THE BALANCE UPSET

A REPORT ON THE DUTCH SOCIAL HOUSING SECTOR FOR

THE PARLIAMENTARY INQUIRY ON SOCIAL HOUSING ORGANISATIONS.

UNDERTAKEN FOR AEDES, THE ASSOCIATION OF SOCIAL HOUSING ORGANISATIONS

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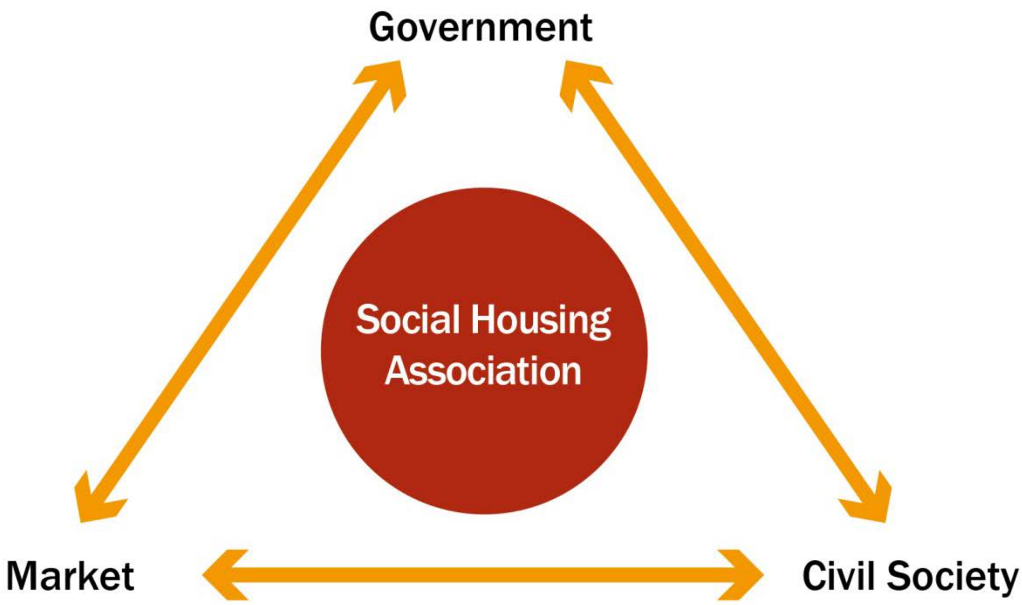

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Foreword

The decision by the Dutch Lower House to conduct a Parliamentary Inquiry into the social housing system marked a growing sense of unease concerning the development of this system. A large number of incidents has led to great public indignation. The impression created is one of a sector that has lost its way. A Parliamentary Inquiry offers an opportunity to quantify the situation and draw conclusions for the future.

In a situation such as this, it is helpful if all the parties involved take note of what has happened, what has gone wrong and what needs to be done differently. This applies in particular to the social housing organisations themselves. The association of Dutch social housing organisations Aedes is therefore to be applauded for taking the initiative to have a report drawn up on the circumstances that led to the problems and on the possible shortcomings in the social housing system.

The report was drawn up by Rudy de Jong, a former director of a social housing organisation who has extensive experience of many areas of the social housing sector. Aedes asked the undersigned to monitor both the quality and the impartiality of the report. We carried out these duties through interviews and responses to draft versions of the report.

Now that the report is finished, we are able to conclude that this report was drawn up in a painstaking and impartial manner. The descriptions it contains give a fair representation of developments within the sector. The analyses give a sound exploration of the issues involved, are sufficiently critical and are not biased towards the social housing organisations.

It was a pleasure to be able to contribute in this way to the preparations for the Parliamentary Inquiry into the Social Housing Organisations.

The Hague, 22 February 2013

Jan Kees Helderman
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Introduction

An impression has been created recently, fed by a growing number of incidents and financial debacles, of a social housing sector that has gone off the rails. A sense has arisen that we have broken with a tradition of social housing going back more than 100 years. Confusion reigns. The question whether the social housing model has a future is heard with increasingly frequency.

In this light, the Lower House decided to instigate a Parliamentary Inquiry.
What went wrong? Which systems have failed? How is it possible that people and organisations could derail so spectacularly? Who failed in the performance of their duty?
These are the questions the Inquiry sets out to answer.

Another question that arises is how to proceed now. Will corrective measures be adequate, or do we need a fundamental overhaul of the social housing system?
And behind these questions lies the crunch question of how the events of recent years should be understood. One striking feature in any event is the fact that, since the end of the last century, the previously self-evident, broad base of support for the social housing system seems to have been eroded. Is this a result of the far-reaching policy changes introduced in the mid-1990s? The privatisation, the 'Brutering', the broadening of the range of tasks, market forces? Or is this more a result of changing social circumstances or the economic crisis? Does this explain the incidents we are now seeing?

The Board of Aedes, the association of social housing organisations, considers it essential that an answer to these questions is found. The Parliamentary Inquiry into Social Housing Organisations is a good opportunity to submit the issue of the social housing sector to a fundamental review. For these reasons, the Board of Aedes has commissioned a study into the development of the social housing system in the light of recent events.

The accompanying report is the outcome of this study and is intended to provide a contribution to the work of the Committee of Inquiry.
This report was written by Rudy de Jong with the assistance of three academics, each of whom is very familiar with the social housing sector from a different perspective. They made a significant contribution to both the approach taken to, the content of and the analyses put forward in the report. The description of the historical course and the interpretation of this are based largely on studies by Jan van der Schaar, professor emeritus of Social Housing at the VU University Amsterdam. The model applied to examine the development of the social housing model system is based on publications by Jan Kees Helderman, associate professor of Public Administration at Nijmegen University. A specific contribution was made in relation to the economic aspects by Kees Koedijk, professor of Financial Management at Tilburg University.
In addition, many other interested parties contributed in the form of interviews, conversations, documents and responses to drafts. The report was considered twice and provided with comments by the internal Aedes Parliamentary Inquiry Committee.
Appended to the end of the report is a list of all persons who contributed to this report.

1. The incidents

Approximately 400 social housing organisations are active in the Netherlands. Since the 1990s, it appears that a growing number of cases of mismanagement and fraud have been occurring in this sector. These incidents can roughly be divided into three categories: mismanagement and excessive risk-taking in project development; financial mismanagement and speculation, fraud and self-enrichment. In total, there have been some 15 to 20 major incidents, which have attracted a great deal of attention.[1]

Mismanagement of projects/excessive risks
2009 Woonbron Rotterdam (loss on investment SS Rotterdam)
2009 Rentree Deventer (speculative purchase of land, large losses on investments)
2010 Servatius Maastricht (loss on Campus project)
2010 SGBB Hoofddorp (excessively large project portfolio)
2010 De Key Amsterdam (suspect land purchases)
2012 Laurentius Breda (excessively large project portfolio)
2012 WSG Geertruidenberg (excessively large project portfolio)

Early in 2013, 9 social housing organisations are subject to tighter scrutiny by the CFV [the Regulator for Social Housing] owing to an excessively large project portfolio or projects with excessive risks.[2] These are 5 social housing organisations in the region around Amsterdam (Stadgenoot, Ymere, Zaandams Volkshuisvesting, Monnickendam, de Key) and 4 smaller social housing organisations located throughout the Netherlands (Laurentius Breda, Slochteren, 't Heem Tilburg, Goed Wonen Drimmelen). WSG is being restructured with the support of the CFV.

Financial mismanagement and speculation
1994 Onze Woning Nieuwegein (options)
1994 Eigen Haard Enschede (stock market investments)
1994 K77 Utrecht (options)
1999 Woonzorg Nederland Amstelveen (stock market investments)
2012 Wooninvest Leischendam (derivatives)
2012 Vestia Rotterdam (derivatives)

Early in 2013, 2 social housing organisations are subject to tighter scrutiny by the CFV owing to liquidity shortages through derivatives. These are Portaal (Central Netherlands) and Wooninvest (Leidschendam). Vestia is being restructured with the support of the CFV.

1 The Orientation and Supervision Committee [Dutch: Commissie Kaderstelling en Toezicht] (Hoekstra 2013) refers to some 20 cases since 2001 – in 15 of these, an external supervisory body was appointed by the Minister. In a number of cases, these did not concern mismanagement or fraud, but managerial conflicts.

2 Letter to the Lower House dated 4 February 2013 *Stand van zaken (financiële) probleemcorporaties [State of Play with Regard to Social Housing Organisations with Financial and Other Problems].* In total, 14 social housing organisations are subject to tighter supervision. Alongside the 11 social housing organisations mentioned above, there are 3 with more general financial problems: Wooninvesteringsfonds (national), Kennemerhave Velsen and Veron Zevenbergen.

Fraud and self-enrichment [3]
2002 SWZ Zwolle
2004 SWH Den Bosch
2004 Trias Lisse
2005 PWS Rotterdam/ Wooninvest Voorburg
2009 Rochdale Amsterdam
2008 Woningstichting Dinxperlo
2010 SGBB Hoofddorp
2012 Laurentius Breda
2012 Vitaal Wonen Limbricht

A striking aspect is the time frames during which the various incidents have occurred.

Mismanagement of projects seems to be a more recent phenomenon, arising during the past few years. This is logical. The (excessively) big risks were usually taken much earlier, but became visible from 2008 – the beginning of the financial crisis. The cases referred to are probably the tip of the iceberg. Many social housing organisations have had to take losses in their project and land portfolios. This is something we are in fact seeing among all organisations working in the property market, commercial and non-commercial, such as project developers and municipalities.

Financial mismanagement was a feature of the early period of privatisation, and then re-emerged from 2011. This too is linked to the prevailing financial-economic circumstances. Vestia is the most striking example of this, although more social housing organisations faced large-scale liquidity problems on derivatives positions during the same period. The same is true of public and semi-public organisations, such as municipal authorities and schools.

Fraud and self-enrichment is an eternal problem, but seems to have become somewhat more prominent since the beginning of this century. This was a period during which investments by social housing organisations increased significantly and social housing organisations expanded their areas of operation with commercial activities. In a number of cases, fraud was revealed by the size of losses incurred as an outcome of the collapse of the housing market.

As stated above, these types of incident are not restricted to the social housing organisations sector. There are striking similarities with other privatised sectors such as care and secondary and higher education. Investigative reports on, for example, the Philadelphia care organisation or Amarantis educational organisation show a great deal of similarity to incidents involving social housing organisations.[4] Similar incidents have also taken place within municipal and provincial authorities, however.[5]
It is difficult to determine whether this type of incident is occurring more frequently now than in the past. In recent decades, social attitudes on what is acceptable and what is not have become significantly stricter. More attention is paid to such matters, including by the media, than in the past.
On the face of it, it is not likely that such incidents occur more often at social housing organisations than elsewhere. It is however striking that problems in all sectors are often related to real estate. It seems inevitable, therefore, that the social housing sector is relatively more susceptible to problems and – in view of the capital nature of property – the sums involved are likely to be considerable.

3 These cases have been linked to fraud and/or self-enrichment, but this has not been ascertained in all cases. Criminal proceedings are on-going in a few cases.
4 Otterlo & van der Burgt 2008; Halsema/ van Rijn 2012/2013.
5 For example, the Ceteco affair in the Province of Zuid-Holland.

In a recently published report, the Committee Kaderstelling en Toezicht Corporaties, discussed the incidents in question in depth, in particular the Vestia case.[6] The Committee concluded that the Vestia case is distinct from the other incidents owing to *"the extreme disregard for all requirements of governance that lead to a unique combination of failures"*. In a more general sense, the Committee concluded that *"too often, insufficient ability is demonstrated by the social housing organisations and the sector to correct such failures, and that any action taken is insufficient and too late"*.
On the other hand, we can say that even in the extreme situation that occurred with Vestia and the serious shortcomings (until September 2011) of the internal and external supervision and of the WSW [Social Housing Guarantee Fund] [7], the collective guarantee finance system proved robust. The damage done to the sector was however still considerable.[8]
Later on in this this report, the incidents will be placed in the context of the development undergone by the social housing sector in the past decades. It will be argued that, thinking in terms of the "continuous history" of 110 years of social housing, in the 1980s a development started that has radically changed the social housing landscape. Changes that have undermined relations with the government, the market and society as a whole; and which have eroded the very foundation of the social housing system: the exercise of discipline.

At the end of this report, the conclusion will be drawn that the combination of:
<u>on the one hand</u> (1) the greater risks on the property market, and
<u>on the other hand</u> (2) the lack of owners or others with a direct interest, (3) inadequate internal and external supervision, (4) the lack of a collective moral compass and ability to self-correct and (5) the collective security structure,
make up the most significant explanation for the large number of the approx. 20 major incidents since the 1990s.

6 Hoekstra 2013.
7 See also the report by Hans Verbraeken in FD 2013/01/04.
8 In the opinion of a number of involved parties, in the case of Vestia a decision was taken too quickly to buy off the derivatives portfolio instead of granting liquidity support. The latter could have led to significantly lower costs for the corporations. See also Hoekstra 2013, p.30. In the case of Laurentius, the external supervisor is also accused of causing additional losses (Letter 16/1/2013 by the former Supervisory Board to Minister Blok).

2. A continuous history of 110 years of social housing organisations [9]

The social housing system as we currently know it dates from the beginning of the 20th century. Before then, socially minded providers of housing did exist – often set up by wealthy philanthropists, industrialists, churches and later also social organisations such as trade unions – but these did not have any particular relationship with the government.

This changed in 1901 with the adoption of the Housing Act. This new act gave the government joint responsibility for the availability of sufficient, affordable homes. It became possible to subsidise social rented housing and to make available government loans. One particular unique feature of the new Housing Act was that the granting of subsidy was limited to organisations who used their resources *exclusively in the interest of social housing* and that did *not pay out any dividends to third parties*.

The social housing organisation, in the form we still recognise today, arose in the "shadow" of this new Housing Act. A private, non-profit organisation operating on the housing market, but dedicated to the public interest through specific legislation and regulations, subsidies and finance. In spite of all the restrictions, this new model proved popular – even if it took a while to get going. Many new social housing organisations sprung up, while the old, existing socially minded providers of housing went into decline.

The architects of this exceptional model must have been true visionaries, because their model proved successful not only at the time, but for a very long time afterwards. Since its inception, the social housing organisation model has remained essentially the same. It proved exceptionally resilient, allowing it to survive the huge social and economic developments of the past 110 years. The model constantly proved useful for the government in new ways – and not only concerning housing matters, but also in tackling other social and economic problems. The social housing sector flourished, particularly in times of crisis.

The great housing shortages, caused by both World Wars, prompted a stronger role for the government in building new homes. Social housing organisations proved a useful tool in tackling the huge housing problems of that era. The cocktail of reconstruction, rapid population growth and a serious shortage of construction materials and capital following World War II forced the government to play a much stronger role than previously. The social housing sector expanded like never before.

But then every time the biggest problems were resolved, the social housing sector was once again the subject of debate. As soon as the economy picked up, subsidies dwindled and there was again space for private initiatives. When the economy started to stagnate again, and housing was again a big problem – for example, at the end of the 1970s – the government used the social housing sector for a counter-cyclical investment policy. However, whenever in times of crisis the housing shortage is no longer a big problem – for example in the 1920s and also at present – the social housing sector comes under great pressure. In the 1930s, a strict letting policy and skimming off of income brought the social housing organisations to the brink of the financial abyss, and now once again huge pressure is being applied to the social housing sector.

The social housing sector has always felt the wind of government economic policy, blowing for or against – but this has never effected the model in any essential way.

In addition, the social housing model appeared to be useful not only for economic policy, but also for the realisation of various other public goals. Which is logical, given the relationship between good living conditions and many other social issues.[10]

In the early part of the twentieth century, it was not only the housing shortage, but principally also the health of residents that was a major motive for providing subsidies for the construction of social housing.

9 See also: Kempen & van Velzen 1988; Brandsen & Helderman 2004, 2011; Koffijberg 2005; Helderman 2007; Van der Schaar 1987, 1996, 2009; Fleurke et al 2009; Beekers 2012.

10 See also Brandsen & Helderman 2004; De Jong 2010.

After World War I, the private nature of the social housing organisations proved to fit seamlessly into the upcoming "pillarisation" of Dutch society[11]. The semi-public nature of the social housing organisations also meant that, from the 1950s, social letting was an appropriate mainstay of the growing Dutch welfare state. In both the 1920s and the 1980s, social housing organisations proved a good instrument for the redevelopment of poor private housing stock concentrated in old urban neighbourhoods, and again during the past 15 years this has been the case, with the redevelopment of inner city areas.
As part of the compartmentalised civil society during the first half of the last century – but also as a new social enterprise from the 1990s – social housing organisations have been used to promote the emancipation of residents (including immigrants) and reinforce social cohesion at neighbourhood level. During both periods, the organisations' area of operation was broad and social housing organisations were enabled to create not alone homes, but also public purpose buildings.
The *target group of the policy* shifted with the nature of the social and economic issues: homes for the socio-economic group that made up the members of the social housing organisation (up to the 1960s); for the "broad centre" (up to the 1980s) and for lower-income households (from the 1980s/1990s); housing for families with a regular income and the elderly (up to the 1960s); migrant workers, former squatters and communal living groups (from the 1980s); the homeless, released prisoners, itinerant communities and temporary housing residents, residents with specific living requirements (from the 1990s).

