States adopted their Glass-Steagall Act which provides for a complete Separation of banking and commerce, thus confirming an older Anglo-Saxon tradition. Belgium reacted, two years later, in the same way, by its Arrêté royal of 1935. Germany, however, went the other way. Its national banking act (or "Kreditwesengesetz") of 1934 did not separate banks and industrial companies; it did not forbid banks to own shares in industrial firms, and it did not forbid industrial firms to own banks. And this is - in principle - still the case today.

Today, vis-a-vis the European development, the integration of the European markets and the growing competition from abroad, a Belgian banker may ask himself whether the different regulations of the powers of banks as, for instance, in Belgium and Germany, are disadvantageous for him. A public interest approach, however, has to consider a broader issue: Our question is not only whether there will be distortions of competition because of different regulations or national approaches in Europe. We have to avoid a "race to the bottom". Not the system which prevails or dominates on the market after the competitive process will automatically, in a public interest perspective, be the best or the most convincing one.

Let me now, from this perspective, first relate some information about the German legal and factual environment and then, in a further part, try an analysis of the advantages and drawbacks of our System.

II. Holdings in Finance Firms and in Industrial Firms

The German banking system is very often described as an "universal banking System" or "Universalbankensystem". This description has two different aspects. First, in its original and narrow sense, universal banking means that a bank is entitled legally to offer all various kinds of financial Services. This includes the classical banking activities like the credit and deposit business etc. as well as investment Services, like placement and brokerage of securities, and even insurance activities, trading with real estate and other activities. If a legal system allows universal banking in this sense, it should not matter whether the respective activity takes place in the bank itself or in its subsidiaries or other affiliates. But a universal banking system in this sense, which allows banks to be linked with other financial firms, does not necessarily mean that banks may be linked to firms outside the finance area, like, for instance, with industrial companies. In other words, if we call the German banking system a universal banking System, this has two aspects: It allows banks to be linked with other financial firms, and it allows banks to be linked with firms outside the finance area. In the following I deal only with the latter aspect. Personally I assume that the future development in the U.S. as well as in the E.C. countries will - earlier or later - lead to a more or less broadly defined universal banking system with all possible financial Services offered by one and the same institution or finance group. But this does not necessarily mean that there will be a comparable development concerning our question, whether banks should be a allowed to own industrial companies and vice versa.

III. The Legal Framework

How does the German legal framework for links between banks and firms look like?

1. National Banking Act ("Kreditwesengesetz")

According to our national banking act ("Kreditwesengesetz"), industrial firms may own banks, and credit institutions may acquire and hold stock in nonfinancial firms. There is no rule which limits such holdings of a bank to a certain percentage of the subsidiary's capital. There is only a limit with respect to the capital of the bank itself: A single participation in one firm must not exceed fifty percent of the capital of the bank[1]. And all investments of a bank in stockholdings and other illiquid assets must not exceed the capital of the bank[2].

2. EC Banking Rules

The Second Banking Directive of the EC lowers these limits: In the future each single holding must not exceed 15 % and all holdings together must not exceed 60 % of the capital of the bank[3]. This directive has not yet been transformed in Germany. Additionally, the recent draft of a directive concerning large credits limits each single "credit" (including participations) to 25 % of the capital of the bank[4]. Practically, these new rules will not mean significant changes for our banks and their equity holdings.

IV. Factual Environment

1. Shares on own account

Germany has round about 4.500 banks and credit institutions[5]. Two years ago these banks together held about 5 % of all shares of the domestic publicly held companies (Aktiengesellschaften) and a bit less than 8 % of the shares of our domestic privately held companies with limited liability

("Gesellschaften mit beschränkter Haftung")'. But to get a more precise picture, we have to consider three additional factors.

First, the aggregation or concentration of holdings in single banks. Let us look at the ten biggest banks. According to a publication of the association of the German private banks, in 1989 the ten biggest banks held participations in non-bank firms in 101 cases. However, these numbers cover only firms with a nominal capital of more than DM 1,000,000 and holdings of more than 10 % of these firms' capital.

In 9 of these firms the shares of the banks exceeded more than 50 %, in 29 cases it lay between 25 % and 50 %, and in 63 cases between 10 % and 25 %[7]. Comprehensive recent data are not available[8].

