CONSIDERATIONS ON MONITORING THE FINANCIAL SYSTEM IN ROMANIA AND IN EU/NON-EU MEMBER STATES

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Abstract: *The growth of an economy depends on the presence of national or foreign investors, natural person or institutional investors. That is why authorities adopt a specific legislation ending up in attracting investors and placing financial assets on the financial market.*
Investors act on a state's market only if they believe its business opportunities or fiscal regimes seem interesting and also if they identify certain policies meant to regulate, monitor and control the financial system. The efficient operation of a financial system also relies on institutions' ability to regulate each component to lead to successfully picturing a true vision about the future.
Starting with such elements, the authors of this survey aim at emphasizing how important the Financial Regulator is in a financial system shaken again by criminal offences on the stock market. It is the reason why the authors envisage the emphasis of how important such an authority is to monitor the entire financial system by identifying positive issues and also by building a true and fair view of the way financial monitoring is performed in EU member states and not only there.

Key words: *financial market, financial regulator, stock market, international business*

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INTRODUCTION

Investors, whether they are natural or legal persons, are interested in identifying certain financial markets helping them build diversified architecture portfolios. The concrete goals pursued in achieving such portfolios envisage the security of invested capital, the optimization of profitability-liquidity ratio, the opportunities provided by the fiscal system, the cost of trading (Ene, 2010, p.141). At the national economy level, it is estimated that the financial market plays an important role in achieving and maintaining national economic balance through the efficient allocation of savings in private and public investment (Stoica, 2006, p.30).
These issues make it necessary to develop financial market supervision systems so that all the entities involved in the market could have access to sufficient and full information, and legislation could cover all activities and provide the possibility of immediate appropriate reactions to the risks incurred.
The financial and economic crisis has highlighted the increasingly higher interdependences among the capital market, money market and insurance market and their effects upon the economies are sometimes devastating, that is why it is believed that supervision is a very current issue.

METHODOLOGICAL BENCHMARKS

The main goal of this paper is to highlight the need for a centralized system to ensure financial market supervision and supervision system exemplification in European countries.

Based on the qualitative method, this paper is made up as an exploratory research with various sources of information having been consulted about the issue of financial supervision: specialized literature, case studies, media articles, reports of profile organizations, specific legislation etc.

This paper aims at outlining the need for a consolidated supervision of the financial system, especially considering what an authority profile means to Romania.

EUROPEAN REGULATIONS ON CONSOLIDATED SUPERVISION

The economic and financial crisis has emphasized the presence of flaws in the financial system supervision both in its whole, and individually in member states. It has also shown a number of issues on the cooperation, coordination and consistent application of the European Union law. Additionally, it has shown that a number of national supervision models have failed to keep up with financial globalization and the reality of European financial markets based on integration and interconnection, where many financial institutions have cross-border activities.

According to these elements, in November 2008, the Commission mandated a high level group chaired by Jacques de Larosière to make recommendations on how to strengthen European supervision mechanisms in order to ensure increased citizen protection and also to restore confidence in the financial system. In the final report submitted on 25 February 2009 (de Larosière Report), the high level group recommended strengthening the supervisory framework to reduce future risks of financial crises and their severity. In the Report of 4 March 2009 entitled "Driving European Economic Recovery", the Commission suggested submitting a law draft to create a European System of Financial Supervisors and a European Committee for Systemic Risks.

The European System of Financial Supervision (SESF) has been created as a decentralized multilayer system of micro and macro-prudential authorities, capitalizing the financial crisis event and according to the recommendations included in the de Larosière Report.

The goals of developing a common supervision culture and setting up a single European financial market have generated the SESF work organization on two pillars: micro- and macro-prudential pillars.

A) The micro-prudential pillar pursuits the supervision of individual institutions. The analysis of European regulations indicate that there are two levels of micro-prudential supervision, namely on one hand sectoral supervision and legislation (banks, insurance and securities markets), and on the other hand the European and national regulations and supervision.

The European Supervision Authorities (AES) having powers to ensure micro-prudential supervision in the EU are:

European Supervision Authorities (ESA) defined as such:

a) *The European Banking Authority (ABE)* whose work is based on (EU) Regulation no. 1093/2010 of the European Parliament and Council dated 24 November 2010 regarding the establishment of the European Supervision Authority (European Banking Authority), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/78/EC. The European Banking Authority places its regulations upon credit institutions, financial conglomerates, investment companies and payment institutions.

b) *The European Insurance and Occupational Pensions Authority* (EIOPA) whose legal basis is (EU) Regulation no. 1094/2010 of the European Parliament and Council dated 24 November 2010 regarding the establishment of the European Supervision Authority (EIOPA) and whose activity is focused on insurance enterprises.

c) *The European Securities and Markets Authority (ESMA)* - is responsible for the securities market and the institutions participating in the area defined by (EU) Regulation no. 1095/2010 of the European Parliament and Council dated 24 November 2010 regarding the establishment of the European Supervision Authority (ESMA). The goal of the Authority is to protect public interest by contributing in the stability and efficiency of the financial system on short, medium and long term, to the economy, citizens and businesses of the EU. ESMA also helps develop high quality single standards and practices in terms of regulation and supervision, particularly by providing approvals to the Union's institutions and by preparing guidelines, recommendations, and regulatory and implementation technical standard projects[1].

