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Institutional maintenance as justification work in the credit rating industry

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The more things change... Institutional maintenance as justification work in the credit rating industry

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Abstract

This article combines the theory of justification developed by Boltanski and Thévenot with the concept of institutional work to analyse how actors' discursive engagement can lead to the maintenance of legitimacy. In controversies over the regulation of credit rating, actors perform institutional work based on the use and arrangement of several forms of legitimacy in order to promote a certain view of justice. A longitudinal qualitative study of the justifications produced by stakeholders in credit rating between 2000 and 2010 reveals three different mechanisms that lead to institutional maintenance. The first is a straightforward case of confirmation work in which the actors repeat or reformulate the existing regulatory arrangement or simply refuse to take part in the debate. The second involves qualifying objects according to the existing concept of regulation. In the third, reference to the model of the circular figure can explain the mechanism that prevents the controversy from ending: the actors' inability to resolve a debate involving several orders of morality is precisely what leads to the reaffirmation of the foundations underlying the legitimacy of credit rating regulation.

Key words: Institutional maintenance, Justification, Legitimacy, Credit rating agencies

INTRODUCTION

Research on institutional maintenance work "has received relatively little empirical or theoretical attention" (Lawrence, Suddaby, & Leca, 2009: 8), such that there are still several unexplored areas relating to how institutions reproduce with apparent stability (Scott, 2008). Pioneers in this field of research explained such persistence by mimetic behaviours (DiMaggio & Powell, 1983) or the normative pillar on which institutions are built (Angus, 1993). Institutional continuity was subsequently observed as a process of mechanical self-reproduction (Jepperson, 1991). Emphasising the cognitive features of this phenomenon, institutional maintenance has been studied as routine work leading to the reproduction of a world view (Zilber, 2002; Zilber, 2009). A number of studies described institutional maintenance as the internalisation of modes of representation in the form of myths (Zilber, 2009), rationality (Townley, 2002) or cognitive frames (Suddaby & Greenwood, 2005), but did not describe the mechanism that leads to the adoption of those beliefs (Scott, 2008). To shed light on this phenomenon of institutional maintenance, I argue that it is necessary to examine the variable(s) that change within what is maintained. The expression "isomorphic change" (Meyer & Rowan, 1977; DiMaggio & Powell, 1983) associates institutional reproduction ("isomorphic") with the idea of movement ("change"). This article draws on the theoretical framework developed by Boltanski and Thévenot (1991) to describe institutional maintenance, focusing on the changing variables that ultimately perpetuate the status quo. This approach aims to make two major contributions: 1) to identify several different forms of justification work that lead to institutional maintenance, and 2) to highlight the most complex form of institutional maintenance work, in which controversies succeed in immunising an institution against critiques.

In particular, analysis of the perpetuation of legitimacy has not been seriously questioned in the case of an environment in which the actors are dealing with a number of institutional logics (Lawrence & Suddaby, 2006; Thornton, Ocasio, & Lounsbury, 2012). Individuals generally conform to a dominant logic (Thornton, 2002), but Suddaby and Greenwood (2005) noted that in the event of change in an institutional field, tensions could emerge in the existing order, as shown in the presence of different logics (Friedland & Alford, 1991) which can sometimes be in competition with each other (Townley, 2002). More recently, several studies have followed the path opened up by these authors (notably Dunn & Jones, 2010), emphasising that the principles underlying institutions could be combined in organisations (Glynn & Lounsbury, 2005) and arranged spatially through configurations of diverse discourses (Spicer & Sewell, 2010). Finally, it has been demonstrated that this institutional complexity (Greenwood, Raynard, Kodeih, Micelotta, & Lounsbury, 2011) should also be considered in conjunction with local cultural contingencies in order to be understood (Greenwood, Diaz, Li, & Lorente, 2010).

However, apart from some research on hybrid organisations (Battilana & Dorado, 2010; Pache & Santos, forthcoming), these studies have not shown the practical construction of the arrangements used (Marti & Mair, 2009). The practical process by which actors draw upon several contradictory rationales to shape the social order remains obscure (Hodge & Coronado, 2006; Vaara, Tienari, & Laurila, 2006), and yet understanding this process is necessary to explain institutional persistence. As Jagd (2011) observed in a review of the literature using the framework of the sociology of critique in organisation theory, reference to Boltanski's framework can remedy this state of affairs. I propose to refer more specifically to two concepts developed by Boltanski and Thévenot's (1991) sociology of critique, namely compromise and the test, which I shall define in detail in the theoretical section.

In organisational studies, researchers related the work of Boltanski and Thévenot to the study of institutional processes (Biggart & Beamish, 2003; Thornton & Ocasio, 2008). They then drew inspiration from the corpus of sociology of critique to analyse the multiplicity of logics that coexist in organisations (Denis, Langley, & Rouleau, 2007; Stark, 2009; Jagd, 2011). Examining the discourses heard as justifications can be considered to reveal the many foundations underpinning the institution (Leca & Naccache, 2006; Thornton, Ocasio, & Lounsbury, 2012); for example, it can be seen to highlight organisational differences between countries with different cultures (Pernkopf-Konhaeuser & Brandl, 2010). Huault and Rainelli (2011) used the concept of compromise as theorised by Boltanski and Thévenot to cast new light on organisational phenomena seeking to reconcile different world views. Compromise is the figure that allows the peaceful coexistence of different interests and ways of thinking (Nachi, 2004). Patriotta, Gond and Schultz (2011) used this conception to study the compromises on which justifications put forward by actors were based to reassert existing legitimacy in the field of nuclear power. These authors made use of the theory of justification to address the issue of institutional maintenance. Maintenance, in their study, appears as a process supported by public controversies and justifications in which actors make use of their moral sense. In the sociology of critique, this game in which individuals hold concordant or divergent representations or, to put it another way, reinforce or challenge the existing compromise is expressed through the concept of the test. In practice, the test takes the form of a justification or a public critique. This article provides definitions of the figures of the compromise and the test, which have so far been under-theorised in the literature combining neo-institutionalism and the sociology of critique, in order to explain institutional maintenance processes. The definitions lead to a detailed description of institutional justification work in an institutional maintenance context. Then, by applying these concepts to the case of credit rating, this study brings out a form of maintenance dynamic in which contestation paradoxically results in perpetuation of the status quo.

THE CONCEPTS OF THE SOCIOLOGY OF CRITIQUE

Qualification according to polities

The sociology of critique intends to describe and analyse "how the actors 'themselves' designate the beings that make up their environment (…) and in doing so, help to perform the social world" (Boltanski, 2012: 340-341, author's own translation). The method applied by this school of sociological thought is to study the discourse actors elaborate in their search for a common good, i.e. in pursuit of what they consider just. This approach focuses on actors' creativity and inventiveness, and makes the social intelligence which they demonstrate perceptible, whatever those actors are (Blokker, 2011). In practice, the aim is to bring out the moral principles (which Boltanski and Thévenot call the "higher common principles") which individuals draw on in situations of controversy, particularly to return to agreement. The fact that actors use moral principles to justify their arguments is then expressed by the notion of the rise towards generality. In their seminal book, Boltanski and Thévenot (1991) construct six worlds [1] that underlie the registers of argument used by actors when they rise towards generality: the inspired world, the domestic world, the world of fame, the civic world, the industrial world and the market world. In their approach to justification in situations of dispute, the actors make use of objects (that may be material or symbolic) depending on the higher principles they call on. In relation to a given common principle, belonging to a given world determines what is called the qualification of objects and people, and the relationships between them (see Table 1). For instance, what is "worthy" in the industrial world is an efficient nature, and somebody inefficient will be considered "unworthy" in this world. In the inspired world, worth will depend on the capacity to be creative and inspired, and being "down-to-earth" will correspond to a form of degeneracy. In Boltanski and Thévenot's framework, worth is "the way in which one expresses, embodies, understands, or represents other people (according to modalities that depend on the world under consideration)" (Boltanski & Thévenot, 1991: 167; 2006: 132). Justice appears only to exist in a situated, contextualised, specific relationship.

1. The book by Boltanski and Chiapello (1999) identifies an additional polity: the projective city. Claudette Lafaye and Laurent Thévenot (1994) referred to the "green world". And in his 2004 book Boltanski took an interest in a specific polity which is considered illegitimate: the "eugenics polity".

Table 1. The six orders of worth from Boltanski and Thévenot's Economies of Worth

'Common worlds'	**Market**	**Industrial**	**Civic**	**Domestic**	**Inspired**	**Fame**
Mode of evaluation (worth)	Price, cost	Technical efficiency	Collective welfare	Esteem, reputation	Grace, singularity, creativeness	Renown, fame
Test	Market competitiveness	Competence, reliability, planning	Equality and solidarity	Trustworthiness	Passion, enthusiasm	Popularity, audience, recognition
Form of relevant proof	Monetary	Measurable: criteria, statistics	Formal, official	Oral, exemplary, personally warranted	Emotional involvement and expression	Semiotic
Qualified objects	Freely circulating market good or service	Infrastructure, project, technical object, method, plan	Rules and regulations, fundamental rights, welfare policies	Patrimony, locale, heritage	Emotionally invested body or item, the sublime	Sign, media
Qualified human beings	Customer, consumer, merchant, seller	Engineer, professional, expert	Equal citizens, solidarity unions	Authority	Creative Beings, artists	Celebrity

Source: adapted from Thévenot, Moody, & Lafaye (2000: 241).

French pragmatic sociology is commonly misused as a tool to classify justifications (Breviglieri, Lafaye, & Trom, 2009). In fact, pragmatic sociology is more than a mere tool for categorising discourses: it studies the dynamics of agreement, the process that engages the adjustment of actors in social life, and leads to the formation of relatively stable common worlds. Beyond the repertoires of political forms of worth available to the actors ("the polities"), which seems to be a given, the value of this sociology lies in the way it casts light on this process through test and compromise (Nachi, 2006; Breviglieri, et al., 2009).

