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SINGLE BANKING SUPERVISION AND THE SINGLE SUPERVISORY MECHANISM

Carmen Adriana GHEORGHE[1]

Abstract: *A resolution seems to have been found for the banking crisis. The first steps have been made towards the construction of the Economic and Monetary Union, steps involving the single supervision of banks, in order to avoid the discount of a new financial crisis on the expense of the EU state members. The Single Supervisory Mechanism – SSM is to become effective as of March 1, 2014, at the earliest.*

Key words: *single banking supervision, single authority, European Central Bank ECB, banking regulation, banking crisis.*

1. The global and European state of affairs

A short overview of the global and European state of affairs in terms of banking could reveal a variety of joint aspects that would justify the current evolution of the financial and banking crisis. The slow rate of the global macroeconomic recovery, the fact that many financial markets are not functioning normally, that central banks have taken action to alleviate the functioning of the monetary markets, the fact that governmental authorities have supported banks in their efforts of eliminating assets that are difficult to evaluate from their balances and the fact that certain European members received financial assistance from the EU/IMF, as well as the problems such countries have faced, all of the above have had negative repercussions over the European financial system, proving that the crisis continues to exist to this day. The bankruptcy of enterprises, the growth of the unemployment rate, the financial losses sustained by investors and the need for considerable governmental bailouts in order to avoid the crash of the banking system have also had an unfavourable impact on Europe's public finances and on its banking system. Also, the requirements of EU/IMF support coming from certain Eurozone members have not been auspicious either for the efficient functioning of the general European economy, or for the banks active in the Eurozone.

The Larosiere report from March 2010 proposed a new framework of international supervision, one taking into account the European and global dimensions of the crisis. First of all, the report proposed a European System of Financial Supervision- ESFS established through the transformation of the current European supervisory committees into two or three supervisory authorities. The new European supervisory authority or authorities would be designed to collaborate with the national financial supervisory authorities, which would continue to exert their ordinary supervision competences over

[1] Dept. of Law, *Transilvania* University of Braşov.

individual institutions. These entities would be organized into colleges of supervisory authorities and they would: coordinate the supervision of multinational entities, contribute to the harmonization of regulations, elaborate strategic directions, while having the necessary prerogatives to intervene in certain specific cases of divergences between national supervisory bodies. This implies the existence of a banking supervisory authority, of an insurance and pensions supervisory authority and of a securities supervisory authority.

The solution proposed by Barry Eichengreen implies the transformation of the ECB in the regulator of the Eurozone. At the same time, he claims that the admittance of non-Euro members should be accelerated, while leaving aside those who do not want to implement the Euro (like Great Britain). This proposition is criticized by other experts, such as Marek Belka, the Director of the European Department of the International Monetary Fund. The latter claims that granting enhanced powers to the ECB would in fact harm its goals, since politicians would not accept the delegation of more power to the ECB without modifying its articles of incorporation. Even more, the state support is granted on a national, not supranational level, and the political costs are supported accordingly. Such experts propose a cross-border safety net for pan-European banks, by implementing an equitable distribution of losses between shareholders and creditors, while protecting depositors.

2. The European banking reform

The so called turbulences from August 2007 eventually became a crisis in the European discourse, while currently the reform seems to be on everyone's lips, a makeover constructed around a single attribute: promptitude.

As such, the solution would focus on:

- Harmonization
- Joint banking crisis resolution
- Acknowledged authority.

Therefore, first of all, in order to allow the SSM to perform an effective supervision, the proposed SSM Regulation grants the ECB specific supervisory responsibilities associated with the necessary investigation and supervision competences and with the direct access to information. This is essential in order to ensure the effective fulfilment of SSM's tasks.

Second of all, the ECB must fulfil the tasks attributed to it by the proposed SME regulation.

The ECB will supervise that all its activities through the SSM do not affect the European System of Central Banks' activities, according to the treaty and to the Statute of the ESCB and of the European Central Bank, and that these activities do not compromise its institutional framework.

Third of all, a strict separation between the assignments concerning the monetary policy and the supervision tasks attributed to the ECB is essential, in order to prevent the potential conflict of interests and to ensure an autonomous decision making process for the fulfilment of the forth mentioned tasks, while ensuring that the institutional framework of the European System of Central Banks is respected.

Fourth of all, it is essential for the Single Supervisory Mechanism to benefit from the competences and resources of the national supervisory authorities in the fulfilment of the new supervision tasks. In-depth qualitative information and solid knowledge on the credit institutions are essential, as well as viable quantitative information.

The proposed calendar

The ECB stressed out the importance of reaching an agreement on the above mentioned proposals by the end of 2012, in order to maintain the proposed calendar and the enforcement of the Single Supervisory Mechanism as of January 1, 2013 as well as its gradual operational implementation during 2013 and the overall, generalized implementation and application starting January 1, 2014.

ECB's notice from November 2012 includes the following proposals:

I.A. the establishment of a sole supervisory mechanism – through the SSM- should contribute to the recovery of the general confidence in the banking segment and to the revitalization of the inter-banking credit and of the cross-border credit flows.

B. an integrated, independent supervision of all participant member states, based on a system that would include the ECB and the national supervisory authorities.