The Joint Committee of European Supervision Authorities – is responsible for the supervision of cross-sectoral consistency.

Nationally competent supervision authorities that provide financial oversight in the countries they represent.

B) The Macro-Prudential Pillar

The macro-prudential supervision at European level is provided by the European Systemic Risk Board (CERS). The CERS role is to ensure the prevention and mitigation of systemic risks in the financial stability of the European Union.

It should be added that the current architecture providing financial supervision at EU level shall be amended as a result of having created the Banking Union.

It shall be done by three mechanisms:

- The single supervision mechanism (MSU) - Consisting of the Central European Bank and national competent authorities, the single supervision mechanism ensures correct and consistent supervision meant to prevent regulatory arbitrage and the fragmentation of the EU financial service market[2].
- The single resolution mechanism (MRU) - It shall include appropriate provisions and appropriate tools for the recovery and resolution of credit institutions in the single supervision mechanism.
- Deposit guarantee schemes (SGD)

Supervision activities at EU level have been added by EU Directive 2013/36/EU of the European Parliament and of the Council dated 26 June 2013 regarding the access to credit institutions' performance and the prudential supervision of credit institutions and investment companies, the amendment of Directive 2002/87/EC and the repealing of Directives 2006/48/EC and 2006/49/EC, and Regulation 575/2013 **regarding the prudential requirements for credit institutions and investment companies, and the amendment of (EU) Regulation no. 648/2012.** Regulation 575/2013 lays down uniform rules concerning the general prudential requirements that supervised institutions meet according to Directive 2013/36/EU in respect of the following issues:

(a) own funds requirements relating to entirely quantifiable, uniform and standardized elements of credit risks, market risks, operational risks and settlement risks;

(b) requirements of large exposure limitations;

[1] *** (EU) Regulation no. 1095/2010 of the European Parliament and of the Council dated 24 November 2010 regarding the foundation of the European Supervisory Authority (ESMA), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/77/EC

[2] http://www.europal.europa.eu/RegData/etudes/fiches_techinique/2013/030205, accessed in March 2014

(c) after the delegated act referred to in Article 460 has come into force, liquidity requirements on entirely quantifiable, uniform and standardized elements of liquidity risks;
(d) reporting requirements concerning own funds, large exposures, liquidity risks and leverage effect;
(e) requirements related to issuing information;
In the EU countries there is a polarization of the financial system organization towards the set-up of a single authority. Thus, in **Germany**, the Federal Financial Supervisory Authority (BaFin) brings together the supervision of the banking and financial system, of the security system and of the one developed on the capital market. The institution has been organized as an independent administrative unit under the supervision of the Federal Ministry of Finance. BaFin was established in 2002 after the merging of the Federal Supervisory Office, the Federal Securities Supervisory Office and the Federal Insurance Supervisory.
Austria creates the legal framework for the financial sector by means of the Ministry of Finance. Macro-economically, monitoring the stability of financial markets, supervising payment systems and the banking sector are provided by the National Bank (OeNB).
At micro-economic level, micro-prudential supervision is provided by the Financial Market Authority (FMA), an autonomous institution whose duties are to monitor and verify individual financial institutions, micro-economic market participants (banks, brokerage firms, pension funds, mutual funds, insurance companies and others). From an organizational perspective, the Austrian authority is an executive committee that includes experienced experts in the financial sector. The FMA also has a supervisory board including the minister of finance, the central bank governor and other public and private sector professionals.
In **Poland,** there is a single entity called the Polish Financial Supervising Authority (KNF), founded in 2006 by taking over the duties of the Commission for Insurance and Pension Funds Supervision and of the Securities Commission. In 2008, KNF took over the duties of the Banking Supervisory Commission and therefore the KNF currently oversees the entire financial sector in Poland.
In **Hungary**, monitoring the financial system is provided by the HFSA (Hungarian Financial Supervision Authority) and the supervision of the banking system is ensured by Magyar Nemzeti Bank (MNB). At macro-economic level, there is the ***Financial Stability Board***, an advisory body made up of the President of the Hungarian Financial Supervisory Authority (hereinafter Referred to as "HFSA"), the Governor of the Hungarian National Bank (hereinafter Referred to as "HNB"), and the minister in charge of the money, capital and insurance markets (currently the Minister for National Economy) (http://felugyelet.mnb.hu/en/left_menu/financialstabilityboar) whose goals are to ensure harmony between micro-prudential regulatory supervision of the individual risks of institutions operating in the financial intermediation system on the one hand and macro-prudential regulatory oversight, which monitors systemic risks posing a threat to the entire financial system, on the other.