Compromise

Compromise is the cornerstone of Boltanski's pragmatic sociology (Nachi, 2004; Nachi, 2006). It makes it possible to find a way to live together despite insurmountable opposition. It is the juxtaposition of various justifications connected by principles of equivalence, such that different interests and ways of thinking can coexist. When there is a multiplicity of forms of justification and use of violence is naturally excluded as a way of imposing a viewpoint, compromise is necessary to attain a "common good". According to Nachi (2004: 139, author's own translation) "compromise is intended to solve conflicts of worth by using arguments and justifications relating to several 'polities' lying at the intersection of various modalities of justification". This heterogeneity makes the compromise provisional, but that does not mean it is ephemeral. When the "common good" is attained, the search for individual interests is superseded in a publicly recognised compromise that provides a way out of disputes. The compromise can be reinforced and thus appear uncontested. As Boltanski and Thévenot (1991: 340; 2006: 279) write: "[t]he multiplication of composite objects that corroborate one another and their identification with a common form thus help work out and stabilise a compromise. When a compromise is worked out, the beings it associates become hard to pry apart". But as Ricœur (1991: 3, author's own translation) reminds us, "compromise is always weak and revocable, but it is the only way to aim for the common good". Compromise can thus be undermined at any moment by public denunciation. In other words, the concept of compromise makes it possible to describe an appearance of stability within which a dynamic form remains, embodied in the fundamental opposition between irreconcilable worths.

The example of credit institutions in rural areas illustrates this idea. Composite arrangements are set up (Wissler, 1989) to form crossing points between logics belonging to the domestic world (local roots embodied in relationships with friends, family, neighbours, services) and logics belonging to the industrial world (seeking to objectify the decision to give a loan). As a result, the final loan decision goes beyond the inextricable situation and can reach a more general agreement that reduces past tensions [2] (Wissler, 1989: 113, author's own translation): "the financial analyst constructs a plan^{I} for financial consolidation^{D-I} in the medium term^{I}. By highlighting the authority^{D} of the financial backer, he asks the family^{D} to become more involved in the firm by making a capital contribution and a contribution to a blocked account, to prevent the risk of deterioration in the accounts^{I} (...)". Studying the loan decision processes shows how the banking establishment has had to reach a compromise between two logics of action in its operation. Agreement enables actors to move beyond a situation of opposition between financial analysis, belonging to the industrial world, and the

2. The letters presented in superscript are the first letters of the world concerned: I for the industrial world and D for the domestic world.

recommendations of the local board of directors, so far engaged in a domestic logic of judgement. The new, more general, equivalence established here is embodied in new composite objects that reinforce the compromise: in return for the loan, a joint[D] guarantee[I] (caution[I]-solidaire[D] in French) will be requested to consolidate the agreement reached between the industrial world and the domestic world.

Test

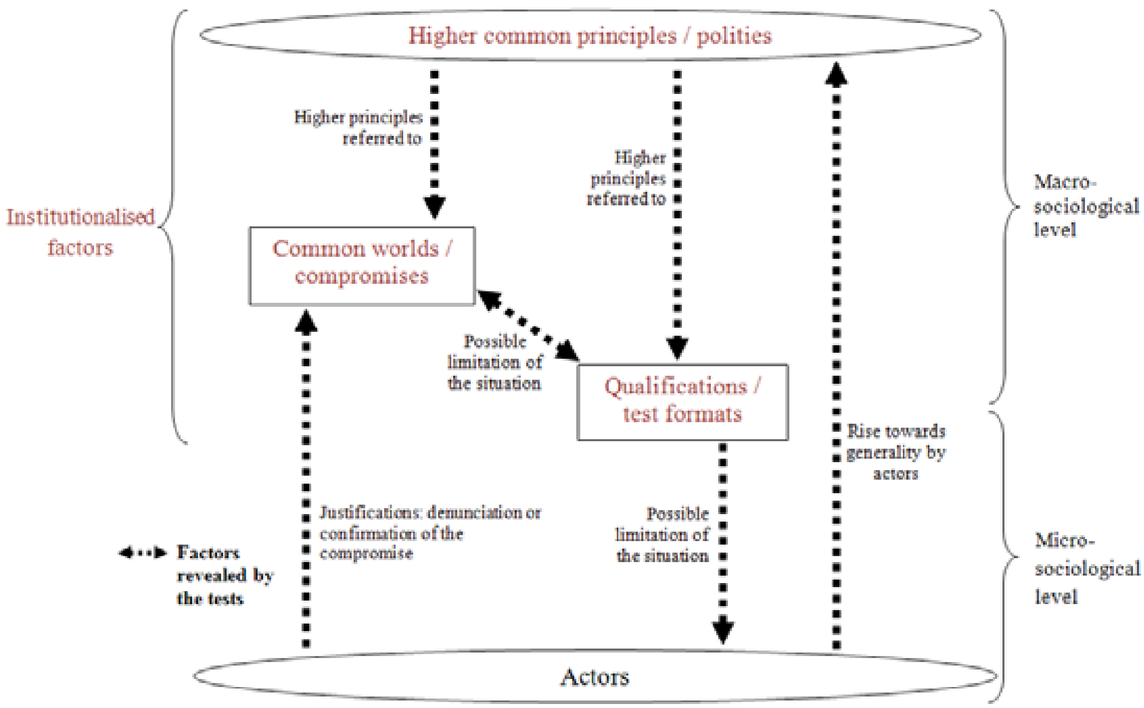
In French pragmatic sociology, the fundamental concept of the test is used to emphasise actors' agency in an instituted order (Breviglieri, et al., 2009). Note that, by looking at situations in which individuals are relatively free to express their point of view, Boltanski and Thévenot's approach ignores tests that do not involve the possibility of justification. In a justification situation, the test brings in individuals and their capacity to qualify objects and people: this is a test of legitimacy. For example, the justice of a situation can be contested through a complaint about its lack of transparency (world of fame). Likewise, demanding greater competition in a given situation can be a way to support the moral foundation of the social arrangement, in this case by reference to the market polity. The test is "the moment for establishing correspondence between an activity and a qualification, with a view to a justification that can claim general validity" (Boltanski & Chiapello, 1999: 410; 2005: 321). Contestation of an order involves tests of legitimacy, and so does reinforcement: the better a state of affairs stands up to the tests, the more stable it is. More recently, Boltanski (2009: 159-166; 2011: 103-110) identified several types of legitimate tests, including "truth tests" and "reality tests". Truth tests confirm reality by bringing it out in its completeness and apparent perfection. They are often characterised by tautological discourse or the use of expressions that simply state what is good or bad rather than emphasising reasoning and argument. Reality tests, meanwhile, compare what exists with what is claimed to exist, and require some in-depth argument, but by no means prejudge the outcome for the reigning order. They can therefore either strengthen or shake the compromise.

Interactions between the concepts of the sociology of critique

Public justifications by the stakeholders in a controversy represent combinations of orders of worth in the search for or continuation of a compromise. When actors make criticisms of the prevailing order through involvement in the public debate, they assess the "state of worth" of the objects and people concerned by the debate through a test. This process of producing and criticising compromises is complex.

From a theoretical standpoint, the complexity of justification is visible in the interrelations between qualification according to the polity, formation of compromises and application of tests (see Figure 1 below). Both the level of individuals (microsociological) and the more collective level of institutions (macro-sociological) are incorporated into Boltanski's approach. They are found respectively in the concept of the actor/object and that of the world that embodies the general will. Transition between the two levels is made possible by the concept of the test. The sociology of critique framework can simultaneously take into consideration 1) action, through the interpretations (or attempted interpretations) of individuals in the situation; and 2) macro-sociological factors that go beyond/transcend the situation. The local compromise is then clarified, and the factors imposed on actors are exposed through the actors' rise towards generality and the test format applied. The level of the institution is not only attained through the process of the rise towards generality, but also embodied in the concept of the test format, meaning the way the actors reduce the diversity of situations encountered in reality to bring it down to prepared, identified tests.

Figure 1. Circulation of the critique through organisational levels



Active production and acceptance of arguments in the justification work are mechanisms that solve the difficulty inherent to the transition between the micro level of the data studied and the representation of the institutional order in general. Thanks to the test, study of institutional justification work can also connect (Breviglieri, et al., 2009) between the actors' individual commitment and the macro-sociological level in which the institution is located. While Jagd (2011) stresses the low number of empirical studies examining the process in the organisational field, he considers it an indicator of promising potential for development for empirical studies in the "institutional work" research agenda (Lawrence & Suddaby, 2006; Lawrence, Suddaby, & Leca, 2011) .

RESEARCH QUESTION

According to the findings of Patriotta, Gond and Schultz (2011), public justifications lead to a new configuration of the social order while preserving the legitimacy of existing institutions. Institutional maintenance no longer appears as a struggle between types of actors (Oliver, 1992) with some seeking to maintain the status quo and others opposing that aim. This dichotomy, supported by authors such as Maguire and Hardy (2009), is challenged because maintenance is presented as a process involving each type of stakeholder in the field. Furthermore, the proposed approach illustrates the studies presenting institutional processes as the result of collective work (Garud & Karnøe, 2003; Reay & Hinings, 2005; Battilana, Leca, & Boxenbaum, 2009; Delacour & Leca, 2011) rather than the action of a few members standing apart from the rest. The present article also sees institutional maintenance as a process founded on a justification which stakeholders put to an audience. However, it seeks to go further than the case described by Patriotta, Gond and Schultz and define several types of institutional justification work in a process of maintaining legitimacy. The study will be based on in-depth analysis of the forms of compromises and tests in order to define the different forms of institutional justification work. In light of this purpose, a rise in the extent to which the existing order is contested, which Boltanski calls a "crisis of justification" (Boltanski, 1990), represents a particular opportunity, because at such times the foundations of the institution are revealed. As Figure 2 below shows, the subprime crisis led to an increase in contestation of credit ratings. These factors raise the following research question: to what forms of compromise and test does each sequence in institutional justification work in the credit rating industry correspond before and after the start of the subprime crisis?

