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NOVA ARIHTEKTURA REGULATORNOG I NADZORNOG DIZAJNA EVOPSKE UNIJE - MAKRO I MIKRO PRUDENCIJALNI PRISTUP

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Rezime

Naučene lekcije iz velike finansijske krize i uočene slabosti postojećeg nadzornog okvira EU, inicirali su kod nadležnih ustanova EU, reformu i izgradnju nove arhitekture dizajna nadzorne funkcije, usredsređujući se na koncept sistemskog rizika. Komisija EU angažovala je Grupu visokog nivoa kojom predsedava g. Jacque de Larosier da predloži preporuke Komisiji kako da jačaju evropski supervizijski aranžmani. Novi nadzorni okvir nove arhitekture koji je počeo da se primenjuje od 1. Januara 2011. godine zasniva se na dva stuba nadzora: Evropski odbor za sistemski rizik (ESRB-European Systemic Risk Board) koji je zadužen za makro-prudencijalni nadzor, rano otkrivanje i procene rizika i preduzimanje korektivnih mera u obliku preporuka i upozorenja u ograničavanju i ublažavanju delovanja sistemskih rizika i Evropski sistem finansijskih supervizora (ESFS-European System of Financial Supervisors) koji je zadužen za mikro-prudencijalni nadzor sa tri mikro-supervizorska organa, Zajedničkim komitetom i nacionalnim supervizorima, sa težnjom da izgrade jedan snažan, koherentan sistem mreže nadzora, doprinesu izgradnje jedinstvenih pravila „jedne knjige", ojačaju prekograničnu saradnju sa kolegijumom supervizora i druge zadatke u okviru svojih zakonskih nadležnosti.

Ključne reči: Evropska komisija za sistemski rizik, Evropski sistem finansijskih supervizora, sistemski rizik, finansijska kriza, finansijska stabilnost, makro i mikro prudencijalni nadzor, supervizija,

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NEW ARCHITECTURE REGULATORY AND SUPERVISORY DESIGN OF THE EUROPEAN UNION - MACRO AND MICRO PRUDENTIAL APPROACH

Summary

Lessons learned from the large-scale financial crisis and the perceived weaknesses in the existing EU supervisory framework, initiated a reform and building up of a new architecture design for oversight functions, by the competent EU institutions, focusing on the concept of systemic risk. EU Commission mandated a High Level Group chaired by Mr. Jacques de Larosiere to propose recommendations to the Commission on how to strengthen European supervisory arranagements. The new supervisory framework of the new architecture that began to be implemented from 1 January 2011is based on two pillars of control: The European Systemic Risk Board - ESRB, which is responsible for macro-prudential surveillance, early detection and risk assessment and taking of remedial measures in the form of recommendations and warnings in limiting and mitigating the effects of systemic risks, and the European System of Financial Supervisors - ESFS, which is responsible for the micro-prudential supervision of the three micro-supervisory authorities, the Joint Committee and national supervisors, with the ambition to build a strong, coherent system of surveillance networks, contribute to the devlopment of uniform rules, a single "Handbook", and strengthen the cross-border cooperation with the College of Supervisors, and other tasks within its legal jurisdiction.

Key words: European Systemic Risk Board, European System of Financial Supervisors, systemic risk, financial stability, macro and micro-prudential supervisions, supervision.

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Uvod

Globalna finansijska kriza, nastala u drugoj polovini 2007 god., je pokazala fundamentalne slabosti funkcionisanja regulacije i nadzora finansijskog sistema *u svim moćnim finansijskim centrima*, kao što su SAD, Velika Britanija i EU, ali i drugim zemljama širom sveta. Posebno, kriza je teško pogodila pojedine zemlje članice EU, koje su u post krizi doživele velike finansijske turbulencije, naročito u oblasti državnog duga. Finansijska kriza je otkrila slabosti u okviru EU, pre svega, u oblasti regulacije i nadzora finansijskog sistema i loše upravljanje mehanizmima odbrane od finansijskih stresova. Zamah evropskih finansijskih integracija i jedinstveno tržište finansijskih usluga, su u izvesnom smislu, usled nedostatka robusnog nadzornog okvira, nesvesno proizvodile potencijal, za prelivanja prekogranične finansijske zaraze pa i panevropske negativne eksternalije u pojedinim državama članicama EU. Sistem nadzora nije bio dovoljno snažan i fleksibilan da upravlja mehanizmima za očuvanje i spas finansijske stabilnosti i ublaži ili ograniči finansijsku rizik od šokova negativnih eksternalija, koje su proizvele sistemski rizik. Nadzorni okvir očuvanja evropske finansijske stabilnosti je u velikoj meri, uglavnom zavisio od dobrovoljne saradnje i koordinacije nacionalnih regulatornih i nadzornih organa u sprečavanju finansijskih nevolja i kriza proisteklih iz prekograničnih tržišta ili pojedinih institucija. Takav finansijski nadzor nije uspeo da predvidi makroekonomske nevolje kako u određenim slučajevima tako i u celokupnom finansijskom sistemu EU.

Finansijska kriza je otkrila da sistem funkcionisanja finansijskog nadzora u EU ima važne nedostatke, što je iniciralo preduzimanje brzih i efikasnih akcija i aktivnosti od svih relevantnih Evropskih institucija, u saradnji sa svetskim važnim institucijama (G2O, IMF, BIS, Bazel i drugih), u pravcu reformisanja postojećeg dizajna regulacije i nadzora. Postupajući po usvojenim inicijativama, Evropska komisija je angažovala ekspertsku grupu, na čelu sa gospodinom Žakom de Larosijeom, da izvrši reviziju postojećeg finansijskog nadzornog okvira, utvrdi slabosti i nedostatke i predloži nove preporuke za poboljšanje i izgradnju nove arhitekture regulativnog i nadzornog okvira.

Napori za reformisanje stare i uspostavljanje nove arhitekture finansijske nadzorne armature, u okviru integrisanog i jedinstvenog tržišta finansijskih usluga EU, su od 1.1. 2011 god. evidentni i već su stupili na snagu. Uspostavljeni su novi organi nadzora, ESRB za makro-prudencijalni nadzor i ESFS sa tri organa za mikro-prudencijalni nadzor, pod nazivom ESF i Zajedničkim komitetom za saradnju (JCESA), uključujući i nacionalne supervizore nadležne za nadzor finansijskih institucija u svojim zemljama. Težnja je da se uspostavi još veće jedinstvo zajedničkog evropskog tržišta finansijskih usluga, institucionalnim i zakonskim konstituisanjem ovih nezavisnih organa i da se ojača makro i mikro-prudencijalni nadzor. Napori su da se stvore respektabilne i pravno snažne nadzorne institucije, koje će zajedno sa drugim organima EU, pre svega ECB, ali i vladama država članica, kao najodgovornije za sprovođenje nadzornih politika, uspostaviti jedan kredibilni i robusni nadzorni okvir, koji će biti sposoban da otkrije, ograniči, ublaži ili neutrališe pojavu sistemskog rizika. Istovremeno, to zahteva punu interaktivnu saradnju i odgovornost svih aktera na finansijskom tržištu, posebno ESRB-a i ESF-a. Saradnja se sastoji u zajedničkoj, brzoj i efikasnoj akciji u ranom otkrivanju sistemskog rizika i pravovremenim delovanjem određenim politikama. Istovremeno, za rano otkrivanje rizika, novoformirani organi, izgradiće standarde i alate, doneti smernice, pravila i način razmene svih relevantnih informacija uz maksimalnu koordinaciju aktivnosti. U zajedničkom poduhvatu uspostavljanja novog okvira, novoosnovane organizacije imaće mnoge izazove, posebno u promeni svesti i mišljenja o značaju nadzorne funkcije finansijskog sistema i sticanju poverenja kroz respektabilno zidanje autoriteta.

Upravo, ideja ovog rada je da na osnovu relevantne literature ukaže na novu arhitekturu nadzornog okvira EU. Cilj je, da se na osnovu prethodnog dizajna nadzornog okvira i njegove ispoljene slabosti tokom finansijske krize, ukaže na reforme i osvetli nova arhitektura nadzornog okvira, njegova misija, ciljevi, mandat i mehanizmi u borbi za očuvanje i zaštitu finansijskog sistema u celini ili pojedinačnih

Introduction

The global financial crisis that emerged in the second half of 2007, manifested fundamental weaknesses in the functioning of regulatory framework and supervision of the financial systems *in all of the most powerful financial centres,* such as the USA, United Kingdom, and the EU, but also in the other countries throughout the world. The crisis especially hit hard some of the EU member-countries, which in the post-crisis period experienced great financial turbulences, especially in the field of public debt. Financial crisis disclosed deficiencies within the EU primarily in the field of regulation and supervision of the financial system and in poor management of the financial stress defence mechanisms. The momentum of European financial integrations and the single market of financial services have in a certain sense and due to the absence of a sufficiently robust supervisory framework, inadvertently produced the potential for the spilling-over of the cross-border financial contagion, but also Pan-European negative externalia in some of the EU member-countries. The system of supervision was neither sufficiently robust nor flexible enough to manage the financial stability preservation and salvation mechanisms, and neither to mitigate or limit the financial risk from shocks of negative external impacts which produced the systemic risk. Supervisory framework for the preservation of European financial stability to a great extent and mainly depended on a voluntary cooperation and coordination between the national regulatory and supervisory authorities in the prevention of financial problems and crisis deriving from the cross-border markets or individual institutions. Such a financial supervision did not succeed in predicting macro-economic troubles either in particular cases, or in the entire financial system of the EU.

Financial crisis revealed that the system of financial supervision in the EU was functioning with some significant flaws, which initiated an urgent undertaking of prompt and efficient actions and activities by all the relevant European institutions, in cooperation with the world important organizations (G20, IMF, BIS, Basel, and others), in the direction of reforming the existing design for regulation and supervision. Proceeding according to the initiatives adopted, the European Commission mandated a High Level Group chaired by Mr. Jacques de Larosiere, to conduct a revision of the existing financial supervisory framework, to identify weaknesses and shortcomings, and to propose new recommendations for the improvement and construction of the new architecture for the regulatory and supervisory framework.

The efforts to reform the old and establish the new architecture of financial supervision design within an integrated and single EU market of financial services, as of 1 January 2011, became evident and have already come into effect. New supervisory bodies have been established, the ESRB for macro-prudential supervision, and the ESFS with three bodies for micro-prudential supervision, under the name of the ESF, and the Joint Committee for Cooperation (the JCESA), including also the national supervisors in charge of the oversight of the financial institutions in their respective countries. The tendency is to establish an even stronger unity of the European common market of financial services, through institutional and legislative constitution of these independent bodies, but also to reinforce the macro and micro-prudential supervision. Efforts are being made to create respectable and legally robust supervisory institutions, which shall together with the other EU authorities, primarily with the ECB but also the governments of the member-countries, as the most responsible entities for the implementation of supervisory policies, establish a more credible and robust supervisory framework, which shall be capable to detect, limit, mitigate, or neutralise the emergence of a systemic risk. Concordantly, this shall require a full and interactive cooperation and responsibilities of all the actors engaged in the financial markets, especially the ESRB and the ESF. Cooperation will consist of a joint, prompt and efficient action in early detection of systemic risk and the timely action through given policies. At the same time, for early detection of risks, the newly-formed bodies will set up standards and tools, and adopt guidelines and manner of exchange for all the relevant information, together with the finansijskih institucija od prekogranične zaraze i internih šokova, odnosno negativnih eksternalija. Rad se sastoji od tri poglavlja i četiri odeljaka. U prvom poglavlju, ukazuje se na izvore koji su inicirali preduzimanje reformskih aktivnosti u EU. U drugom poglavlju prvom i drugom odeljku se razmatraju i daju osnovni zakonski i institucionalni okviri uspostavljanja novih nadzornih organa, ESRB i ESFS, njihovi misija, ciljevi, mandat, zadaci i organizacija. U trećem poglavlju, u prvom odeljku, razmatraju se međusobni institucionalni i zakonski odnosi i interakcije, između novoformirana dva organa za makro i mikro-prudencijalnu superviziju, i njihovi odnosi sa drugim važnim organima i institucijama. Drugi odeljak sublimira nekoliko najvažnijih izazova koji stoje pred novim nadzornim organima.