ROMANIA’S STATUS IN THE FINANCIAL SUPERVISION FIELD

Having been organized according to the Anglo-Saxon financial system, the Romanian financial system comprises institutions, instruments, regulations and mechanisms operating in the capital market, money market and insurance market (Pănoiu, 2008, p.29).
The Financial Stability Report issued by the National Bank of Romania shows that even if there is a slight decrease from 42 in 2010 to 40 to 2013, credit institutions have maintained their dominance in the financial system. The analysis of the data shown in the table below also shows a slight decrease in insurance companies, private pension

funds, investment companies and non-banking financial institutions (general register). Increases have occurred in investment funds and non-banking financial institutions (record) (table no.1).

Table no.1

Structure of the Romanian Financial System

Financial institutions	**2010**	**2011**	**2012**
Credit institutions	42	41	40
Insurance companies	43	43	39
Insurance brokers	567	584	584
Private pension funds	22	20	20
Investment funds	76	83	87
Financial investment companies	6	6	6
Financial investment service companies (SSIF)	55	52	46
Non-banking financial institutions (General register)	210	203	187
Non-banking financial institutions (Record)	5043	5286	5420

Source: *** Financial Stability Report, BNR, 2013, p.26

The analysis of BNR data indicates a special concentration of the financial activity in the monetary and insurance sector, with the capital market activity not yet attractive enough nearly 20 years after its reopening.

As far as the financial supervision activity is concerned, until 2013 micro-prudential supervision used to be provided by separate authorities with responsibilities strictly limited within each sector: the National Securities Commission monitored the capital market, the Insurance Supervisory Commission supervised the insurance sector whereas the Commission for Private Pension System Supervision approached private pension funds.

Law no.113/2013 was adopted on 23 April 2013 regarding the approval of Government Emergency Ordinance no. 93/2012 on the set-up, organization and operation of the Financial Supervision Authority. The arguments of national authorities on the establishment of a Financial Supervision Authority laid down in the explanatory memorandum of the normative act referring to the organization and operation of the Financial Supervision Authority aimed at maintaining and enhancing confidence in the Romanian financial system by preparing a framework for the supervision of financial markets, institutions, activities and tools at national level , other than those within the competence of the National Bank of Romania, the collective responsibility of all participants in the national financial system, a more efficient allocation of resources as well as the achievement of a fair competitive environment for all financial market participants.

Article 1 Paragraph 2 of Law 113/2013 lays down that the Financial Supervision Authority is organized as an autonomous administrative authority, an independent, self-financed legal entity with juridical personality, which performs its duties by taking over and reorganizing all the duties and prerogatives of the National Securities Commission (C.N.V.M.), the Insurance Supervisory Commission (C.S.A.) and the Commission for Private Pension System Supervision (C.S.S.P.P.). The A.S.F. is managed by a Board whose members are appointed by the Parliament on 5-year term in a joint session of both Chambers.

As regards **macro-prudential supervision activity,** in Romania they suggest the establishment of the National Committee for Macro-Prudential Supervision (CNSM) as an inter-institutional cooperation structure without legal personality, which aims at ensuring coordination in the macro-prudential supervision of the national financial system by preparing a macro-prudential policy and appropriate tools to implement it. The establishment of this committee was considered by the European Central Bank subsequent to the NBR's request for an opinion about an emergency ordinance draft regarding the macro-prudential supervision of the national financial system[1].

It is obvious that the foundation decision comes not only in response to the need for legislative harmonization at EU level, but also as a feedback to the HARINVEST case in 2013, Carpathian Asig or Astra Insurance cases. The committee includes authorities having a significant role in ensuring financial stability, namely the NBR, ASF and the Ministry of Public Finance.

The CNSM organizational structure includes the General Council, the Technical Committee on systemic risks, the Technical Committee on financial crisis management and the CNSM Secretariat, provided by the NBR[2].

The Committee's fundamental objective is to contribute in safeguarding financial stability, also by strengthening the financial system's capacity to resist shocks and by reducing the accumulation of systemic risks, thus ensuring the financial sector's sustainable contribution in the economic growth.

CONCLUSIONS

It is believed that, to the extent that the authority activity is based on European principles as issues set up in an organization law, the foundation of the ASF may have a positive impact both on the capital market institutions and on the insurance market, especially in the national economy, providing a positive signal to national and international investors about the stability of the financial system.

We believe that a clearer definition of responsibilities as hiring people specialize in finance, with experience and expertise can be solutions that facilitate a suitable climate for the prudential supervision tasks in the field of prudential supervision.

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[2] *** Financial Stability Report, BNR, 2013, p.169