THE PARADOX OF CREDIT RATING

Recent decades have highlighted a paradox in the business of credit rating. Rating agencies have regularly been criticised, but without any real challenge to their status as a pillar of the contemporary financial industry. As Sinclair (2010: 8) observes, this contradiction intensified with the arrival of the financial crisis of 2008:

> *It is intriguing that despite the worst financial crisis since the 1930s and the identification of a suitable culprit in the rating agencies, proposed regulation should be so insubstantial, doing so little to alter the rating system that has been in place in the US since 1909 and Europe since the late 1980s.*

Criticism of credit rating has already arisen several times in the past, whenever the agencies have failed in their mission of assigning a rating reflecting the solvency of a debt issuer or issue. This happened during sovereign debt crises (for a detailed presentation, see Sinclair, 2005) including the Mexican crisis (1994-1995), the Asian crisis (1997-1998), the Argentinean default in 2001 and the Icelandic crisis of 2008, but also in the field of corporate debt in the early 2000s with the downfall of Enron, Worldcom and Parmalat (Borrus, McNamee, & Timmons, 2002). As Langohr and Langohr (2008: 189) point out, "Enron was rated good credit by S&P and Moody's until four days before its collapse, Worldcom until three months before, and Parmalat until 45 days before". The 2008 subprime crisis then intensified the criticism. As early as 2007, rating agencies were criticised for their role in the financial crisis (The Economist, 2007; Gasparino, 2007; Lordon, 2007), particularly for assigning high ratings to mortgage-backed securities and other financial instruments which later turned out to be toxic assets. Not long afterwards they were also berated for failing to foresee the difficulties of the financial companies they had placed at the top of their "investment" (i.e. low-risk) grade shortly before they went bankrupt (Lehman Brothers, American International Group etc). Senator Carl Levin, chairman of the US Senate's Permanent Subcommittee on Investigations (United States Senate, 2010; United States Senate, 2011), made the following comment on the rating agencies' role in the crisis: "I don't think either of these companies has served their shareholders or the nation well" (Senate panel: Ratings agencies rolled over for Wall Street, 2010). Finally, the pressure the rating agencies put on States and their budget policy through their assessment of sovereign debt is also a subject that has attracted criticism.

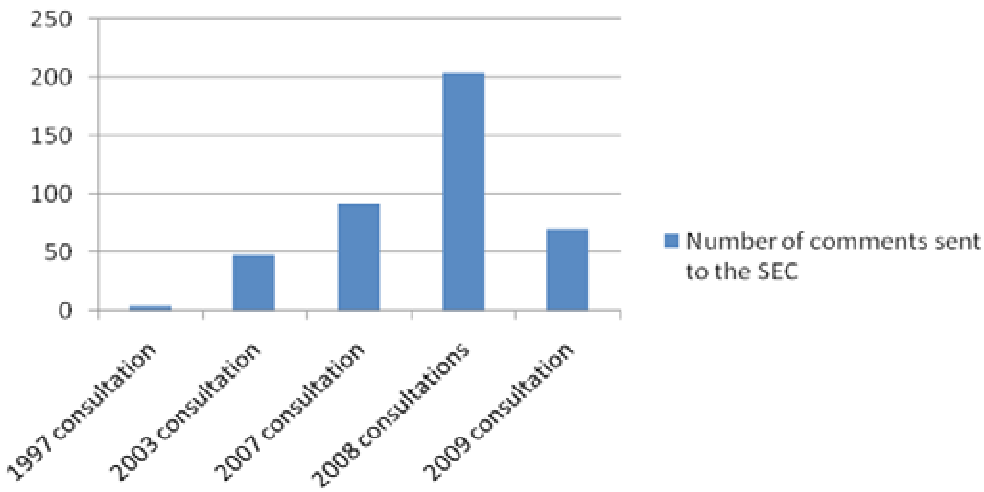
The other side of the credit rating paradox concerns the lack of change observed in the prevailing order in the rating industry. After the US subprime mortgage crisis, the authority in charge of financial market regulation in the US (the Securities and Exchange Commission) announced that it was putting an end to agencies' self-regulation (SEC, 2008), and the European Union also sought to intervene in their activity, proposing supervision through the CESR (The Committee of European Securities Regulators), which was superseded by the ESMA (European Securities and Markets Authority) on 1 January 2011. Despite the contestation, no real change was made to the regulatory framework of credit rating (see timeline in Appendix 1). The successive reforms introduced by the US and European regulators simply made minor modifications to improve transparency, prevent conflicts of interest and reduce the regulatory use of credit ratings by the public authorities. The relevant section of the Dodd-Frank Wall Street Reform Act, adopted in 2010 in the US and intended to provide a stricter framework for credit rating, has been partly emptied of substance (Eisinger & Bernstein, 2011).

Examining the sequence of events during which rating agencies failed to accomplish their mission in parallel with the rise in their power raises the question of rating agencies' resistance to critique. As one rating crisis followed another, the role of agencies was paradoxically reinforced. After the crisis of the Penn Central Transportation Company bankruptcy in 1970, the Nationally Recognized Statistical Rating Organization (NRSRO) regulations were adopted; after the Asian crisis and the fall of Enron in 2001, the Basel II framework was adopted. These two sets of regulations strengthened rating agencies' powers: the first assigned private firms the job of issuing ratings to be used for regulatory purposes, and the second accentuated this power by such steps as designating the principal agencies' ratings as an international benchmark for calculating banks' prudential ratios. Every event that could have been seen as a threat to the rating agencies in fact helped to reinforce their role.

In view of this paradox between the contestation directed at credit rating and the absence of significant change in regulation, the following question can be asked: what made the regulatory arrangement of credit rating so resistant to contestation and change?

Following the agencies' failings to accomplish their mission, the controversy over credit rating increased, triggering a debate between different conceptions of appropriate regulation. Figure 2 shows the number of comments sent to the SEC in the public consultation processes concerning credit rating during the period.

Figure 2. Number of comments sent to the SEC for each consultation



When failings by rating agencies triggered contestation, the SEC began considering stricter regulation for agencies and the credit rating industry. In response to the need for justification of the institutions of capitalism (Boltanski, 2009: 190; 2011: 182), the SEC submitted its proposals to public consultation. Anyone interested in giving their opinion was invited to do so (see Appendix 2 for an idea of which type of actor took up this opportunity). Under the sociology of critique approach, the various justifications expressed in the comments received represent tests of the current view of credit rating regulation. The study of this justification work provides the basis for the present analysis of institutional legitimacy in the credit rating industry.

METHODOLOGY

A qualitative methodology was used for this case study. The empirical material consists of the 340 comments sent in during the SEC's public consultations. Two different collection points were used: the 2003 consultation, corresponding to the period before the subprime crisis, and then the consultations held from 2007 onwards, revealing the justification work for the subprime crisis period. The Nvivo8 software for coding qualitative data was used to code this material. Coding took place in three stages, involving the types of coding described by Richards (2009): descriptive coding, thematic coding and analytical coding. Through descriptive coding the data were sequenced and twelve different categories were identified for the "type of actor" attribute (Appendix 3 presents the frequency of comments by category of actors during the period covered). Next, the data were coded by theme, allocating extracts from the comments between the general themes to which they refer. This thematic coding led me to focus on two principal debates for the purpose of this study: the debate concerning use of NRSRO ratings to regulatory ends, and the debate over conflicts of interest and practices threatening the integrity of rating.

Lastly, analytical coding was carried out, involving interpretation of the meaning produced by the data through use of the concepts of On Justification:

Economies of Worth. At this stage, the aim was to highlight the tests establishing compromises between several worlds for each of the consultations studied between 2000 and 2010.

The categories arising from the polities and their semantic descriptors are already strongly determined and explained in the work of Boltanski and Thévenot. Worlds, higher common principles, tests, and the relevant test formats for a world are clearly evoked (see Table 1 above). We also added descriptors to the list originally supplied by Boltanski and Thévenot, taking a similar approach to Patriotta, Gond and Schultz (see Table 2 below; italics indicate additions to Boltanski and Thévenot's original list coming from the empirical field). Table 2 shows the chosen semantic descriptors, with the first column indicating the relative influence of each world for all coded extracts [3]. Patriotta, Gond and Schultz (2011) used a similar method, specifying that in their object of study certain worlds "have not been used in our counting and content analysis due to [their] very low recurrence in the data and [their] lack of importance in the unfolding of the controversy". The same applies here for the inspired world and the domestic world, which are not relevant for this study.

3. The only problem encountered concerned matters relating to transparency (referred to in our data by reference to "disclosure"): did the concept of transparency relate to the domestic world (this is the interpretation of Patriotta, Gond and Schultz (2011)) or the world of fame? We took the second option, in line with Huault and Rainelli (2009), who consider that the power of transparency relates to the world of fame since in that world, what is considered worthy is what is known and recognised. Thévenot confirms the dominant role of the world of fame in extension of the market logic, considering that the market world is realised through an "imposing mechanism of visibility and dissemination belonging to the order of fame" (Thévenot 1997: 214, author's own translation).