Izvori regulatorne i institucionalne reforme

Neuspeh finansijskog nadzora je inicirao hitne akcije, koje je preduzeo predsednik Baroso, angažovanjem grupe eksperata, novembra 2008. god. kojom je predsedavao bivši direktor MMF-a Žak de Larosije, poznatom kao Larosijeova ekspertska grupa. Grupa je identifikovala sledeće slabosti u sprovođenju finansijske supervizije u okviru EU (Schinasi, 2011, str 16):

- Problemi neuspeha nadležnosti i nadzora u vezi sa finansijskim institucijama,
- Neuspeh (nemogućnost) da izazovu (kreiraju) nadzornu praksu na prekograničnoj osnovi,
- Problemi kompetencija i neuspeha nadzora u vezi sa finansijskim institucijama,
- Nedostatak otvorenosti i saradnje između supervizora,
- Nedostatak konzistentnih ovlašćenja u svim državama članicama,
- Nedostatak resursa Lamfalusiova tri nivoa komiteta,
- Nedostajuća sredstava za supervizore da preduzmu zajedničke odluke,
- Neadekvatni makro-prudencijalni nadzor-rano upozoravajućeg mehanizma od nevolja.

Na osnovu prethodno utvrđenih slabosti Komisija je februara 2009. god., predložila određene preporuke i zaključke koje se odnose, prevashodno, na uspostavljanje snažnijeg, efikasnijeg, integrisanijeg, transparentnijeg i održivijeg nadzornog okvira, sa „ciljem bolje zaštite građana i obnovu poverenja u finansijski sistem“ (L 331/162 EN Official Journal of the European Union 15.12.2010, str 1). Marta 2009. god. na prolećnom zasedanju Saveta Evrope, Larosijeova grupa je na osnovu svojih preporuka iznela predloge za jačanje nadzornog okvira, koje je podržala Evropska komisija, pod nazivom „Pokret za evropski oporavak“, sa čime se nešto kasnije složio i Evropski savet. Maja iste godine, Komisija je pod nazivom „Komunikacija o finansijskom nadzoru u EU“ inicirala niz reformi za trenutno očuvanje finansijske stabilnosti, koje uključuje redizajniranje postojećeg i izgradnju nove arhitekture nadzornog dizajna, sa novim institucijama.

Preporuke ili ideje Larosijeove grupe odnose se na:

1. Uspostavljanje Evropskog odbora za sistemski rizik (ESRB-European Systemic Risk Board) - nova koordinirajuća organizacija EU koja će pratiti i procenjivati sistemske rizike i ranjivosti evropskog finansijskog sistema i davati preporuke i upozorenja za njihovo ograničavanje i ublažavanje,
2. Uspostavljanje Evropskog sistema finansijskih supervizora (ESFS-European System of Financial Supervisors) - novi institucionalni koncept za poboljšanje koordinacije mikroprudencijalnog nadzora finansijskih institucija, kao i za uspostavljanje mikroprudencijalnih tela u svim zemalja članica EU sa nadležnostima da postave okvir za procenu finansijskih rizika. ESFS se sastoji od tri mikro-prudencijalna autoriteta za superviziju finansijskih institucija (ESA) i mreže nacionalnih finansijskih supervizora. Evropske supervizorske vlasti (ESA-European Supervisory Authorities), čine:
    - Evropska bankarska agencija (EBA-European Banking Authority),
    - Evropska komisija za tržište i hartije od vrednosti (ESMA-European Securities and Markets Authority),
    - Evropska agencija za osiguranje i penzije (EIOPA-European Insurance and Occupational Pensions Authority).

maximum coordination of activities. In the joint undertaking of establishing the new framework, the newly-established organisations shall be faced with many challenges, especially in the change of awareness and the mind-set on the significance of supervisory function of the financial system and gaining confidence through respectable building up of authority.

Actually, the idea of this paper is to present, on the basis of relevant literature, the new architecture of the EU supervisory framework. The objective is to point out at reforms on the basis of the previous design of the supervisory framework and its manifested weaknesses and set-backs during the financial crisis, and its mission, targets, mandate, and mechanisms in the fight for preservation and protection of the financial system in its entirety or individual financial institutions from the spilling-over of contagion and internal shocks, i.e. the negative externalia. The paper consists of three chapters and four sections. In the first chapter it presents the sources which had initiated the venture into reform activities in the EU. In the second chapter, its first and second section, are the deliberations on and the presentation of the main legislative and institutional frameworks for the establishment of the new supervisory bodies, the ESRB and the ESFS, their missions, objectives, mandate, tasks, and organisation. In the third chapter, in section one there is a discussion on the mutual institutional and legal relations and interactions between the newly-formed bodies for macro and micro-prudential supervision, their relationship with other important bodies and institutions. In section two the summery is made of several most important challenges facing the new supervisory bodies.

Sources of regulatory and institutional reform

The failure of financial supervision instigated an urgent action, undertaken by President Barroso, by engaging a group of experts, in November 2008, headed by the one time Managing Director of the IMF, Jacques de Larosiere, known as The de Larosiere High Level Group. This Group identified the following weaknesses in the implementation of the financial supervision within the EU (Schinasi, 2011, p. 16):

- Problems of failure in jurisdiction and supervision regarding financial institutions;
- Failure (inability) to cause (create) supervisory practices on a cross-border basis;
- Problems of competencies and the failure of supervision regarding financial institutions;
- Absence of openness and cooperation between supervisors;
- Absence of consistent authorisations in all the member-states;
- Absence of resourse for Lamfalussy's three levels of Committees;
- Absence of funds for supervisors to undertake joint decisions;
- Inadequate macro-prudential supervision of the early-warning mechanism for trouble.

On the basis of the previously identified weaknesses, the de Larosiere Group in February 2009 proposed certain recommendations and conclusions primarily pertaining to the establishment of a more robust, efficient, more integrated and transparent, thus sustainable supervisory framework, "with the objective of providing better protection of citizens and a rehabilitated confidence in the financial system" (L 331/162 EN Official Journal of the European Union, 15 December 2010, p. 1). In March 2009, at the spring meeting of the Council of Europe, The de Larosiere Group, on the basis of its recommendations, presented proposals for the strengthening of the supervisory framework, which was supported by the European Commission, under the title "Movement for European Recovery", which was later on also supported by the European Council. In May that same year, the Commission, under the title "Communication on Financial Supervision in the EU", initiated a series of reforms for the prompt preservation of financial stability, which included the re-designing of the existent and the construction of the new architecture of the supervisory design, with new institutions.

Recommendations or the ideas tabled by The de Larosiere Group are the following:

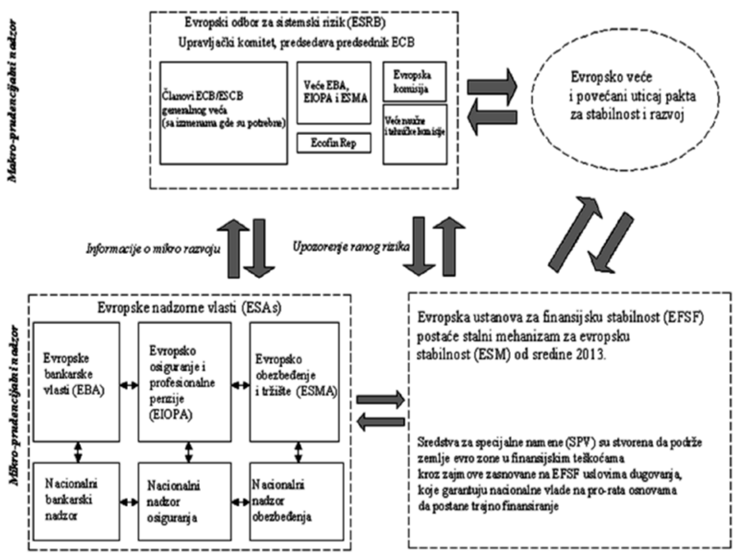
1. Establishment of the European Systemic Risk Board - ESRB - as a new coordinating organisation of the EU that will monitor and assess all systemic risks and vulnerabilities

3. Zajednički komitet Evropskih nadzornih vlasti (JCESA-The Joint Committee the European Supervisory Authorities), koordinator ESA, pod okriljem EU.

Predloge Komisije tokom meseca juna je usvojio Savet, tako da su se stvorile zakonske pretpostavke za potpuno uspostavljanje novih zakonskih predloga.[1]

3. Mere za podizanje supervizorskih standarda, uz zadržavanje nadzora na nacionalnom nivou-ovaj cilj će se postići dodeljivanjem ovlašćenja ESA, da:
- Istraži kršenja prava EU,
- Obezbedi obavezujuće posredovanje,
- Jača ulogu kolegijuma,
- Preuzme ulogu vođe.

Slika 1. Nove ključne institucionalne komponente Evropskog okvira za finansijsku stabilnost



Izvor: Adapted from Masera (2011). Lanno, K., The EU, Response to the Financial Crisis: A mid-term review CEPS website www. ceps.eu

Primena nove arhitekture nadzornog dizajna

Evropski odbor sistemskog rizika (ESRB)

ESRB je nova nezavisna organizacija, odgovorna za vođenje makro-prudencijalnog nadzora EU. Prema usvojenim zakonima, ima za cilj očuvanje finansijske stabilnosti u celini u okviru EU primenom makro-prudencijalnog nadzora, pre svega, zaštita od sistemskih rizika.

U novoj finansijskoj arhitekturi važan je koncept sistemskog rizika, koji je definisan kao „rizik od poremećaja u finansijskom sistemu sa potencijalom da ima ozbiljne negativne posledice na unutrašnje tržište i realnu ekonomiju“. (Danmarks Nationalbank, Financial stability and Danmarks Nationalbank´s role, http: www. nationalbanken.dk)

Njegova misija je da spreči ili ublaži sistemske rizike koji prete da ugroze finansijsku stabilnost. Praktično, on će se usredsrediti i biti odgovoran za sprečavanje ili ublažavanje sistemskih rizika koji mogu proizaći iz razvoja finansijskog sistema i davati prognoze i analize mogućih scenarija iz makroekonomskih kretanja, kako bi se utvrdila osetljivost sistema na eventualne finansijske šokove i izbegli periodi finansijskih problema. U tom kontekstu,

Nova arhitektura finansijskog dizajna nadzornog okvira temelji se na dva stuba, sa idejom da osveži i ojača nadzor celokupnog finansijskog sistema (makro-prudencijalni nadzor), kao i nadzor nad pojedinačnim finansijskim institucijama (mikro-prudencijalni nadzor) i da ostvari sledeće ciljeve: (Financial Services Authority The FSA's international agenda, 2010, Annex 1. The international architecture str A1: A1:3)

1. Bolju identifikaciju makro-prudencijalnih rizika-koji će se postići kroz ESRB,
2. Mere zaštite unutrašnjeg tržišta od slabosti istaknute tokom krize - da se postigne kroz „jedno pravilo knjiga“, ključni zadatak ESA,

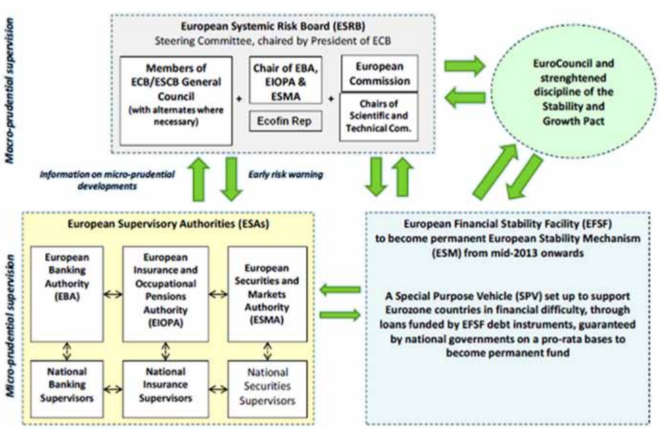
[1] Septembra 2009. godine Komisija je predložila paket zakona koje su usvojili Savet i Evropski parlament, 22. septembra 2010. godine posle dogovora svih članica, a potvrdio ga je Savet ECOFIN-a 17. novembra 2011. godine. (Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010) Usvojen je Zakon o osnivanju ESRB i EFSA čime su se stekli realni uslovi za praktičnu realizaciju nove arhitekture finansijskog nadzora i formalno osnivanje nadzornih institucija.

in the European financial system, and give recommendations and warnings for their limitation and mitigation.