2. Banks as custodians

Second, looking only at the equity holdings does not give us the whole picture. Especially the three biggest banks (Deutsche Bank, Dresdner Bank, Commerzbank) act as custodians for smaller shareholders. That means, they vote the shares of smaller investors in the general shareholder meetings of the big publicly held companies. Normally investors do not give them any instruction how to vote. If you add the own equity holdings and these shares which are voted by banks as trustees of the investors, you will find out that some few banks represent up to 80 % or more of all votes which are present in the meetings of our big companies with publicly held and traded stocks[9].

3. Personal interlocks between banks and firms

A third point has to be mentioned. After all it is not astonishing that banks and firms, especially those companies whose stocks are voted by banks, have interlocking directorates. That means, you will very often find one or even more representatives of banks on the supervisory board of these firms[10]. When we speak about banks and their equity holdings in industrial firms, we must not omit these additional links between a bank and a firm.

V. Reasons for acquisitions

Let us now have a look at the reasons, why our banks acquire and hold equity shares in firms. We can identify several different reasons.

1. Acquisitions which are closely related to the classical banking business

First. The acquisition of a firm or shares of a Company can occur in the course of the regular classical banking business. A borrower is in financial distress; to save its credit engagement a bank takes over shares, extends fresh money to the firm and gets more influence on its management. These are often called “unplanned participations”. Even in the U.S., where you have a Separation between banks and firms in principle, banks may acquire stock in connection with defaulted credits. However, under the U.S. rules these shares have to be sold within five years.

A similar exemption is necessary if you allow banks to place securities and to deal in stocks as our banks do. These cases are examples where the acquisition of shares is closely related to other banking functions and merely ancillary to it.

2. Acquisitions as a part of special financial Services

Second. Another group of acquisitions can be understood as special financial Services. A bank is asked by the management of a big publicly held firm to acquire a controlling block as a means of defense against a public hostile takeover bid. Or, banks acquire the majority of shares of a firm, and reorganize it or privatize it. Or, banks take over shares or even the whole firm during the reorganization of the ownership of firms in cases of inheritance, Separation of partners etc. Or banks acquire or assemble a controlling block as a Service and for the account of a party which wants to stay in the background for the moment.

3. Other reasons

Third. There are various other reasons why banks acquire and hold stock. One case is the acquisition of shares in small firms, especially in venture firms, with a thin own equity capital.
Another case is the acceptance of shares as a pledge for credits to third parties. Furthermore shareholdings can simply serve as a source of earnings and as a means to spread risks and diversify investments. And - last but not least - a bank may consider its equity stake as a "strategic" foothold in a firm which gives it easy access to its management, influence on its decisions and the guarantee that the management will at least think of the bank when it is looking for credit or other financial Services.

VI. Safety and Soundness of Banking

Are there convincing reasons to prohibit vertical integration between banks and industrial firms, other than combinations between "normal" industrial firms, or to limit the stock ownership of banks at least to a certain percentage? What are the issues and problems we have to deal with?

1. Limitation with respect to the bank's, not the firm's capital

A first aspect - and probably the most important one - is the protection of the depositors of the bank and the safety of the banking system and its functions. If the equity stake of a bank in a single firm - compared to the capital of the bank - is comparatively large, then economic problems of the firm will immediately affect the bank itself, its depositors, and possibly lead to a run on the bank. To avoid this danger it is not necessary to limit holdings of a bank to a certain percentage, like, for instance, 5 %, of the firm's capital. If it is a big firm and a small bank, this limit would not be sufficient to avoid problems for the bank. Therefore, the Overall approach to this problem, to avoid dangers for the bank and its depositors, is to limit such holdings of banks to a certain percentage of the bank's capital (and to provide for additional precautions). Remember the 15 % barrier of the EC-Directive for each single holding.

2. Disadvantages of a complete Prohibition of shareholdings

As we speak about safety and soundness of banking and its depositors, let me mention a second aspect. A regulation like in the U.S. which forbids completely that banks hold equity stakes in firms, even small portfolio investments[11], foregoes the chance for a bank to have income from this source and to diversify its risks. Therefore in my opinion the rigid regulation in the U.S. is even detrimental to the safety and soundness of its banking system. It has - to a certain extent - the opposite effect than it ought to have[12].

VII. Independent Banking Judgement

A traditional argument against equity holdings of banks is that such close equity links between banks and firms will impair the neutrality, the independent judgement of the bank ("autonomie de la fonction bancaire") vis-a-vis its clients. This argument seems to have various aspects.