Table 2. Semantic descriptors for common worlds

"Common worlds"	List of key words and expressions used as semantic markers to connect comments to the polities.
World of fame 31.6 %	Public opinion, public, reputation, misleading, data, information, disclosure, signal, reliable source of information, reputational, credibility, quality of rating information, communicate, publicly accountable, diversity of opinion, comments, the public considers, transparency, reliable, creditworthiness, clear and discernible, confidence, available information, reliability awareness etc.
Industrial world 25.3 %	Efficiency, performance, experts, standard, objectivity, useful, quantitative signal, a consistent and clear correlation, a valuable resource, accurate ratings, methodologies, evaluate, resources to manage, objective, standard, effectiveness, a tool, assess, accuracy, practical, level etc.
Market world 23.2 %	Competition, rivalry, market, benefit, value, oligopoly, monopoly, price, commercial interests, financial, competing agencies, the marketplace, price competition, competition in the industry, barrier to entry, business, the market dynamic, market discipline, market measures of credit risk, increase competition, products, free market system etc.
Civic world 18.6 %	Collectives, legal, rule, governed, solidarity, collective interest, oversight, regulation, integrity, regulator, rulemaking, the government etc.
Inspired world 0.7 %	Creative anxiety, passion, dream, fantasy, vision, idea, spirit, religion, genius, unconscious, emotional, feelings, etc.
Domestic world 0.7 %	Engendering, tradition, generation, hierarchy, family, leader, volunteering, faithful, determination of a position in the hierarchy, punctuality, loyalty, firmness, honest, trust, superior, rejection of selfishness, respect etc.

Based on Patriotta, Gond and Schulz (2011) and Boltanski and Thévenot (1991)

ANALYSIS OF INSTITUTIONAL MAINTENANCE IN CREDIT RATING REGULATION

2003: Straightforward confirmation work

In the 2003 consultation, the industry actors produce a discourse of confirmation that reveals little about the credit rating industry. In this period, the legitimacy underpinning credit rating regulation is not contested. Tautological or epideictic expressions are used that close reality in on itself, with no glimpse of the higher principles on which the actors base their arguments.

> *Ratings issued by the major rating agencies have generally proved to be a reliable source of information for the fixed income markets. The reputational and commercial interests of the agencies provide a strong motivation to maintain the credibility of their ratings.*
> *John M. Ramsay, The Bond Market Association, 2003* [4].

4. Appendix 5 presents the website links to the original comments, together with a brief description of the author of the comment.

The actors avoid self-justification and do not attack the existing regulatory order. Comparisons between arguments and the foundations of legitimacy are few and far between. The idea of further regulation for credit rating is considered unimportant, because in the actors' view there is no problem. They describe the existing situation without questioning this conception of reality. This gives rise to a type of test described above in the theoretical discussion: truth tests. A discourse of flight from justification is also produced by the main rating agencies, which understandably have an interest in keeping the status quo unchanged:

> *The NRSRO system is designed, appropriately in our view (…)*
> *Charles D. Brown, Fitch Ratings, 2003*

The same mechanism is used in the discourse of other participants in the debates. Users of ratings in the bond market (the Bond Market Association and SIA Capital Committee), chief financial officers and financial executives (through Financial Executives International) and professionals from the world of insurance (NAIC) speak with the same voice. They consider it unnecessary to start a discussion on the introduction of stricter regulation for agencies:

> *The Committee believes that such differentiation in the determination of capital charges on the basis of credit ratings is a concept that has served markets well for over 25 years.*
> *Cheryl Kallem, SIA Capital Committee, 2003 (my emphasis).*

> *In general we believe that the two factors above [in determining whether a credit rating agency qualified as an NRSRO], as well as the key components within the operational assessment, are adequate.*
> *Grace Hinchman, Financial Executives International, 2003.*

> *The four NRSROs have a good deal of influence in the market. (…) Considering alternatives to the current system that has worked well for state insurance regulators could be costly and complicated.*
> *Gregory V. Serio, NAIC Rating Agency Working Group, National Association of Insurance Commissioners, 2003.*

> *(…) As a general matter the Association believes that the current system of oversight of credit rating agencies functions reasonably well.*
> *John M. Ramsay, The Bond Market Association, 2003.*

In general, the comments submitted in 2003 are studded with references to the appropriateness and relevance of the existing organisation. The actors assert that the system has worked well for years. The only possible concession to criticism is the admission that it is the worst system, apart from all others.
Two mechanisms may explain the institutional maintenance observed in 2003. 1) The actors reassert the prevailing order to confirm the existing institution.

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2) The same actors also use the flight from argument mechanism in order to perpetuate the compromise in its existing form, suspending the constraint of justification.

2007 onwards: qualification work as the controversy grows in importance

When the subprime crisis brought rating agencies centre stage, new facts featured in the contestation, leading to a change in the justification work compared to 2003. The subprime crisis highlighted the agencies' failings: attribution of high ratings to financial products that turned out to be toxic assets, inability to assess the true financial health of companies such as Lehman Brothers and AIG before they went bankrupt, etc. The SEC published a report in the summer of 2008 stressing rating agencies' lapses. Publicly released email correspondence between agency analysts showed that the agency mission had not been fully accomplished. In one of those emails (SEC, 2008, July: 12), an agency analyst expressed concern that "her firm's model did not capture 'half' of the deal's risk, but that 'it could be structured by cows and we would rate it'". Another analyst wrote to a senior analyst on the question of structured finance (SEC, 2008, July: 12): "the rating agencies continue to create an 'even bigger monster – the CDO [collateralized debt obligations] market. Let's hope we are all wealthy and retired by the time this house of cards falters.;o)'".

In contrast to the 2003 public consultation, the 2007 and 2008 consultations attracted a much larger number of comments (see Figure 2 above). From 2006, through the Credit Rating Agencies Reform Act and then the public consultations of summer 2008, the SEC intended to promote "responsibility, transparency and competition" in the credit rating industry. The US financial market regulator was entering a phase of greater intervention in the supervision of credit rating. The "final rule" of 2007 adopted measures governing the public availability of agency data, requiring them to keep records of their activities and make financial reports to the SEC. Agencies were also required to apply procedures designed to prevent possible conflicts of interest. For instance, NRSRO agencies were now banned "from having certain conflicts of interest and engaging in certain unfair, abusive, or coercive practices" (SEC, 2008, restating the new measures of 2007).

For this period, the thematic coding (Richards, 2009) brought out two major themes in the controversies relating to the search for the common good: the debate on the use of NRSRO ratings for regulation, and the debate on the conflict of interests threatening the rating activity.

The debate on use of ratings by the public authorities

The justifications produced expose the argumentation repertoires used to contest or, on the contrary, support the use of ratings issued by nationally recognised agencies in the regulation of financial activities. The vast majority of comments express opposition to the SEC's proposed measures to make regulations less dependent on NRSRO agency ratings (Baklanova, 2009). J. G. Lallande, an investor, is against no longer referring to NRSRO ratings in the name of a private arrangement between two orders of worth.

> *NRSRO ratings, although imperfect at times, provide a clear and discernible*

threshold below which investments may not be made. By eliminating this threshold and replacing it with a subjective standard—one that may vary from fund to fund—the Commission would be hindering the effectiveness of Rule 2a-7's ability to protect investors.
J. G. Lallande, Invesco Aim Advisors, Inc., July 2008.

The use of NRSRO ratings gives a "clear and discernible" (world of fame) "threshold" (industrial world) as a benchmark for the investment decision. Lallande strongly links the fame dimension to the industrial world, with regret that ratings could be replaced by "subjective standards" (unworthy in the industrial world) that reduce the effectiveness of market mechanisms. Another investor, Daniel Pedrotty (Office of Investment, AFL-CIO), contests the decision to cease referring to NRSRO ratings by imagining the problems caused by application of that rule for the "market dynamic" (market world):

It is not an exaggeration to suggest that the elimination of the ratings requirements as contemplated may accomplish the exact opposite of what the Commission intends. The market dynamic that would likely arise with the elimination of a third-party rating requirement is predictable and has been observed time and again in other arenas. (…) As a result, there will be greater inconsistency in credit quality among funds. Some investors for a time may not be concerned with or aware of the increased risk that has boosted the return on their investments. In other words, they may assume that the money market funds industry is well regulated. When a fund then inevitably "breaks the buck", confidence in the whole system may dissipate, freezing credit throughout the economy. To avoid this scenario and the significant harm it would do to the "real" economy, it is prudent to maintain the objective ratings requirement.
Daniel Pedrotty, Office of Investment, AFL-CIO, July 2008.

In Pedrotty's view, if this measure is adopted, it would lead to greater risk-taking and result in a lack of quality (industrial world) in ratings, but most importantly a lack of investor confidence in market operations (market world) and the system in general (world of fame). We are thus in the presence of a compromise between the market, industrial and fame worlds. To sum up in one sentence the position taken by most actors in the debate over eliminating ratings requirements for the regulations, the concept of the common good uses the following logic: "we must not end reference to NRSRO ratings, because it is efficient, and no longer using that efficiency would destabilise the market, which would result in a loss of confidence in the market."