2. Establishment of the European System of Financial Supervisors - ESFS - a new institutional concept for the improvement of coordination of the micro-prudential supervision of financial institutions, and for the establishment of the micro-prudential bodies in all the EU member-countries, with the competencies to set up the framework for the assessment of financial risks. The ESFS consists of the three micro-prudential authorities for supervision of financial institutions (ESA) and the network of national financial supervisors. The European Supervisory Authorities - ESA, are composed of the following:
   - European Banking Authority - EBA;
   - European Securities and Markets Authority - ESMA;
   - European Insurance and Occupational Pensions Authority - EIOPA.
3. The Joint Committee of the European Supervisory Authorities - JCESA, the ESA coordinator under the auspices of the EU.

Proposals of the Commission, during the month of June, were adopted by the Council, thus creating legal prerequisites for the full adoption of the new legislative proposals.[1]

Figure 1 The new key institutional components of the European financial stability framework



Source: Adapted from Masera (2011). Lanno, K. The EU, Response to the Financial Crisis: A mid-term review CEPS website www.ceps.eu

The new architecture of the financial supervisory framework design is based on two pillars, with the idea to refresh and reinforce supervision of the entire financial system (macro-prudential supervision), as well as the supervision over individual financial institutions (micro-prudential supervision) and achieve the following objectives: (Financial Services Authority: the FSA's international agenda, 2010, Annex 1. The international architecture, p. A1: A1:3):

1. Better identification of macro-prudential risks - that will be achieved through the ESRB;
2. Measures for protection of internal market from the weaknesses manifested during the crisis - to be achieved through the one and single "Handbook" of rules, as the key task of the ESA;
3. Measures for raising supervisory standards, with the preservation of supervision at the national level - this objective is to be achieved by granting authority to the ESA, for the following:
   - Investigation into breaches of the EU rules;
   - Provision of mandatory intermediation;
   - Strengthening of the College role;
   - Taking over of the leading role.

Implementation of the new architecture of supervisory design

European Systemic Risk Board - ESRB

The ESRB is a new independent institution responsible for conducting macro-prudential supervision in the EU. According to the adopted laws, it has as objective preservation of financial stability in its entirety within the EU through the implementation of the macro-prudential supervision, most of all protection from systemic risk.

[1] In September 2009, the Commission proposed a package of laws which were adopted by the Council and the European Parliament on 22 September 2010, after the agreement was reached by all the member countries, and confirmed by the Council ECOFIN of 17 November 2011 (Regulation EU No. 1092/2010 of the European Parliament and of the Council of 24 November 2010). The Law on establishment of the ESRB and the EFSA was adopted thus providing for the real conditions for the practical realisation of the new architecture of the financial supervision and the formal establishment of the supervisory institutions.

on će imati širok obim delovanja i aktivnosti ne ograničavajući se samo na jedan entitet ili tržište u okviru EU.

Ključni zadatak ESRB-a je da nadzire i proceni sistemski rizik u normalnim vremenima, radi ublažavanja izloženosti finansijskog sistema na rizik, od neuspeha sistemskih komponenti i jačanje otpornosti finansijskog sistema na šokove. (Official Journal of the European Union, L 331/2, 15.12.2010, str. 2) Analogno tome, ESRB treba da identifikuje i ograničava prelivanje sistemskog rizika i obezbedi finansijsku stabilnost i ublaži negativan uticaj na tržište i realnu privredu.

ESRB ima sledeće zadatke:(Enria A.,Teixeira G., 2011 str. 29)

1. Da prati, prikuplja i analizira sve značajne informacije za makro-prudencijalni nadzor,
2. Da identifikuje i sistematizuje rizike po prioritetu,
3. Da daje upozorenja o rizicima koji mogu biti značajni za izazivanje finansijskih nevolja, odnosno ugrožavanje finansijske stabilnosti,
4. Da daje preporuke za otklanjanje i ograničavanje finansijskih nevolja,
5. Da prati i analizira sprovođenje izdatih preporuka i upozorenja od opasnosti sistemskog rizika,
6. Da sarađuje sa ESA-s u razvoju instrumenata i indikatora praćenja sistemskog rizika, sprovođenjem stres testova i kontrolu ponašanja finansijskih institucija,
7. Da daje poverljiva upozorenja Savetu i koordinira sa ostalim relevantnim institucijama za očuvanje finansijske stabilnosti, kao na primer, sa IMF i FBI

Iako su zadaci ESRB-a, jasni, ipak postoje mnogi problemi i ograničenja u svim fazama sa kojima se on mora izboriti, da bi postao respektabilan i kredibilan organ. Prikupljanje relevantnih podataka za rano otkrivanje i procenu sistemskog rizika, prevashodno zahteva određivanje obima značajnih informacija iz šume potencijalnih relevantnih informacija sakupljenih sa regulisanih i neregulisanih finansijskih sektora i privrede EU. To zahteva agregatne makro-finansijske informacije „pristup odozgo-nadole, usresređen na privredu-celokupnom sistemu u kome na finansijskom tržištu igrači deluju i pomaže proceni izvora rizika i podsticaja“. (Kawai M, Pomerleano M., 2010, 6) Istovremeno, takav način omogućava protok mikro-finansijskih informacija odozdo- nagore, i to informacija koje sadrže rizik pojedinačnih finansijskih institucija koje se mogu preliti na finansijski sistem u celini, na primer, lokalna mala kriza može izazvati ozbiljnu globalnu finansijska krizu zbog velike međunarodne povezanosti i zajedničkoj izloženosti finansijskih institucija sistematskom riziku na finansijskim tržištima, prelivanjem krize domino efektima na sve povezane institucije. Za potrebe analize odozgo, ESRB, može koristiti makro-finansijske podatke prikupljene od strane centralnih banka, ali i podatke sa tržišta o kretanju vrednosti imovine, cena, obima transakcija i slično, kao i podatke sa regularnih finansijskih tržišta o potencijalnim rizicima i nevoljama. Analize odozdo, ESRB, će obezbediti od nadzornih autoriteta zaduženih za kontrolu pojedinačnih finansijskih institucija (ESA) ili prema posebnim zakonskim odredbama, prema kojima, može zatražiti rezime ili u grupnoj formi informacije o sistematskom riziku, bez identifikacije pojedinačnih rizičnih finansijskih institucija, ili će zatražiti ako, zatreba, da identifikuju pojedinačne rizične finansijske institucije. Ako takvi podaci nisu dostupni, on se može obratiti zahtevom, super-revizorima, centralnim bankama ili državama članica. Problemi prikupljanja podataka, se odnose i na određene praznine i ograničene sposobnosti vlasti da predvide zidanje ranjivosti u središtu finansijske krize. (Enria A.,Teixeira G., 2011, str. 31) Praznine su rezultat, često, izolovanih, pojedinačnih fragmentacija šokova i nedovoljne sinhronizacije i harmonizacije određenih makro i mikro-finansijskih podataka, čime oni ne mogu blagovremeno da budu ažurirani na određene impulse negativnih frekvencija u finansijskom sistemu, naročito kada se radi o ne-regulisanim tržištima i bankarstva u senci. To podrazumeva „razvoj boljih podataka i jednostavne deskriptivne statistike o zdravlju finansijskih sistema (na primer sektorski bilans informacija, mere kapitalizacije i kvaliteta aktive, itd)“. (Borio, Shim, 2007, str. 6) Zbog toga je potrebno,da su statistički pokazatelji detaljni, pravovremeni i uporedivi između svih zemalja EU. ESRB će imati velike izazove u sistematizovanju relevantnih podataka o

In the new financial architecture, the important concept of systemic risk is defined as the "risk of disturbances in the financial system with the potential of causing serious negative consequences on the internal markets and the real economy". (Danmarks Nationalbank, Financial Stability and the Danmarks Nationalbank's Role, http:www.nationalbanken.dk)

Its mission is to prevent or mitigate systemic risks threatening to jeopardise financial stability. In practical terms, it shall focus on and be responsible for preventing or mitigating systemic risks which may derive from the development of financial systems and give prognosis and analysis of the possible scenarios based on the macro-economic movements, in order to determine sensitivity of the system to eventual financial shocks and avoid periods of financial problems. In this context, it shall be able to venture into a broad spectrum of actions and activities, without limitation to only one single entity, or one particular market within the EU.

The key task of the ESRB is to supervise and assess systemic risk in normal times, for purpose of mitigating the risk exposure of the financial system from the failure of systemic components, and strengthening of resilience of financial system to shocks (Official Journal of the European Union, L 331/2, 15 December 2010, p. 2). In an analogous fashion, the ESRB should identify and prevent the spilling-over of the systemic risk, and should secure financial stability, while at the same time mitigating negative impacts on the market and on the real economy.

The ESRB has the following tasks (Enria A., Teixeira G., 2011, p. 29):

1. To monitor, gather and analyse all important information pertaining to the macro-prudential supervision;
2. To identify and systematically classify risks per priorities;
3. To give warning on risks that may be significant for causing financial troubles, i.e. for jeopardising financial stability;
4. To give recommendations for elimination and limitation of financial troubles;
5. To monitor and analyse implementation of issued recommendations and warnings to the dangers from systemic risk;
6. To cooperate with the ESAs in the development of instruments and indicators for monitoring systemic risk, through the implementation of stress testing and control of behaviour of financial institutions;
7. To give confidential warnings to the Council and to coordinate actions with other relevant institutions for preservation of financial stability, for example, with the IMF and the FBI.

Although the tasks of the ESRB are clear, yet there remain many problems and limitations in all the phases with which it has to struggle, in order to become a respectable and a credible authority. Gathering of the relevant data for early detection and assessment of systemic risk primarily requires determination of a volume of significant information from a multitude of potential relevant information collected from the regulated and unregulated financial sectors and the EU economy. This demands aggregation of macro-financial information through the "access from the top-to-bottom focused on the economy and the entire system in which the financial market makers are active, and assists in the assessment of risks and instigations". (Kawai M., Pomerleano M. 2010, 6). Concurrently, such a way allows for the flow of micro-financial information from the bottom-upwards, and in fact they are information which contain the risk of individual financial institutions, which may be spilt-over into the entire financial system, for example, information on a small local crisis that may cause a serious global financial crisis because of its high international linkage and joint exposure of financial institutions to systemic risk in financial markets, by the spilling-over through the domino effect on all the connected institutions. For the needs of analysis from the top - to bottom, the ESRB may use the macro-financial data collected by the central banks, but also the data from the market on the movements in the value of assets, prices, volume of transactions, and similar, as well as the data from the regulated financial markets on potential risks and problems. The analysis from the bottom - upwards ESRB will provide from the supervisory authorities in charge of control of certain financial institutions (ESA), ugroženosti finansijske stabilnosti, iz razloga što su deskriptivne statistike finansijskog sistema često u zaostajanju[2], ili su pak u najboljem slučaju indikatori finansijskih potresa. Ovakav scenario nadzora zahteva integraciju detaljnih informacija o bankarskim institucijama, korporacijama, nebankarskim finansijskim institucijama, domaćinstvima i finansijskim tržištima.