A factor in all these shifts was the constantly changing nature of relations with the State, municipalities, social bodies, market operators and of course residents themselves. Sometimes, social housing organisations were allowed a certain degree of independence (in the 1920s and 1990s), but often the reigns held by the State or the municipality were kept so tight that the social housing organisations had little scope for input (1930s-1970s). Sometimes, the social housing organisations were allowed an exclusive position on the housing market (1920s, 1950s-1960s, from the 1980s) and sometimes they were treated more or less the same as other market parties (1930s, 1970-1980). Sometimes they were encouraged to affiliate themselves to other social sectors (1920s, from the early 1990s) and sometimes the opposite (1950s-1970). Often, they were expected to give residents/members a significant say in policy (up to 1950s and in the 1970s-1980s) and sometimes the opposite (1950s-1960s).

Adapting to all these differing relationships and new roles was made possible not only by specific legislation and regulations, but also by the setting up of temporary or permanent intermediary organisations and structures. These include the umbrella organisations (now Aedes), and public and private sector bodies (CFV, WSW, SEV), as well as the many cooperative relations.

The continuous history comes to an end? [12]

The continuous history of more than 110 years of social housing is a unique model, allowing problems to be tackled that could not be dealt with by the State, the market or civil society alone. An *"associational order"*, as public administration expert Jan Kees Helderman has called it. An order in which the three major domains of modern society are brought together to safeguard a public interest: the government, the market and civil society (or *communities*). Three domains with their own governance arrangements, competing with one another: the hierarchical hand of the government, the trade and contracting of the market and the self-regulation of the communities.
Throughout most of the 20th century, the social housing organisations model – like comparable models in other social sectors such as care and education – can be seen as a compromise solution typical of the compartmentalised Netherlands, i.e. a compromise between Catholics, Protestants, social democrats and liberals. However, it is striking – also today – that the three forms of government to a certain extent correlate to the three dominant political philosophies in the Netherlands. Social democrats attach a great

11 Pillarisation is the politico-denominational compartmentalisation of a society. The society was "vertically" divided into several segments or 'pillars", each of them having their own institutions.
12 See also WRR 2000; Brandsen & Helderman 2004, 2011; Hooge and Helderman 2007; Helderman 2007a, 2007b; R de Jong 2007; Van der Schaar 2009; Van Leeuwen and Simons 2012; WRR 2012.

deal of value to the State hierarchy; liberals place a great deal of confidence in the operation of the free market and Christian Democrats are advocates of the maximum possible self-regulation of society.

Precisely because the order of social relations is a kind of compromise between different political movements, it forms a delicate balance that is constantly subject to three “undermining” forces: *etatism, market dominance* and *alienation.*[13] *Etatism* is present if the government is too coercive. *Market dominance* is present if the social housing organisations are driven only by commercial motives and let go of their social goals. *Alienation* is present if the social housing organisations become detached from the communities in which they are rooted. During the past 110 years, these forces have always exerted an influence, but they have never dragged the system completely out of balance. Although at times, they have come close. During the 1930s, the social housing organisations teetered on the brink of financial ruin; in the 1950s and 1960s, the degree of state dominance was extremely high.

During the 1980s, a movement towards privatisation and market forces was initiated, resulting in far-reaching changes to the system in the first half of the 1990s. It seems that, under the influence of this movement, the three “undermining” forces have acted at once. This has once again brought the model seriously out of balance.

Section 3 will first describe the circumstances that have led to the changes to the system. Then Sections 4,5 and 6 will describe the developments from the perspective of the social housing model, as this has existed for more than a century now. I.e. examining the three elements of the *associational order:* the government, the market and communities. Finally, in Section 7, these descriptions and analyses will be summarised and conclusions drawn.

13 Helderman 2007b.

3. The run-up to changing the system

3.1. A new economic philosophy [14]

During the last decades of the 20th century, the relationship between government, the market and civil society changed under the influence of international economic developments. The *"long century of industrial capitalism"* made way for a knowledge-intensive, service-based economy characterised by accelerated internationalisation. A telling aspect of this was the globalisation of financial markets, resulting in an enormous increase in global flows of capital and close-knit interconnectedness of national financial systems and markets.
Alongside this change in the nature of the economy, Western economies in the 1980s had also possibly reached a state of *"saturation"* in relation to their economic development. Growth of productivity in the Western countries has been declining for several decades.[15]
This new economic situation was accompanied by a change in thinking about the role of the government and the market. Since the 1970s, markets have increasingly been seen as *the* means of creating wealth. The fall of the Berlin Wall in 1989 and the collapse of socialist planned economies in the early 1990s contributed to a broadly supported idea of the beneficial effects of free market forces and the disadvantages of large, dominant government. From the 1980s, this led in many countries – including the Netherlands – to a policy of deregulation, privatisation and strengthening of the operation of the market. This in turn led to significant changes in the market, government and civil society, as well as in the relations between these. Changes that have also had no small impact on social housing.

3.2. An economic crisis as launch pad for radical change [16]

Alongside the broader socio-economic developments, the economic crisis of the late 1970s played a significant role in changing the social housing sector. The years of strong economic growth and building up the welfare state came to an end. An explosion in oil prices at the end of the 1970s caused inflation to increase rapidly and the economy to stagnate. Unemployment skyrocketed, incomes fell. House prices, which had increased steadily during the 1970s, collapsed owing to the ever-higher interest rates.
Helped by growing income from gas reserves, the Dutch government decided on a policy of stimulating the housing market. A programme of renewal was initiated, aimed at improving the quality of life in the old urban neighbourhoods. After housing production started to stagnate, in 1979, and municipalities faced huge losses on land purchases, it was also decided to build large numbers of new homes for rental, with large subsidies.
However, these massive interventions by the government meant extremely high costs and drove up the budget deficit. A budget deficit that not only led to high interest rate payments, but also stood in the way of the desired admission to the Euro. At the beginning of the 1990s, therefore, the government was forced into a programme of stringent cutbacks.

14 For a detailed description, see: WRR 2012; SER 2010; United Nations 2012.
15 Van de Brink 2011; Cowen 2011.
16 See among others: WRR 2012; Van der Schaar et al 1996; Brandsen & Helderman 2004, 2011; Helderman 2007; Van der Schaar 2009; Fleurke et al 2009.

3.3. An accumulation of problems [17]

Developments internationally and within the Netherlands came together in social housing policy in the early 1990s. Social housing subsidy was one of the biggest items of expenditure on the government's balance sheet. In addition, considerable financial problems had arisen within social housing policy – the full extent of these was apparent from the end of the 1980s. It transpired that this high – and at times poorly managed – expenditure had in part been hidden by accounting tricks. A major "invention" of the 1970s was the "DKP system"[18], a system that allowed both the level of the rent and of the subsidy to be limited by taking into account future income, thereby deferring risks to the future. Another invention was the replacement of state loans to the social housing organisations by capital market loans guaranteed by the government. This made the budget deficit look smaller, but at the same time – because of the high rate of interest – greatly drove up costs.
An unexpected consequence of the transition to capital market loans was that this gave the social housing organisations the opportunity to replace expensive government loans by cheaper capital market loans when interest rates started to fall in the course of the 1980s. For the government, this had the benefit of reducing the national debt, although the government did not profit from the lower interest rates as a gap in the subsidy conditions meant that the subsidy to the social housing organisations remained the same.[19]
At the end of the 1980s, the seemingly uncontrollable problems in the housing sector prompted the Parliamentary Inquiry into Building Subsidies. State Secretary Heerma took office and in 1989 presented proposals aimed at putting an end to the problems and making a contribution to the essential cost-saving operation. Proposals that would turn social housing upside down. The policy document *Volkshuisvesting in de jaren 90* argued for liberalisation and restructuring of the sector. Both *financial* and *administrative unbundling* was to take place. The social housing organisations had to stand on their own two feet in the market. An end would be put to the use of social housing organisations for counter-cyclical government policy, as had been implemented particularly after World War II.

3.4. The Brutering [20]

During the first half of the 1990s, this formed the backdrop to one of the biggest financial operations that ever took place in the Netherlands: *the Brutering* (grossing-and-balancing agreement). Although this was in fact a financial/technical conclusion to a process that started in the 1980s, the impact it had was enormous.[21] Subsidy obligations to social housing organisations were discounted and set off against outstanding government loans. At the macro level, these amounts then approximately cancelled each other out – with a modest but very welcome plus for the government.
The big advantage for the State was that the budget became manageable again and the deficit was significantly reduced. This deleveraging in the balance sheet meant that the government was able to fulfil the requirements of the European Monetary Union (EMU) more quickly. And – not insignificantly – subsidies would in principle no longer have to be provided. For the social housing organisations, independence beckoned. Both financial independence, but also thanks to the abolition of a large amount of red tape.
The expectation was that the social housing organisations' capital – following a period of liquidity shortages – would grow through rent increases. This would finally lead to the realisation of a desire that had existed since the Housing Act of 1901: capital that could be sustainably used for unsubsidised social housing: a *Revolving Fund.*

17 Idem.
18 DKP means Dynamisch Kostprijs Systeem.
19 This "gap" was in fact plugged by the government through the introduction of "*0-contingenten*" (zero quotas), i.e. homes to be built by social housing organisations for which no subsidy would be given.
20 See also Van der Schaar et al 1996; Brandsen & Helderman 2004, 2011; Van der Schaar 2009; Cüsters 2010; Hoekstra 2013.
21 Subsidies had already been significantly reduced since the end of the 1980s, leaving social housing organisations more exposed to market risks.

The risks of this operation were great, however, and the parameters within which the calculations for the Brutering were made also contained a number of cost-cutting measures. Doubts arose about whether social housing organisations would be able to keep their heads above water without subsidy. The period around 2000 in particular was crucial, as a large number of capital market loans had to be refinanced.

4. The relationship with the government

4.1. From control to accountability and supervision

Heerma's proposals from 1989 were adopted virtually in their entirety in 1993 into a new – but relatively modest – regulatory package: the new *Housing Act* and the *Social Rented Housing Sector Decree BBSH.*[22]
The new BBSH and the Brutering were linked to a radical reorganisation of the social housing system. This was not only a logical consequence of the termination of subsidies,[23] but was also in line with the government's policy of deregulation, privatisation and a bigger role for market forces.
Direct government control through 'silver strings' made way for a supervisory structure that offered a great deal of scope for independent entrepreneurship. The role of the State was restricted to supervision after the fact on the basis of accounting by the social housing organisations.
Activities were no longer controlled. Decisions were no longer subject to prior approval.[24] Checks were carried out after the fact on the basis of a few fairly generally formulated 'accounting areas'.
In 1993, these accounting areas were: *appropriate housing for the target group; the quality of the housing stock; involving tenants in management and policy and financial continuity*. As the area of operations of the social housing organisations was expanding at this time, another two were later added to these: *quality of life in the neighbourhoods* (1997) and *housing with care* (2001).
The boundaries of these areas of accountability were not clearly defined. What exactly was meant by 'the public interests of social housing' had to be decided at local level. Social housing organisations had to decide on these matters themselves and then account for these decisions.

Municipalities were seen as playing a pivotal role between the State and the social housing organisations, both in terms of supervision and in the local decisions on the public interests of social housing. However, municipal authorities no longer had any executive authority. They were seen as more or less equal partners of the social housing organisations, able only to make arrangements on the basis of voluntary agreements.

A central role was set aside for internal supervision and audits by external accountants. All the organisations were obliged to set up an internal supervisory body which had to operate independently in relation to a professional executive board.

4.2. Growing doubts [25]

The privatisation, the Brutering, the BBSH and the favourable economic circumstances led to a rapid transformation of the social housing sector. Nevertheless, doubts quickly began to grow.
Even before the Brutering was completely implemented, the political goalposts were moved. The 'purple' (liberal/social democrat coalition) cabinets that took office from 1994 had little truck with the CDA (Christian Democrats) principles of self-regulation. Partly under pressure from European regulation, attention shifted to the promotion of market forces and stricter delineation of the role of the government.

After a few years, the State's *laissez-faire* policy started meeting with objections. The supervision by municipalities was not very effective. Municipalities had no authority, received hardly any subsidies and quickly lost interest in this new role. When the social housing organisations started to push at the

22 *Besluit Beheer Sociale Huursector*.
23 I.e. the direct provision of subsidies to social housing organisations. Subsidies were still given to municipalities, for example for urban renewal. And of course the housing benefit for tenants.
24 Exceptions to this were major decisions such as the sale of housing complexes to investors, amendments of the statutes and mergers.
25 See also Hooge & Helderman 2007; Van der Schaar 2009; Cüsters 2010; WRR 2012.

boundaries of the legislation, the State felt compelled within a few years to set out these boundaries more clearly in a number of rulings.

The first doubts about the new independent position of the social housing organisations within the market arose just a few years after the Brutering. However, the blessings brought by free market forces were not yet questioned. If market forces were not delivering the desired result, this must be a result of the way in which it was organised. The impression grew that insufficient scope was being given to efficient market operation in social housing owing to the actions of the social housing organisations. This called for greater government involvement.

These doubts then spread further owing to developments on the housing market. The rapid economic growth of the 1990s brought home ownership within reach of lower-middle income groups. This heavy growth in home ownership led to an exodus of middle-income groups from the rented sector. The social housing sector increasingly became the domain of low income groups and immigrants. Social housing was seen less and less as a solution to the housing problems of middle-income groups. This was increasingly also the feeling among the traditional political supporters of social housing, such as the PvdA (social democrats) and Groen Links ('Green Left').

4.3. New Public Management as a management mechanism [26]

The 'purple' cabinets placed great emphasis on the promotion of market forces. For the role of the government, they looked to the *New Public Management* model that arose in the UK and the USA in the 1980s. A model that was promoted by international organisations such as the OECD, IMF and the World Bank, and played a significant role in government reforms throughout the Western world. The idea behind *New Public Management* was that governments, owing to their bureaucratic and hierarchical organisational forms, were not suitable providers of products and services in the modern economy. The policy design must therefore be separated from policy implementation. The government must restrict its role to core tasks and delegate detailing and implementation to organisations outside of the government. *"The government should set the course, but leave the rowing to the market".*[27]
In addition, *New Public Management* heralded a new relationship between the government and civil society organisations. The Netherlands has a long tradition of civil society organisations that facilitate the implementation of public services. These retained their unique responsibilities and position in the growing *public domain* during the setting up of the welfare state after World War II. And their own *status,* rooted in history and in their relationship with their own community. Responsibility was, as it were, shared in the public domain between the government and civil society organisations.
Within the philosophy of *New Public Management*, however, the relationship between government and civil society organisations was seen as one between market parties, each of whom pursued their own interests: as a *principal* and an *agent* or *contractor*. The government bears sole responsibility for the public interest; civil society organisations, as well as commercial companies, are the implementing parties. Relationships between the government and (civil society) organisations are no longer based on their *status* and are not only enshrined in law. Instead, they should – as far as possible – be laid down in *contracts*.

The way in which the government was able to implement its role in the Dutch context using this new management model, was elaborated in 2001 by Paul Schnabel, director of the Social and Cultural Planning Office (SCP) in the *4-R model:*[28] *A "four-wheel drive", with which the government can change its role without having to give up its special responsibility".*[29]

26 See also Schnabel 2001; Van der Schaar 2003, 2009, WRR 2012, Halsema 2013.
27 Quote from Braithwaite (WRR 2012, p. 27).
28 In Dutch the four key words all begin with the letter R.
29 Schnabel 2001, p. 20.

- The government points the *Direction* [Dutch: Richting], while retaining sensitivity to the direction of developments within society.
- The government offers *Scope* [Dutch: Ruimte] to more or less autonomous organisations to realise public interests, but also restricts scope if the public interest so requires.
- The *Result* [Dutch: Resultaat] of actions, or the performance of the government, companies and civil society organisations, has to be measured (monitored) and assessed (benchmark).
- *Accountability* [Dutch: Rekenschap] must be given on this performance.

