



Post-crisis European regulatory reforms and the New European Supervisory System: ESMA's experience



OVERVIEW

- The transformation of the EU landscape
- ESMA's early experience
- International cooperation objectives and tools
- Further areas for EU-Asia cooperation



The transformation of the EU landscape: EU Pre-crisis financial markets supervision

- the EC Financial Services Action Plan and Lamfalussy Level 3 Committees:
 - Committee of Securities Regulators (CESR)
 - Committee of European Banking Supervisors (CEBS)
 - Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)

Key functions:

- Advising the EC on policy and on draft implementing (secondary) legislation
- Issuing non-binding interpretative guidance, recommendations and standards

Limitations:

- No legal personality
- No binding power (no rules/decisions)
- no direct supervisory power in relation to individual market participants



The transformation of the EU landscape: New institutional architecture

Lessons from the crisis:

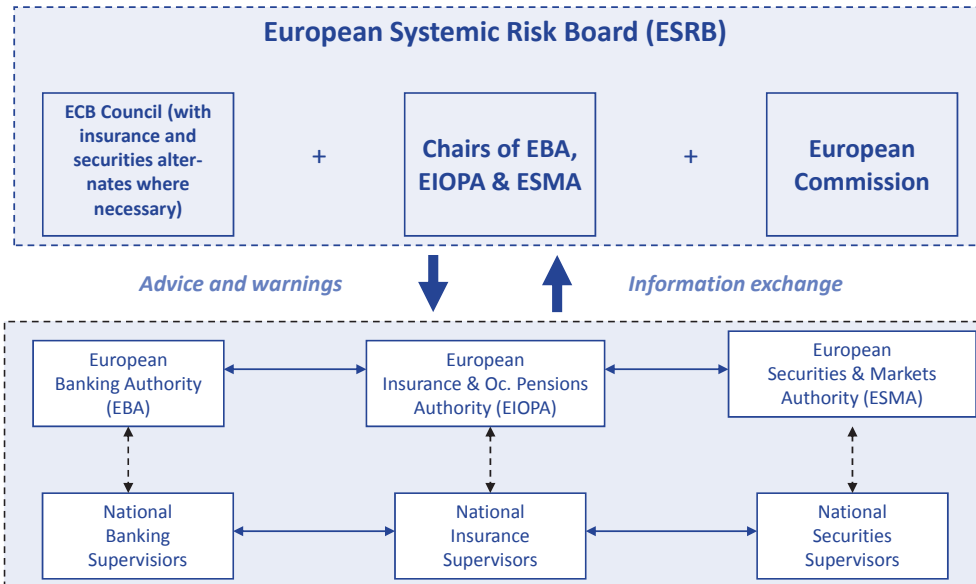
Macro-prudential supervision (systemic stability oversight) and micro-prudential supervision (institutions and markets) require better coordination.

Since 1 Jan. 2011, three new European Supervisory Authorities:

- European Banking Authority (EBA)
- European Securities and Markets Authority (ESMA)
- European Insurance and Occupational Pensions Authority (EIOPA)
- Legal personality under EU Law, Management Board, Board of supervisors

With:

- Coordinated approach of cross-sectoral issues (Joint Committee)
- Mixed funding from EU and Member States, ensuring independence
- New powers: technical standards, opinions, enforcement of EU law, direct supervision



- A substantial compendium of publications on policy and supervision: consultations, discussion papers, calls for evidence, guidelines and recommendations, such as the final advice on AIFMD.
- Credit Rating Agencies (CRAs):
 - Registration of 16 CRAs, including the largest 3;
 - Establishment of the Central Repository of Credit Ratings (CEREP)
 - 3rd country endorsement (Japan, Australia).
- Accounting treatment of sovereign debt: public statements (28 July and 24 Nov. 2011)
- Trading platforms: final report on guidelines on systems and controls in an automated trading environment for trading platforms, investment firms and competent authorities (ESMA/2011/456, 22 Dec. 2011).

- Consumer protection: a key priority of ESMA
 - Guidelines for UCITS exchange traded funds and structured UCITS;
 - MiFID: publication of Q&As;
 - Forex warning to issuers (6 Jan. 2012);
 - Establishment of the Financial Innovation Standing Committee.
- Institutional capabilities:
 - The Joint Committee of the ESAs;
 - The Sub-Committees (*Financial Conglomerates, Anti Money Laundering, Consumer Protection and Financial Innovation, Cross-Sectoral Developments, Risks and Vulnerabilities, and Impact Assessment Network*)
 - The Board of Appeal.

- Achieve level playing field (equivalence, mutual recognition, reliance)
- enhance consistency
- avoiding regulatory competition, gaps and overlaps
- The importance of the monitoring by the FSB

- The framework of international relations is generically embedded in ESMA Regulation ...
 - Bilateral and multilateral arrangements
 - Equivalence decisions on supervisory regimes
- ...and for 3rd countries, further reinforced in EU directives, for example:
 - CRAs: endorsement decision and equivalence advice
 - Hedge funds and private equities (“AIFMD”): key advising role
 - OTC derivatives, central counterparties and trade repositories (EMIR): recognition of 3rd country CCPs
- In addition, participation in various forums:
 - EU-US regulatory dialogue
 - IOSCO membership (application)
 - IFRS Foundation Monitoring Board

- Existing cooperation with the Japanese FSA regarding supervision and exchange of information regarding credit rating agencies (Exchange of Letters, June 2011)
- In a context of rapidly changing landscape, possible areas for enhanced cooperation include:
 - Financial innovation monitoring (products and services)
 - Macro-economic information exchange (shadow banking, systemic risk)
 - Regulatory dialogue



Thank you!