Proces identifikacije potencijalnih finansijskih nevolja (rizika) se ocenjuje kao mogućnost materijalizacije na bazi prikupljenih podataka, ali i kao ozbiljnost sa kojom se može uticati na umanjenje ili ograničavanje sistemskog rizika. Relevantnost tih ocena, se uglavnom mogu ostvariti korišćenjem određenih makro-prudencijalnih, analitičkih alata, standarda i indikatora koji sadrže bitne informacije koje je potrebno pažljivo analizirati. Takv pristup, zahteva razvoj tzv. ranih upozoravajućih indikatora[3], sa ciljem iznalaženja i formiranja indikatora procene rizika koji mogu prouzrokovati krizu. Neki od analitičkih alata su na primer, modeli za merenje širenja i prelivanje finansijskih zaraza na realni sektor, indikatori sistemskog rizika, stres testovi i slično. ESRB I ESA-s imaju mandat da razviju „kontrolnu tablu rizika“ “koja će se koristiti u identifikaciji potencijalnih sistemskih rizika. Analitička procena verovatnoće i potencijalne težine sistemskih rizika predstavljaće osnovu za utvrđivanje prioriteta ili položaja tih rizika. (Enria A.,Teixeira G., 2011, 32) Na premisi analitičke verovatnoće i usvojenih kriterijuma ESRB, će rizike rangirati prema prioritetu, prevashodno, na one koji upozoravaju na moguće epizodne, prociklične šokove, a zatim preuzeti akciju u pravcu ograničavanja ili ublažavanja potencijalne opasnosti od identifikovanog rizika. Ne postojanje automatski ugrađenih mehanizma za preventivno delovanje u identifikaciji izvora sistemskog rizika, upućuje na potrebu neke vrste post-benefit analize različitih oblika akcija u smislu primene makroprudencijalnog nadzora i davanja adekvatnih operativnih preporuka. To, dalje podrazumeva, ne samo praćenje poštovanja standarda sigurnosti i stabilnosti od strane tih institucija,već i ocenu da li su ti standardi dovoljni da adekvatno zaštite sistemski važne firme i ostatak privrede od finansijskih nevolja.[4]

ESRB će delovati operativno politikom upozorenja, opšte ili specifične prirode, „deluj ili objasni“ ili izdavanjem preporuka „objasni i uskladi“. „Deluj ili objasni“, „objasni i uskladi“ treba rešiti, posebno u okviru EU, na jednoj ili više država članica, na jednu ili više ESA ili na jednu ili više nacionalnih nadzornih supervizora, sa određenim vremenskim rokom za relevantne politike (Regulation EU No 1092/2010 of the European Parliament and of the council of 24 November 2010).

Kada se odluči da operativno deluje upozorenjem, ESRB, prethodno mora da analizira veliki broj pitanja, od kojih su sledeća najvažnija: (Enria A., Teixeira G., 2011, str. 32)

1. Po svojoj prirodi, makroprudencijalne analize uključuju velike intervale poverenja, zbog kašnjenja u izgradnji neravnoteža. To može biti prilično izazovno da se ukaže na period u kome se rizici mogu materijalizovati,
2. Kao i kod drugih javnih politika, efikasnost makro-prudencijalne politike u velikoj meri će zavisiti od izgrađenog kredibiliteta tokom vremena. Zbog toga, ESRB, može da uzme u obzir, potrebu da štiti svoj kredibilitet, na način što će izbegavati, pad u tip 1(lažna uzbuna od rizika da kojeg nije došlo) ili greške tipa 2 (neuspeh da se oglasi alarmom o rizicima koji su se materijalizovali),
3. Strategiju komunikacije, koja je takođe deo makroprudencijalne politike.

[2] MMF i FSB trenutno rade na rešavanju problema vezanih za unifikaciju statističkih podataka, sa ciljem izgradnje veza pouzdanih mera sa visokim nivoom podataka o značajnim kretanjima koja će biti obavezna. Mada u ovom momentu, ovaj cilj je teško ostvariv. Razlog je u odluci o izboru podataka koje treba prikupiti, kao i načinu sistematizacije podataka sa različitih tržišta. Usklađivanje i prilagođavanje međunarodnih sistema praćenja i prikupljanje relevantnih podataka sa sve razvijenijih finansijskih tržišta predstavljaće u budućnosti veliki napori i izazov za tvorce ove koncepcije.

[3] Politike MMF i FSB su inkorporirane u tom pravcu, u smislu „razvoja monitoring procesa (tzv. vežbe ranog upozoravanja) koji omogućavaju više integrisan i sveobuhvatan prikaz novih globalnih kretanja i odgovarajuće rizike.“

[4] Na prvi pogled, brzi rast kredita ili cene aktiva su lako razumljivi signali za zabrinutost. Međutim, oni se prilično teško mogu protumačiti, posebno gledano na kratki i srednji rok, kada mogu da izazovu neželjene posledice. Potom, poseban problem predstavlja tzv. „lažna uzbuna“, epizode identifikovanja izvora rizika i analogno tome i pokretanje korektivnih mera, koje ek-post mogu da budu neopravdane i naročito štetne za realni sektor

or according to the special legal provisions prescribing that a summary or information in an aggregate form may be requested on systemic risk, without identifying individual risk to which financial institutions are exposed, or request, if necessary, to identify individual risk exposed financial institutions. If such data should not be available, it may submit a request for such information to the super-auditors, central banks or member countries. Problems in gathering data also pertain to certain gaps and limited capabilities of the authorities to predict vulnerabilities building up in the midst of financial crisis (Enria A., Teixeira G., 2011, p. 31). Gaps are often the result of isolated, individual fragmentations of shocks and insufficient synchronisation and harmonisation of certain macro and micro-financial data, preventing their timely updating regarding certain impulses of negative frequencies in the financial system, especially when speaking of unregulated markets and the "shadow banking". This means "the development of better data and simple descriptive statistics that will illustrate the health of financial systems (for example, information on the balance sheet position per sectors, measures of capitalisation, and the quality of assets, etc.)". (Borio, Shim, 2007, p. 6). Hence it is necessary for the statistical indicators to be detailed, timely and comparable between all the EU countries. The ESRB shall face many challenges in the systematisation of the relevant data on the jeopardy to financial stability, because the descriptive statistics of the financial system are often lagging behind,[2] or in the best of cases, they are the indicators of financial turbulences. Such a scenario of supervision demands integration of detailed information on the banking institutions, corporations, non-banking financial institutions, households, and financial markets.

The process of identification of potential financial problems (risks) is deemed to be an opportunity to assess materialisation on the basis of data collected, but also as a prudence with which one can impact the decrease or limitation of the systemic risk occurrence. The relevance of these estimates can mainly be realised by the use of certain macro-prudential analytic tools, standards and indicators which contain significant information which should be carefully analysed. Such an approach requires the development of the so-called warning indicators[3], with the objective of finding and forming risk assessment indicators which may cause the crisis. Some of the analytic tools are, for example, models for spreading and spilling-over of the financial contagion on to the real sector, systemic risk indicators, stress tests, and similar. ESRB and ESA have the mandate to develop the "risk control table" which shall be used in the identification of potential systemic risks. Analytic assessment of the probability and potential weight of systemic risks shall form the basis for determining the priority or the position of these risks. (Enria A., Teixeira G., 2011, 32). On the analytic probability premise and the ESRB adopted criteria, risks shall be ranked according to priority; primarily those warning of possible episodes or cyclic shocks, and thereupon action shall be undertaken in the direction of limiting or mitigating potential dangers from the identified risk. The absence of automatically integrated mechanisms for preventive action in the identification of the systemic risk source is pointing out at the need to have some form of a post-benefit analysis in the various forms of action, in the sense of implementation of the macro-prudential supervision and giving of adequate operative recommendations. This further implies not only monitoring of the compliance with the safety and security standards by these institutions, but also the assessment as to whether these

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2 IMF and the FBS are at present engaged in the solution of problems connected with the unification of the statistical data, with the objective of constructing links of reliable measures with the high level of data on significant movements which shall be mandatory. Although at this moment, it seems that it is hard to reach this objective. The reason lies in the decision on the selection of data to be collected, and also the manner of systematisation of data obtained from the different markets. Harmonisation and adjustment of the international systems of monitoring and collecting relevant data from the growingly developed financial markets will represent in the future a great effort and a challenge for the creators of this conception.

3 The IMF and the FSB policies are incorporated in that direction, in the sense of "development of the monitoring process (the so-called early warning exercise) which allows for a more integrated and comprehensive presentation of the new global movements and corresponding risks."

ESRB, pored upozorenja može izdavati i preporuke kada identifikuje izvore sistemskih rizika. Preporuke se odnose na izbor potrebnih politika kojima će se ograničavati ili ublažiti materijalizacija identifikovanog rizika, kao i na vremenski period u kome će se te politike sprovoditi. U okviru svog mandata, ESRB, može preporučiti i mikro-prudencijalne instrumente, širok arsenal pogodnih i efikasnih alata i mera, koji se mogu lako prilagoditi, u smislu, jačanja otpornosti celokupnog finansijskog sistema. Obično, ovi alati su određeni za potencijalne šokove likvidnosti, kao na primer, amortizer kapitala, racio leveridž ili pravila u okviru Bazel III. Takođe, postoje i izgrađeni instrumenti koji mogu odmah da se primene na pojavu sistemskog rizika, kao amortizeri kontra-cikličnosti kapitala ili infuzije novog kapitala sistemski važnim finansijskim institucijama (SIF).

Način prosleđivanja informacija će definisati Savetodavni tehnički komitet (ATC). Prosleđena upozorenja i preporuke, kao što je definisao Savet i Parlament EU, neće imati obavezujuće dejstvo. Zemlje članice mogu, ali i ne moraju, da postupe po upozorenjima ili preporukama ESRB. Ako ne postupe po datim upozorenjima ili preporukama obavezne su da objasne svoje razloge. ESRB će morati, tokom vremena, da izgradi respektabilan i kredibilan sistem ranog upozoravanja na sistemske rizike i sprovođenje preporuka kako bi se njegovo delovanje autoritativno utemeljilo.

Institucionalni okvir ESRB je zaokružen marta 2011 god. uspostavljanjem Savetodavnog naučnog komiteta (ASC) koji je počeo sa radom u maju mesecu ove godine. Mandat ASC uključuje analitičke i konsultativne poslove, kao: (ESB Meeting, Mart, 2011, str. 2)

- Unapređenje analitičkih metoda za otkrivanje rizika i procenu mogućih uticaja njihove materijalizacije,
- Projektovanje i kalibraciju efikasnih makro-prudencijalnih alata, uključujući pri tom poboljšanje postojećih alata, modela, kao i predlaganje novih ili kombinovanjem komplementarnih analitičkih alata i modela,
- Otvoren, nezavisan i analitički prikaz makro-prudencijalne strategije i operativne okvire.

Evropski parlament ima svoju ulogu u makro-prudencijalni nadzor. Parlament može tražiti od predsedavajućeg ESRB-a, da članovima, izloži preporuke i opomene vezane za rano upozoravanje, pod uslovom da one nisu u domenu tajne. Ako su strogo poverljive i nisu za javnost, predsedavajući ESRB, može ih usmeno razmatrati zajedno sa predsedavajućim i zamenikom parlamenta. ESRB podnosi izveštaj Evropskom parlamentu i Savetu najmanje jedanput godišnje, a češće u slučaju masovne finansijske nevolje. (Official Journal of the European Union L 331/1, 15.12.2010)

Vladajuće telo koje donosi odluke o delovanju ESRB-a je generalni odbor, koji ima članove sa pravom glasa, a koje čine vrhunski stručnjaci, 27 guvernera nacionalnih centralnih banaka, predsednik i potpredsednik Evropske centralne banke, član Evropske komisije i predsedavajući ESA. Postoje članovi koji nemaju pravo glasa, uključujući po jednog visokog predstavnika nacionalnih nadzornih organa država članica i predsednika Ekonomskog i Finansijskog komiteta. ECB čini sekretarijat ESRB-u.