Today, thinking about the role of the government still draws heavily on the 4-R model, and this is in fact also implemented in practice with some success.[30] In recent years, however, criticism of the philosophy of *New Public Management* has grown. It is argued that cooperation on the basis of mutual trust is replaced by "organised distrust". Connections are being made to dysfunctions in the public and semi-public sectors.[31] Whatever the case may be, we can safely say that as far as social housing is concerned, in practice the conditions required to make this model a success are not being fulfilled.

4.4. No clear public assignment [32]

The philosophy of *New Public Management* underpinned the policy of State Secretary Remkes, who took office at the end of the 1990s. According to this philosophy, State visions for housing were to henceforth give direction to municipalities, who should then tailor this to the local housing market and translate it for the social housing organisations. The social housing providers were then expected to make optimum use of their scope as entrepreneurs within this vision. Systems of monitoring, inspections and benchmarking were to demonstrate the results, for which the social housing organisations had to give accountability.

What was lacking in this model, however, was a clear *public assignment*. In other words, a clear definition of the aim of social housing (the direction), of the accompanying field of activities and the resources that may be used to achieve these (the scope).
Looking at the past, this is understandable. As long as the government could exert control through subsidies, this wasn't a big problem. In fact, it gave the government the necessary flexibility to use social housing for a broad range of public objectives without having to change the regulations to do so.
When privatisation came along, a clearly defined national assignment wasn't seen as desirable. Faith was put in market forces and self-regulation and what exactly the *"public interest of social housing"* was had to be defined at local level, in consultation between municipalities and social housing organisations. The BBSH defined only a number of fairly generally formulated *areas of responsibility*.

What's more, it turned out that this system of *"policy hierarchy"* was in practice above all a system of consultation and conviction. A system that has little ability to get things done without financial incentives. Supervision is not the same as control. This became clear when, early this century, the economy began to slow down and investors became increasingly hesitant. Calls for more government intervention grew in volume. The final proposals from Remkes were accordingly not limited to a supervisory role for the State, but provided scope for *"active policy coordination"*. In other words, more central control.

30 The way in which spatial planning, and urban renewal took place and also, to a degree, the approach to the urban renewal, drew heavily on this model.
31 Koolma 2013.
32 See also Van der Schaar 2003, 2009; WRR 2012; Hoekstra 2013.

4.5. No more supervisory role for the municipalities [33]

The pivotal role of municipalities in relation to supervision and local considerations, as planned by Heerma, was never realised owing to a lack of instruments and financial resources. In 1998, the supervisory role of municipalities was again removed from the legislation, and the role of the CFV increased to financial supervision. Another consideration that was taken into account in this was that municipalities had to combine a number of interests, and that this put pressure on their ability to conduct impartial supervision. Municipalities and social housing organisations were also expected to enter into *performance contracts* as equal parties. Hard and fast agreements proved almost impossible to realise, however. Voluntary agreements are by their nature not binding and no sanctions are attached. Municipalities needed administrative flexibility and social housing organisations didn't want to be unilaterally tied down.
For Remkes' system of policy hierarchy, this meant that the general aims for the whole of the country were only partially translated and made into concrete performances to be realised by municipalities and social landlords.

4.6. Lack of political and administrative continuity [34]

The new policy ideas meant in principle that the concept of self-regulation as initiated by Heerma was abandoned. After all, there is little scope within a vertical policy line for own input and divergent views of policy on the part of civil society organisations.
Translation into concrete regulation did not take place, however. The four Balkenende cabinets (with Christian-Democrats) that took office following the 'purple' cabinets under Wim Kok wanted less central control and more assumption of responsibility by citizens and civil society organisations. It was not until the formation of the new 'purple' cabinets that attention was again devoted to vertical control.
In the meantime, Ministers responsible for social housing replaced one another in increasingly rapid succession. Since the beginning of this century, there have been no less than 10 different politicians in charge of the housing sector: Remkes, Kamp, Dekker, Winsemius, Vogelaar, van der Laan, Van Middelkoop, Donner, Spies and Blok.
This lack of administrative continuity has meant that no cabinet has been able to convert a new vision in legislation or regulations. As a result, views on policy have changed, but only very limited adjustments have been made to the legislation and regulations. In practice, this has meant that the formal policy set out by Heerma has largely speaking been followed. Parallel to this, however, is an on-going political desire to get more grip on the social housing sector.

4.7. Internal supervision is slow to get going and proves complex [35]

The introduction of an internal supervisory body was one of the most significant innovations within the social housing system in the early 1990s. At that time, this was a pretty new phenomenon, and not only for social housing organisations. Since the 1990s, the Supervisory Board model has become the dominant model within the non-profit sector. It has been compulsory for social housing organisations since 1993.
Internal supervision played a key role in the new governance model of the autonomous social housing organisations. These were seen as the primary *"line of supervision",* but also as the pivotal point around which public supervision and the new system of self-regulation revolve.
At that time, little attention was devoted to the exact role and responsibility of the new internal supervisory body. Was this supposed to function primarily in the interest of the business, or did it principally bear

33 See also Leuvesteijn & Shestalova 2006; Hooge & Helderman 2007; Van der Schaar 2009; Cüsters 2010; Hoekstra 2013.
34 Van der Schaar 2009.
35 See also WRR 2004; Netherlands Court of Audit 2006; Hooge & Helderman 2007; Koolma 2008; Van Leeuwen & Simons 2012; Hoekstra 2013.

responsibility for the broader interest of social housing and the good functioning of the sector? And how to deal with the at times conflicting requirements of the national government, the external supervisor, municipalities and residents? There was also little attention paid to the issue of transition involved in this radical switch from one system to another.
This issue too has in fact played a role in other social sectors. It was not until the end of the 1990s that a more serious approach was taken to the realisation of the internal supervision role.

In 1998, the first report addressing this issue was produced by the Glasz Committee.[36] In 2003, the Financial Regulator CFV carried out a survey of the quality of the internal supervision. The conclusion was that the quality is unsatisfactory and the Supervisory Board is an inadequate sparring partner of the Executive Board when it comes to concrete and strategic policy decisions. With the help of key figures for each social housing organisation, the CFV attempts to increase the Boards' insight into the performance of their organisations. Since 2004, a stream of reports and recommendations has been published concerning the social housing sector, arguing that the internal supervision needs to be more professional, more alert and more active. In 2005 and 2007, the CFV again carried out a survey and pointed to problems in the areas of expertise and accountability.[37] Mention was made of slow mobility and the disadvantages of the usual co-option system.
Little attention was paid however to the problem of the *managerial moral hazard,* i.e. those successful directors with a strong reputation, who were given the scope to go after their personal ambitions.[38] This turned out to be a serious problem in a number of incidents in the sector.
The Association of Supervisors in Social Housing Organisations (VTW) that has now been set up shared the criticism that the quality of the internal supervision must be improved and initiated a programme aimed at increasing professionalism.

In addition to criticism of the internal supervision, criticism has also grown recently of an important source of information for the Supervisory Boards: the accountants carrying out audits. A recent survey of the the Regulator for Financial Markets AFM has shown that, as recently as in 2010, the 4 big accountancy firms did not identify an increased risk when auditing a single one of the social housing organisations. It also transpires that insufficient expertise for a sound assessment of the risks – and therefore to account for these correctly in the annual reports – was regularly brought to bear in these audits.[39]

4.8. Hybrid external supervision [40]

That the role of the State was to focus on supervision was initially hardly a topic of debate, but the way in which this supervision was to be exercised very much was.
There was a great deal of political support for supervision independent of the State, but the vague description of *the public interests of social housing* made it difficult to give a mandate.
During the course of the second half of the 1990s, criticism of the quality of State supervision did grow. Initially, the CFV, set up in 1988, did not play any supervisory role.[41] This did not happen until 1998, following two reports that appeared in 1996: one from the Netherlands Court of Audit and one from a Parliamentary Inquiry into financial irregularities at the social housing organisation Woningbeheer Limburg.

36 Glasz 1998.
37 CFV 2003a, 2005b, 2007b.
38 Hirshleifer 1993; Koolma 2008.
39 AFM 2012.
40 See also CFV 2003b, 2005b, 2007b, 2013; SER 2005; WRR 2004; Schilder et al 2006; Hooge & Helderman 2007; Van der Schaar 2009, 2012; Aedes 2012; Hoekstra 2013.
41 The CFV is an Autonomous Administrative Authority, set up on the Basis of the Besluit Centraal Fonds Volkshuisvesting (Central Fund for Social Housing Decree). Until 1996, the CFV was responsible only for the reorganization of social housing organisations in financial difficulties.

In both reports, serious criticism was aimed at the quality of the supervision of social housing organisations as practiced by the Ministry and the municipalities.
From 1998, supervision was split: financial supervision was delegated to the CFV, while supervision of social housing and legality remained the responsibility of the Minister. Although this division has often been the subject of debate, to date it has remained largely unchanged.

Within the formulation of the distribution of tasks, the task of the CFV has been drawn up in rather general terms. The CFV has almost no authority to act as a supervisor vis-à-vis the social housing organisations, but can advise the Minister to do so. The authority to issue recommendations and impose sanctions lies with the Minister. Active inspections carried out at the behest of the Ministry were greatly reduced during the 1990s and virtually disappeared altogether following a reorganisation in 2002. Since 2007, the regular call-up of data takes place in a joint system shared by the CFV and Guarantee Fund WSW (Corpodata). Over time, the Ministry has become more dependent on the recommendations of the CFV and on signals from the field.

4.9. Financial supervision developing step by step [42]

Implementation of the financial supervision developed further over the years. Between 1998 and 2002, the supervision was focused on financially vulnerable social housing organisations (preventive supervision), and then on all social housing organisations. Risk assessments were introduced, which could lead to more intensive supervision of particular organisations. Each year, the CFV published "policy guidelines", expanding upon the design and development of the financial supervision.
The assessment of social housing organisations initially encompassed only an opinion on the question whether organisations would have sufficient financial resilience for the next five years. Since 2008, this opinion has been made up of two parts: an opinion on the financial position (solvency judgment) and an opinion on the organisation's proposed activities (continuity judgment).
In the course of the years, this generic method was supplemented by investigations into more specific questions, such as the banking practices of the organisations, their treasury policy, the valuation of real estate, commitments, the development of corporate running costs and the functioning of the internal supervision.
For a number of years (2001-2011), part of the legality supervision was carried out by the CFV on behalf of the Minister.
In addition, the CFV developed instruments to define the "performance" of social housing organisations: *"Social housing organisations in perspective"*, a benchmarking system with key figures from the social housing organisations; the *"equity excess",* a calculation to determine whether corporations are using the capital they have available sufficiently in the interest of social housing,[43] and the extent to which policy intentions are also actually realised.

4.10. Financial supervision opened up to debate [44]

The form to be taken by the financial supervision has almost always been a bone of contention.[45] The distribution of tasks between the CFV and the Minister was not always clear for the social housing providers and there was a lot of criticism. Many social housing organisations were (and still are) of the

42 See also: Hoekstra 2013.

43 The term "equity excess" [Dutch: vermogensovermaat] immediately provoked heated discussions at the social housing organisations and was only used for a short time. From 2008, organisations were given an A, B or C rating, whereby the latter group was considered able to do more than they were. Influenced by the financial crisis and national and international discussion of financial risks, this practice was abolished in 2011.

44 Information from CFV, see also: Hooge and Helderman 2007; Netherlands Court of Audit 2008; Aedes 2012; Hoekstra 2013.

45 This applied not only to the social housing sector. A wide-ranging discussion of good supervision also took place. See also Hoekstra 2013.

opinion that by looking more at the performance of the organisations and above all calculating the “equity excess”, the financial supervision was having a politicising effect.
The debate intensified from 2005. Various reports and bills appeared in which different perspectives and solutions were presented.[46] This discussion is still on-going to this day *“and has not contributed to obtaining clarity concerning the responsibilities for supervision in a period during which the risk profile of the sector has changed markedly”.*[47]

The discussion shows that the financial supervision of social housing is characterised by a number of inherent problems that are not easy to solve.
First and foremost, there is the problem that the social housing organisations’ assets are subject to a designated use obligation. These not only have to be used carefully, but also to achieve as many social objectives as possible. It is therefore difficult for financial supervision to restrict itself to the assessment of preservation of capital or return. Politicisation of the financial supervision is built-in, as it were.
A related problem is the lack of a clear public assignment for these organisations. Without such an assignment, there is also no clear review framework and it is difficult to implement sound supervision. It is also difficult to assess performance. If this is tried, measurable aims and performance indicators are drawn up and the assessor is obliged to formulate this public assignment himself.[48]

This makes it difficult to separate policy and financial supervision from one another. This has also only been achieved to a limited extent in the supervision of social housing organisations. The intertwined nature of this also has disadvantages. In the analysis of incidents, the Framework Development and Supervision Committee has reached the conclusion that the broad responsibility of the Minister for supervision of both policy and finance may have hampered correct conduct of the supervision.[49]

4.11. Limited scope of the financial supervision

The basis for the financial supervision is laid down in a model, based on monitoring of the development of the *present value on the basis of on-going rental operation* (value-in-use). The present value is determined as the discounted cash flow of the present and expected cash flows on the basis of the intended policy. A number of variables in the calculation, such as the exit yield and the interest rate (the discount rate), are standardised by the CFV.[50] Using this model, the financial consequences of the policies of the social housing organisations are assessed in terms of solvency.
The scope of the financial supervision is therefore to ascertain that minimum solvency is not jeopardised given present and proposed policy.

Over time, three significant limitations in this model have come to light:
Firstly, this model looks primarily at solvency, and much less at cash flow. In recent years, however, it has become evident that problems at the social housing model are caused not so much by low solvency, but by negative cash flows. This played a major role, for example, in the derivatives problem at Vestia. The positions taken by Vestia with these financial products increased its solvency, and thereby also its ability to borrow, but led to great liquidity risks.[51]

46 Reports from the Schilder Commission; de Boer and Meijerink; bills from ministers Van der Laan and Donner, among others.
47 Hoekstra 2013, p. 26.
48 A good example of this is the report of the survey by SEO of the performance of social housing organisations in the improvement of living conditions (Matlet et al 2009).
49 Hoekstra 2013, p. 29. See also Aedes 2012.
50 CFV 2012. In fact, the CFV does not standardise these variables itself. The variables are standardised by the Guarantee Fund WSW and then adopted by the CFV.
51 The interest rate benefit that arose through the derivatives led to a lower “earning capacity value” of the loans and thereby to an increase in net assets and solvency. See also Hoekstra 2013.

Secondly, the model chosen does not take market risks into account. What is assessed is the earning capacity of the social housing organisation's (proposed) policy and the risks associated with the development of this. What is not assessed are risks that are not visible within the (proposed) policy. This is a double-edged sword. On the one hand, the potential earnings on the market (the market value) are not considered. On the other hand, insufficient attention is paid to the risks taken on the market.
Thirdly, the financial supervisor has an inadequate view of the quality of the investment policy and of the financial performance of the social housing organisations, such as structural capital losses.[52]

Limiting the scope of the financial supervision is an understandable step in view of past history. Social housing providers were expected to take care of themselves on the market and were not expected to take great risks. This focus on the equity side was partly a result of the restructuring carried out by the CFV, whereby equity support had to be provided if necessary. However, by taking the (proposed) policy as the starting point, the financial supervision in actual fact was still based on the position of social housing organisations in the past. I.e. a policy-driven sector, being assessed on the realisation of (public) aims whereby the risks taken were covered by the collective and by the government. The financial supervision has not been adjusted in line with the new position of social housing organisations in the market.
Actually, this limiting of the financial supervision was supported by the valuation principles the social housing organisations were permitted to use in their annual reporting until recently: the historical cost and the present value. This means that losses on the market value are easily omitted. In addition, this offers inadequate insight into the quality of the investment policy.

In recent years, various measures have been taken to accommodate these limitations to the financial supervision. Since 2008, the market risk assessment has been extended and more account is taken of fluctuations in the market value.[53] As from 2012, the supervision has been extended further to include risks concerning liquidity and derivatives.[54]
In addition, market value has recently also been admitted as a valuation principle, although the freedom to choose from different valuation principles and methods means this still provides insufficient relevant information on the market risks involved.[55]

4.12. The role of the WSW [56]

The Guarantee Fund WSW was set up in 1984 as an initiative of the social housing umbrella organisations at the time NWR and NCIV to guarantee loans for housing improvements. Five years later, in 1989, this was extended to cover new building and another five years later, in 1994, the WSW was able to guarantee virtually all loans to social housing organisations. This last expansion was related to the 'Brutering'.[57]
The WSW is a private foundation with an Executive Board, a Supervisory Board and an advisory body made up of participants: the Participants' Council. Aedes is entitled to issue a binding nomination for 2 of the 5 supervisory directors, including the chair. The Participants' Council is entitled to issue a binding nomination for one seat.[58] The social housing sector is therefore entitled to nominate a majority on the Supervisory Board.