1. Favouritism

First, a bank could favour its subsidiary. There are many possibilities, like, for instance, granting better conditions to the subsidiary, denying credit to its competitors or calling their loans, giving confidential information about clients to the subsidiary and so on. These dangers certainly exist. But they do exist, too, in the case of a large borrower or another client of a bank which the bank wants to support. Favouritism is not an equity or holding-specific danger. We cannot treat the question here whether and how favouritism can be excluded effectively. In any case it cannot be extinguished by simply forbidding equity stakes of banks in other firms.

2. Banks as "arbitrators" on the credit markets?

Another sophisticated argument in this context says that credit institutions have to play the role of arbitrators on the credit markets: They must, in lieu of their depositors, decide indepently where, to which firm, the capital should flow, in which firm the capital will generate the highest possible result. This independent judgement could be impaired by an own equity stake of a bank in a potential borrower. Although this does not seem to be an equity or holding-specific danger, again (if you think of other business links between a bank and a firm which is applying for a credit), an equity link admittedly creates a kind of a commitment of a bank to the respective firm[13]. But the question remains whether this is really a valid argument for a regulation. First, this argument looks at the single bank only, without regard to the competition among the various credit institutions. The competitive process will find out where and which the best use of the depositor's capital is. If a bank makes mistakes in this process, the capital will - at least in the long run - flow to another bank and, thus, to its best use. Second, if we limit the equity stake of a bank in a single firm to a certain percentage of the bank's capital and provide for other mechanisms of protection[14], it should be possible to avoid problems for the bank's depositors without foregoing the chance to gain from this source of income.

VIII. Abuse of Confidential Information

There are certainly serious questions connected with the issue of abuse of confidential information. To have a proper perspective for this discussion it may be useful to distinguish between several cases of possible conflicts of interests.

1. Sources of information

First let us have a look at the various sources of information, and then ask for the potential of abuse caused by stockholdings in these cases.

a) The information may stem from the participation itself. The bank may have obtained confidential information about a project of the firm by virtue of its role as a shareholder and then use the information to acquire more shares or, the other way around, sell its shares to investors who are not yet aware of problems of the firm. Or the bank uses its information to call its loans or to ask for more collateral before the other creditors are able to do so.

b) Second, the information may stem from another (personal oder business) relationship between a bank and its subsidiary and be used to increase or sell a participation.

c) Third, a bank may use its business relationship with another firm (a competitor of its subsidiary, for instance) to support its affiliate.

2. Potential for abuse and remedies

a) Concerning our first case - the information stems from the position of the bank as a shareholder, and the bank sells or buys shares hereafter - two remarks should be made. This case refers to publicly held (mostly stock exchange-listed) corporations whose shares are traded publicly. Normally a shareholder in such a corporation does not get confidential information if he is neither a controlling shareholder of this publicly held corporation (which again is a comparably rare case for a bank) nor sits on the board of the firm (the latter is also possible and even very common for a bank without any equity stake in the firm). This means on one side that we will mostly be confronted with the classical insider issue which is not a bank-specific issue[15], and it means on the other side that a mere Prohibition of stockholdings by banks would not suffice to solve this kind of Problems.

A further problem arises in these cases if the bank as a stockholder does not simply sell stock to (or buy from) a third party on the basis of its informational advantage, but does sell it to (or buy from) its own customers. This again touches an issue which is not bank-specific but concerns every securities dealer who at the same time acquires and sells securities for his own account. Here again no Solution can be found by simply forbidding banks to hold shares for their own account.

b) Our second example - the informational advantage of the bank stems from its personal (board membership) or business (credit, e.g.) relationship with a firm and is used to increase or sell an equity stake in the firm - touches on the question how far the term "insider" in the sense of the rules against insider trading goes[16]. Admittedly, a strict and complete interdiction of any sale or acquisition for its own account will always be more efficient in prohibiting insider trading than rules which try to prevent abuses only. Other precautions, like, for instance, a complete personal and organizational Separation of the securities department of a bank ('*Chinese Wall") might be an additional means which should be taken into consideration.

c) Our third case - a bank uses its business relationship with another firm (with a competitor of its subsidiary) to support its affiliate - should not be solved by a complete Prohibition for banks to hold stock, either. First, such abuses of confidential information from a business relationship are not holding-specific: A bank may use its information, also, for instance, for another borrower who is in financial distress and whom the bank has to support in its own interest. Apart from that it does not seem to be very likely that a competitor of a bank's subsidiary will commence a business relationship with a bank and disclose confidential information to it if the competitor is aware of the danger that this information might flow to its competitor. And, lastly, the bank itself will normally think very hard which kind of confidential information it gives to competitors of its clients because its reputation is at stake and will be lost if this breach of confidence is discovered.

