The new architecture of the EU regulation

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The European Parliament and the Council adopted legal texts setting up a reform of the EU framework for regulation/supervision of the financial system, aimed at eliminating deficiencies that were exposed during the financial crisis.

It adopted regulations establishing a European Systemic Risk Board (ESRB), which will provide macro-prudential oversight of the financial system, and three new supervisory authorities at the micro-financial level:

- European Banking Authority (EBA);
- European Insurance and Occupational Pensions Authority (EIOPA);
- European Securities and Markets Authority (ESMA).

The ESRB and the EIOPA will be sited in Frankfurt, the EBA in London and the ESMA in Paris.

- The new system is operational since 1 January 2011.
**EU regulation network**

- **ESMA**
  - Stakeholders
  - Joint Committee
  - Board of Appeal
  - NSA

- **EIOPA**
  - Stakeholders
  - NSA

- **EBA**
  - Stakeholders
  - NSA

**Stakeholders**

**ESRB**

**NSA** = National Supervisory Authority

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**European system of financial supervisors (ESFS)**

**European Systemic Risk Board (ESRB)**

- **+** Governors of the ECBs
  - ECB President and Vice-President
  - National regulators + 3 ASC + 1 ATC*
  
- **+** EU Commission
  
- **+** Chairs of the EU Authorities (EBA, EIOPA & ESMA)

**Non-voting:**
- One representative of the competent national supervisor(s) per Member State + EFC President

**recommendations + early risk warnings**

**Micro-prudential Information/developments**

- **EBA**
- **EIOPA**
- **ESMA**

**National banking supervisors**

**National insurance and pensions supervisors**

**National securities markets supervisors**
Relations between ESRB- ESAs and NSAs

ESRB to provide: Analysis, recommendation and warning

ESAs (ESMA, EBA, EIOPA) to provide information on firms and markets

National Supervisory Authorities to act or explain

The European Securities and Markets Authority (ESMA)

- Replaces CESR
- EU legal personality
- Own budget: 60% provided by NSAs + 40% provided by EU
- More expertise = more staff
ESMA objectives

- Harmonise EU rules by setting-up a common “EU rulebook”
- Decide on the action to be taken by NSAs necessary to comply with EU laws
- Resolve disagreements between NSAs
- Reinforce coordination between NSAs in emergency situation

Main powers of ESMA

- Draft binding technical standards
- Ensure consistent application of EU laws by issuing binding decisions
- Binding mediation
- Binding decisions in emergency situations
- Possibility to stop dangerous practices by issuing binding decisions
Impact of the new framework:
ESMA / NSAs

**Implementation of EU rules “EU single rulebook”:**
1) Parliament-Council laws + regulatory technical standards + implementing technical standards = less room for manoeuvre in the implementation of EU laws by NSAs
2) less EU soft law (guidelines & recommendations + “Comply or explain”) more EU hard law
3) "peer reviews" => ESMA binding decision if “Breach of Union Law” by NSA (cf. waivers MiFID)

**Supervision:**
1) Individual firm supervision remaining at the national level but:
   - In day-to-day supervision: more coordination needed between NSAs or binding mediation
   - More coordination in emergency situations (avoiding isolated action or non-action)
   - If NSA does not comply: Individual decision by ESMA addressed to financial market participant (including the cessation of any practice)
2) "Pan-European entities by nature" directly supervised by ESMA:
   - Credit rating agencies
   - Trade repositories (EMIR currently discussed by EU Institutions)
   - (+ cf. EU laws currently discussed by European institutions)
Functioning

Board of Supervisors (BoS)
Key decision making body
Indepednently appointed full time Chairperson + Heads of NSAs + Observers
Majority voting or Lisbonne Treaty voting for « regulation » and budget

Management Board (MB)
Ensure that the ESMA is run effectively and perform the task assigned to it
ESMA Chair + 6 elected Heads of NSAs

Staff (Secretariat) de l’ESMA
Executes decisions taken by BoS and MB
From 45 staff in 2010 to approx. 130 staff in 2013

THANK YOU for your attention