52 Hordijk 2008; Conijn and Schilder 2009; Koning and Leuvensteijn 2010.
53 CFV 2008b, 2013. The CFV's 'early warning' system shows where, if no action is taken, financial continuity is in jeopardy and a demand for restructuring support may arise. (CFV 2013).
54 Policy guidelines on the use of derivatives from authorised social housing bodies, 5/9/2012.
55 See also CPB 2007; Hordijk 2008; Deloitte 2012; Vlak 2013; Hoekstra 2013.
56 See also Kempen 1986; CFV 2012; Aedes 2012; Hoekstra 2013.
57 Kempen 1986, letter to the Lower House 31/3/1994.
58 Articles of Association WSW 2007 and Standing Rules Participants' Council as of 1/1/2003.

The relationship with the State is laid down in two agreements.[59] The *Back-stop Agreement* states that the State will provide liquidity support to the WSW, if necessary. It also stipulates that the State may decide that the WSW may no longer provide guarantees for new loans. The *Supervision and Accounting Agreement* stipulates in what cases the WSW may guarantee loans and agreements are laid down on consultation and the provision of information. The WSW must request approval for amendments to the articles of association, for the standard agreements with social housing organisations and the rates. In addition, it is stipulated that the WSW – following consultation with the Minister – may make recommendations to participants concerning the way they conduct their management and the drawing up of restructuring plans.

The WSW organises access to the capital market for the social housing organisations and to this end carries out a test for the required minimum financial resilience. Around 2006, a major change of policy took place. Until then, guarantees (and finance) were provided per project, and referred to as *project finance.* From 2007, this was replaced by *operating finance.*
The financial scope for guarantees – the *facilitating volume* – has since then been set at operating level on the basis of the forecast future cash flow in particular. In addition to rental income, account may also be taken to a certain extent of income from sales.

4.13. Limited insight into risks run by social housing organisations

The new system brought about a considerably more efficient way of working, as assessment and administration was no longer necessary on a project-by-project basis. In the reorganisation of the WSW, the staff complement was reduced by almost half.
However, the changes also had important negative aspects. The abandoning of project-based finance meant that insight into the relationship between the finance and the underlying investments was largely lost. In addition, no checks on spending were introduced. And no sensitivity analyses were carried out to determine the cash flow risks.
All of which meant that high-risk uses of finance by social housing organisations were not easy to spot. This applied to the accumulation of the project portfolios of a number of social housing organisations, referred to in Section 1 under the incidents. The same applied, however, to a certain extent, to the problems with derivatives.[60]
Following the financial problems at a number of social housing organisations, the WSW did however considerably tighten up the assessment of and conditions subject to which guarantees could be provided.

4.14. The WSW as a private supervisor [61]

The role of the WSW corresponds in a number of aspects to that of the CFV, and there is in fact a certain amount of overlap. The WSW organises access to the capital market for social housing organisations and to this end carries out an assessment of the required minimum financial resilience and (from 2006) the necessary liquidity. Such an assessment in actual fact also forms the basis for the financial supervision. Social housing organisations that fail to fulfil the requirements of the WSW, are passed on to the CFV for restructuring. In the event of differences of opinion concerning the criteria to be applied for the assessment of the financial position of the social housing organisations, the CFV is expected to defer to the WSW. An agreement has been entered into to coordinate the working methods of the two bodies in the

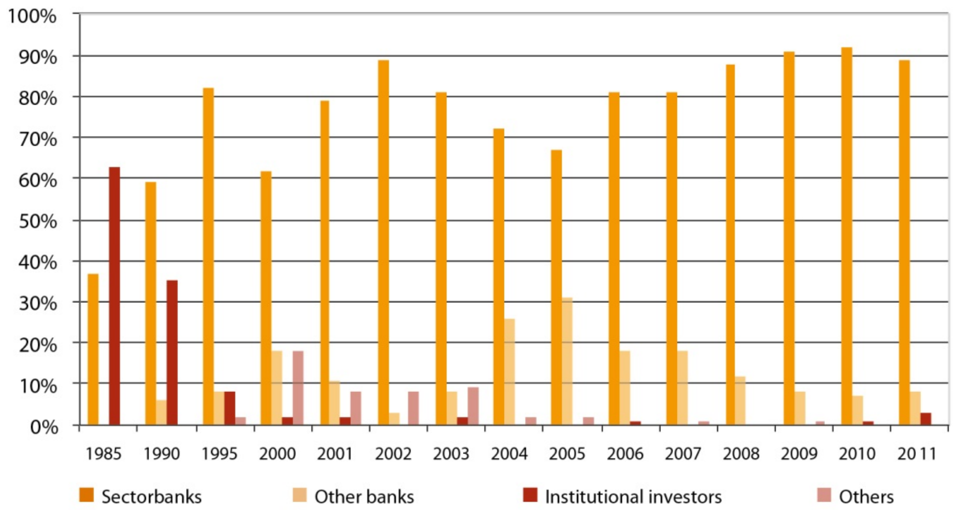
59 *Achtervangovereenkomst* (Back-stop Agreement) 6/12/1999 and the *Overeenkomst toezicht en verantwoording* (Agreement on Supervision and Accountability) 20/12/ 2006.
60 For example, Vestia held high levels of liquidity to cover the obligations ensuing from derivatives.
61 See also Hoekstra 2013.

case of restructuring.[62] Coordination is to take place by means of consultation and exchange of information.

The relationship between the CFV and the WSW is therefore not an equal one under this regime. Although the WSW does not have any statutory supervisory duties, its assessment is in principle an important part of the financial supervision, and is even a precondition for any restructuring. After all, a positive assessment from the WSW represents fulfilment of the requirement of financial continuity the CFV is expected to monitor. And in the event of a negative assessment from the WSW, the CFV is expected to resolve the problem by providing project support or support in restructuring. Furthermore, a referral from the WSW to the CFV means in principle that the guarantee facility is not required, although the bill is presented to the social housing organisations by an indirect route.
Although the system in this way creates a *moral hazard* for the WSW, this could have been workable if the working methods of the WSW and the CFV were fully coordinated – but this has by no means always been the case. For example, in the past the WSW took account when determining the present value of the market value of the homes to be sold, whereas the CFV did not. Also, the CFV focussed principally on solvency and the WSW (from 2007) on liquidity. It has occurred that the CFV has given a positive assessment, while access to finance has only been possible subject to conditions (called 'custom-made' by the WSW).[63]

This means that the supervisory structure is insufficiently well-balanced. The WSW is a private organisation that is not formally a part of the (public) supervisory structure. It does however play a crucial role in this. Although it is in itself understandable that financial supervision was associated with the requirements set on the capital market for financing, it is strange that government supervision does not extend to the body that is charged with safeguarding the public interest in access to the capital market: the WSW. A lack of balance made even more problematic if cooperation between the two bodies concerned does not run smoothly.

Figure 1. Finance of guaranteed loans



62 Agreement CFV-WSW *Naadloze aansluiting* (Seamless Connection) 2/12/1998, Supplementary Agreement 8/12/2000.
63 Another limiting factor is that information on the social housing organisations can only be exchanged if the social housing organisations concerned grant their approval to this.

4.15. The role of the sector banks [64]

The most important financiers of the social housing organisations are the “public banks” BNG and NWB (see figure 1[65]). But this was not always the case. Before the 1990s, the major financiers were principally institutional investors. Depending on the developments on the capital market, a greater or smaller role will be played by Dutch and foreign general banks. During the credit crisis, it was temporarily particularly difficult for social housing organisations to take out new loans, while at the same time income from sales stagnated. The general banks lost interest almost entirely. Thanks to the high creditworthiness of both the WSW and the sector banks, this proved to be a short-term problem, however. Without these bodies, some social housing organisations would have got into serious problems owing to the need to refinance expiring loans.

This not only confirms the solidity of the collective guarantee finance system, but also the counter-cyclical role the sector banks play in financing the sector. Although the sector banks are not formally a part of the system, they nevertheless play a significant role in the sector.

4.16. Weak imposition of discipline [66]

The great lack of clarity and many weaknesses in the supervision system lead to the imposition of discipline of this supervision being weak. The collective guarantee and finance system plays a particular role in this. This system not only protects the social housing sector against the volatility of the capital market, but also protects the market against risks from individual social housing organisations. The bodies that play a role within this system must therefore not only identify the general risks inherent in the social housing system, but also the specific risks. However, this has not sufficiently taken place. For the “public” banks BNG and NWB, the sound nature of the guarantee structure meant there was no reason to look at the risks of individual social housing organisations. For the CFV, it was logical that the WSW as a guarantee body would take over the role of the financiers and assess the use made of the finance provided. For the WSW, this stimulus was not as great, however. After all, the solidity of the system was not based on the individual social housing organisations, but on the collective and the final guarantees provided by the government. Furthermore, social housing organisations that got into financial difficulties could be referred to the CFV for restructuring.

It is remarkable that the risk this created was only discovered at such a late stage.

The Social and Economic Council SER pointed out in 2005 in relation to the new entrepreneurial role of social housing organisations only the possibility of new residents being selected on a risks basis and too great a focus on making a profit.[67]

In a recommendation on the supervision of social housing organisations, former director Schilder of the Dutch National Bank DNB characterised the financial supervision exercised in 2006 as good. No attention was paid to the risks to which the social housing organisations were exposed on the property market, or to the lack of transparency of the subsidiairies within which investments were made.[68] The financial position of the social housing sector was considered to be so strong that the question was in fact raised whether the financial supervision need be *“so wide-ranging and intensive”*. In fact*: “… the current emphasis on financial supervision, both external and internal, at times forms an hindrance to the realisation of social performance….”.*

64 Wild & v.d. Schaar 2010.

65 BNG = Bank Nederlandse Gemeenten; WSB = Nederlandse Waterschapsbank. Source: BNG.

66 See also Hoekstra 2013.

67 SER 2005.

68 The CFV had already pointed these obscure associations out on several occasions.

Apart from this, Schilder did argue for the combining of the fragmented supervision into a single independent supervisory body.[69]

All of which could go to explain why virtually all of the parties involved paid precious little attention to the growing financial risks to which the social housing organisations were exposed in property development and new financial products, and why in certain situations intervention did not take place earlier.

4.17 Self-regulation loses its political support [70]

The lack of political and administrative continuity was a risk for the development of self-regulation by the sector. The national association of social housing providers Aedes was alert enough to take action, every time the continuity of self-regulation threatened to be lost. Several times, offers were made to the government for voluntary performances by the social housing sector, in line with the political priorities of the moment. Offers that, following negotiation, were intended to lead to an agreement between the social housing sector and the government of the Netherlands. This had started in 1997 already, with the *Nationaal Programma Vokshuisvesting (National Social Housing Programme*). To arrange the distribution of authorities in the three-cornered relationship State-municipalities-social housing organisations, in 2000 Aedes, VNG (Association of Dutch Municipalities) and the State entered into the agreement “Convenant Sluitend Stelsel”, resulting in the setting up of an executive body, the “College Sluitend Stelsel”. These parties then, along with others, entered into the Nationaal Akkoord Wonen (National Housing Agreement) 2001-2005. The sector then developed new initiatives such as in 2003 the *Grote Beweging* (*Big Movement*) and in 2007 the *Antwoord aan de Samenleving* (*Reply to Society*), the aim of which was always to assure through agreements both the relationship with the State and the municipalities, while at the same time retaining self-regulation. The concrete results of these actions were limited. They did not lead to long-term agreements. However, this always won them some time.
In this way, the policy of self-regulation was extended reasonably consistently over a period of 15 years. At the same time, distancing themselves from the *"political reality"* in this way met with increasing resistance and thereby eroded political support for the social housing system.
The inability to give political guidance and irritation concerning the headstrong behaviour of the social housing sector led to growing political support for a seizure of power. From 2007, the PvdA (Social Democrats) faction of the fourth Balkenende cabinet left the path of negotiation and contracting for good (Housing Ministers Vogelaar and Van der Laan, supported by Minister of Finance Bos). To the great astonishment of the sector, negotiations were broken off and levies unilaterally imposed. This had been discussed many times, but now it really came about: in 2007 the *Vogelaar Levy* for the *Prachtwijken (Beautiful Neighbourhoods)*; in 2008 full corporation tax and in 2013 the *Verhuurdersheffing (Lessors' Levy)*. The confidence between the national political institutions and the social housing sector had reached a low point and, after more than 15 years, political support for self-regulation was exhausted.

4.18. Towards a new period of etatism?

During just a short period after the introduction of the new BBSH, privatisation of the social housing sector had taken place. Almost from the start, there was a great deal of resistance in the Parliament to this – resistance which only grew with time. The government was quick to adopt a more prominent role, although in a different way than before. The lack of *silver strings* meant that other ways had to be found to bind the social housing organisations to the public domain and retain influence on policy. Control <u>through</u> financial resources had to make way for control <u>of</u> financial resources.

69 Schilder et al 2006.
70 See also Van der Schaar 2009; Cüsters 2010; Helderman & Brandsen 2011.

The *policy hierarchy* introduced by Secretary of State Remkes seemed to offer opportunities, but what was missing was not only the lack of financial stimuli, but also of a clear public mandate. This meant it was not possible to manage on the basis of performance. This attempt to change the system was followed up by the lack of *administrative continuity.* No person in authority was able to succeed in making significant changes to the regulatory framework.

The possibility of pulling the social housing organisations into the public domain with help from Brussels was probably Van der Laan's idea to make a deal with European Commissioner Kroes. The activities of social housing organisations that could be financed with guarantees from the WSW were limited. Which in turn limited the scope for activities outside of this.

However, this limitation too was still insufficient for public control, even though more and more need for this had arisen in the meantime. The self-regulation of the sector, which in spite of all the resistance nevertheless took form remarkably quickly, received less and less support. Fed by a growing number of incidents and scandals, public interventions grew in magnitude. The maximum salaries of the executive directors of social housing organisations were unilaterally reduced to the norm in the public domain. Specific levies were introduced to better control the use of the social housing organisations' capital.

In these ways, step-by-step the independence of the social housing organisations was restricted and self-regulation replaced by public regulation. The withdrawal of government was fast becoming a thing of the past.

5. The relationship with the market [71]

5.1. A hesitant start

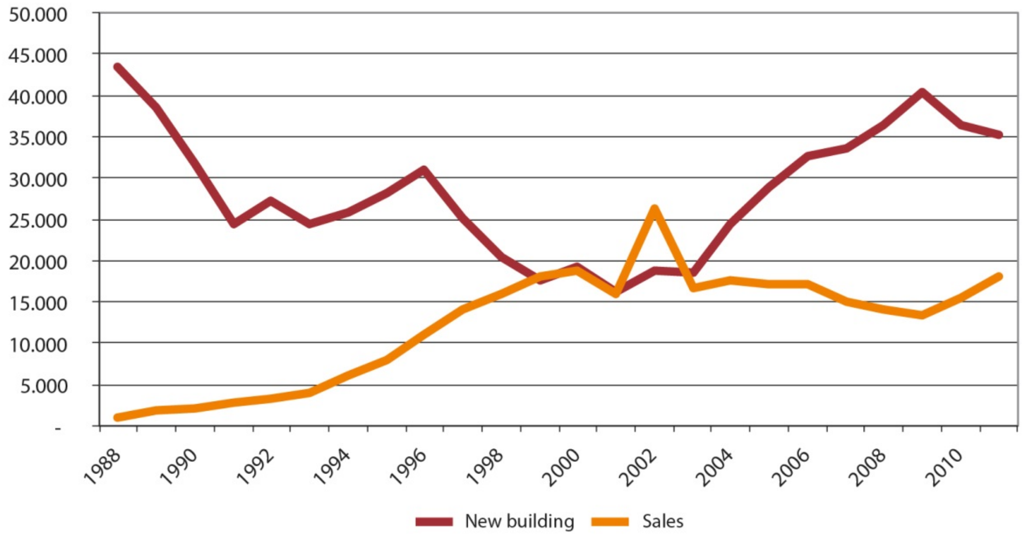
Privatisation was undertaken with the underlying idea that the market would impose a degree of discipline. There was a widely held belief that the introduction of market incentives would in itself cause organisations to work more efficiently and more effectively. What exactly these incentives would consist of and what preconditions would be necessary for this was hardly considered at all.
The same cannot be said however of access to the capital market. Owing to the limited equity of the social housing organisations, the State was acutely aware that an additional structure would be needed for this. Access to the capital market was secured by an expansion of the tasks of the Guarantee Fund WSW, set up in 1984.
During the early years following the ‘Brutering’, the new position of the social housing organisations in the market did not yet lead to large-scale changes. Social landlords did become more active on the housing market, but during the second half of the 1990s this did not yet lead to significant changes in the production of housing.
Uncertainty about their financial strength was still great, in particular owing to the interest rate risk involved in the refinance of capital market loans. A crucial moment in this respect came along around the year 2000, when many of these loans had to be refinanced.
But the social housing providers were lucky. The economy picked up, interest rates fell and continued to fall. The social housing organisations were able to refinance their loan portfolio at a much lower rate of interest than that on which the ‘Brutering’ agreement was based. Thanks to the lower interest rates, the present value of the housing stock increased, and the available cash flow grew. This increased borrowing capacity for new investments. House prices also began to rise strongly, driven up by low interest rates, an ample supply of finance and the tax-deductible nature of mortgage interest payments. More and more people were buying their own homes, and housing sales provided a new source of income for social housing organisations.