Evropski sistem finansijske supervizije

Evropski sistem finansijskog supervizora (ESFS) predstavlja integrisani sistem Evropskog sistema finansijskog nadzora. On će „okupiti sve aktere finansijskog nadzora na nacionalnom nivou i na nivou Unije, da deluju kao mreža ESFS“. Istovremeno, će sarađivati na nivou EU sa svim akterima mreže „sa savetodavnim ovlašćenjima za bankarstvo, osiguranje i tržište hartija od vrednosti, sa tri evropske vlasti sa pravnim subjektivitetom“ (Petianová, Petianova, 2010, str. 3) koju čine tri mikro-supervizorska organa (ESA), Evropska bankarska agencija (EBA- European Banking Authority), Evropska agencija za tržište i hartije od vrednosti (ESMA-European Securities and Markets Authority), Evropska agencija za osiguranje i penzije (EIOPA-European Insurance and Occupational Pensions Authority). Cilj osnivanja novog nadzornog okvira ESFS je stvaranje jedne snažne, koherentne, zajedničke mreže supervizije, koja će pomoći da se povrati poverenje u finansijski sistem, da doprinese razvoju jedinstvenih pravila i propisa, da ojača prekogranične institucije i reši probleme u vezi njih i da ograničava i sprečava nagomilavanje rizika koji ugrožavaju stabilnost finansijskog sistema u celini. Njihovo uspostavljanje standards are sufficient for an adequate protection of systemically significant firms and the rest of the economy from financial troubles.[4]

ESRB will act in an operative fashion through the warning policy of either general or a particular nature, in a manner of "act or explain", or by giving recommendations "explain and adjust". "Act or explain", "explain and adjust" should be resolved on one or more member-countries within the EU, on one or more of the ESA, or on one or more of the national oversight supervisors, with a certain timeframe for the relevant policies (Regulation EU No. 1092/2010 of the European Parliament and of the Council of 24 November 2010).

Once it decides in favour of operational warning action, ESRB previously must analyse a large number of issues, among them the following deemed to be of the highest importance (Enria A., Teixeira G., 2011, p. 32):

1. Macro-prudential analyses, by their very nature, include large confidence intervals because of the delay in construction of unbalances. This may be rather challenging for pointing out at the period when risks may materialise;
2. As is the case in other public policies, the efficacy of macro-prudential policy to a great extent will depend on the build up credibility over time. Therefore, ESRB may take into consideration the need to protect its credibility in the manner of avoiding the fall into the type 1 error (false alarm from the risk that did not materialise), or the type 2 error (failure to raise the alarm on risks which did materialise);
3. Communication strategy, which is also a component part of the macro-prudential policy.

In addition to the warnings, the ESRB may also give recommendations when identifying the systemic risk sources. Recommendations pertain to the selection of necessary policies which shall limit or mitigate materialisation of identified risks, and also the time period when the policy is to be implemented. Within the scope of its mandate, the ESRB may recommend also micro-prudential instruments, a broad spectrum of suitable and efficient tools and measures, which may be easily adjusted, in the sense of strengthening the resilience of the entire financial system. Generally, these tools are ordained for potential liquidity shocks, such as capital buffers, ratio leverage, or rules within the Basel 3 Accord. In addition, there are also constructed instruments which may promptly be applied to an emergence of systemic risk, as the buffers to the counter-cyclic capital mode, or infusions of new capital into systemically important financial institutions (SIF).

The manner of transmitting information will be defined by the Advisory Technical Committee (ATC). Warning transmitted and recommendations dispatched, as defined by the EU Council and Parliament will not have a binding effect. Member countries may, but are not obliged to, proceed according to the ESRB warnings or recommendations. If they should fail to proceed according to the given warnings or recommendations, they must give explanation for their reasons to that effect. ESRB will be forced, over time, to construct a respectable and credible system of early warning for systemic risks and implementation of recommendations, in order to provide an authoritative grounding for its actions.

The ESRB institutional framework was rounded up in March 2011 with the establishment of the Advisory Scientific Committee (ASC), which started its work in May this year. The ASC mandate includes analytic and consultative jobs, such as the following (ESB Meeting, March 2011, p. 2):

- Promotion of analytic methods for risks detection and assessment of impact in case of their materialisation;
- Projection and calibration of efficient macro-prudential tools, including also improvement of the existing tools, models, but also the proposal of new or combined

[4] At the first glance, fast growth of credits or assets prices are easily perceived as signals for concern. However, they are rather hard to interpret, especially from a short or medium term aspect, when they may cause negative consequences. In addition, there is a special problem of the so-called "false alarm", actually the episodes of identifying the risk source and analogously setting in motion of corrective measures, which ex post may prove to be unjustified and especially harmful for the real economy sector.

predstavlja glavni mehanizam za unapređenje koordinacije preko-graničnog nadzora, olakšanju saradnje između supervizora, promociji konvergencije supervizorskih praksi i u sprovođenju planiranih "jednu knjigu pravila" (IMF Country Report No. 11/186 2011). Ideja je da se povežu nacionalni supervizori u snažnu zajedničku mrežu kako bi se osiguralo jačanje integracije, stabilnost i jedinstvo evropskog finansijskog tržišta. Mreža će funkcionisati na principu supsidijarnosti, što znači da će nadzor dan za danom pojedinih finansijskih institucija biti i dalje u nadležnosti nadzornih organa država članica, a ovi pod kontrolom nacionalnih supervizora ESA.

Zajednički komitet ESA (JCESA-Joint Committee ESA) je „osnovan da obezbedi forum u okviru koga će ESA sarađivati na promovisanju međusektorske konzistentnosti rada i zajedničkih pozicija gde je to moguće: nadzor nad finansijskim konglomeratima, računovodstvo i reviziju, mikroprudencijalne analize, međusektorski razvoj, rizik i ranjivost, mere borbe protiv pranja novca i razmenu informacija sa ESRB.(Schinasi, 2011, str. 19)

U vršenju svojih nadzornih zadataka ESA nema direktna regulatorna ovlašćenja. Ovlašćenja ESA se kreću u delu izrade tehničkih standarda, dok Komisija zadržava formalna regulatorna ovlašćenja, mada u krajnjoj liniji ta ista Komisija ih podržava u svojim naporima dajući im time pravni legalitet. I pored određenog okvira delovanja (EU zakonodavstvo), ESA može privremeno zabraniti ili ograničiti određene finansijske aktivnosti koje ugrožavaju finansijsku stabilnost i integritet finansijskog tržišta delimično ili u celini. Nadzor finansijskih institucija dan za danom ostaće u većini oblasti na nacionalnom nivou, dok će ESA sa posrednim nadzornim ovlašćenjima reagovati u slučajevima prekograničnih finansijskih opasnosti ili u slučaju neslaganja organa za prekograničnu saradnju u različitim sektorima. Istovremeno ona će aktivno učestvovati u radu kolegijuma supervizora.

Nadzorni kolegijumi supervizora za velike složene, prekogranične finansijske grupe, treba da vrše robusne, sveobuhvatne procene rizika, da obrate veću pažnju na praksu upravljanja rizikom internih banaka i trebalo bi da se dogovore o zajedničkom pristupu usklađivanja podsticaja privatnom sektoru šemama naknade. (Jacson, 2010, str. 25) ESA može u slučaju direktnog kršenja EU zakonodavstva da reaguje odlukama usmerenih na finansijskim institucijama koje to rade. Značajno je istaći, da ESA nikakvom odlukom u procesu sprovođenja nadzornih aktivnosti ili rešavanju konflikta između nacionalnih supervizora ne može da utiče na fiskalnu odgovornost. ESFS će u okviru svog mandata delovati u pravcu ostvarenja širokih nadležnosti i ovlašćenja definisanih zakonom, sa zadatkom da (European Parliament finalises Financial Supervisory Architecture, 2010, str. 2, Linklaters.com, 2010)

- Doprinese razvoju jedinstvenog skupa usklađenih pravila širom Evrope,
- Doprinese doslednoj primeni ovih pravila, i neguje zajednički nadzorni pristupi nadzoru svih finansijskih firmi,
- Reguliše nacionalne regulatore - detaljno analizira ponašanje nadležnih organa, uključujući i izdavanje smernica za jačanje nadzorne prakse,
- Promoviše koherentno funkcionisanje kolegijuma supervizora,
- Radi sa trećim zemljama koje su zaključile odgovarajuće sporazume sa EEA i dozvoljavaju im da učestvuju u radu ESA,
- Posreduje u rešavanju nesuglasica između nacionalnih regulatora, uključujući i kontroverznu moć obavezujućih odluka za njih gde se sporazum ne može postići,
- Nameće odluke direktno nacionalnim regulatorima gde se nepravilno primenjuju propisi EU, a ako nacionalni regulator ne postupi po rešenju, nameću te odluke direktno finansijskoj instituciji,
- Preduzima akcije u vanrednim situacijama - dok je na Savetu odgovornost za proglašenje vanredne situacije na predlog ESRB ili ESA, ESA može da, u određenim okolnostima navedenim u Zakonodavstvu (i gde je ovlašćena po sektorskom zakonu) da zahteva od nacionalnih regulatora da preduzmu akciju.

ESA, da bi sve ove zadatke obavila i postala respektivni nadzorni organ mora da izgradi brzo svoj kredibilitet prema finansijskim institucijama i nacionalnim vlastima. Glavni complementary analytic tools and models;

- An open, independent and analytic presentation of macro-prudential strategies and operational framework.

European Parliament has its role in the macro-prudential supervision. Parliament may request the chairman of the ESRB to present to its members recommendations and warnings regarding early warning, provided they are not in the confidentiality domain. If they are regarded as strictly confidential and are not for public disclosure, ESRB chairman may orally deliberate them with the Parliament chairman and his deputy. ESRB shall submit reports to the European Parliament and to the Council not less than once every year, and more frequently in case of massive financial distress (Official Journal of the European Union L 331/1, 15.12.2010).

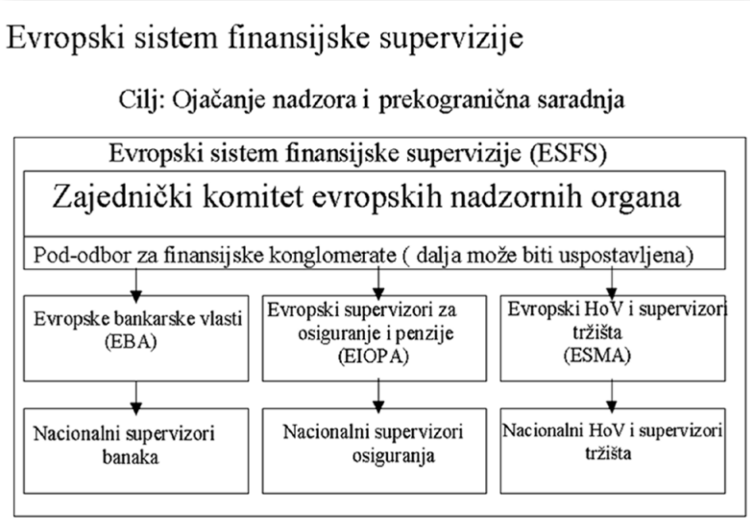
The ruling body passing the decisions on the ESRB actions is the general committee, composed of members with the voting rights, consisting of the top experts, 27 governors of the national central banks, and the president and vice president of the European Central Bank, and also the member of the European Commission and the chairman of the ESA. There are members who do not have a voting right, including one of the high representatives from each of the national supervisory bodies of the member-states, and the chairman of the Economic and Financial Committee. The ECB is providing secretariat for the ESRB.