The statements by Jeffrey T. Brown (Charles Schwab Co., Inc.) display a similar arrangement of the principles of polities:

Schwab has found that issuers and other market participants are very cognizant of the rule's rating requirements and most issuers and underwriters use the rating requirements as a tool when structuring products intended for money market investment. The fact that the ratings requirement is a necessary condition for investment provides the funds with leverage when issuers and dealers are marketing new securities to the money funds. Schwab believes that removing the references to the ratings would be a disservice to the funds because it would eliminate one of the few means funds have to compel a level of market discipline. Another disadvantage is a potentially wide disparity among funds regarding what constitutes an Eligible Security. Without the objective floor provided by NRSRO ratings requirements, money market funds' investment decisions will be far more subjective, making it more difficult for investors to compare the safety and quality

> *of investments held by one fund versus another.*
> *Jeffrey T. Brown, Charles Schwab Co., Inc., July 2008.*

Brown stresses that, in his opinion, use of NRSRO ratings in the law is a very useful instrument (industrial world) for structuring products, since market participants are aware (world of fame) of these requirements and thus ensure that the market works properly (market world).
Although most actors are against discontinuing ratings requirements in the regulations, some support for that proposal is also observed. The actors concerned seem to be contesting the status quo by supporting this reform. Academic Franck Partnoy puts forward the following proposal:

> *My one substantive recommendation to the Commission is that it include in its Final Rules some language indicating that reliance on market-based information and market prices, rather than NRSRO ratings, can be an acceptable—indeed, preferable—method of satisfying obligations to assess the credit quality and risk of particular assets. For example, in directing that money market fund boards of directors look to outside quality determinations, I believe the Commission should highlight in the Final Rules that, in addition to NRSRO ratings, it would be appropriate for directors to look to, and rely on, market measures of credit risk, including both the credit spreads of fixed income instruments and the market prices of credit default swaps.*
> *Frank Partnoy, July 2008.*

The objective pursued by Partnoy, consisting of creating a rating industry freed from regulatory uses of the ratings it issues, is associated with a conception of an organisation that uses the market to achieve greater efficiency. From the standpoint of the repertoires of argumentation, information (world of fame) based on market indicators (market world) is considered the best way to assess credit risks (industrial world). The same foundations of legitimacy are expressed differently in the final part of the extract: agents need to have confidence (world of fame) in the measures (industrial world) of market risk (market world, e.g. credit spreads or credit default swaps) to achieve a more efficient system (industrial world).
So the compromise between the fame, market and industrial worlds monopolises the rise towards generality observed. Whether on the part of actors in favour of change or actors who are reluctant to question the regulation's dependence on NRSRO ratings, the same polarisation is observed in the arguments put forward.

The debate on conflicts of interest

By 2009, the rating agencies' shortcomings were well known to industry actors. This is true partly because ratings errors and delays in downgrading helped to plunge financial actors into a generally mistrustful attitude towards the financial markets and partly because the agencies' failings were widely covered in the media. The subprime crisis in particular brought out more categorically the problems of rating agencies' intervention in financial product structuring. By participating in the creation of this product, a large part of whose worth depends on its rating, the agency was considered to be acting as both judge and judged. The allegedly objective nature of its assessment in fact appeared to be riddled with conflicts of interest. In awarding high ratings to poor-quality financial products, rating agencies clearly contributed to the financial crisis

(United States Senate, 2010; United States Senate, 2011; The Financial Crisis Inquiry Commission, 2011), and that crisis became a systemic crisis, requiring State intervention to shore up the financial system. The election of a Democrat in President Barack Obama seems to correspond to a real challenge to the status quo. As soon as he was inaugurated on 20 January 2009, the new president appointed a new director for the SEC, Mary Shapiro, replacing the conservative Christopher Cox; this move suggested that a new policy would be introduced for regulating finance and credit rating.

The comments, however, still contain many objections to the proposals to combat conflicts of interest. Bruce Stern, representing insurers, argues that seeking to prevent agencies from acting as consultants to the firms that they rate in fact prevents the circulation of information on the methodologies used by the agencies:

> *The prohibition limiting rating agencies from providing advice on their rating criteria is impractical, and attempts to distinguish between rating criteria and "recommendations". In so doing, the rule inhibits the dialogue necessary to address changing circumstances or new products. The adopting release perceives a conflict when an NRSRO is "rating its own work". If an NRSRO establishes its own rating criteria (as it must do), the NRSRO will inevitably be "rating its own work". AFGI submits that concerns regarding rating integrity should be addressed in a manner that does not inhibit rating transparency. Proposal for Consideration: The rule should be eliminated as impractical.*
> *Bruce Stern, Association of Financial Guaranty Insurers, 2009.*

This criticism emphasises the illegitimacy of such a measure: because it goes against a form of transparency, it is considered impossible to execute in practice. What represented a test for the existing compromise, by seeking to introduce integrity into the rating process, must be eliminated: accountability cannot be achieved by "impractical" means that would threaten efficiency and transparency.

According to the chairman of the Canadian agency DBRS, conflicts of interest are an inherent part of the rating activity, and while steps should be taken against them, believing they can be eradicated is considered unrealistic. Consequently, the main type of action to take for conflicts of interest, in keeping with the socially constructed reality of the field, is to reveal them:

> *Rather than adopting an unrealistic, zero-tolerance policy towards conflicts, DBRS endorses the approach the Commission has followed thus far. Conflicts should be eliminated wherever possible (and some conflicts should be prohibited outright) and the remaining conflicts should be disclosed to the public and managed in a transparent and verifiable fashion.*
> *In this regard, DBRS believes that requiring NRSROs to establish and abide by transparent ratings procedures and methodologies; implement and enforce codes of conduct; and publish useful information about the performance of their ratings over time will go a long way to minimizing or eliminating the harmful ramifications of conflicts of interest in the credit rating industry.*
> *Daniel Curry, Chairman, DBRS Inc, a Canadian rating agency formed in 1976, 2009.*

The power of "disclosure" should be interpreted through the lens of the prevailing compromise: it underpins a view of credibility as a source of market efficiency.

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This is confirmed in the second part of the above extract, where elements related to the industrial world (procedures, methodologies, performance) are associated with elements from the world of fame (transparent, disclosed, information).

During this debate, a type of test emerges that matches the actors' view of what is legitimate: it is proposed that "information about the performance of [agencies'] ratings over time" should be disclosed. The actors do this to solve the problem raised in the existing interpretation framework: there is no more hindrance to harmonious coexistence between the worlds making up the compromise. The conflict of interests thus remains a market, industrial and fame-related theme, and the solution to this problem, obtained through industrial dimensions (present and past performances), market dimensions (an indicator from the market) and fame dimensions (disclosure of information) strengthens the compromise described earlier. The uncertainty created by reinforcement of the critique of the conflict of interests is thus reduced by formatting the arguments around the principles of legitimacy reconciled in the existing compromise.

Another aspect of the conflict of interests problem lies in the debate as to which economic model for rating agencies' remuneration is best: the issuer-pays model, or the investor-pays model. The comments by Deven Sharma, chairman of Standard & Poor's, show how using a well-known test format can be a source of reassurance because it is based on the status quo:

> *Every business model has positive and negative aspects and some may work better for certain investors than others. In our judgment, the focus of regulation in this area should be on recognizing the benefits and costs of different models and working to ensure that potential conflicts are effectively disclosed and managed so that market participants can decide which rating firms and business models are appropriate for their needs.*
> *Deven Sharma, Chairman of Standard & Poor's Ratings Services, 2009.*

Finally, a return to the harmony of the common good is considered, supported by the compromise in which "what is credible is recognised by the market, and therefore efficient". In this case, the point is to solve the test of conflict of interests by the prevailing view of legitimacy: "what is credible is recognised (world of fame) by the market (market world) and therefore efficient (reduces conflicts of interest), so we must reveal conflicts of interest through better circulation of information (world of fame)". As the comment of the DBRS agency chairman above shows, it does not really matter whether those conflicts are real or potential, as long as they are treated in the way described. According to Nicholas Brown, by connecting agencies' income with indexes of the probability of default provided by the market, such as Credit Default Swaps, the market would provide an incentive for agencies to act responsibly:

> *One suggestion to hold them accountable would be to somehow tie agencies' ratings to the credit default swaps pricing. Like maybe the rating firms themselves would actually be required to issue (fully or participating with other parties) the CDSs on the entities they are rating! Since they would be on the hook for paying any default claims on the things they're rating, they would greatly incentivized to rate them accurately so the default insurance that they are selling and backing is priced properly. Instead of just being 3rd-party rate-for-pay machines, they would be more like insurance companies, whose profits are directly tied to their*

ability to accurately assess risk.
Nicholas Brown, writing on his own behalf as a private individual, 2009.

Sean Egan, chairman of a small agency operating under the investor-pays model, clearly exposes the concept of the industry's regulatory order highlighted above by our analysis. In his view, confidence in ratings comes from the market, and conversely, confidence in the market is the key to market efficiency:

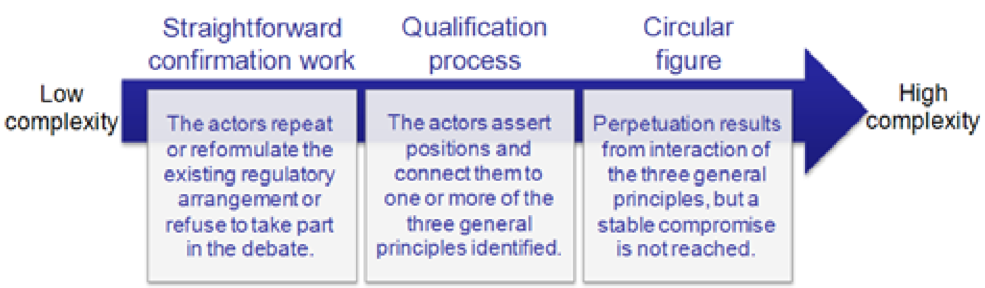
> *I agree with Chairman Shapiro that the compensation is the key to altering behavior, and, in the ratings industry, the best way to do this is to heighten the awareness levels of who is paying for what. We have a free market system and the government cannot and should not compel the use of one business model over another. However, it is the role of the SEC and other policy makers charged with the responsibility to protect investors to make sure that investors and other users of credit ratings know whether the seller or the buyer is paying for the work product.*
> *Sean Egan, Egan-Jones Ratings Co, 2009, a subscription-paid rating agency.*

RESULTS

Three types of maintenance work

This study shows that institutional justification work has maintained institutions in three different ways (see Figure 3 below), with varying degrees of complexity.