5.2. Housing production increases heavily after 2003 [72]

In the early 1990s, production of new housing by social housing organisations was around 25,000 homes per year. Thanks to the decrease in subsidies during the late 1980s, this was already significantly lower than in the preceding decades. During the second half of the 1990s, however, this declined further still, to a low point of some 16,000 new homes built in 2001 (see Figure 2 [73]). Further loss of subsidies played a role in this, but more important were other changes that had taken place in government policy in the early years of the 1990s. Centralised control by the government had made way for cooperation between municipalities and market parties and the social housing organisations. A working method that needed a great deal of time to really start to develop. In addition, the priority for new developments at the ‘Vinex sites’[74] played a significant role. This took much longer to get going than was expected, and slowed down developments elsewhere.[75]

71 See also Brandsen & Helderman 2004; Van der Schaar 2009.
72 Van der Schaar et al 1996; CFV 2005a-2012a.
73 See figure. Source: 2001-2011 CFV 2005a-2012a. 1988-2000 new building CBS Statline: 1988-2000 sale Wouters &d de Wildt 2008.
74 Large development areas in urban regions, named after the Dutch *Supplement to the Fourth Policy Document on Spatial planning*.
75 Netherlands Institute for Spatial Research [Dutch: Ruimtelijk Planbureau] 2006.

Figure 2. Housing production social housing organisations



After some clarity had been obtained regarding the financial uncertainties, around 2000, and the social housing organisations and municipalities had got used to their new positions, investments by social housing organisations again increased, to 35,000-40,000 homes a year in the period 2009-2011. This meant the social housing sector compensated to a significant extent for declining production in the commercial sector. During recent years, more than 50% of total housing production in the Netherlands was by social housing organisations. High production figures reminiscent of the era before the 'Brutering'.
Alongside new building, many homes were purchased and sold. Purchases in fact fell sharply, from more than 21,000 in 2001 to 2,000-3,000 in recent years. The sale of homes increased rapidly to more than 26,000 homes in 2002 and then fell to an average of approx. 16,000 homes per year.

5.3. A greater role in urban renewal [76]

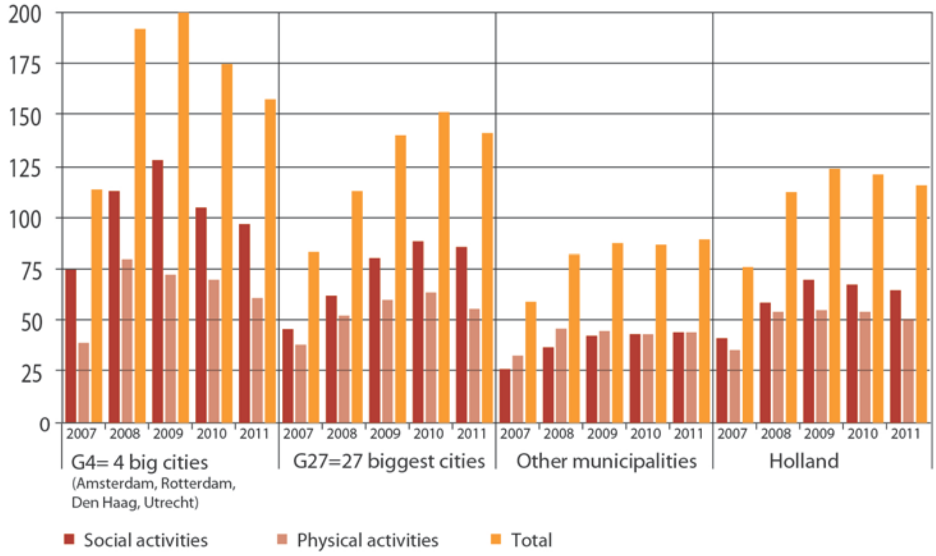
In addition, the new investments by social housing organisations increasingly concerned the renewal of old housing stock and the improvement of quality of life in old neighbourhoods. Between 2000 and 2009, the number of homes demolished doubled to some 16,000 per year. Investments by social housing organisations concerned not only rented housing, but increasingly also *"social property"*, i.e. buildings with a social function in the neighbourhood and buildings for other social organisations, such as schools and care providers.
An important reason for this new activity was increasing concern about the problems in the old neighbourhoods. At the beginning of this century, Winsemius, a member of the WRR (Advisory Council on Government Policy) and (interim) Minister, was among those sounding the alarm in relation to the growing social tensions in disadvantaged neighbourhoods. Problems caused by (better-paid) Dutch residents leaving and (low-paid) non-Dutch people moving in.
An important explanation for this is that low interest rates, tax incentives and the ready availability of finance meant that home ownership was now within reach of a larger group of households. The social middle groups left the social rented sector. At the same time, the percentage of senior citizens and non-Dutch residents grew, particularly in the old neighbourhoods. Social tensions increased.

The social housing sector picked up on this issue in the years after 2000 (and particularly after 2005) and developed a large number of initiatives aimed at improving the situation in the old neighbourhoods,

76 See also WRR 2004, 2005; CFV 2005a-2012a; VROM Raad 2006; CFV 2010; Helderman & Brandsen 2011.

together with municipalities and social service providers.[77] As the social problems in the various neighbourhoods were strongly inter-related, their independent nature and broader range of tasks of the social housing organisations meant they were relatively well-equipped to tackle these problems in a more integrated manner. This led not only to a great deal of investment in social property and owner-occupied homes in these neighbourhoods, but also to tackling problems with education, care and the provision of social services. This meant pushing at the regulatory boundaries, as well as those of the social housing organisations' own expertise.
Thanks to the efforts of municipalities and social housing organisations, quality of life in the most vulnerable neighbourhoods has improved considerably in the past 10 years.[78]

Figure 3. Average expenditure on quality of life per home (Source CFV)



5.4. Better provision of services to residents [79]

One of the most striking changes was the expansion of services to residents. This had already started in the 1990s, but accelerated rapidly after 2000. In part owing to the increased involvement in urban renewal, the social housing organisations' target group expanded and a need arose for more services and better cooperation with other suppliers. Social housing organisations independently developed new services for tenants, such as minor maintenance services and mediators in neighbourhood problems.
Together with other social service providers, a large number of new services were developed, such as care services, integrated social support to prevent evictions, help with debts and educational projects.
In addition, initiatives were taken to build a bridge between rental and home ownership. A significant underlying motive for this was the desired *emancipation* of residents. The idea was that a greater say over their own housing and living circumstances would lead to 'empowerment' of the residents.[80]
Figures from the KWH (Quality Centre for Social Housing Organisations) benchmarking body show that, generally speaking, tenants are satisfied to very satisfied about the services provided by the social housing organisations (giving an average report mark of 7-8).[81]

77 For example: in 2010, half of total national expenditure for quality of life by the social housing organisations was in the 40 neighbourhoods with the greatest social problems (CFV 2011b, p. 33).
78 See also BZK 2011.
79 See also Van der Schaar 2002; WRR 2004; Brandsen & Helderman 2004; VROM Raad 2006; Zijlstra 2011.
80 The most well-known example of this is the *Te Woon* concept developed by Woonbron social housing organisation in Rotterdam.
81 Website KWH Rental label performance index.

5.5. The exceptional housing market in the 1990s [82]

Section 2 described how the economies of Western countries in the 1980s entered possibly in a saturated stage of development. The growth of productivity had been declining for several decades. This development was “masked” however by reductions in costs (in particular, through relocating production to low-wage countries) and through the priming of the economy with borrowed money. This has had considerable consequences for the property market in many countries, including the Netherlands. Increasing prosperity, low interest rates, the ready availability of finance and tax-deductible mortgage interest caused house prices to explode. This meant the margin grew between the realistic all-in cost of construction of a home and the price this could command. A lot of parties were able to profit from this margin. For quite a while, property developers were able to make healthy profits from new homes for sale. When the municipalities then started to partly participate in these profits through a higher cost of land, the municipal real estate departments also did good business. Then there was even still scope for extra quality, both in homes and their surroundings.

Euphoria in the market was great. A lot of households with (lower) middle incomes entered the owner-occupier market. Owing to the long period of rising prices, people lost sight of the fact that prices can also fall. Virtually everyone was caught up in the euphoria: commercial investors, as well as municipalities, care organisations, schools and social housing organisations. New investments in property were calculated as profitable on the basis of low finance costs and an on-going increase in value.

5.6. Commercial property development with increasing risks [83]

The striking performance of social housing organisations during the recent period was made possible by the development of the economy and the housing market in the 1990s. Thanks to the low interest rates, available cash flow grew, and along with it investment capacity. Profitable sales of homes was a new source of revenue.

The plentiful supply of money and the euphoria on the property market explain why social housing organisations became increasingly active on the commercial property market: in expensive rental homes, owner-occupied homes and sometimes even offices and shops. This was often a logical consequence of the essential integral approach to urban areas, but increasingly – encouraged by municipalities and other civil society organisations – ambition prevailed over professionalism and market insight.[84] Owing to the integrated nature of many projects and the high level of finance available, social housing organisations also participated in public-private developments. In these circumstances, social housing organisations could afford to accept low returns and risks that market parties were not prepared to take on.

When municipalities increasingly no longer provided land on which to build, social housing organisations missed the boat with the large-scale Vinex developments[85] and the cost of land started to rise rapidly in line with the growth of the owner-occupied sector, social housing organisations felt constrained to also participate actively on the land market, increasingly taking positions in competition with commercial developers. As many social housing organisations only entered the land market at a relatively late stage, they often missed out on the best locations. Social housing organisations therefore took on available locations that not only were expensive but were not assured of permission to build on them. They were not only in competition with commercial parties in this, but increasingly also with municipalities and other social housing organisations.

82 See also Keers et al 2000; OESO 2004, 2010; IMF 2012.

83 See also Ruimtelijk Planbureau (Netherlands Institute for Spatial Research) 2006.

84 There is evidence that large amounts of available cash flow at companies often leads to an expansion of tasks not based on rational decisions (Jensen 1986).

85 Large scale developments in urban regions named after the Dutch *Supplement to the Fourth Policy Document on Spatial Planning*).

At the same time, the risks inherent in property development were increasing. Large-scale expansion locations made way for small-scale developments in existing urban areas. In addition, several functions were often combined in a single development. The sale of homes and commercial property had to cover the shortfall in social housing and social property. When in 2008 the credit crisis hit the Netherlands and the owner-occupied market collapsed, the bottom fell out of this earning model.

5.7. Defective competitive market forces [86]

By the end of the 1990s, the independent, increasingly dominant position of social housing organisations on the residential construction market was attracting more and more attention. The 'MDW report' (1997)[87] referred to *social organisations* with *exceptional market rights*, which the report argued could lead to unfair competition. At the request of State Secretary Remkes, the MDW report was followed in 1999 by an 'MDW recommendation', aimed at the social housing sector. The conclusion of this report was that the chosen social housing system was effective in realising social housing aims. However, it did not contain sufficient incentives for efficient operation and, at local level, could lead to an overly dominant position of the social housing organisations and to an insufficiently level playing field with commercial investors. The recommendation argued for the – temporary – continuance of the system, but with government support restricted to core tasks. Commercial activities would have to be subject to levies. Effectiveness would have to be increased through the imposition of profitability requirements, contracting out of new building, benchmarking, quality kite marks and assessments. The possibility of a final switch to the market (*opting out)* was rejected, for the time being at least. The recommendation was adopted by the cabinet in 2000.
It is remarkable that this MDW report is still exerting influence to this day. Many of its elements can be found in later recommendations from the Netherlands Central Planning Office CPB and from many economists. A number of its proposals have since been introduced, although often not at the government's initiative. Regulation in the area of market forces and competition has been introduced at the behest of the European Union. In addition, the recommendation included proposals beneficial to self-regulation, for example systems for benchmarking and performance assessment, and which have been introduced in recent years by the sector – although often on a non-binding basis.

5.8. Lack of transparency [88]

The previous section described that the scope of the financial supervision was too limited, meaning that the new market risks were not recognised in relation to social housing organisations. However, even if the supervisory authorities had focused on the market risks, they would still have faced the problem of the lack of transparency of the property market.
The most significant explanation for this lies in the nature of the property market and the exceptional characteristics of real estate. The value of real estate is not determined so much by technically measurable characteristics or building costs, but by customer appreciation. Location is the most decisive factor in this. Virtually the same building can command a much higher or lower price just a few hundred metres further. There is also very little uniformity. Every building is just a bit different.
In addition, transactions often take place by private treaty and pricing is "polluted" by supplementary conditions in (rental) contracts and the provision of additional services.
This unclear valuation of real estate and the lack of transparency make the property market susceptible to defalcation. Differences in value can be large in cash, but relatively small as a percentage. They can also

86 See also. Cohen Commission 1997; MDW Commission 1999; Ter Rele & van Steen 2001; Hakvoort et al 2002; Schilder 2006; Leuvensteijn & Shestalova 2006; Romijn & Besseling 2009.

87 Dutch Government advisory committee making proposals to improve the competitiveness of the Dutch economy (MDW Commission 1999).

88 See also Parliamentary Inquiry Committee on the Building Industry 2002; Brandsen & Helderman 2004; Hordijk 2008; Koning and Leuvensteijn 2010; Hoekstra 2013; Vlak 2008.

be relatively easily “explained” by an exceptional location or fluctuating market conditions. Explanations that are difficult to check out as valuations also often do not give a clear answer.[89] A margin of up to 10% between valuations of the same property is not out of the ordinary.

For these reasons, there is a great need within the real estate market for uniformity: of definitions, of valuation standards and of principles for the appraisal of real estate.[90] This has prompted institutional property investors such as pension funds to value at market value and make agreements on valuation principles and accounting on the basis of international standards.[91] Although there are good reasons for this, the same has not been done among other “social” property investors such as social housing organisations, as well as educational and care bodies. Remarkably often, incidents are related to a lack of transparency and differences in property values.[92]
Aedes took the initiative as early as 2001 to set up a real estate benchmark (aeDex/IPD),[93] which makes comparisons possible with other social housing organisations and with commercial investors on the basis of uniform market valuations and international standards. Although it has been relatively successful, this initiative has been limited to 25-30% of social housing homes and has not led to uniformity of valuation and accounting. Which means that the degree of transparency concerning the financial position and performance of social housing organisations is insufficient. Social housing organisations have ‘hidden capital’ in their housing stock, financial results can be improved by selling houses, and losses of value through land, buildings and property development can be omitted from balance sheets.

5.9. Enter Europe

It was not until 2002 that the independent social housing sector attracted the attention of the European Commission. In order to be certain that his policy proposals would fulfil the criteria for European State Aid, Remkes reported the existing Dutch aid regime. This report was later withdrawn, but Brussels’ interest had been aroused. Stimulated by growing objections from commercial investors, in 2005 the Commission wrote a letter to the Dutch government, in which it stated that State Aid to social housing organisations may be unauthorised. The target group of social housing was not limited to vulnerable households and the government guarantee of loans was also being used for commercial activities.[94] The recommendation was made to tailor the scale of the stock of social housing to the scale of the target group by selling off excess housing. In spite of a terrific row in the Dutch Parliament about such interference, the Dutch government implemented Brussels’ recommendations. This led, following an official complaint from private investors and years of consultation, at the end of 2009 to a ruling by the Commission limiting the activities that social housing organisations can carry out with State Aid.

89 A recent example that illustrates this problem is the devaluation of the property loans of SNS Property Finance. Two valuers arrived at very different valuations.

90 See also *“Breng orde in chaos waardering vastgoed”* [*Bring Order to the Chaos of Property Valuation*]. FD 4/1/2013.

91 The reason for choosing market value is not because the market value is better than any other basis for valuation. Each basis for valuation has its own meaning. Market value, however, is the only valuation that can be determined independently of operating policy, and which– in principle – can be tested in practice and therefore offers a uniform basis for a comparison of performance. As this is the only valuation that takes the market as its starting point, it is also the only valuation that reflects the “price” of market risks. See also Aedes Magazine Dossier *Vastgoedwaardering bij woningcorporaties* [*Property Valuation for Social Housing Organisations*], March 2003; Konings & Vlak 2002.