European system of financial supervision

The European System of Financial Supervision (ESFS) is an integrated system of the European System of Financial Oversight. It shall "gather together all the actors involved in financial supervision on a national level and on the level of the Union, to act as an ESFS network". Concurrently, they shall cooperate on the EU level with all the actors involved in the network "with the consultative authorisations for banking and the securities market, with the three European authorities with legal subjectivity" (Petianova, Petianova, 2010, p. 3) composed of the three micro-supervisory bodies (ESA), European Banking Authority (EBA), European Securities and Markets Authority (ESMA), European Insurance and Occupational Pensions Authority (EIOPA). The objective of establishing a new supervisory framework ESFS is to create one robust, coherent, common and joint supervision network, which shall assist in regaining confidence in the financial system, contribute to the development of single rules and regulations, strengthening of the cross-border institutions, and help resolve problems connected thereto, which shall also limit and prevent pilling up of risks endangering stability of the financial system in general. Their establishment represents the main mechanism for the promotion of coordination of the cross-border supervision, facilitation of the cooperation between supervisors, promotion of convergence of the supervisory practices, and in the implementation of the planned "one single Handbook of rules and regulations" (IMF Country Report No. 11/186 2011). The idea is to connect national supervisors into a powerful joint network in order to secure a robust integration, stability and unity of the European financial market. The network shall function along the subsidiary principle, which means that the supervision, day by day, of individual financial institutions will continue to be within the jurisdiction of the supervisory bodies of the member-countries, and they will be under the control of the national ESA supervisors.

Joint Committee ESA (JCESA) is "established in order to provide a forum within which the ESA will cooperate in promotion of the inter-sector consistency of work and joint positions whenever possible: supervision of the financial conglomerates, accountancy and auditing, micro-prudential analyses, inter-sector development, risk and vulnerability, measures to fight money laundering, and exchange of information with the ESRB (Schinasi, 2011, p. 19).

In the execution of its supervisory tasks, ESA does not hold direct regulatory authorisation. ESA authorisation ranges in the field of drafting of technical standards, while the Commission retains the formal regulatory authorisation, although in the final instance, that same Commission is supporting them in their efforts, thus granting them statutory legality. In spite of a certain framework of its actions (EU legislature), ESA may temporarily ban or limit certain financial activities which are izvor izgradnje kredibiliteta je u praktičnom delovanju u obliku sprovođenja robusnih stres testova širom EU. Metodologija i procedure su već usvojene i određeni stres testovi su sprovedeni.



Izvor: Schmitz, T., 4th ECFR Symposium International Co-operation of Financial Supervisory Authorities 2009

Evropska bankarska agencija (EBA-European Banking Authority), (Regulation (EU) No 1093/2010), u okviru ESA je preuzela sve postojeće i tekuće zadatke i obaveze od Komiteta evropskih bankarskih supervizora (CEBS-Committee of European Banking Supervisors) sa ciljem da poboljša funkcionisanje internih tržišta EU i da obezbedi kvalitetan, efikasan i konzistentan nivo regulacije i nadzora u oblasti svoje nadležnosti. (Centre of Risk & Regulatory Excellence, 2011) U tom smislu, EBA će se usredsrediti na promociju javnih vrednosti koje se odnose na stabilnost finansijskog sistema i zaštitu od finansijskih nevolja, zaštitu deponenata, investitora i drugih korisnika, finansijskih proizvoda i osigura transparentnost tržišta. Zadatak EBA je da jača međunarodnu koordinaciju nadzora, garantuje jednake uslove sprečavanjem međunarodne regulatorne arbitraže, pružanjem usluga saveta u oblasti bankarstva, plaćanje, regulaciju e-novcem, saveti korporativnog upravljanja, reviziju finansijskog izveštavanja i tome slično. EBA će radi efikasnijeg obavljanja i poboljšanja nacionalnih nadzora i praćenja njihovog rada obezbediti usklađivanje tehničkih propisa, standarda i alata, preuzimanjem inicijativa od CEBS-a o Finansijskom okviru izveštavanju (FINREP) i Zajedničkom sistemu izveštavanja (COREP -Common Solvency ratio Reporting Framework) sa obavezom da objavi nov okvir Finansijskog izveštavanja (FINREP rev 3) do kraja 2011 god. sa primenom od 1. Januara 2013 god. EBA će preduzeti aktivnosti u pravcu sprovođenja stres testova širom EU radi procene otpornosti finansijskog sektora, a pokrenuće i novi tematski pristup za buduće procene rizika likvidnosti.

Evropska agencija za osiguranje i penzije (EIOPA-European Insurance and Occupational Pensions Authority), (Regulation (EU) No 1094/2010) će obavljati sve tekuće zadatke preuzete od Evropskog komiteta supervizora za osiguranja i penzije (CEIOPS-Committee of European Insurance and Occupational Pension Supervisors). EIOPA će pružati podršku stabilnosti finansijskom sistemu i biće odgovorna za transparentnost tržišta i finansijskih proizvoda, zaštitu osiguranika i penzijskih šema i ostalih korisnika. Obavezna je da prati i identifikuje potencijalne izvore rizika i finansijskih nevolja koje proističu iz mikro okruženja ne samo na domaćem tržišta već i u prekograničnom nivou i nivou sektora. Tokom meseca januara 2011 god. EIOPA je objavila srednjoročni plan rada za period 2001-2014 god. za Solventnost II. Plan se posebno usredsredio na izradi regulatornih saveta za primenu propisa o nadzoru. Nova ovlašćenja i odgovornosti EIOPA omogućavaju punu podršku realizaciji projekta Solventnost II, koji će zameniti aktuelni regulatorni okvir Solventnost I, za kompanije licencirane u EU, a novi režim treba da startuje januara 2013 god. koji će se baviti aktuelnim pitanjima nadzora osiguranja i penzija. Solventnost II je uspostavljanje koherentnog sistema mjerenja solventnosti uvažavajući:1. Opseg usluga osiguranja koje nudi osiguravajuće kompanije, 2. Sposobnost osiguravača da procijeni rizik sa kojim se suočava u svom poslovanju, 3. Kvalitet sistema upravljanja rizikom. (Jauković, Kašćelan, 2007, 77-84) endangering financial stability and integrity of the financial market, either in part or in full. Supervision of financial institutions, on a daily basis, will mostly remain at the national level, while the ESA with indirect supervisory authority will react in cases of the cross-border danger, or in cases of disagreement between the bodies for the cross-border cooperation in different sectors. Concurrently, it shall take an active part in the work of the College of Supervisors.

College of Supervisors for the large-scale, cross-border financial groups, should conduct robust, comprehensive risk assessments, focus great attention on the practice of internal risk management in banks, and agree on the joint venture in the harmonisation of incentives offered to the private sector through the compensation schemes (Jackson, 2010, p. 25). ESA may, in case of direct violation of the EU legislature, react through the decisions aimed at financial institutions perpetrating the breaches. It is important to note that ESA can not with any decision in the process of implementation of the supervisory activities or conflict resolution between the national supervisors, influence any fiscal liability. ESFS will, within the framework of its mandate, act in the direction of exercising broad competencies and authorisations as defined by law, with the task to conduct the following (European Parliament finalises Financial Supervisory Architecture, 2010, p. 2, Linklaters.com, 2010):

- Contribute towards the development of the single set rules harmonised throughout Europe;
- Contribute towards consistent implementation of these rules, while nurturing the joint supervisory approach to the supervision of all the financial firms;
- Regulate national regulators - analyse in detail the behaviour of the supervising bodies, including also issuing of guidelines for strengthening of supervisory practices;
- Promote a coherent function of the College of Supervisors;
- Work with third countries which had concluded corresponding agreements with the EEA that are allowing them to participate in the work of the ESA;
- Mediate in the settlement of disputes between national regulators, including also the controversial power of imposing binding decisions for them, where the agreement can not be reached;
- Impose decisions directly to national regulators where EU rules are implemented in an irregular fashion, and when national regulator fails to proceed according to the decision, imposing such decisions directly on to the financial institution;
- Undertake actions in extraordinary situations - while the Council is responsible for proclaiming extraordinary situation at the proposal of the ESRB or of the ESA, the ESA may, in certain circumstances prescribed in the Legislation (and where it is authorised under the sector laws) demand from the national regulator to undertake action.

ESA, in order to execute all of these tasks and become a respectable supervisory body, must promptly build up its credibility with the financial institutions and national authorities. The main source for building credibility lies in the practical action in the form of implementation of robust stress testing throughout the EU. Methodology and procedures have already been adopted and certain stress tests conducted.

Source: Schmitz, T., 4th ECFR Symposium International Co-operation of Financial Supervisory Authorities 2009

Evropska komisija za tržište i hartije od vrednosti (ESMA-European Securities and Markets Authority), (Regulation (EU) No 1095/2010), će od bivšeg Evropskog komiteta za regulisanje HoV (CESR-Committee of European Securities Regulators) preuzeti odgovornost za podsticanje nadzorne konvergencije između nacionalnih supervizora hartija od vrednosti. Ona će koordinirati rad između nacionalnih supervizora u oblasti HoV i u slučaju pojave finansijskih nevolja, preduzimaće hitne mere radi otklanjanja potencijalnih ranjivosti finansijskog sistema.

Regulatorne agencije ESA odgovorne su Evropskom parlamentu i Savetu Evropske unije. Imaju pravni status i administrativnu i finansijsku autonomiju. Upravljačku strukturu čini Odbor supervizora koji je glavni organ, koji donosi odluke u ESA. Ona je sastavljena od šefova relevantnih nacionalnih nadzornih organa iz svake države članice, kao članovi sa pravom glasa. Pored toga, predsedavajući odgovarajućih ESA, je jedan predstavnik Komisije, ESRB-a i druga dva ESA (ESMA, EIOPA) učestvuju u radu kao članovi bez prava glasa. ESA-i su poverena ekskluzivna nadzorna ovlašćenja nad licima širom Zajednice, u skladu sa zakonima. (E.C. Commission, 2009-3, Art. 6)

Međusobna interakcija i izazovi

Koordinacija novo uspostavljenih organa nadzora

U sprovođenju nove arhitekture nadzornog okvira, značajnu ulogu treba ima Evropska centralna banka (ECB-European central bank) i nacionalne centralne banke, posebno u makro-prudencijalni nadzor, sa stanovišta njihove stručnosti i iskustva kao i njihovih obaveza u oblasti finansijske stabilnosti, posebno u sferi praćenja nadzora plaćanja, kliringa i sistema poravnanja. ECB shodno Uredbi od 17.11. 2010 No 1096/2010 Regulations council regulation (EU), će pružiti podršku funkcionisanju novouspostavljenim organizacijama kojom su definisani specifični savetodavni zadaci, koji se odnose na informativnu, analitičku, statističku, zakonodavnu , logističku i administrativnu podršku. U tom smislu, na osnovu 15.12.2010 EN Official Journal of the European Union L 331/163 regulisana su pravila osnivanja, rada i zadataka Sekretarijata ESRB i uloga ECB u pružanje pomoći u ljudskim i finansijskim resursima. Takođe, ESAF i nacionalni supervizori će biti uključeni u pružanju svojih ekspertiza, posebno mikro-prudencijalnih supervizora u radu ESRB, kako bi se osiguralo da procene makro-prudencijalnih rizika budu zasnovane na relevantnim i tačnim informacijama. ECB će efikasno i snažno podržavati novi institucionalni nadzorni okvir za saradnju između ESRB i ESA, što podrazumeva međusobnu razmenu informacija i utemeljene procedure za nesmetani interaktivni nadzor na makro i mikro-prudencijalnim nivou. Takođe, obezbediće se materijalna konzistentnost ekvivalentnih aranžmana razmene informacija između ESA i ESCB u toku sprovođenja zadataka ESA i poštovanje zabrane monetarnog finansiranja. Jaka saradnja između dva nadzorna nivoa (ESRB i ESFS), očekuje se da će biti obezbeđena i od strane: (Perrut, 2011, str 5)

- Unakrsnog članstva svakog tela na sastancima drugih organa (ESRB bi obuhvatao tri predsedavajuća ESA, ESRB bi učestvova kao posmatrač na sastancima ESFS),
- Uređenja uzajamne saradnje i razmena informacija.