Figure 3. Three types of justification work as part of the institutional maintenance process



The first is a straightforward case of confirmation work in which the actors repeat or reformulate the existing regulatory arrangement or quite simply refuse to take part in the debate. But this work is not the only mechanism that perpetuates the compromise. Once the subprime crisis has begun an unveiling process starts, although it does not succeed in triggering a challenge to the compromise. During this unveiling, two different mechanisms are visible. A first, similar to the system described by Patriotta, Gond and Schultz (2011), comes from the process of qualification for the criticism of credit rating. Civic and domestic objects are not taken into account in the justification work. A second relates to the circular nature of the compromise, which prevents the tests from shaking the existing compromise. This study describes a case of compromise in which stakeholders refer to orders of worth without changing the existing social order. By this process, the origin of institutional maintenance lies in immunising the institution by repeating critiques according to the principles of the circular figure of the compromise.

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Qualification work depending on the test format

The crisis of justification causes the view of regulation carried by the compromise to be compared with the agencies' observed failings. At this stage, reality tests are involved (Boltanski, 2009). In the justifications, arguments are put forward to enable the regulatory order to respond to these critiques. The reality tests bring out more clearly the principles on which legitimacy are based. This is thus a rise towards generality, which unveils the compromise of the situation, here a strong tendency towards a reconciliation of the fame, market and industrial worlds in the following structure: "the market is efficient and creates confidence" and "transparency makes the market efficient". The comments thus present a propensity to form critiques that adopt the test format corresponding to the existing compromise (see Figure 4 below). Therefore, the debate on conflict of interests in credit rating is addressed via tests belonging to the market, industrial and fame worlds rather than, for example, tests related to the civic world (integrity) or the inspired world (innovation). This is how actors avoid critiques placing the debate in a different world from the compromise. The irresponsible behaviour by credit rating agency analysts is not considered at the level of the civic world. Instead, the preferred explanation is that agencies are finding it difficult to cope with the higher volume of demand for ratings. The way the debate is conducted produces critiques that not only confirm the validity of the higher principles on which regulation is based but also try to reinforce the underlying principles by disconnecting that validity from anything foreign to the relevant compromise (Nachi, 2006). To solve credit rating problems such as conflicts of interest, it is necessary to improve transparency, encourage competition and achieve better performance.

Similarly, most actors are against the idea of eliminating nationally recognised private ratings from regulation, because such a change is considered as an operation that would seriously affect the stability of the rating system. According to the "common good" supported by the existing compromise, removing NRSRO ratings from the regulation would be equivalent to depriving market actors (investors, insurers, brokers) of what they consider to be their credible market tool. So all aspects of the "common good" included in the compromise are embodied in NRSRO ratings (the industrial world, the world of fame and the market world). Using credit rating standards issued by a public agency cannot be legitimised without challenging, or at least adjusting, the compromise.

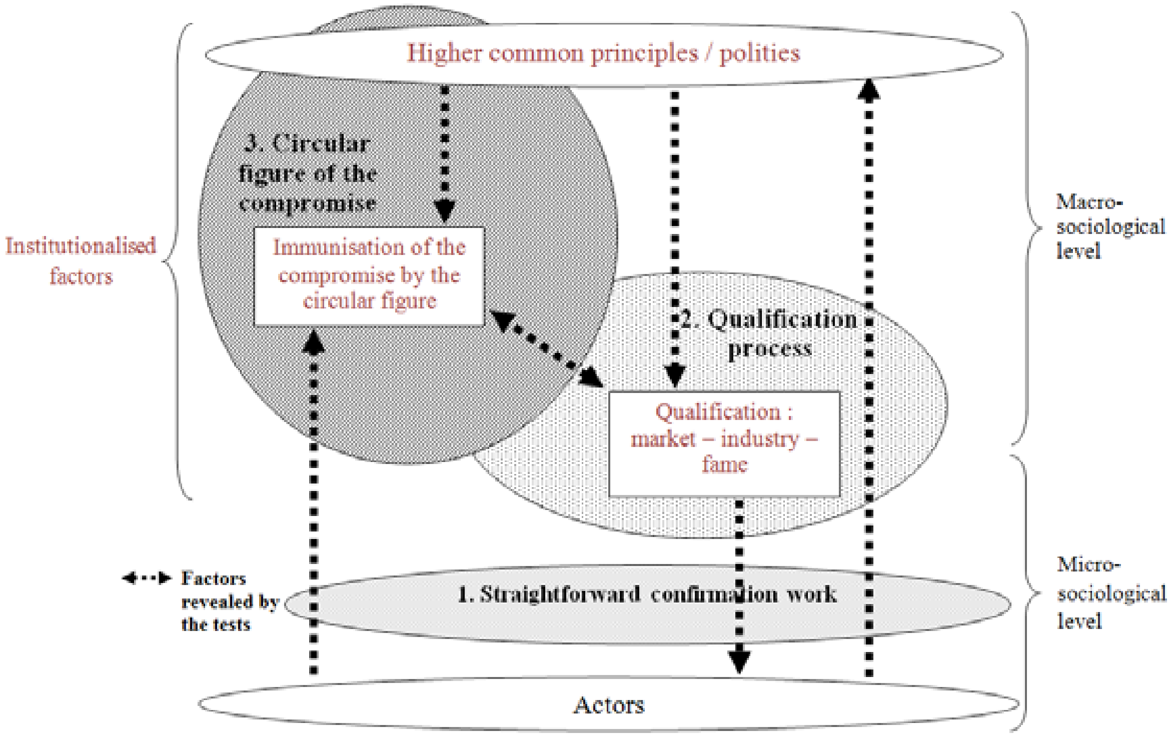
The circular figure of institutional maintenance work

In the theoretical section, I explained that holding reality tests does not prejudge the outcome of the justification work: such an operation can just as easily lead to a genuine reconfiguration of the compromise or end the controversy without any change to the status quo. Unveiling does not necessarily call the existing compromise into question. In our case, maintenance results not from the soundness of the agreement reached through the justification process but from the justification process itself, which prevents the debate from ending in a self-feeding logic, thus leading to perpetuation of the status quo. The compromise is of a particular nature here: due precisely to its composite nature, the situation of harmony perpetuates the situation through its sophistication. This process is described by the concept of the circular figure of the compromise.

Through this basic feature of the compromise, “in such a case the critique can never be completely clarified, because it is impossible to return to a higher common principle” (Boltanski & Thévenot, 1991: 343; 2006: 282). It rushes into a test format from which it will be unable to escape, and so there can be no radical contestation of the arrangement. Consequently, the compromise is in no danger; on the contrary, it is reinforced, since the emphasis is on the orders of worth that make it up.

Illustrating this, the flood of critiques of the individualist nature of the rating system are established (ex ante) by reference to the industrial worth, market worth and fame worth, but never succeed (ex post) in really rising to any one of those, since they are in fact foreign to each other. The ex ante mechanism corresponds to the process of converting tests to the format of the existing compromise, as described in Figure 4. Due to the circular nature of the compromise, it is possible to describe the ex post processual component of institutional maintenance. It can identify competition, transparency and performance in a single compromise. These three worths are treated as equivalent, since complaints that “competition is not efficient”, “performance is unrelated to competition”, “transparency is impractical” or “the market is not transparent” are equally possible. However, the indeterminate nature of the “common good” defended by the compromise cannot take the debate very far. If the aim is to denounce the agencies’ lack of competitiveness, opponents will argue that the existing system is still the most effective because it is the most transparent. For example, financial agents, as well as brokers or investors, justify the existing oligopoly by arguing that having only three ratings to consult (Moody’s, S&P and Fitch) is optimal for decision-making. Conversely, if the lack of efficiency is criticised, it will be argued that the system is competitive and transparent. For instance, in response to a lack of efficiency in private rating agencies, the idea of setting up a rating agency free of conflicts of interest over its remuneration system is swept aside, because it does not appear to be a solution that can maintain credible free competition. In the existing compromise, this indicates the features of the complex figure described by Boltanski and Thévenot (1991: 343; 2006: 282).

Figure 4. Institutionalised factors in the work of justification for the credit rating industry



With the qualification process depending on the test format, the empirical field studied initially illustrates the maintenance work deriving from the characteristics of a standard compromise. Then, the circular nature of the compromise shows the process that makes it possible, in this specific arrangement, to prevent tests internal to the compromise from reaching their target. Investors opposed to the reform admit, for example, that credit rating has been inefficient (it failed to rate structured financial products at their objective value), but point out that the whole market community trusts those ratings. The test is diverted by reference to one of the dimensions that is not under attack in the composite arrangement. This generates a form of circularity in the contestation, with successive arguments based on credit rating's efficiency in fighting loss of confidence in the industry or, conversely, the claim that a lack of efficiency in the rating system is regrettable but acceptable, because the market trusts this system for producing ratings. I believe this explains the paradoxical situation in which actors seek to improve transparency, encourage competition and raise efficiency in order to solve problems with credit rating, even though the existing framework has led to an oligopolistic situation, repeated rating errors and an opaque rating system. In a universe where public justification prevails, the circular figure of the compromise offers an escape from logical coherence in the arguments put forward to challenge or justify the existing compromise. This characteristic relates to the idea of the private arrangement described by Boltanski and Thévenot. A private arrangement does not require a new equivalence to be established: "[t]he concession that is made in a private arrangement consists precisely in avoiding recourse to a principle of justice: people come to terms among themselves—that is, locally—to bring a disagreement over worth to an end without exhausting the issue, without really resolving the quarrel" (Boltanski & Thévenot, 1991: 163; 2006: 128). Contrary to the compromise, the private arrangement is valid at the local level. It is the place to express a convergence of private interests, independently of any reference to the constraints of justification, and is generally used in justification situations related to the private sphere. Although it is not valid at the local level, the circular figure of the compromise observed in credit rating is comparable to the liberation from constraints of justification that characterises the private arrangement.