II. A sole regulation system dedicated to financial services and to supervision practices, while eliminating national distortions and better reflecting the necessities of an integrated monetary zone.

In this context, the ECB is prepared to carry out the new tasks referring to the prudential supervision of credit institutions which is included in the proposed SSM regulation.

The ECB believes that article 127, paragraph (6) from the treaty contains the corresponding legal grounds for the rapid and effective attribution of supervision tasks that are specific to the ECB.

From the perspective of the ECB, the SSM framework should respect certain *basic principles*.

First of all, the ECB, through the SSM, should be allowed to effectively and rigorously fulfil the tasks that it has been assigned, without risking any damages to its reputation.

Second of all, the ECB should remain independent when fulfilling any and all of its tasks.

Third of all, there should be a strict separation between the new supervisory tasks attributed to the ECB and its monetary policy tasks, as specified by the treaty.

The ECB should have full access to the knowledge, competences and operational resources of the national supervisory authorities.

The SSM should function according to the basic principles of the single financial services market, while complying with all the provisions of the single financial services regulation framework. In this respect, the ECB also appreciates the possibility of involving non-Euro member states in the SSM, in order to ensure a greater harmonization of European supervision practices, thus consolidating the local market. The ECB is prepared to respect the highest responsibility standards for the supervisory tasks.

Concretely, the official efforts reached the stage where the EU is to decide on two community bills:

A Regulation Draft attributing specific tasks to the ECB;

A Regulation Draft modifying the statute of the European Banking Authority.

The agenda of the negotiations included:

- Breaking the link between weak banks and weak government finances (Mario Draghi)
- Preventing banks with problems from being saved using public finances
- Removing the national supervisory attributions (political)
- Complying with the financial regulations in the 27 state members in such a manner that the Eurozone would not become the dominant voice
- A joint response system dedicated to banking crises
- ECB's supervision by the European

Parliament

The proposals made shaped up the idea that the separation of the ECB's attributions and those of the national supervisory authorities should consist in granting the latter the continuous supervision of consumer protection prerogatives and of money laundering regulations. On the other hand, the ECB should receive attributions like:

- The issuance of sanctions toward banks
- Withdrawing licenses within the limits of the Eurozone
- Attributions concerning capital adequacy
- Running internal stress tests
- Rapid intervention measures in the case of credit institutions in difficulty
- Granting licenses and authorizations
- The evaluation of the qualifying holdings
- Monitoring whether the minimum capital adequacy demands are respected
- The supervision of the financial conglomerates
- Banking inspections

The new supervision system will become effective as of Mach 1 2014, although the process may be postponed if the ECB needs more time to implement the necessary procedures. In the first phase, the ECB will focus on the major banks, as it does not currently hold the resources required to cover the small European banks.

The agreement requires the ratification of the European Parliament in order to become valid.

The objectives of the Single Banking supervision

The main objectives of the single banking supervision consist of:

- protecting the safety of the population's deposits;
- controlling the currency and credit offer in order to achieve general economic objectives (such as a high usage of the labour force and a low inflation rate);
- contributing to the creation of equal opportunities
- impartiality in the public access to credit and to other banking services.

3. Bank categories that will be monitored

As for the convergence points, the initiative will focus on the European System of Central Banks and on banks with problems. On the other hand, the European authorities will have to define the following concepts:

- Large banks/small banks
- Banks from the Eurozone/ Banks outside the Eurozone
- Banks from states that do not want to join the Eurozone

Therefore, out of the 6,000 banks that function in the EU, only 200 will enter the direct supervision of the ECB, meaning large banks, with assets of over EUR 30 billion.

4. Institutions involved in the SSM

- ESFS, created on January 1, 2011
- ECB, as joint supervisor
- SSM, with attributions becoming effective as of March 1, 2014: direct supervision of banks, the eventual recapitalization of banks
- The European Banking Authority, EBA, based in London, will retain a role of resolving disagreements and of intervening in emergency situations
- The European Supervisory Authorities - ESAs and EBA – aim to maintain the cooperation between the national supervisory authorities and the single financial services regulation
- The authorities from member states.

5. The legal grounds of the single banking supervision

The existing community law determines the application of Art. 125, paragraph 6 and of Art. 114 of the Treaty on the

Functioning of the European Union.

Also, two regulations have to be adopted: the ECB Regulation and the Regulation on the alignment/modification of Provision 1093/2010 that establishes the EBA, meaning the regulation for a new configuration of banking supervision.

6. Phases that have to be covered in the process of the single banking supervision

I. September 13, 2012, Strasbourg – The Resolution of the European Parliament on the proposal for the establishment of the European Banking Union (accomplished)

II. December 13, 2012, Brussels – Signing the Agreement on the establishment of the European Banking Union (accomplished)

III. March 14, 2013 – The European Council revised the activities carried out for the creation of a more solid structure of the Economic and Monetary Union (joint supervision, recapitalization through EMU)

IV. June, 2013
- instituting the single resolution mechanism
- designing the guarantee schemes of the deposits

7. Conclusion

The essential changes of the functioning of the banks should determine the success of the current reform of the European banking system. The pillars of the reform are:

I. The single banking supervisor, respectively the ECB

II. The joint banking crisis management and response system (establishing the Common Liquidation Fund)

III. The uniform deposits protection system (creating the common guarantees fund).

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