92 Lack of transparency in the valuation of real estate also played a significant role in incidents in the care and education sectors. For example, the Philadelphia care organisation and the Amarantis educational organisation (Otterloo & van der Burgt 2008; Halsema/van Rijn 2012/2013).

93 The aeDex benchmark has now been incorporated by MCSI/IPD, an international benchmark body for investments.

94 The government back-stop results in lower cost of capital. Estimates of the scale of this advantage range from 30 to 100 basis points.

5.10. Social housing organisations disrupt the free operation of the housing market [95]

Parallel to the European interventions, a debate developed in the Netherlands on the role of social housing organisations on the housing market. In 2005, director Don of the CPB characterised the housing market as the *forgotten reform dossier*. Reality quickly caught up with it, however. In recent years, a large number of reports have appeared on the shortcomings of the housing market and the role of social housing organisations in it.

It was ascertained that proper functioning of the housing market is disrupted by the large number of government interventions. This concerns not only subsidies for home ownership, but also the reduced rents offered by social housing organisations. Owing to lack of competition and profit incentives, the social housing organisations system is interfering with the free competition on the open market. This means that the great capital of the social housing organisations is not used to the full. This is an *inefficient allocation of capital,* or *“mortmain”*. And this leads to a loss of prosperity.

It would therefore be more efficient to ask rents in line with the market and solve problems of affordability by paying benefits to individual tenants. In other words, a shift from supply side to demand side support on the housing market. A shift that would make the traditional role of social housing organisations as suppliers on the housing market largely redundant.

It is striking that this reasoning has been followed by many economists since 2002 and currently dominates the discussion. Research in the Netherlands and abroad shows however that there are many objections to be made to this line of thought.[96] The biggest problem on the housing market in the Netherlands is not subsidies per se, but the extremely *inelastic* nature of the supply, which can hardly respond to demand. The major reason for this is the scarcity of land for building and government regulation. This means that subsidising the demand for homes leads principally to higher prices, and only to a limited extent to better quality or a larger supply. According to this reasoning, limitations to supply should above all be removed – in as far as possible. A good balance must then be struck between control of supply and demand, depending on the specific situation on the housing market.

5.11 The discipline of the market [97]

Developments on the housing market and the strict regulation of competition have meant that, in the course of the years since 2000, the social housing organisations have increasingly been exposed to the *"discipline of the market".* However, this has not led the social landlords to achieve greater efficiency. During the past 10 years, their operating costs have increased by an average of 6-7%, considerably more rapidly than their income.[98]

Following the expiry of the agreements laid down in the *Brutering Agreement* in 2000, rent increases fell to the (low) level of inflation.

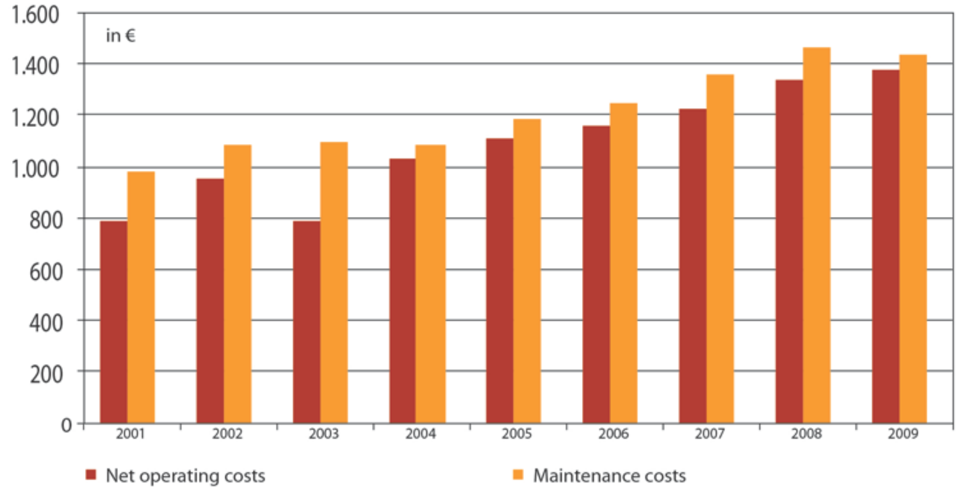
95 See also: Hakvoort et al 2002; Don 2005, Leuvensteijn & Shestalova 2006, REA 2006, Besseling et al 2008; Koning and Leuvensteijn 2010; CPB 2010, EC 2011, SER CSED 2010, OESO 2011, Vandevyvere et al 2012.

96 See also Van der Schaar 2002, Eichholtz 2006, Besseling cs 2008, De Jong 2012.

97 See also CFV 2009; Van den Hoogen 2010; De Jong 2010; Vlak 2011; Wildt & Luijkx 2011.

98 See figure: source Corpodata/ Wildt & Luijkx 2011.

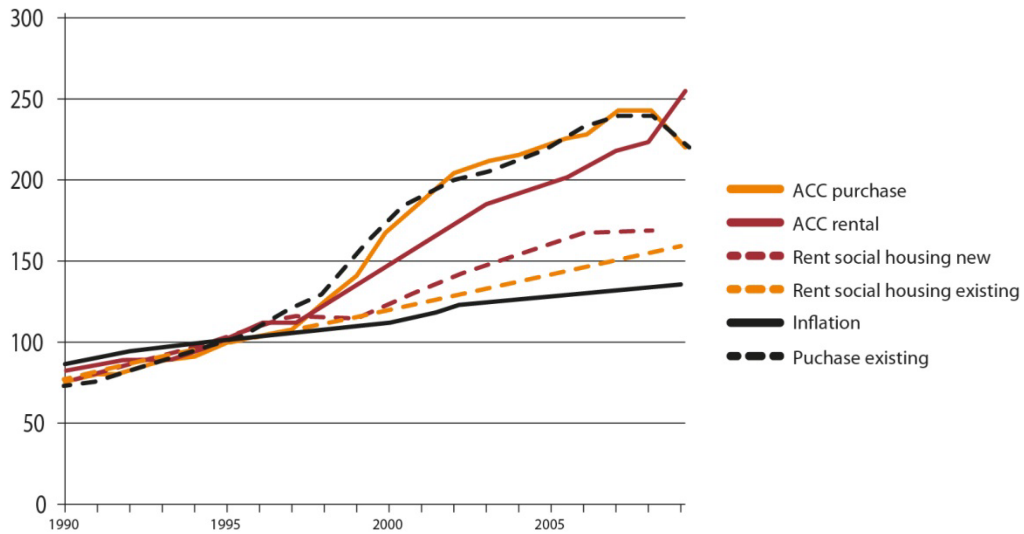
Figure 4. Development of operating costs of social housing organisations 2001-2009



The question whether management by social housing organisations is less efficient than that of commercial operators has not to date been satisfactorily answered.[99] But new tasks and administrative obligations, and above all growing ambitions, have led to a considerable increase in operating costs. Social housing organisations have increasingly taken on social roles from which no income is derived. Economic growth means that quality demands have risen parallel to this – and with them the cost of maintenance and improvements to the existing stock.

In addition to management costs, the all-in cost of construction of new homes for rental also rose quickly – more quickly even than the cost of investment on the owner-occupied market.[100] The size of homes also increased. Rental income from new buildings lagged further and further behind these costs. Between 2000 and 2010, the unprofitable part of the investment grew six-fold, amounting to an average of approx. €70,000 per home – one third of total investment costs.

Figure 5. All-in cost of construction (ACC), rents and inflation compared, 1995 = 0



Sources: KODAL; Corpodata; BNW; Koopsignalerings-systeem and Monitor Nieuwe Woningen; CBS

99 The reason for this is principally that the aim of the operation and the characteristics of the housing stock are not really comparable. Social housing organisations operate on a long-term basis, management and maintenance are not only aimed at retention, but also at achieving sustainable quality of homes and the surrounding environment. For a description of the differences in position, see for example De Jong 2010.

100 See figure, source: Wildt & Luijkx 2011.

The growth of financial resources in the second half of the 1990s and the low cost of funding made higher production at a higher cost, greater social expenditure and increasing operating costs possible. The collective guarantee and finance system not only provided easy access to the capital market, but also made it possible for greater risks to be taken than would have been the case for an individual company. Following a few years of high production, the available cash flow quickly dried up. This also meant a higher interest rate risk. To hedge against future interest rate rises, social housing organisations made increasingly frequent use of the complex financial instruments *(derivatives)* that were becoming available on the market. A lack of professionalism and inadequate risk management then led to things going wrong.

5.12 An inappropriate risk profile [101]

Social housing organisations are property investors with a specific risk-return profile. They cater for tenants with a low income, and want to offer these tenants the highest possible quality of residence. The tenants in question often have to put up with a low income for a long period of time. Social housing organisations therefore operate on a long-term basis. The return on their operations is relatively low.[102] On the other hand, the risk is also relatively low. The tenants have hardly any alternatives on the housing market and the Dutch social security system and housing benefit set a floor in the price that can be asked without endangering affordability.
The risk profile of social housing organisations has changed since the 1990s. In the case of property development in particular, the risks have increased dramatically. Dependence on a constant flow of sales and low cost of funding has become greater. Sensitivity to the economic climate has therefore also increased greatly. The higher risk profile prompted the use of advanced financial instruments, but this only increased the risk further.
And this undermined the *long term – low risk profile* that is at the basis of the social housing business model.

5.13 The “moral hazard” of the collective system [103]

The risk-return profile characteristic of social housing organisations requires long-term security of finance. Social housing needs to be protected as far as possible from the volatility of the financial markets. Furthermore, the return on the operation is relatively low. It is therefore understandable that an exception was made in relation to finance when placing social housing organisations independently in the market. The tasks of the Guarantee Fund WSW were expanded in 1993. Virtually all the activities carried out by social housing organisations could be financed from mutual guarantees and the back-stop from the government.
The combination of a "mutual" guarantee structure from the WSW with back-stop from the municipalities and the State, the restructuring role of the financial supervisor CFV and finance from the "public" banks BNG and NWB create an extremely solid, efficient system through which to facilitate the finance requirements of all social housing organisations in the long term and at low cost.

On the other hand, such a system also entails risks. This is all the more true for a non-transparent market like the housing market. In a normal market situation, lack of transparency is a reason for financiers, shareholders and others with a direct interest to look extra critically at the specific risks run and the integrity or overambitious plans of the directors in question. However, because of the reasons given above, this critical view was lacking to a significant extent. And this was true of all participants in the system: the internal supervisory boards, the accountants, the WSW, the sector banks and the CFV. This gave scope to

101 See also Hoekstra 2013.
102 See the comparison between the aeDex/IPD index and the ROZ/IPD index.
103 See also Hoekstra 2013.

the *moral hazard* inherent in a collective system. Thanks to the collective guarantee, greater risks could be taken than individual companies could have borne. Any losses from irresponsible actions were absorbed by the collective.

5.14 Social housing organisations entering the market: for and against

In spite of all the rhetoric in the sector, the *discipline of the market* didn't have much effect.
This discipline should be exercised by three parties: the owners and/or financiers, the customers and competitors. At least two of these three were always too weak to exert any real discipline.
Social housing organisations have no owners or other interested parties who can fulfil the role of the owner, such as the members of a cooperative association. The superbly functioning finance, guarantee and restructuring model (social housing organisations – WSW – CFV – BNG/NWB – government) mean that social housing organisations are largely exempted from the discipline of the capital market, whereby a *moral hazard* can arise. Risks can be passed on to the collective system.
In most parts of the Netherlands, customers of social housing organisations still have little choice. And the standstill in the housing market and limited access to the owner-occupied market has just made matters worse. Where the discipline of the customer did more or less work is in the high-end rented sector, the owner-occupied sector and the land market. When the owner-occupied market collapsed in 2009, social housing organisations were hit hard and had to take sizeable losses.
Neither did competition work. On the contrary, in fact. The plentiful supply of money and at times extremely low profitability requirements meant that social housing organisations increasingly dominated the market. They were also able to afford an increase in investment and operating costs over a long period without income rising in step. It was only after the cash flow dried up and large public levies were announced that most social housing organisations started to seriously examine their costs structures.

Possibly because discipline by the market didn't really happen, negative effects of entering the market became visible.
This has been referred to as the *moral hazard* of the collective guarantee system, which created the scope to take risks and pass on any losses to the collective.
The risks became much greater, in relation to property development in particular. Dependence on a constant flow of sales and on low cost of funding became greater. This meant greatly increased susceptibility to changes in the economic climate, which greatly undermined the *long term – low risk profile* that is the core characteristic of the social housing business model.
Instead of competing against commercial suppliers, social housing organisations regularly competed against other social housing organisations and municipalities. In these competitive relationships, however, it was usually not about competing for the favour of the customer by offering the lowest cost price and the highest quality, but about obtaining a stronger position on the market.
In addition to which, unfortunately, a number of social housing managers engaged in other undesirable behaviour, such as expensive company cars, high salaries and highly competitive behaviour.

All of which does not mean, however, that this new independent status in the market has only brought about negative effects. Significant successes can be offset against these failures. In spite of the lack of discipline, social housing organisations are increasingly looking to the market.
Independence brought about a growing need to strengthen their organisations. This led not only to up-scaling, but also to rapid professionalization. Initiatives by Aedes certainly contributed to this.
After the Brutering, social housing organisations successfully made use of falling interest rates to refinance their loan portfolios. The quality of the financial accounting applied by social housing providers increased dramatically.
This new social entrepreneurship may not have proved its worth on the commercial property market, but social housing organisations did succeed – even without subsidies – in a great increase in housing

production when the market failed to do so. At the same time, they also developed a number of innovative new forms between rental and homeownership.

Thanks in part to new quality control instruments and benchmarking, the quality of the service provided to tenants increased greatly – in spite of shifts in the target group: fewer and fewer average-income households and an increasing proportion of tenants in need of a more specialised approach: people in need of care, immigrants, the homeless.

Finally, the most significant achievement of the new, independent social housing organisations was probably the broad approach taken to the old neighbourhoods and the improvements to the living conditions of their residents.

6. The relationship with communities

6.1.1. Lack of say for residents [104]

In the new Social Housing Regulation BBSH, an unambiguous choice was made for self-regulation. However, this did not mean a strengthening of the relationship between the housing associations and their members.

It is a reasonably widespread belief that civil society organisations such as social housing organisations in recent decades have become alienated from their original grassroots supporters. A number of important qualifications should be made to this view, however. Alienation from the grassroots is not a recent phenomenon. The Housing Act of 1901 already bound social housing organisations to the public interest, meaning they could not exclusively serve the interests of the members.[105] The *core dilemma* of the alienation of social organisations was thereby built in, namely a shift from being an organisation of residents to an organisation for residents.[106] Nevertheless, for a long time there was still a pretty strong connection between the members and "their" housing association. A major watershed occurred when "objective" criteria were introduced in the allocation of housing, so members could no longer be given priority.[107]
During the course of the 1980s, a preference grew for replacing the *internal democratisation* of social housing organisations with *external democratisation.* This corresponded to existing practice, in which the influence of residents within the association's structure was already negligible. The – at the time still voluntary – board usually ruled the roost, with the members increasingly behaving as consumers. If there was any argument over authority, this was more likely to be between the voluntary board members and the growing group of professionals.
The idea was therefore that residents would be able to better represent their own interests through participation. At the time, this policy enjoyed broad support, also from the new national tenants' representative body, which arose in 1989 from a merger of the three existing organisations: the Nederlandse Woonbond (Dutch Tenants' Association). Tenants were now seen as *housing consumers*.

This situation was formalised in the adoption of the BBSH in 1993. *Self-regulation* was chosen, but not a greater say for the tenants. One reason for this was that members of a housing association had to be prevented from ignoring the public interest and benefitting themselves.[108] Participation by tenants could also be in conflict with the desired aim of entrepreneurial social housing providers.
The BBSH's preference for the legal form of the foundation rather than the association suited this new position of the tenants. Tenants could nominate a member of the new internal supervisory body, but this member could not be a tenant. Later, this was increased to two members.
The choice to see tenants as consumers was increased further by the new independence of the social housing organisations. This led to accelerated professionalization and to a strengthening of the position of social housing organisations in society and on the housing market. The result of this was a wave of mergers. In the early 1990s, there were more than 800 social housing organisations with an average of some 2,500 homes. By the end of 2011, there were 390 social housing organisations with an average of

104 See also Brandsen & Helderman 2004; Van der Schaar 2009; Cüsters 2010.
105 For an extensive description of the history of the position of tenants, see Beekers 2010.
106 Helderman 2007.
107 In the 1970s and 1980s, there was a great deal of criticism of the lack of transparency of housing allocation and social housing organisations were often accused of favouritism.
108 During the period before the 'Brutering', there were a number of examples whereby general meetings of members decided to sell homes to the members at low prices.

some 6,200 homes. The 20 largest social housing organisations managed on average almost 40,000 homes.[109]

Another influential factor was the changing composition of the residents of social housing organisations. For some decades, the social rented sector had become increasingly the domain of low-income groups and various groups of immigrants.[110] A lowering of the average income and educational level, along with less social cohesion, reduce the possibilities of active involvement by tenants in policy. This also reduces their electoral influence.