DISCUSSION

Through the concepts of the test and the compromise developed by the sociology of critique, this study enhances understanding of institutional processes in organisations, making four types of contribution.

The role of the discourse in shaping the institutional order

Initially, the results of this study lead to better understanding of how actors maintain their reasoning criteria though institutional discursive work (Phillips, Lawrence, & Hardy, 2004; Schildt, Mantere, & Vaara, 2011). Behind the macro-institutional order of credit rating self-regulation by the market, higher moral principles can be revealed and used in practice by actors at the micro level. For the macro-cultural discourse (Lawrence & Phillips, 2004) of self-regulated credit rating is based on common higher principles that reveal the moral foundations of this arrangement. This provides an instrument to detail the discursive legitimation strategy that Vaara, Tieneria and Laurila (2006) call "moralisation", i.e. the strategies that more or less explicitly depend on moral values. Through this reference to the actors' moral sense, this study advances understanding of the dynamic discursive processes underlined at the micro level by Vaara and Tienari (2008). Furthermore, by adopting a dual vision between diffusion and maintenance, several studies have come to consider that a practice considered to be taken for granted was no longer justified (Zucker, 1977; Tolbert & Zucker, 1983; Green, 2004) since the justification was only necessary when the practice was in the process of spreading. In the material analysed here, the number of justifications is positively correlated at the level of "taken-for-grantedness", which is the opposite of what was previously observed (Green, 2004). Furthermore, challenging the strict distinction between change and continuation (Boltanski, 2009) enables this study to echo the rhetoric model of institutionalisation developed by Green, Li and Norhia (2009: 31). Analysis of active production and acceptance of arguments in justification work proposed to solve the difficulty inherent to the transition from the micro level of the data studied and the representation of the institutional order in general. Thanks to the test (Breviglieri, et al., 2009), the study of institutional justification work can thus connect actors' individual involvement and the macro-sociological level at which the institution is located (Battilana & d'Aunno, 2009).

Contributions to the concept of institutional maintenance supported by justification work

This article offers two contributions for research combining Economies of Worth with neo-institutionalism. First, it improves understanding of institutional justification work. In the case studied by Patriotta, Gond and Schultz, compromises can go beyond moral divergences. A series of successive compromises solves the dispute. Methodologically speaking, the analysis Patriotta, Gond and Schultz drew up is equivalent to observing a duality between compromise situations and test situations. The change in explanatory variables is limited in time: it operates until there is a social reconfiguration through the establishment of the new compromise. I do not believe that this sequential approach was enough to describe situations of continuation in the justification crisis experienced by the credit rating industry. In the empirical field of credit rating, the dynamic of contestation is precisely what lies at the origin of institutional maintenance. With the circular figure of the compromise, the dispute involving opposing logics does not lead to adjustments being made, either in the form of symbolic changes or as a modification in the practical method used to produce credit ratings. Admittedly, events such as the subprime crisis forced rating agencies and investors to account for their actions publicly. However, contrary to all expectations, this became an opportunity to reassert the need for head-on pursuit of transparency, competition and efficiency, without any change being made to the compromise. The circular figure generates maintenance, in that the institutional pluralism in credit rating triggers a self-perpetuating process. This study casts additional light on situations in which controversy does not actually end, and leads to continuation of the foundations of legitimacy.

Second, in-depth use of the concepts of the test and the compromise has brought us back to the initial 1991 vision of Boltanski and Thévenot, with its ambition to take into consideration actors' capacity to adjust to different situations in social life. Boltanski and Thévenot looked at situations involving the need for justification, and a large current of pragmatic sociology then turned to the study of discourse in public debates (examples include Boltanski, Godet, Cartron, 1995; Chateauraynaud & Torny, 1999; De Blic, 2000; Lemieux, 2000; Chateauraynaud, 2011). Diverging from this perspective, university management studies have been quick to emphasise Thévenot's contributions to serving the "conventionalist" current (for a review of the literature in this approach to the field of conventions, see Diaz-Bone & Thévenot, 2010). Using convention theory as a way to introduce the contributions of pragmatic sociology into management can appear convenient (see the terminology used for this approach in Biggart & Beamish, 2003; Denis, Langley, & Rouleau, 2007; Stark, 2009). Research that has made a connection between this theory from the discipline of economics and the management sciences is now well established in the landscape of organisational studies (Gomez, 1994; Gomez, 1997; Gomez, 1997; Gomez & Jones, 2000). For example, worlds are considered as moral beliefs which are deemed to be taken for granted and which provide the basis for explanations of the mechanisms of agent coordination (Thevenot, 1993; Chapas, 2005). Nonetheless, the articulation between economic theories that renew the approach to rationality, such as the convention theory, and the model of the sociology of critique has been considered fragile (Eymard-Duvernay, 2009: 173). By taking a position that relates more to the works of sociology of critique focusing on discursive production, this study has shown that the contribution by Boltanski and Thévenot could go beyond the idea of taking justifications simply as factors that reveal the moral categorisation of arguments. This makes it possible to capture the dynamic of agreement and the agency of individuals in a justification situation, or, in other words, the way actors succeed in creating domination situations (Boltanski, 2009) with relative liberty. This process, and I wish to stress this point, diverges fairly fundamentally from studies that have ignored justice situations and instead focused their analyses on force situations (Boltanski & Chiapello, 1999; Gautier, 2001), with a resulting tendency to reduce the actors' agency. By adopting a pragmatic approach to domination (Boltanski, 2008), through test and compromise, this study succeeds in highlighting situations of institutional constraint created by the actors' agency capacity. It is thus truly possible to talk of institutional work (Lawrence & Suddaby, 2006; Lawrence, et al., 2009) of justification, which I define as work done publicly by actors, based on the use and arrangement of multiple forms of rationality in a moment of strong contestation intended to promote their vision of justice.

Clarification of construction of private arrangements by actors dealing with several logics

The concept of institutional pluralism has been used to explore how organisations operate in several spheres (Kraatz & Block, 2008). In environments like credit rating, marked by a plurality of moral orders, actions take place through a form of conciliation that allows the coexistence of apparently conflicting visions. However, Jarzabkowski, Matthiesen and Van de Ven (2009) have noted that field studies that acknowledge institutional pluralism tend to avoid the question of the continual coexistence of logics. In fact, the fundamental opposition between logics has traditionally been seen as a factor of instability (Maguire & Hardy, 2009).

Through analysis of institutional justification work, this study goes further than the taxonomic ordering of rationalities that is possible under this approach, and succeeds in showing how incommensurable, opposing views can produce a maintenance process. This is explained by the fact that the concept of compromise effectively generates an agreement of a new kind, similar to the "discordant accord", a Kantian idea adopted and developed by the philosopher Deleuze (1963; 1968). According to Deleuze, a discordant accord establishes harmony between entities of differing natures. It also implies an inherent contradiction and tension from which, paradoxically, comes ultimate harmony (Deleuze, 1963; Deleuze, 1968; Deleuze, 2002). In the heart of the discordant accord, oppositions bring about stability of a higher degree. This form of stability is what I brought out through the study of the concept of the circular figure, which can take us out of a binary sequential vision in which successive periods of opposition give way to periods in which the establishment of a compromise resolves the controversy. Using this aggregative figure, this study has evidenced that the dynamic of opposition between moral conceptions can in fact form the basis of the institutional status quo.

Next, Lawrence and Suddaby (2006) noted that in the maintenance process, the way institutional actors lose understanding of their actions remained obscure. The circular figure studied shows how, by deliberately pursuing the conception of what the actors consider legitimate, complex interaction between moral orders can lead to a result that is the contrary of what would happen if each moral order were pursued in its own right: the credit rating industry remains an oligopolistic industry in which the three main agencies make 98% of the activity's worldwide sales, ratings are often inaccurate and, finally, the details of how rating actually works remain deeply opaque. This analysis of the mechanism of institutional maintenance in the form of compromises is more detailed in that it shows the complex interplay of different logics in this coexistence.

Consequences for credit rating and financial regulation

Our analysis offers a new interpretation of events in the credit rating industry. Without judging the reliability of ratings and agencies' capacity to issue "accurate" ratings, it is clear that the idea of the "right way to issue a rating" has remained unchanged despite the critical incidents that have happened. This research indicates how, under the appearance of change, closer examination of the actors' justification work demonstrates that the principles guiding and underpinning the actions of credit rating industry actors are reasserted in opportunities offered by new events. Little or no questioning of the basis of legitimacy is observed, and the mechanisms supporting the status quo are strong (Ouroussoff, 2010). Contrary to certain appearances (reorganisation of Wall Street, the Dodd-Frank – Wall Street Reform Act, supposedly the most important reform of finance since the 1929 crisis), the pillar of modern finance that is credit rating is not in the process of in-depth reform.

At this stage, it would be instructive to have a similar study focusing on other institutions of capitalism and the associated reforms (banks, market infrastructures, hedge funds, insurance, etc.) to study how the underlying orders of worth that supports them succeed in perpetuating their position. The justification mechanisms at work could then be compared with the mechanisms highlighted in this study. The objective would be to determine whether, in these areas, the critiques confirm and accentuate the principles on which the legitimacy of the social arrangement is based in a similar way or whether, on the contrary, the status quo is actually being challenged. Finally, the unveiling of the principles of legitimacy advanced by the actors during consultations on rating agencies in Europe would also be a possible objective. Comparison of the findings of such research with this study could show whether the legitimacy of credit rating is conceived in similar ways on both sides of the Atlantic.