Istovremeno ova dva organa će uspostaviti poseban sistem poverljivosti protoka i skladištenja informacija o pojedinim finansijskim institucijama. Paralelno sa tim, oni će poboljšati komunikaciju i koordinaciju između nacionalnih nadzornih organa, na primer kao što je FSA. Pored toga, radiće zajedno na poboljšanje standarda nacionalnog nadzora, definisanjem standarda, instrumenata i alata. ESFS će, u koordinaciji sa ESRB, nacionalnim super-revizorima prenositi preporuke koji će se pridržavati načela „deluj ili objasni". Radi efikasnijeg makroprudencijalnog nadzora i efektivnosti rada ESRB-u je neophodno blagovremeni i pouzdani protok mikroprudencijalnih informacija i podataka, uz istovremeni protok informacija u obrnutom smeru, koje će biti relevantne za nacionalni mikroprudencijalni nadzor. (Momirović, 2011, 12) Sarađivaće sa Koledžom supervizora za prekograničnu saradnju, u smislu ograničavanja i ublažavanja prelivanje finansijskih zaraza i eksternalija iz okruženja. Kao sastavni deo ESFS, The European Banking Authority (EBA), (Regulation EU No. 1093/2010), within the ESA took upon itself all the existing and current tasks and obligations from the Committee of European Banking Supervisors - CEBS, with the objective of improving the functioning of internal EU markets and securing a high quality, efficient and consistent level of regulation and supervision in the field of its competencies (Centre of Risk & Regulatory Excellence, 2011). To that end, EBA will focus on the promotion of public values which pertain to the stability of the financial system and the protection from financial troubles, protection of depositors, investors and other users of financial products, and shall secure market transparency. The task of the EBA is to strengthen international supervision coordination, to guarantee level playing field in the prevention of international regulatory arbitration, by offering consultative services in the field of banking, payments, regulation of E-money, advice for corporate governance, auditing of financial reporting, and similar. EBA will provide, for purpose of more efficient and improved national supervision and monitoring of that work, the harmonisation of the technical regulations, standards and tools, by taking over the initiatives from the CEBS within the Financial Reporting Framework - FINREP, and the Common Solvency Ratio Reporting Framework - COREP, with the obligation to publish the new framework for financial reporting (FINREP rev 3) up to the end of the year 2011, with the implementation set as of 1 January 2013. EBA shall undertake activities in the direction of the implementation of the stress tests throughout Europe for purpose of assessing the resilience of the financial sector, and shall set in motion a new thematic approach for the future liquidity risk assessments.

European Insurance and Occupational Pensions Authority - EIOPA (Regulation EU No, 1094/2010) will implement all the current tasks taken over from the Committee of European Insurance and Occupational Pension Supervisors - CEIOPS. EIOPA shall offer support to stability of the financial system and shall be responsible for the transparency of markets and financial products, for the protection of the insurance beneficiaries and the pension schemes, and other beneficiaries. It is liable to monitor and identify potential sources of risks and financial problems which derive from the micro-environment, not only on the domestic markets but also at the cross-border level and on the level of the sector. During the month of January 2011, EIOPA has published a medium-term plan of work for the period 2011 - 2014 for Solvency II. The plan was especially focused on the drafting of the regulatory advice in the implementation of the supervisory regulations. New authorisations and responsibilities of the EIOPA allow for the full support to the realisation of the project Solvency II, which is to replace the actual regulatory framework Solvency I, for companies licensed in the EU, and the new regime is to start in January 2013, which shall deal with the actual matters of the insurance and pension supervision. Solvency II is setting up a coherent system of measurement of solvency respecting the following: 1. Range of insurance services offered by the insurance companies; 2. Ability of insurer to assess risks that he is facing in his business operations; 3. Quality of the risk management system (Jaukovic, Kascelan, 2007, 77-84).

European Securities and Markets Authority - ESMA (Regulation EU No. 1095/2010) shall take over responsibilities from the former Committee of European Securities Regulators - CESR, for the instigation of the supervisory convergence between the national securities supervisors. It shall coordinate work between the national supervisors in the field of securities and in case the problems should emerge, it shall undertake urgent measures for elimination of potential vulnerabilities from the financial system.

Regulatory agencies ESA are responsible to the European Parliament and to the Council of the European Union. They have the legal status and administrative and financial autonomy. Managing structure is composed of the Board of Supervisors which is the main body with the decision-making powers in the ESA. It is composed of chiefs of the relevant national supervisory bodies from every EU member-state, as the members with the voting power. In addition, the chairmen of corresponding ESA is one representative of the Commission, ESRB and the two other ESA (ESMA, EIOPA) are participating in the work as members without the voting right. ESA enjoys exclusive sve tri vlasti, odnosno EBA, EIOPA i ESMA će blisko sarađivati sa Zajedničkim komitetom i ESRB. ESRB i ESF će zajedno raditi na razvoj table rizika .

Izazovi nove arhitekture nadzornog dizajna

Implementacija nove arhitekture nadzornog okvira, koji je zasnovan na dva stuba, pred novoformirane organizacije za finansijski nadzor EU, ESRB i ESFS postavlja mnogobrojne zahteve i obaveze, ali i izazove. Izazovi su u tome veći, jer se odnose istovremeno na makro i mikro prudencijalni nadzor, njihovu harmonizaciju, ali i na jačanje integracije i jedinstva finansijskih tržišta EU i šire. U tom kontekstu, ESRB, kao institucija za makro-prudencijalni nadzor, suočava se sa tri značajna izazova. Prvi, je da pažljivo i detaljno razmotri kada i kako da operacionalizuje upozorenja i preporuke, posebno imajući u vidu, sadašnje tendencije u porastu državne dužničke krize i međusobno povezanih neravnoteža kao i neodrživi model tražnje potkopan niskim dugoročnim kamatnim stopama. Drugi, ESRB mora da istraži i odredi široku lepezu političkih instrumenata, standarda i alata, imajući pri tom, u vidu, dodeljena neobavezujuća ovlašćenja. Iz tih razloga on mora da deluje sa puno kredibiliteta i respekta, da analize, argumenti i princip delovanja „uskladi i objasni“ budu efikasni. Treće, ESRB će morati da tesno sarađuje sa tri evropska nadzorna organa, odnosno ESAF. Dalji izazov ESRB je da svojim akcijama i aktivnostima doprinese oporavku finansijskog sistema EU u svim segmentima, uključujući pri tom, bankarske institucije, osiguravajuće kompanije, profesionalne penzione fondove, tržišta HoV i ostalu finansijsku infrastrukture. U tom smislu, pred ESRB je izazov upućen svim nadležnim organima, članica EU, da prihvate stres testove u bankarskom sektoru, što je u periodu od početka delovanja ESRB već urađeno i izveštaji postoje.

Podela uloga između tri ESA je funkcionalna ali neki zadaci se ne mogu tek tako lako dodeljivati, (Lannoo, 2011, 12))posebno kada se radi, na primer, o horizontalnim finansijskim uslugama, zaštiti potrošača ili nadzor nad bankarskim institucijama i osiguravajućim kompanijama. Izazov je što je za neka pitanja nadzora potrebna direktna koordinacija sa ESRB i indirektna sa ECB a za druga pitanja nije neophodna. Nacionalni supervizori su prevashodno usredsređeni na finansijske institucije. Ta usredsređenost može dovesti do nedovoljnih makro-prudencijalnih informacija. Istovremeno, prevelik zahtev za makro-prudencijalnim informacijama može skrenuti pažnju nacionalnim supervizorima i ugroziti mikroprudencijalni proces nadzora. Davanje prednosti makro-prudencijalnim analizama od strane nacionalnih supervizora, može izazvati nedovoljnu posvećenost mikro-prudencijalnom nadzoru, sa svim negativnim posledicama koje mogu iz tog proizaći. Sve to podrazumeva pravovremenu i ekspertsku koordinaciju između ova dva tela, sa mogućnošću izbegavanja konflikata prekomernim informacijama. Zatim, da li će nacionalni supervizori da prihvate preporuke izdate od strane ESRB i koliko će biti odlučni da istim daju prioritet i sprovode efikasnu kontrolu dan za dan. Sigurno će postojati slučajevi kada će primaoci poruka oklevati da deluju, posebno ako su pod političkim pritiskom sopstvenih vlasti. Izazov je ovde da se obezbedi da mehanizam „objasni ili deluj“ funkcioniše efikasno i da pritisak proizvede dejstvo ili javnu izjavu zbog ne delovanja ili oklevanja delovanja. Ovo podrazumeva unapređenje interakcija između makro i mikro prudencijalnog nadzora. Posebni izazovi novog okvira nadzora odnosi se na identifikaciju i ograničavanje sistemskog rizika na neregulisanim finansijskim tržištima. To zahteva zajedničku akciju svih nadzornih tela EU. Posebno, ESRB i ESA će imati zahtevne zadatke, koji se odnose prevashodno, s jedne strane na mogućnost pravovremenog pristupa relevantnim podacima, ako uopšte postoje, ili su ograničeni i ne mogu pomoći kod supervizora, i s druge strane ako podaci postoje i dostupni su, može postojati teškoća formiranja relevantnog slučaja i istovremeno proširi nadležnost nadzornih organa za kontrolu nove institucije. Primer takvog slučaja može biti nova finansijska inovacija koja će najverovatnije, ako je atraktivna, munjevito da se proširi na sva finansijska tržišta i koja u početnoj fazi ekspanzije nije obično regulisana, i najčešće će proizvesti finansijski rizik, koji brzo može da se materijalizuje,posebno na neregulisana finansijska tržišta.

supervisory powers over entities throughout the Community, in accordance with law (E.C. Commission, 2009-3, Art. 6).

Mutual interaction and challenges

Coordination of the newly established supervisory bodies

In the implementation of the new architecture of the supervisory framework, an important role is to be played by the European Central Banks - ECB and the national central banks, especially in the macro-prudential supervision, from the aspect of their professional expertise and experience, but also their liabilities in the field of financial stability, especially in the sphere of monitoring oversight of payments, clearing and settlements. Under the Decree of 17 November 2010 No. 1096/2010 Regulations, Council Regulation EU, the ECB will offer support to the functioning of the newly established organisations, where the specific consultancy tasks have been defined, and which pertain to the information, analytic, statistical, legislative, logistic, and administrative support. To that end, and in accordance with the 15.12.2010 EN Official Journal of the European Union L 331/163, the articles of incorporation have been regulated, and those of work and tasks of the ESRB Secretariat and the role of the ECB in offering assistance in human and financial resources. In addition, the ESAF and national supervisors will be included in the offering of their expert opinions, especially of the micro-prudential supervisors in the work of the ESRB, in order to insure that the assessments of macro-prudential risks are based on relevant and accurate information. ECB will efficiently and robustly support the new institutional supervisory framework for cooperation between the ESRB and the ESA, which covers mutual exchange of information and well founded procedures for a smooth interactive supervision both at the macro and at the micro-prudential levels. In addition, material consistency will be provided for the equivalent arrangement in the exchange of information between the ESA and the ESCB during the implementation of the ESA tasks and the respect for the ban on monetary financing. Robust cooperation between the two supervisory levels (ESRB and ESFS) is expected to be determined also on the following grounds (Perrut, 2011, p. 5):

- Cross-membership of every body at the meetings of the other bodies (ESRB would include three chairing ESA, ESRB would participate as observer at the ESFS meetings);
- Arrangements for the mutual cooperation and exchange of information.

Concurrently, both of these bodies shall set up a separate system for circulation and storing confidential information on certain financial institutions. Parallel to that, they will improve communication and coordination between the national supervisory bodies, for example such as the FSA. In addition, they will work together on the upgrading of standards for the national supervision, by defining standards, instruments and tools. ESFS, in coordination with the ESRB, will transmit messages to the national supervisors that will adhere to the principle of "act or explain". For purpose of a more efficient macro-prudential supervision and effective work of the ESRB, it is necessary to have a timely and reliable flow of micro-prudential information and data, with a simultaneous flow of information in the opposite direction, which shall be relevant for the national micro-prudential supervision (Momirovic, 2011, 12). They shall cooperate with the College of Supervisors for the cross-border cooperation, in the sense of limiting and mitigating spilling-over of contagions and external shocks from the environment. As the component part of the ESFS, all of the three authorities, i.e. the EBA, EIOPA, and ESMA will closely cooperate with the Joint Committee and the ESRB. ESRB and the ESF will work together on the development of the risks table.