6.1.2. Involvement of tenants in urban renewal [111]

Strong growth of capital and the broadening of the area of operations stimulated social housing organisations to act in a more entrepreneurial manner. The new performance area *Quality of life* in particular gave scope for growing involvement by social housing organisations in *urban renewal* and *public-purpose buildings.*
Although this did not lead to greater participation in policymaking, the stronger involvement of social housing organisations with the old neighbourhoods did bring about new opportunities to strengthen the role of tenants. To a certain extent, this did result in the stimulation of the involvement of tenants and local organisations in improving their neighbourhoods, for example by making available budgets and personnel. Given the weak socio-economic position of the tenants, the cultural diversity and the tensions between Dutch and non-Dutch residents a great deal of involvement did arise, but there was precious little collective representation of interests.
The intractable socio-economic problems in the old neighbourhoods prompted a number of social housing organisations to actively promote the emancipation of the tenants by setting up socially beneficial activities together with other organisations, such as increasing participation in education or help finding work.

6.1.3. Satisfied stakeholders [112]

Instead of reinforcing the connection to tenants, relationships were entered into with other social service providers, such as care, education and welfare institutions. The broader area of operations, but above all also the growing involvement in urban renewal, made this cooperation essential. Tenants' organisations were seen as one of the stakeholders.
In spite of a lack of participation, these *"stakeholders"* seem reasonably satisfied with the relationship with the social housing organisation. An evaluation of five years of '*visitations'* (independent inspections) showed that the stakeholders (tenants' organisations, municipalities, civil society organisations) rated the performance of social housing organisations with an average score of 7+. Or more than satisfactory. However, this was also higher than the score given by the inspection committees themselves to the performance of social housing organisations (an average of 7-). It should be noted in this respect that the stakeholders stated they were interested not only in the "objectively measurable" performance, but above all in the quality of the cooperation. In the case of inspections, this is relevant only to a limited degree, however. The assessment of the stakeholders may also have been influenced by the relationship of mutual dependence with "their" social housing organisation.

109 Van der Schaar et al 1996; CFV website, Social housing organisations sector in figures, February 2013.
110 Fleurke et al 2007.
111 See also Brandsen & Helderman 2004; WRR 2004; Advisory Body on Housing, Spatial Planning and the Environment [Dutch: VROM Raad] 2006; Cüsters 2010.
112 See Bortel et al 2012.

6.1.4. New governance on the basis of self-regulation [113]

The guiding principle of the new BBSH regulation in 1993 was self-regulation by social housing organisations and the sector. Since the beginning, this had been actively promoted by the umbrella organisations NWR and NCIV. After the merger forming Aedes in 1998, this was continued even more vigorously. Aedes played a pioneering role in looking for new ways of embedding self-regulation in civil society.

The new regulation BBSH brought about big changes not only for social housing organisations, but also for the organisation of the sector. The umbrella organisations played a significant role in the management of the sector prior to privatisation. Government policy was operationalized for the members and the umbrella organisations did not hesitate if necessary to discipline members who refused to toe the line. In the 1990s, this role no longer applied, but self-regulation offered scope for new profiling.

The *governance* within the sector now had to be re-designed. The starting point for the new governance structure was the principle of the *social enterprise* or, in the case of social housing organisations, the *housing society*]. Social housing organisations were now seen as property businesses with a social mission: *"enterprise for social returns".*[114]

This principle corresponded to the ideas of the CDA (Christian Democratic Party).[115] Social enterprises are neither State organisations nor market players, but belong to society itself. The social goals of these organisations may be in line with the public interest, but are not identical to it. Social enterprises should organise their relationships in a similar way to government services and two-tier status companies. However, in this case a choice was made not for direct influence by tenants, but for *binding through organised citizenship*. In other words, involvement through other civil society organisations. This could take concrete form for each social housing through a *statutory advisory council.*

Initiatives by Aedes for self-regulation of the social housing organisations sector

- **Aedes code.** Code of conduct.[a]
- **Governance code**. Standards of good management and internal supervision, transparency, external accounting and financial control.[ab]
- **Remuneration arrangement** for directors (with publication of remuneration) and supervisory directors.[a]
- **Independent inspections,** once every 4 years.[ab] Setting up Raeflex inspections. Help with integrity policy.
- **Benchmarking.** Publication of sector information. Setting up aeDex property index. Quality kite mark initiative (Benchmarking Committee).

a. Mandatory for members of Aedes.
b. May be adopted in the Herzieningswet (Reform Act).

In this model, self-regulation meant that *vertical control* had to be replaced by *horizontal embedding.* I.e.: the linkage of the social enterprises to the interested parties: the *stakeholders.* For social housing organisations, these were not only tenants and other civil society organisations, but also municipalities and even the State could be seen as stakeholders in the social housing organisations network.

Agreements could be entered into with government bodies as equal partners. At local level, between social housing organisations and municipalities and at national level, between the State and the sector.

113 See also WRR 2000; Van Leeuwen 2002; Brandsen & Helderman 2004; SER 2005; Van der Schaar 2009; Cüsters 2010.
114 Van Leeuwen 2002.
115 CDA 2005.

At national level too, Aedes played a pioneering role in the introduction of this concept of social enterprise. Aedes took the initiative for bringing together (2003) social sector organisations in the National Future Social Enterprises Network (NTMO). The chair of Aedes was also the chair of this network.[116]

The sector organisation claimed a central role in the governance structure of the sector. Comparable to its position as an employer in the collective labour agreements, Aedes had to act as a contracting party for the State on behalf of the social housing organisations. Involvement of the members was therefore a central element of self-regulation.
Aedes developed a large number of initiatives to give shape and content to self-regulation. Quality requirements were drawn up through the articles, and the members undertook to engage in the desirable behaviour though codes of conduct (see text box). Various organisations with varying degrees of independence were set up for quality assurance, benchmarking and 'visitation'.[117]

6.1.5. *Self-regulation eventually gets stuck* [118]

Virtually from the start, there was a great deal of criticism of the policy of self-regulation and the way in which this was put into practice by Aedes. Criticism that only increased over the years. Politicians, civil servants at the Ministry and the tenants association Woonbond were increasingly dissatisfied with a sector that seemed hardly able to respond to the wishes of the outside world any more. A great deal of criticism was focused around the behaviour and attitude of the chair of Aedes. Personal relationships were at times extremely strained.
The behaviour of a number of directors of social housing organisations also caused friction. Directors with big egos, who didn't take much notice of those around them and just seemed to go their own way. Friction that was increased by a growing number of incidents in the sector. These involved excessive risk-taking, engaging in activities that were further and further from the core activities of social housing organisations, and in some cases fraud and self-enrichment.
A striking feature was the lack of a collective normative discussion. Criticism, however, was voiced, both inside and outside the sector. Abuses (or the suspicion thereof) were at times known about, but seldom gave grounds for action. This applied to the internal supervision, for Aedes and also for other social housing organisations. Self-regulation had no answer to this.[119]

One explanation for this is not only the external resistance, but also the fragile support from social housing organisations for Aedes' policy of self-regulation. For many social housing organisations, self-regulation was above all an instrument for keeping the government at arm's length, and not so much about binding oneself to the collective interest.
In addition, this new independence of social housing organisations not only changed the relationship with the government and the market, but also increased the autonomy of social housing organisations in relation to Aedes. Groups of social housing organisations joined together around particular interests: *De Vernieuwde Stad* (social housing organisations in the big cities) and the *MKW* (smaller social housing organisations); or around a shared vision: *Het Woonnetwerk (*social entrepreneurship) and '*Aedes Anders*' (greater influence for members of Aedes).

116 NTMO 2003.
117 Initiatives for self-regulation were regularly taken by groups of social housing organisations, in particular for benchmark systems (for example KWH, Woonbench). Aedes has taken the initiative to make participation in benchmarks compulsory. However, none of these initiatives finally managed to become a standard for the social housing organisations sector.
118 See also Hupe & Meijs 2001; CFV 2003; Brandsen & Helderman 2004; Hooge & Helderman 2007; Cüster 2010.
119 The same issue was also a feature of other sectors. Following the problems at the merged school organisation Amarantis, a report recently appeared that examined in detail the inability of the sector to influence the behaviour of school managers who are going off the rails. The committee of inquiry is making a number of recommendations for improvement (Halsema 2013, Section 6).

The Association of Supervisors in Social Housing VTW set up in 2002 chose is own position some way away from Aedes and took its own standpoints on governance and matters such as the remuneration of directors of social housing organisations.
The communication of these separate organisations within the sector by no means always corresponded to that of Aedes. Nevertheless, they often found a favourable reception in the outside world, where the concentration of influence within Aedes was viewed suspiciously. In this way, shortly after the Brutering, an informal consultation forum arose involving the DG with a group of directors of large social housing organisations in a more or less regular consultation.[120] Ministers sometimes joined them. In addition, these directors were not all members of Aedes.
As the directors who took part in this consultation derived a certain status from this, this not only undermined the internal cohesion of Aedes, but made these directors less sensitive to criticism from the social housing organisations.

A second explanation is that the *"first line of supervision"* within self-regulation, the Supervisory Board, did not function well. The pace of evolution of professional internal supervision proved unable to keep up with the pace of change and the new issues arising, such as the rapid professionalization of the boards of directors and the increasing risks.
The transition during the course of the 1990s from the old model of a board, made up of "volunteers" with one salaried director to a Supervisory Board with an Executive Board, gave rise to many practical questions. In a large number of cases, all that happened was that the name plates were swapped around. The voluntary board became the Supervisory Board and the director became the Chief Executive. One important explanation for this was that the management of social housing organisations was by now already pretty professionalized and their voluntary boards often acted at quite a distance. The new structure was often seen as a formalization of the existing structure. In addition, there was the practical argument that the existing board could not simply be dismissed and replaced by a new Supervisory Board. Often, a long transitional period was built in. What was lacking at that time was supervision of the operationalization of this far-reaching transition from one system to another.
This led to many new Supervisory Boards continuing to function more or less as they had done as voluntary boards. The new, independent position of social housing organisations set new, much higher standards, however. Only some 10 years after the Brutering – through the actions of the VTW set up in 2002, but above all through the emergence of a new generation of supervisors – did the Supervisory Boards gradually gather momentum. But they had a lot of ground to make up and were unable to play any serious role during the period in which the sector came under great pressure. To this day, many Supervisory Boards have not yet sufficiently managed to get to grips with their role, responsibility and required competences.[121]

6.2.6. Self-regulation in the shadow of the hierarchy [122]

The self-regulation and its implementation through social enterprise carried on the line set out by Heerma in the early 1990s. Enthusiasm cooled considerably under the 'purple' cabinets, but the thread was picked up again when Christian Democrats (CDA) were again part of the government. From 2004, the concept of social enterprise again enjoyed popularity as it corresponded to recommendations from the WRR (the Advisory Council on Government Policy) and the SER (Social and Economic Council) and was part of the policy of the Balkenende III cabinet. A bill was introduced to the Lower House to have social enterprise adopted in the Dutch Civil Code as a legal form or sub-legal form, with the accompanying governance structure. Political support for this proved insufficient however, and the initiative expired never to be heard

120 The director of the CFV was also initially involved in this consultation.
121 See also the letter by the joint supervisors in the semi-public sector to the formateurs and informants dated 11 October 2012, arguing for improvement of the corporate governance system for civil society organisations.
122 See also Helderman 2007b; Hoekstra 2013.

from again following the fall of the cabinet. In 2007 and 2008, the line of *contracting as equal parties* was abruptly discontinued by PvdA Minister Vogelaar and her successor Van der Laan. The increasing number of incidents in the sector and the low level of political response even caused the biggest champion of self-regulation – the CDA – to despair. This meant a final end to political support for the concept of self-regulation and social enterprise.

When the *Onderhandelaarsakkoord* (Negotiators' Agreement) finally concluded by chair van Leeuwen with Minister Vogelaar was only partly supported by the members and a survey among the members revealed a large amount criticism, the chair of Aedes resigned in 2008. Far-reaching changes to the structure of the association Aedes, already prepared by van Leeuwen, were introduced from 2009 with a board made up of members of Aedes, under the new chair Calon. The policy geared to self-regulation was greatly toned down.[123] Aedes has since concentrated on representing the interests of its members and providing support to them. For example, a policy advice was drawn up on the supervision system and – together with other interest groups – a plan for reform of the housing market.[124] The relationships with the national government, the VNG (Association of Netherlands Municipalities), the Woonbond and other organisations were improved. In a move rich in symbolism, Aedes relocated to The Hague in 2012.

This development shows that self-regulation needs support, both from "above" and from "below". In the case of Aedes, it could only be effective if it enjoyed the support of both the government and the members. This was lacking from both quarters. Support by the government for self-regulation changed with the colour of the ruling coalition, but also dwindled across the political spectrum in parliament over time. Support from the members of Aedes was hesitant. Most social housing organisations wanted as much autonomy as possible at local level, with as little interference as possible at national level. This applied to interference from the State, but to a certain extent also from Aedes. Proposals for self-regulation were consequently assessed on the degree of autonomy left. Telling illustrations of this are the various "offers" made to the national government, such as the *"Grote Beweging"* and the *"Aanbod aan de samenleving"*, inspired to a large degree by the threat of government intervention. After these were rejected by the government, they were put on ice.
This confirms that *"self-regulation can only come about in the shadow of the hierarchy"*. Self-regulation can work well, but being voluntary is not enough. The government must be prepared to support proposals for self-regulation and if necessary make these "universally binding". And it is exactly this that has been lacking since the beginning of this century.

123 In a public debate with Minister v.d. Laan and the WWI parliamentary committee on 18 June 2009, for example, chair Calon revealed that Aedes would no longer enter into voluntary agreements with the government on behalf of the social housing organisations. See also the letter from Aedes to the WWI parliamentary committee dated 30/6/2009.

124 Aedes 2012, Aedes et al 2012.

7. Summary and conclusions

7.1. The balance upset

The continuous tradition of 110 years of social housing is an arrangement that brings the three major pillars of modern society together: the government, the market and civil society. Three pillars each with its own form of control, in competition with the others: the hierarchical control of the government, the exchange and contracts of the market, the self-regulation of civil society. As a whole, they form a delicate balance, which is sensitive to three undermining forces: *etatism*, *market dominance* and *alienation*. Over the course of the past 110 years, these forces have all exerted an influence, but at no time have they ever brought the system completely out of balance.
During the 1980s, a movement arose towards privatisation and market forces, and culminated in radical change to the system during the first half of the 1990s. It seems that, under the influence of this movement, the three undermining forces acted simultaneously, once again bringing the model seriously out of balance.

7.1.1 The relationship with the government: distrust and new etatism

The economic and social developments since the 1980s have led to an entirely new relationship between the government and social housing providers. Social housing organisations were privatised and subsidies ended. The reasons for this privatisation were mainly of a pragmatic, even opportunistic, nature and driven by the financial problems faced by the government. But they took place during a period of a decline in confidence in the government and a growing belief in self-regulation and the discipline of the market. These changes to the system were implemented in accordance with the ideas of CDA State Secretary Heerma. Control by “silver strings” was replaced by self-regulation, market incentives and arm’s length supervision. Critical voices were quickly heard, however. The ‘purple’ cabinets that took office from 1994 were less enthusiastic about self-regulation than giving greater scope to market forces.
Under the influence of the political philosophy of *new public management* that blew in from the West, the relationship between the government and social housing organisations was seen as one between contractor and contractee on the market, whereby the relationship was not anchored only in legislation and regulations, but also in contracts. The government was now expected to restrict itself to its core tasks. In spite of growing criticism, thinking about the role of the government has been strongly based on this philosophy until the present day.
This philosophy underpinned the policy supported by State Secretary Remkes, who took office at the end of the 1990s, although supplemented by a little more central control, as there was now a growing demand for this. However, Remkes did not get the opportunity to transform his vision into new a new regulatory framework – and the same applied to his successors. Politicians in charge of social housing followed one another in increasingly quick succession. Since the beginning of this century, no less than 10 different politicians have had responsibility for the housing sector. As a consequence, political visions may have changed, but the regulatory framework still largely follows Heerma’s blueprint.