IX. Antitrust Considerations

Bank-firm combinations can lead to anticompetitive behaviour or effects. A well-known form is "tying": The bank asks its customers to buy goods or Services from its subsidiary. Another danger is exclusive dealing: The combination between a bank and a firm forecloses other banks from the business with the respective firm. Or, third, the financial background of a bank's subsidiary deters its competitors from entry to its markets.

The question is whether these dangers demand a special treatment of bank-firm combinations different from "normal" vertical combinations between firms. I personally do not see convincing reasons.

1. Tying

"Tying", for instance, can happen everywhere in banking business. It is not holding-specific. A credit institution which sells financial Services, like, for instance, life insurance, will always ask its credit clients to buy from it or from its subsidiary rather than from competitors. To deal with this problem we have to look for other solutions.

2. Exclusive dealing

"Exclusive dealing" between a firm and its shareholder-bank can happen, too. But it is theoretically very difficult to maintain that this is always detrimental to the economy. From an empirical point of view exclusive dealing does not seem to a problem in our context or even be the usual case. Our former so-called housebank relationships do not any longer seem to be typical for German corporate finance[17]. They still can be found between small firms and banks. Big firms however, especially publicly held corporations with widely distributed Stocks, which to a large extent are voted by banks, use to have five to ten "main-bank relationships" and quite a lot of further connections with other banks. Moreover, they increasingly use the international capital markets either on their own or with the support of foreign institutions.

3. Market power (abuse; merger control)

Apart from exclusive dealing or tying there are other antitrust issues. The participation of a big bank in a small firm may lead to market power of this firm, to a deterrence or exit of competitors, or may lead to the abuse of the position of the respective firm. But these dangers, again, are not bank-specific. Our antitrust laws should suffice to deal with these Problems.

X. Impacts on the Firm

The most interesting question in our context in my opinion is: Which impact does a participation of a bank have on the firm itself, its other shareholders, its creditors and its management? Interesting from this aspect are only controlling blocks of shares. Does a regulation which forbids banks to acquire and own shares in industrial firms forgo substantial advantages? Or do the drawbacks prevail?
This question has been discussed only recently, and I do not think there are already final answers to it.
Let me mention some of these questions.

1. Availability and costs of credit finance

It has been argued that debt-equity combinations in the hands of one bank improve its information about the borrower and give the bank an enhanced possibility to monitor and influence the management' [8]. Economically, better information and better monitoring should lead to less risky and therefore cheaper credits to firms. Not surprisingly it has already been argued that German (and similarly Japanese) firms, especially firms with thin own capital like venture firms, firms in financial distress etc., can get finances at lower costs or in situations where firms in more market-oriented systems could not. I am not an economist and cannot prove or disapprove this argument. But I am sceptic[19]. First, a bank as a shareholder mostly will not get earlier or broader information than a bank which is simply a lender[20]. Things may look different if the bank is represented on the board of the firm. But this position does not depend on an equity stake of the bank in the firm. Second, improving the monitoring of the management of a borrowing firm by the position of a bank as a shareholder can happen. For instance, it can be necessary to take over shares of a firm in financial distress, reorganize the firm, oust its old management etc. But these are exceptional cases. I do not want to deny here that banks, if they do have the necessary amount of shares to control the management of a firm, will use this instrument in the interest of its credit engagement with the firm. But that does not yet mean that debt-equity combinations are generally a superior solution compared to a mere debt finance because of the better instruments and means for the bank which is a creditor and a shareholder at the same time. In big firms, the threshold to acquire the necessary block of shares will normally be too high. And the bank which is a creditor and has a large equity stake in a firm at the same time will face new risks: An equity stake leads to a commitment of the bank which can be detrimental for it especially in a crisis of the firm. Then the bank will face the question whether it should - to rescue its equity stake - "throw good money after bad". And if the firm goes bankrupt, not only the equity stake of the bank but also the credit capital which was extended to the firm by the bank as a major shareholder will be subordinated to other debt.

2. Banks as monitors - high retentions - overcollateralization - antitakeover amendments

The whole question certainly deserves further research. The same is true for other arguments which have been made in this context[21].
For instance, it has been said that banks with a considerable equity share in a big firm are better monitors of the management than other institutional investors who will vote with their feet rather than care about the firm.