Limitations and avenues for future research

An interesting question is how the freedom of the different stakeholders is exercised in forming their arguments with reference to one world or another. It is certainly clear that credit rating as an enterprise intrinsically associates the market world with the industrial world in the form of a compromise. But this study hypothesises that the justifications not only resulted from the strategies of actors seeking to protect their position. For as Patriotta, Gond and Schultz also point out in their research (2011: 37), "our study suggests that actors are not cognitively bound to their own professional or institutional sphere". This study, too, sees justifications not primarily as the product of actors' desire to strategically defend their position (although Appendix 4 presents references to the different worlds by type of actor). The acceptability of this position appears to be reinforced by the fact that certain actors, such as investors or pension fund representatives, support the legitimacy that significantly went against their interests in the recent financial crises. Rather than an actor's strategy, this should be seen as use of a particular logic resulting from the institutional legitimacy of the arguments. Yet closer attention could usefully be paid to the actors' initial position in further research. Rating agencies undertake lobbying work to achieve change in their favour in the regulations, and this certainly influences the phenomenon of maintenance observed in the industry. This factor was intentionally ignored in this study, but its influence could be measured in a study following on from this article.

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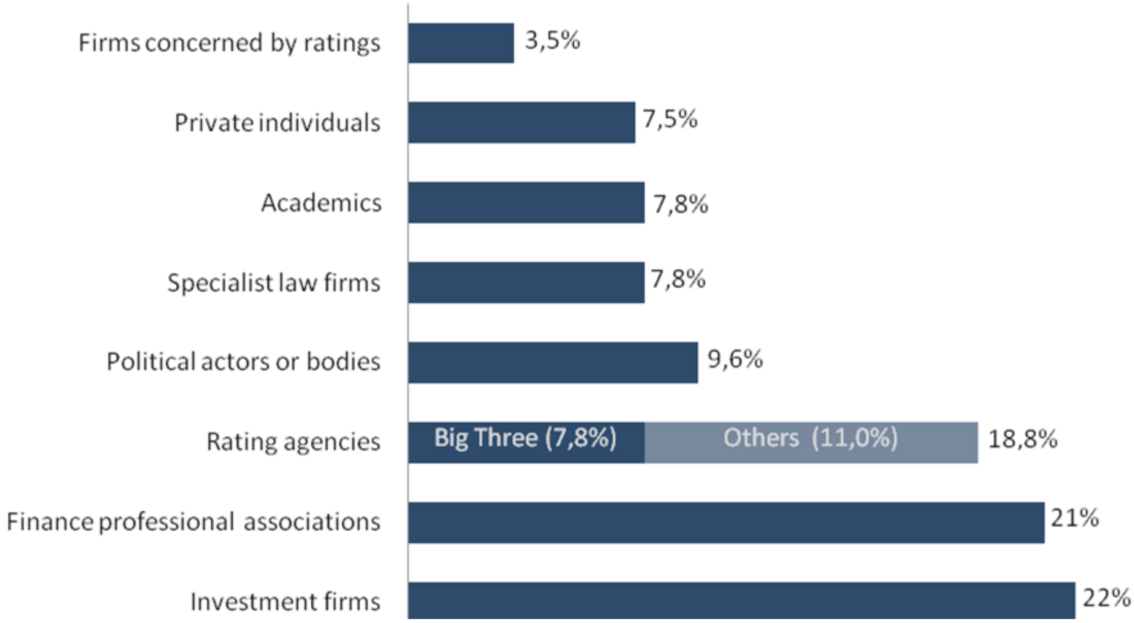
APPENDIX 1. Timeline: events involving credit rating agencies and regulatory measures adopted between 1994 and 2011

1994	Orange County bankruptcy, largest municipal bankruptcy in U.S. history that credit rating agencies had failed to predict.
1997	Asian Crisis, CRAs' shortcomings underlined.
1997	SEC Proposed Rule: Definition of Nationally Recognized Statistical Rating Organizations (NRSROs).
2001	Enron bankruptcy, credit rating agencies' shortcomings underlined.
2003	SEC Concept Release: Rating Agencies and the Use of Credit Ratings under the Federal Securities Laws.
2004	Basel II re-establishes the use of private credit ratings for public regulative use.
2005	SEC Proposed Rule: Definition of Nationally Recognized Statistical Rating Organization.
2006	Credit Rating Agency Reform Act of 2006 "to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry". Enacted on 29 September.
2007	Subprime Crisis, CRAs' shortcomings underlined.
2007	SEC Proposed Rule: Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations (NRSROs). SEC Final Rule: Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations. The Rule provides authority for the Commission to implement registration, recordkeeping, financial reporting, and oversight rules with respect to registered credit rating agencies. Credit rating agencies have to apply for registration as NRSROs.
2008	SEC Report of Issues Identified in the Commission Staff's Examination of Select Credit Rating Agencies.
2008	SEC Proposed Rules: References to Ratings of Nationally Recognized Statistical Rating Organizations, Security Ratings, Proposed Rules for Nationally Recognized Statistical Rating Organizations.
2009	SEC Final Rules: Amendments to Rules for Nationally Recognized Statistical Rating Organizations (2 February and 23 November). Additional disclosure and conflict of interest requirements on nationally recognized statistical rating organizations in order to address concerns about the integrity of the credit rating procedures and methodologies at NRSROs. In particular, rule 17g-5, known as the "anti-rating shopping" rule is adopted.
2009	16 September, European Regulation 1060/2009 on credit rating agencies. Agencies will for the first time have to register and be supervised (by the CESR) to operate in the European Union.
2010	The Dodd-Frank Wall Street Reform Act, including some improvements to the regulation of CRAs. Creation of a Securities and Exchange Commission office to oversee the agencies and their ratings. The credit rating agencies regulation includes enhancement in the following fields: conflict of interest mitigation, rating and methodologies disclosure, review of ratings and methodologies and corporate governance.
2011	Because of budget constraints, in part resulting from a Republican House decision, the implementation of Dodd-Frank - in which the credit rating agencies improvements are already minor - was seriously weakened.
2011	The European Central Bank rejects the idea of creating a credit rating agency. Europe's sovereign debt crisis pushes national governments to implement austerity measures recommended by credit rating agencies.

APPENDIX 2. Actors in public consultations on credit rating



Figures represent the percentage of total comments in each category.

APPENDIX 3. Changes over time in the number of comments by category of actors

	2003	**2007**	**2008**	**2009**	**Total**
Ratings agencies:	12	30	35	10	**87**
- "Big Three"	4	21	17	5	**47**
- Others	8	9	18	5	**40**
Investor or investment advisor	6	8	45	4	**63**
Professional association	8	8	33	13	**62**
Political representative, public entity, public pension funds, consumer associations, small investors	4	2	22	5	**33**
Specialist law firms	2	2	19	0	**23**
Private individuals	4	2	13	4	**23**
Academics	5	11	7	4	**27**
Firms concerned by ratings	3	0	8	1	**12**
Information and statistics firms	4	1	5	1	**11**
Total	**48**	**64**	**187**	**42**	**341**

APPENDIX 4. References to the worlds, by type of actor

	Comments related to the industrial world	**Comments related to the market world**	**Comments related to the world of fame**	**Comments related to the civic world**	**Comments related to the domestic world**	**Comments related to the inspired world**
Ratings agencies:	34%	16%	38%	11%	0%	2%
- "Big Three"	45%	9%	36%	9%	0%	0%
- Others	23%	23%	39%	13%	0%	3%
Professional associations	26%	30%	26%	15%	1%	1%
Investment firms	32%	22%	29%	13%	3%	1%
Politicians	26%	20%	29%	23%	3%	0%
Lawyers	25%	38%	25%	13%	0%	0%
Academics	28%	23%	23%	26%	0%	0%
Private individuals	32%	21%	19%	26%	2%	0%
Issuing firms	25%	30%	25%	20%	0%	0%

The table was drawn up based on a sample of 405 coded extracts from the comments.

APPENDIX 5. Secondary data sources

Author of the comment	Full comment is available at
John M. Ramsay, The Bond Market Association, 2003. The Bond Market Association was an association of the bond market industry. In 2006 it merged with the Securities Industry Association to form the Securities Industry and Financial Markets Association.	http://www.sec.gov/rules/concept/s71203/bondmarket072803.htm
Charles D. Brown, Fitch Ratings, 2003.	http://www.sec.gov/rules/concept/s71203/cbrown072803.htm.
Cheryl Kallem, SIA Capital Committee, 2003. The Security Industry Association was an association of firms. In 2006, it merged with the Bond Market Association to form the Securities Industry and Financial Markets Association.	http://www.sec.gov/rules/concept/s71203/ckallem072803.htm.
Grace Hinchman, Financial Executives International, 2003.	http://www.sec.gov/rules/concept/s71203/fei072503.htm
Gregory V. Serio, NAIC Rating Agency Working Group, National Association of Insurance Commissioners, 2003.	http://www.sec.gov/rules/concept/s71203/naic072803.htm
J. G. Lallande, Invesco Aim Advisors, Inc., July 2008. Invesco Aim Advisors, Inc. is a financial services firm.	http://www.sec.gov/comments/s7-19-08/s71908-31.pdf
Daniel Pedrotty, Office of Investment, AFL-CIO, July 2008. The AFL-CIO (American Federation of Labor and Congress of Industrial Organizations) is the largest federation of workers' unions in the USA.	http://www.sec.gov/comments/s7-19-08/s71908-37.pdf
Jeffrey T. Brown, Charles Schwab Co., Inc., July 2008.	http://www.sec.gov/comments/s7-17-08/s71708-9.pdf
Charles Schwab Co. is an investment and private equity firm.	http://www.sec.gov/comments/s7-17-08/s71708-9.pdf
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Comments are presented in their order of appearance in the study