The consequences of the changes to the system were great, but initially received little attention. It was not until the end of the 1990s that it was concluded that the internal and external supervision was not functioning well. The supervisory role of the municipalities was removed and financial supervision was delegated to the Financial Regulator CFV. Even after this, however, the new governance system for the sector turned out not to be well suited to coping with the new risks to which social housing organisations were exposed on the market. Only when the market stagnated at the beginning of the 21st century and more and more “incidents” were exposed, was it recognised that the system of market incentives, self-regulation and supervision was seriously failing.

In the meantime, political support for the social housing system was steadily in decline. There were a number of reasons for this: the loss of subsidies and the control that accompanied it, the growing equity of the social housing organisations, the way in which the social housing sector dealt with self-regulation and the changed socio-economic situation of the tenants.
The loss of a financial interest and the starting point that social housing providers would have to look after themselves from now on, initially led to a drop in political interest. This was short-lived, however. The replacement of control by supervision had been a deliberate political decision, but was quickly overtaken by new needs for control. The problems in the old neighbourhoods and the drop in housing production cried out for government intervention.
To finance this new intervention, attention focused on the growing wealth of the social housing sector. This was to be used to tackle the new issues.
The social housing sector was not blind to this new political demand, but wanted to keep hold of the reigns. Hard work was undertaken on rolling out self-regulation. The social housing organisations were by now more professional and had developed a new self-confidence. The response to growing political pressure was new proposals for self-regulation. Investment plans whereby not the government but the association of social housing organisations Aedes would play the directing role. This provoked increasing political resistance.

If it had been the case that lower and lower-middle income groups would still largely be dependent on social housing, this too could have blown over. But this was precisely where the radical change lay. Social housing was being seen less and less as a solution to the problems of middle groups, i.e. the electoral backbone of the large political parties. There were big financial issues outside of housing that required solutions. Politicians' fingers were itching and the capital of the social housing providers was attractive. As the sector proved unresponsive to the need for political control and a growing number of incidents hit the headlines, the social housing sector lost its political credit.
With help from the European Commission, the operating area of social housing organisations was restricted. The maximum salaries of the directors of social landlords were unilaterally reduced to the levels common in the public domain. To get a firmer grip on the investments of social housing providers, specific levies were introduced. If it proved impossible through control of policy, it was a natural next step to remove capital from the sector and allow the government to reallocate these.
In this way, the independence of the social housing organisations was limited step by step and self-regulation replaced by public regulation. Disengagement of government had had its day and a new form of state dominance took its place.

7.1.2. The relationship with the market: successes, but also a lack of discipline of the market

The new independent position of social housing organisations in the market delivered both successes and failures. The early days in the 1990s were hesitant. Financial insecurities after the Brutering were great. But the social housing providers were lucky. The economy grew, and interest rates fell and kept falling. The present value of the property grew, as did the available cash flow, and with it borrowing capacity. House prices also increased strongly and the sale of homes became a new source of income.

All of which made it possible for the housing production of the social housing organisations to begin to increase rapidly during the past 10 years, after an initial drop in the 1990s. In recent years, more than 50% of total housing production was by social housing organisations, compensating to a significant extent for declining production in the commercial sector, with high production figures reminiscent of an era way before the Brutering. Even without subsidies, social housing organisations proved able to continue to invest in a counter-cyclical manner.
These new investments by social housing providers also increasingly concerned urban renewal and quality of life in the old neighbourhoods. The number of homes earmarked for demolition doubled and more and more investments were made in neighbourhood facilities such as schools, community centres and care

centres. Quality of life was improved in cooperation with municipalities and other social service providers. Thanks to these joint efforts, the quality of life in the most at risk neighbourhoods has been considerably improved during the past 10 years.

One striking change was the expansion of the provision of services to the tenants. Together with other organisations, new commercial and social services were offered and interim forms between renting and home ownership developed. Quality measurements have revealed that, generally speaking, the tenants are satisfied or very satisfied with the services provided by social housing organisations and the quality of the housing. All in spite of the shift in the target group that has quietly taken place: fewer and fewer average households and more and more tenants in need of a particular approach: people in need of care, immigrants, the homeless.

It is unlikely that the semi-public social housing organisations of the 1980s would have been able to achieve this.

However, these successes are also offset by failings.

This is due in part to the exceptional circumstances on the housing market of the 1990s. Growing prosperity, low interest rates, ready availability of capital and mortgage interest relief caused house prices to explode. This meant that the margin between the actual all-in cost of construction of a home and the price this could command on the market grew. Many parties were able to profit from these expanding margins. Euphoria on the market was great. Owing to the on-going increase in prices, people lost sight of the fact that prices can also fall. Virtually everyone was caught up in this euphoria: commercial investors, but also municipalities, care institutions, schools and social housing organisations. The profitability of new property investments was calculated on the basis low financing costs and an eternal increase in sale prices.

But the failure of social housing organisations is also related to their exceptional position on the housing market. The “discipline of the market” just didn’t really happen.

In a normal situation, this “discipline” is exercised by three parties: the owners and/or financiers, the customers and the competitors. In the case of the social housing organisations, at least two of the three turned out to be too weak to impose such discipline.

Social housing organisations do not have owners or other stakeholders to fulfil the role of owner. The strong collective finance and guarantee system protected social housing organisations to a significant extent from the disciplining effect of financiers.

In most parts of the Netherlands, the customers of social housing organisations still do not have much in the way of influence. The slowdown in mobility and the limited access to the owner-occupied market mean waiting lists in the social rented sector have grown and grown.

Competition also proved an ineffective disciplining force. The ready availability of funding and at times extremely low profitability requirements meant that social housing organisations were able to increasingly dominate the market. Increasingly frequently, they participated in projects with expensive rented homes, owner-occupied homes and commercial property. They could also afford long-term increases in all-in cost of construction and operating costs, without income rising proportionately.

The only areas where the discipline of the market did work were the owner-occupied sector and the land market. When the owner-occupied market collapsed in 2009, social housing organisations were confronted hard by the risks inherent in these investments and – along with the municipalities and property developers – had to incur great losses. Only after the cash flow had dried up and heavy public levies had been announced did most social housing organisations look seriously at their cost structure.

That there was criticism of the new, “free” role of social landlords on the market is understandable. The low profitability requirements for social housing organisations, it was argued, meant unfair competition with commercial investors. The use of the back-stop from the government in attracting loans for non-core activities was seen as unjustifiable state support.

Although the discipline of the market had little effect, negative effects of the “dominance of the market” were visible. Scope was created for the *“moral hazard”* inherent in a collective finance and guarantee system. Greater risks could be taken and the losses could be passed on to the collective.
In addition to which, unfortunately, a number of social housing managers engaged in other undesirable behaviour, such as expensive company cars, high salaries and highly competitive behaviour.

7.1.3. *The relationship with communities: alienation, but also new connections*

The new BBSH regulation unequivocally chose self-regulation. However, this did not mean that the relationship between the housing association and its members would be strengthened. This alienation had actually been a factor right from the adoption of the Housing Act in 1901 and was more or less built into the system. After World War II, this process accelerated rapidly. The large-scale production of housing after the war could only be realised under the strict control of the State. The process of socio-political decompartmentalisation reduced the ties of tenants to “their” housing association. The professionalization of social housing organisations and the changing composition of the tenants did the rest. Members of the housing associations became customers of rapidly growing social enterprises. Control was replaced by participation. The adoption of the BBSH in 1993 formally recognised the situation that had grown up. Associations became foundations and tenants were given only an indirect voice through the new internal supervision system. Social housing providers were now definitely not organisations <u>of</u> tenants, but organisations <u>for</u> tenants.

The self-regulation that was rolled out step by step following privatisation over a period of some 15 years, was not focused on the tenants, but on “horizontal” connections with tenants’ organisations, municipalities and civil society organisations. The success of this was patchy, but ‘visitations’ have revealed that these stakeholders are pretty satisfied about their relationship with the social housing organisation. Which does not mean that these organisations are not also often alienated from their original grassroots supporters. Such “horizontal” binding does not resolve the alienation question for the tenants, but has nevertheless provided a certain degree of embeddedness in society.

From the start, the self-regulation of the social housing sector was picked up actively by Aedes and its predecessors. The starting point was the Christian Democratic philosophy of the “social enterprise”. I.e. independent organisations that connect with society. The agreements with government bodies and other organisations were laid down in contracts between equals. Many new initiatives were taken and a range of regulatory measures introduced to organise governance within the sector.
Virtually from the beginning, there was also criticism, however, and this increased over time, both within and outside of the social housing sector. An increasingly strong impression formed of a sector that was unresponsive to the wishes of the outside world. An impression that was reinforced by incidents and undesirable behaviour. Excessive risks, activities that were increasingly further from the core task, big egos who took little heed of what the rest of the world thought and excessive salaries. Along with, in some cases, fraud and self-enrichment.
Self-regulation had no answers to this. There was criticism, but there was no collective, normative discussion. And the internal supervisors were not able to turn the tide. When political support for self-regulation finally fell away, the Board of Aedes was replaced, the policy – that had been strongly geared to self-regulation – was watered down and Aedes relocated to The Hague.
All of which confirms that self-regulation can work well, but that external support is essential for this. The government must be prepared, if necessary, to make self-regulation “universally binding”. And it was exactly this external support that had been lacking since the beginning of this century.

7.2. A flawed overhaul of the system

Social and economic developments led to changes to the system in the 1990s that have put the *"associational order"* out of balance. The social housing sector became independent of the government from the 1980s, without government control being replaced by sufficient discipline from the market or from society. This happened to coincide with a period of euphoria on the property market, with rising housing prices that looked like they would never end, from which a lot of parties sought to benefit. Too many social housing organisations gave in to the lure of easy profits. Other social landlords, under the leadership of a charismatic director, behaved more like a kind of *philanthropic institution* than a social enterprise serving a public goal. The new arrangements and the governance structure of the new system were unable to come up with a satisfactory answer and showed significant shortcomings.

Weak links to the public interest

Weakening belief in market forces and self-regulation exposed a gaping hole in the new relationship between social housing organisations and the government. The government had few instruments left with which to bind social housing organisations to the public interest and steer the investments in the direction it desired. Supervision is not the same thing as control, and *"you cannot push on a string".*[125]

An additional problem was the impossibility of clearly formulating the public mandate of social housing organisations. In a situation in which subsidies can be used as a management tool, this need not be such a problem. But when this was no longer the case, there was no longer any basis for effective supervision and assessment of the performance of social housing organisations.

Insufficient recognition of transitional problems

Perhaps owing to a naive belief in the ability of the market to instil discipline, the dilemmas involved in the transition from one system to the other were insufficiently recognised.

The introduction of a new governance structure for social housing organisations, with a professional board and internal supervision, was a fundamental change, and one that demanded new competences. Not only was a change of generation necessary to achieve this transition, but also a new, realistic vision of the possibilities and limitations of internal supervision.

Unstable basis for financial supervision

The design of supervision has been a subject of debate since the adoption of the BBSH in 1993. After five years, supervision duties were lifted from the municipalities and financial supervision was delegated to the CFV. The vague formulation of "the public interest of housing" made providing a clear mandate difficult. The financial supervisor CFV was given almost no authority to act vis-à-vis the social housing organisations. The precise roles of the Minister and the CFV were not always clear to the social housing organisations. Various policy documents and bills later appeared, amending the mechanics of the supervision. All of which made the CFV more of an advisory body to the Minister than an authority.

Limited scope of the financial supervision

The external supervision was aimed at testing whether the minimum solvency requirements would be jeopardised given the current and proposed policy. This meant cash flow risks were long ignored. Although general market risks were increasingly taken into account, the system used meant that a number of specific risks were omitted.

Role of WSW insufficiently embedded in the supervisory structure

The guarantee fund WSW is a private organisation that is not a formal part of the (public) supervisory structure. It does play a crucial role in this, however. In fact: in the relationship between WSW and CFV, the

125 Van der Schaar 2003, 2009.

latter is in a relatively weak position. It is remarkable that government supervision does not extend as far as the "core institute" that is charged with assuring the public interest of access to the capital market.

No picture of the financial vulnerability of social housing organisations

Since the beginning of this century, the impression grew of a rich sector in which *"they've got money coming out of their ears"*. Little attention was devoted to the risks. It is telling in this respect that even shortly before the financial crisis, the major complaint about the Supervisory Boards of social housing organisations was that they focused too much on the financial risks and too little on the social duties. Almost everyone underestimated the risks.

Specific risks were overlooked because of the way the system was set up

The collective finance and guarantee system not only protects social housing providers from the volatility of the capital market, it also protects the market against risks at social housing organisations. The bodies that play a role within this system must therefore not only identify the general risks inherent in the social housing organisation housing system, but also the specific risks for each organisation. However, this has not sufficiently taken place. For the "public" banks BNG and NWB, the sound nature of the guarantee structure meant there was no reason to look at the risks of individual social housing organisations. For the CFV, it was logical that the WSW as a guarantee body would take over the role from the financiers and assess the use made of the financial resources. For the WSW, this stimulus was not as great, however. After all, the solidity of the system was not based on the individual social housing organisations, but on the collective and the final guarantees provided by the government. Furthermore, social housing organisations that got into financial difficulties could be referred to the CFV for restructuring.

Lack of transparency and comparability

The governance structure of the social housing sector was therefore characterised by serious shortcomings. But even if this structure had functioned well, there was still another big problem: the lack of transparency and comparability of the financial position and performance of social housing organisations on the property market. The accountability requirements had not been altered to reflect their new, independent position. And this was another reason many market risks were not considered.

The additional risk inherent in the property market was insufficiently recognised

Mismanagement, fraud and self-enrichment occur everywhere, but the property sector is extra susceptible to this. The many scandals involving property speak for themselves. Lack of transparency makes the property market extra vulnerable to defalcation. This is further exacerbated by the capital nature of property. As a capital-intensive object of investment, it can be written off over a very long period. In the case of a sale, this usually involves large sums passing by private treaty from one party to another. Differences in value may be small as a percentage, but large in cash terms. And these differences can be pretty easily explained away by exceptional circumstances or fluctuating market conditions. Explanations that are difficult to check, as valuations often do not give a clear answer. All factors that mean that fraud can be relatively easily hidden.

No collective moral compass

Self-regulation could in principle have provided a solution to the issue of inadequate governance and the risks of the property market. In other words: a governance structure and culture set up by the sector itself that offers a clear regulatory and normative framework to all of those involved. In practice, this turned out not to be possible. The major issue was one that could not be resolved: *the exertion of discipline*. The support required for this from both the government and (some of) the) social housing organisations was lacking. This meant that the preconditions for a guiding *normative discussion* (with sanctions in the background) on the behaviour of social housing organisations and their directors and on collective responsibility were also not present. Undesirable behaviour was often recognised, but seldom was this followed up by action.

An inappropriate risk profile
Social housing organisations are property investors with a specific risk-return profile. They focus on tenants with a low income and seek to offer these tenants the highest possible quality of housing. These tenants often have to get by on a low income on a long-term basis. Social housing organisations therefore operate on a long-term basis. Their operating returns are relatively low. On the other hand, their risks are also relatively low. Their tenants have hardly any alternatives on the housing market and the Dutch social security and housing benefit systems impose a lowest price that can be charged without jeopardising affordability.
This *long-term – low-return – low-risk* profile makes social housing organisations susceptible to interest-rate fluctuations and impedes access to the capital market. Collective security structures are needed to assure all social housing organisations of sustainable access to the capital market subject to acceptable conditions.

Since the 1990s, the risk profile of social housing organisations has changed. The risks have increased greatly, particularly in relation to property development. Susceptibility to the state of the economy has also become much greater. Dependence on a continuous stream of sales and low cost of funding have increased greatly. This higher risk profile prompted the use of advanced financial instruments, which increased risk even further.
All organisations involved failed to sufficiently recognise that these risks are not compatible with the *long-term – low-return* basic profile of social housing organisations and with the system of collective security. The internal and external supervision, the guarantee body and the financiers were insufficiently aware of the *moral hazard* inherent in a collective security system of enterprises active on the market. This collective guarantee allowed greater risks to be taken than could have been borne by the individual enterprises. Losses resulting from irresponsible actions could be passed on to the collective.

7.3. Finally

In summary, it appears that the combination of:
<u>on the one hand</u> (1) the greater risks on the property market, and
<u>on the other hand</u> (2) the lack of owners or others with a direct interest, (3) inadequate internal and external supervision, (4) the lack of a collective moral compass and ability to self-correct and (5) the collective security structure,
make up the most significant explanation for the majority of the approx. 20 major incidents since the 1990s.

The vast majority of the social housing organisations however are made up of ordinary, decent providers of social rented accommodation. Social landlords which, in spite of everything, continue to simply fulfil their core role: to provide people with decent, affordable housing. Organisations which have followed developments in the sector with increasing concern and have also been greatly disturbed by the large number of incidents.

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