On the other side it has been argued that credit institutions as shareholders will necessarily do harm to the other shareholders because banks as creditors are interested in high reserves whereas the other shareholders are interested in high dividends. Another con is that banks with an equity stake might bring pressure on the management to overcollateralize its credits.

More recently two of our big banks have been blamed for their support of antitakeover-amendments in the Statutes of our big firms to protect their managements against public takeover bids. But is a bank not allowed to vote in its own interest like every other shareholder? Problems and questions arise only as soon as a bank does not vote its own Stocks, but votes stocks which it holds as a trustee or guardian for other shareholders. And this was exactly what happened, and in this respect the criticism was justified[22]. But that has nothing to do with the position of banks as shareholders.

XI. The Political Debate

1. Proposals

The equity investment powers of our banks, especially the influential position of a small group of our banks has been discussed and criticized since decades. The Monopolkommission, a commission of scholars who advice the government in antitrust issues, has repeatedly suggested that the powers of banks be limited[23]. It proposes to forbid banks to acquire and own more than five percent of the capital of an industrial firm for its own account. Two years ago there was a hearing in the federal parliament on this issue, until now without a result, probably because of more urgent political developments in the meantime. But some months ago the Social Democrats have repeated this proposal[24]. Do these proposals have a chance to be realized?
I do not think so, and in my opinion they should not be supported.

First, much of the discussion about the dominance of a few big banks which are able to build up considerable amounts of participations is a consequence of a small market. As soon as there will be increasing competition from abroad, and as soon as our bigger firms will increase their independence from banks because of the immediate access to the capital markets, much of the described problems will disappear automatically. Apart from that, we should not hesitate to use the available legal tools, especially our antitrust laws, and - if necessary - improve them.

Second, in my opinion the equity participations of our banks are not the main problem. Much more delicate is the position of banks as custodians of the shares of small investors. Limiting the equity ownership would not mean any change here. And a proposal to abolish this system of banks acting as custodians for other shareholders, too, does not find any support, because nobody knows who could and would control the management of our big firms instead. Whether the American system with its proxies for the management and the market for corporate control by the threat of takeovers is preferable seems to be doubtful. Even in the U.S. the development seems to go another way in the meantime because of the evolution of institutional investors which are increasingly active and interested in the corporate governance issue. This development is particularly interesting for our environment because of two reasons: First, will there be increasing competition for our banks as custodians of smaller investors from (foreign or domestic) independent institutional investors? Second, what can we learn from foreign regulations of institutional investors and their behaviour vis-à-vis their clients or beneficiaries as well as vis-a-vis the corporations in which they hold shares? Both questions deserve our interest, but lie - regrettably - beyond the scope of this article.

2. Outlook

What does all this mean for Belgian banks as competitors in an open European market? They will have to face banks which can offer some more financial Services like rescue operations, privatizations, building up blocks of shares for a third party and others, Services, which they themselves cannot offer in the same way. I do not see that our domestic authorities will change anything in this respect in the next future. But we should continue to discuss this issue and try to find out the most suitable Solution on an European level.

* Professor at the university of Osnabrück/Germany. The article bases on a speech at the meeting of the Studiecentrum Ondernemingsgroepen/Centre d'étude des groupes d'entreprises in Brussels on Jan. 29, 1992. Hence the article does not intend to provide for an extensive survey and bibliography on the issue. - Helpful comments have been given by Prof. Verwilst/Gent and Dr. M. Gruson/New York.

1 §§ 13 (4), 19 (1) Nr. 6 Kreditwesengesetz.

2 § 12 Kreditwesengesetz.

3 Amtsblatt der EG Nr. L 386 (Dec. 30, 1989) Art. 12.

4 Korn. (91) 68 endg. (23/4/1991).

5 Deutsche Bundesbank, Statistische Beihefte zu den Monatsberichten Reihe 1 (Juni 1991 Nr. 6) p. 2.

6 Source: Deutsche Bundesbank, written testimony for the hearing before the Committee for Economy of the Federal Parliament (Bundestagsausschuß für Wirtschaft, Anhörung vom 16. Mai 1990) of April 16, 1990, p. 9.