Challenges of the new architecture of supervisory design

Implementation of the new architecture of the supervisory design, founded on the two pillars, in addition to the newly formed organisation for the EU financial supervision, ESRB and ESFS raises multiple requirements and obligations, but also challenges. Challenges are even greater as they simultaneously pertain both to the macro and to the micro-prudential supervision, their harmonisation, but also strengthening of the integration and unity of

Od nove arhitekture nadzornog dizajna EU se očekuje da odgovori i na izazove koji se odnose na postojanje jedinstvene valute, u okviru evro zone ali i drugih zemalja koje koriste evro kao nacionalnu valutu a nisu članice EU,još više pojačava povezanost između zemalja i finansijskih sistema, a time i potencijal za širenje i prelivanje finansijske zaraze u stresnim situacijama.

I pored svih nastojanja, postoje široke preklapajuće oblasti koje treba dalje reformisati. One predstavljaju nove izazove stručne i intelektualne javnosti, posebno u delu iznalaženja najbolje prakse za očuvanje finansijske stabilnosti. Te oblasti su: (Stability Challengesin European Emerging 2010, 6).

- Regulatorni uslovi za kapital, likvidnost i levridž,
- Okviri regulacije i nadzora,
- Regulisanje i nadzor pan-evropskih finansijskih tržišta,
- Menadžment finansijske krize, spasavanje i okviri rezolucija,
- Makroprudencijalni nadzor (praćenje)
- Prevelika da propadne (TBTF Too-big-to-fail) ili sistemski važne institucije (SIFIs)

Zaključak

Reforma i izgradnja nove arhitekture nadzornog dizajna teži da poboljša institucionalni i pravni okvir finansijske stabilnosti. EU ovim reformama želi da intenzivira i ojača finansijski nadzor, transformacijom i jačanjem postojećih ali i uspostavljanjem novih regulatornih organa, sa novim kompetencijama i pravilima, koja su adaptirana i prilagođena za brzu akciju u slučaju pojave finansijskih nevolja. Akcenat je na harmonizaciji propisa nadzora, osiguranja depozita, upravljanje krizama, pored ostalog, kao i na jačanje jedinstvenog finansijskog nadzora u okviru integrisanog i jedinstvenog tržišta EU.

Bez obzira, što su reforme nadzornog okvira finansijskog sistema EU i uvedene promene blage, ipak nova arhitektura makro i mikro prudencijalnog nadzora sa novim nadzornom strukturom koja se već primenjuje, će pomoći EU i državama članicama da se bave krizom na makro i mikro nivou. Uspostavljanjem ESRB-a sa kojim će ECB i nacionalne centralne banke međusobno sarađivati, kao i transformacijom tri Lamfalussy organa u novi organ ESFS sa

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Sedište Evropske komisije u Briselu

the EU financial markets and even broader. In this context, ESRB, as an institution in charge of macro-prudential supervision, is faced with three significant challenges. The first one is that it must carefully and in detail examine when and how to operationalise warnings and recommendations, especially when having in mind the present tendencies of growth in the public debt crisis and mutually interconnected unbalances, but also the unsustainable model of demand, derogated by the low long-term interest rates. The second challenge requires the ESRB to investigate and determine a broad range of political instruments, standards and tools, bearing in mind at the same time the vested, yet non-binding, authorisations. For this reason, it must act with full credibility and respect, in order to render analyses, arguments and principles of action "harmonise and explain", efficient. The third challenge demands that the ESRB must closely cooperate with the three European supervisory bodies, i.e. the ESAF. An additional challenge for the ESRB is that it must through its actions and activities, contribute towards the recovery of the EU financial system in all of its segments, including also banking institutions, insurance companies, professional pension funds, securities markets and other financial infrastructure. In that sense, ESRB is also faced with the challenge facing all other authorised bodies, members of the EU, to accept the stress tests in the banking sector, which had already been implemented in the period from the start of action of the ESRB, and the relevant reports have been made.

The distribution of roles between the three ESA is the functional one, yet some of the tasks can not be lightly allocated (Lannoo, 2011, 12), especially when speaking, for example, of the horizontal financial services, consumer protection or supervision of the banking institutions and insurance companies. The challenge is the fact that for some supervision matters what is required are both the direct coordination with the ESRB and an indirect one with the ECB, while for some other issues this is not necessary. National supervisors are primarily focused on the financial institutions. This focus may cause the absence of sufficient macro-prudential information. Concurrently, an over extended requirement for macro-prudential information may draw the attention of national supervisors and jeopardise macro-prudential supervisory process. Giving the advantage to the macro-prudential analyses by the national supervisors may cause an insufficient devotion to the micro-prudential supervision, with all the negative consequences that may ensue. All this requires a timely and expert coordination between these two bodies, with the opportunities for avoiding conflicts through excess information supply. In addition, the question remains whether the national supervisors will accept recommendations given by the ESRB and how decisive they will be in granting them a priority and conducting an efficient day by day control? There shall certainly be the cases when the recipients of messages will hesitate about the action, especially if they are under political pressure from their own government. The challenge here is to insure that the mechanism of "explain or act" will function efficiently and that the pressure will cause the action or a public statement in case of the absence of action or hesitation about the action. This means a promotion of interaction between the macro and the micro-prudential supervision. Challenges especially facing the new supervisory framework are the identification and limitation of the systemic risk on the non-regulated financial markets. This demands a joint action of all the EU supervisory bodies. ESRB and the ESA will have highly demanding tasks to perform regarding primarily and on the one hand the possibility of timely access to the relevant data, if they exist at all, or are limited and can not assist the supervisor, and on the other hand the problem if data actually exists and is accessible, there may be difficulties in forming the relevant case and at the same time expand competencies of the supervisory bodies for control of the new institution. An example of such a case may be the new financial innovation which shall most probably, if attractive, like a thunder-storm, expand on to all the financial markets and which in its initial phase of expansion usually is not regulated, but will most often produce a financial risk, which may quickly materialise especially in the unregulated financial markets.

It is expected from the new architecture of the EU supervisory design to respond also nekim obavezujućim ovlašćenjima i širokim spektrom delovanja, barem u početnoj fazi primene ukazuju na promene na bolje.

I pored ukazivanja na bolje, ESA, se mora izboriti sa preprekama u harmonizaciji procesa izgradnje jedinstvenog tržišta finansijskih usluga, zbog već hronične nedoslednosti sprovođenja nadzora u različitim zemljama članicama, i pored poverenih obavezujućih ovlašćenja što otežava ispunjenju njenih zadataka. ESRB nema zakonodavna ovlašćenja što njegov mandat delovanja u priličnoj meri sužava. Istovremeno nedostatak preventivnih standarda i alata se veoma malo pominju. Tokom vremena, moraće da izgrade kredibilitet i steknu poverenje širom EU.

Nedostatak empirijskih istraživanja u ovoj fazi primene, a koji bi se odnosili na utvrđivanje nekih performansi novih nadzornih organa kao i na političke pritiske nacionalnih vlasti na supervizore, ukazuje da je period od početka primene nove arhitekture nadzornog okvira kratak, te je potrebno da protekne izvesno vreme za donošenje ozbiljnijih zaključka o uspešnosti primene.

I pored očiglednog institucionalnog i zakonodavnog poboljšanja nadzornog okvira, postoje mnogobrojni problemi i izazovi, prevashodno za novooformljena tela da izgrade adekvatnu infrastrukturu međusobne saradnje u prikupljanju, rangiranju i protoku prioritetnih informacija i u vremenu i u prostoru.

Postojanje snažne posvećenosti EU da deluje na međunarodnom nivou, daje novim uspostavljenim organizacijama poseban značaj, u smislu da se čuje glas EU kada su u pitanju globalne mere i odgovornosti za očuvanje finansijske stabilnosti. U tom smislu, one će blisko sarađivati sa relevantnim međunarodnim organizacijama od kojih se očekuje da pruže rana upozorenja o makro-prudencijalnim rizicima na globalnom nivou, kao što su Odbor za finansijsku stabilnost (FSA), Međunarodni monetarni fond (IMF-International monetary found) i drugim relevantnim međunarodnim institucijama i organima, posebno kao partneri grupe G20. Rezultat međunarodne saradnje treba da bude doprinos, između ostalog, u primeni preporuka IMF, FSA, BIS i G20.

to the challenges pertaining to the presence of the single currency, within the Euro-zone, but also in the other countries using EUR as their national currency, yet not being the EU member-countries, even further intensifying the connection between countries and the financial system, and thus the potential for spreading and spilling-over of the financial contagion in the stressful situations.

In spite of all the efforts invested there still remains broad overlapping in the fields which are yet to be reformed. They are the new challenges for the academic and professional circles, especially in the part of finding the best practices for the preservation of the financial stability. These fields are the following (Stability Challenges in European Emerging, 2010, 6):

- Regulatory requirements for capital, liquidity and leverage;
- Regulatory and supervisory frameworks;
- Regulation and supervision of pan-European financial markets;
- Financial crisis management, salvation and resolution framework;
- Macro-prudential supervision (monitoring);
- "TBTF Too-Big-to-Fail" or a system of Systemically Important Financial Institutions - SIFIs.

Conclusion

The reform and construction of the new architecture of the supervisory design strives to improve the institutional and legal framework of financial stability. EU in these reforms is wishing to intensify and strengthen financial supervision, through transformation and reinforcement of the existing but also with the establishment of the new regulatory bodies, with new competencies and rules, which are adapted and adjusted to the faster action in case of emergence of financial problems. The accent is on the harmonisation of the supervisory regulations, deposit insurance, crisis management, among other, and also on the strengthening of a single financial supervision within the framework of an integrated and single EU market.

Regardless of the fact that the reforms of the supervisory framework for the EU financial system and the changes introduced therein are mild, nevertheless the new architecture of the macro and micro-prudential supervision, with the new supervisory structure which is already being implemented, will help the EU and the member-countries to deal with the crisis both at a macro and at the micro levels. The establishment of the ESRB that will be the entity with which the ECB and the national central banks will mutually cooperate, and also through the transformation of the three Lamfalussy bodies into the new ESFS authority, with some binding competencies and a broad spectrum of action-focused initiatives, at least in the initial phase of implementation, indicate that the changes have been made for the best.

Yet in spite of the changes for the best, the ESA must struggle with the obstacles in the harmonisation of the process of construction of the single market of financial services, because of an already chronic inconsistency in the supervision implementation in the different member-countries, in spite of the vested and binding authorisations, which is making the fulfilment of its tasks even more difficult. ESRB does not have statutory authority which is narrowing down substantially its mandate for action. Concurrently, the absence of preventive standards and tools are being very seldom mentioned. Over time, credibility will have to be built and confidence gained throughout the EU.

The absence of empirical research in this phase of implementation, which would cover determination of some performances of the new supervisory bodies and also the political pressures of the national authorities on the supervisors, points out at the fact that the period from the start of implementation of the new architecture of the supervisory framework is short, and that it is necessary to have some time pass before making some serious conclusions regarding the success of its implementation.

In spite of an evident institutional and legislative improvement of the supervisory framework, there are many problems and challenges, primarily for the newly formed bodies to construct an adequate infrastructure for the mutual cooperation in gathering, ranking and circulating priority information in time and in space.

The presence of a robust devotion of the

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EU to the action at an international level, given the newly established organisations, is particularly important in the sense of having the EU voice heard when speaking of the global measures and the responsibility for the preservation of financial stability. In that sense, they will closely cooperate with the relevant international organisations which are expected to provide for them early warning of the macro-prudential risks on the global level, such as the Financial Stability Authority - FSA, International Monetary Fund - IMF, and other relevant international organisations and bodies, especially as partners to the G20 group. The result of the international cooperation should be a contribution, among others, to the implementation of the recommendations of the IMF, FSA, BIS, and the G20.

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