7 Informationen des Bundesverbandes Deutscher Banken, Zur Diskussion um die "Macht der Banken" (1989).

8 The biennial reports of the Monopolkommission always contain an analysis of the capital and personal interlocks between the 100 biggest German firms, among them (in 1988) nine banks (cf. the most recent report in Bundestags-Drucksache 11/7582 pp. 203 sqq.); cf. also the data in Wenger, Die Rolle der Banken in der Industriefinanzierung und in der Unternehmenskontrolle am Beispiel der Bundesrepublik Deutschland, in: Wirtschaftspolitische Blätter 37 (1990) pp. 156, 157.

9 Numbers according to A. Gottschalk, Der Stimmrechtseinfluß der Banken in den Aktionärsversammlungen der Großunternehmen, WSI-Mitteilungen 5/1988, pp. 294 sqq.; cf. also Wenger (n. 7) p. 160.

10 Statistics in Bankenverband (n. 6) p. 20; Gottschalk (n. 8) pp. 299 sqq.; Klaus Fischer, Hausbankbeziehungen als Instrument der Bindung zwischen Banken und Unternehmen. Eine theoretische und empirische Analyse (Diss. Bonn 1990) pp. 148, 149.

11 Bank Holding Companies (BHC), not banks themselves are allowed to acquire (non-controlling blocks of) shares (up to 5 %) for portfolio investment purposes; cf. Gruson Columbia Law Review 441 sqq. (1988).

12 Cf. in more detail Baums, Verbindungen zwischen Banken und Unternehmen im amerikanischen Wirtschaftsrecht (Tübingen 1992; forthcoming).

13 And, on the other side, a commitment of the firm and its management which may be advantageous for the firm as well as for

the bank; for a discussion of this interesting question see Hellwig, Banking, Financial Intermediation and Corporate Finance (Working Paper University of Basle [1990]) and Klaus Fischer (n. 9).

14 E.g., § 19 (1) Nr. 6 Kreditwesengesetz declares stockholdings to be credits which means that the frame for a credit to such a firm is narrower than if the bank had no stake in the firm.

15 Right now the Federal Government plans to introduce an insider trading law instead of the actual voluntary rules ("Insiderhandels-Richtlinie").

16 Credit institutions, their board members, management and employees are "insiders" according to the Insiderhandels-Richtlinie (n. 14, supra). However, the "regular securities trading business" of credit institutions is - until now - exempted from the Insiderhandels-Richtlinie (Art. 1 (2) (c)).

17 See the empirical study of K. Fischer (n. 9, supra).

18 Cable, Capital, Market Information and Industrial Performance: The Role of West German Banks, 95 The Economic Journal pp. 118 - 132 (1985); McCauley/Zimmer, Explaining International Differences in the Cost of Capital: The U.S. and U.K. versus Japan and Germany (Fed. Reserve Bank of New York, Research Paper No. 8913), 1989; Berglöf, Capital Structure as a Mechanism of Corporate Control: Comparison of Financial Systems, in: Aoki/Gustafsson/Williamson (eds.), The Firm as a Nexus of Treaties (1990), p. 237; Baums, Banks and Corporate Control (U.C. Berkeley Program in Law and Economics) Working Paper No. 91-1 (1991).

19 See also K. Scott, Comment on Neuburger/Neumann, 147 Journal of Institutional and Theoretical Economics p. 202 (1991).

20 Banks are even obliged legally to ask for thorough information, cf. § 18 Kreditwesengesetz.

21 See the thorough Surveys and discussion in: Bericht der Studienkommission "Grundsatzfragen der Kreditwirtschaft" (Schriftenreihe des Bundesministeriums der Finanzen Heft 28), 1979; Immenga, Beteiligungen von Banken in anderen Wirtschaftszweigen 2nd ed., 1978; Steinherr/Huveneers, Universal Banks: The Prototype of Successful Banks in the Integrated European Market? A View Inspired by German Experience (CEPS Research Report No. 2), 1990.

22 Discussion in Adams, Die Aktiengesellschaft 1990, pp. 63, 243; U.H. Schneider, Die Aktiengesellschaft 1990, p. 56; Baums Die Aktiengesellschaft 1990 p. 221; Zöllner/Noack Die Aktiengesellschaft 1991 p. 117.

23 Monopolkommission, Hauptgutachten 1973/75 "Mehr Wettbewerb ist möglich" (2nd ed. 1977) p. 296; most recently same, Sondergutachten 18 (1989) pp. 145, 146.

24 Cf. Handelsblatt, Dec. 19, 1991.