

EGMONT PAPER 90

**'I WOULDN'T START FROM HERE':
THE MAKING OF EUROPEAN
BANKING SUPERVISION, AND
THE ROAD AHEAD**

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The author is an advisor at the National Bank of Belgium. The opinions expressed in this Egmont Paper are strictly those of the author and do not necessarily reflect the views of the National Bank of Belgium. The author would like to thank his colleagues Hans Geeroms, Dominique Servais, Michaël Van Dorpe and Hans Verbert for their insightful comments.

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EXECUTIVE SUMMARY

When eurozone leaders committed themselves in June 2012 to creating a single supervisory mechanism (SSM, now also known as European banking supervision), few in Europe realised the magnitude of the project. Since then, raising banking supervision to the European level has proven to be one of Europe's most ambitious projects of the last decades. This is all the more true given that European banking supervision had to be set up in a particularly challenging environment due to the legal hurdles and the urgency involved. This Egmont Paper discusses the key challenges involved.

Significant legal challenges resulted from the fact that European banking supervision had to be set up with clear-cut design choices in mind, yet without changing the EU Treaties. A key difficulty was that some of the design choices appeared to clash with the Treaty-based features of the ECB, the institution that was chosen to carry out supervision. With the ECB serving as the monetary authority for the eurozone, lawmakers nonetheless managed to overcome the associated limitations by (i) involving all supervisors in decision-shaping via a Supervisory Board, (ii) offering non-eurozone Member States the possibility to join European banking supervision and (iii) separating the ECB's monetary and supervisory policy tasks.

The eurozone's sovereign debt crisis injected a sense of urgency into the project. As the SSM was a vital element in the crisis response, this left no room for complacency. The fact that European banking supervision is designed as a mechanism involving both the ECB and the national supervisors helped to get it up and running in good time. Yet even with this national involvement, the ECB still had to engage in a massive recruitment effort to make sure that it was capable of taking up its new tasks. The start of European banking supervision also required an unprecedented examination of Europe's banks in an attempt to do away with lingering doubts about the sector's soundness. Only with all the above building blocks in place could the new supervisory mechanism start on 4 November 2014.

So far, the design that has resulted from this process has proven quite effective. Yet this encouraging start in no way implies that the institutional design of the SSM is beyond reproach. The legal constraints and time pressure undoubtedly led to a design that is more complex and burdensome than would have been the case otherwise. Neither does the encouraging start mean that European banking supervision had put its institutional challenges behind it, quite the contrary. In the coming years, collaboration and decision-making in the SSM will have to mature further. Brexit for its part will change the EU's financial landscape and might alter non-eurozone Member States' views on European banking supervision. Despite all other urgent policy questions, Europe will imperatively have to complete its banking union for common supervision to be successful. In the (much) longer term, a possible Treaty

change would moreover lead to a fundamental reflection on how European banking supervision operates.

This Egmont Paper argues that, even with all these caveats in mind, the EU has still largely succeeded in meeting the ambitions that eurozone leaders set out back in 2012. But a lot of difficult (yet indispensable) work still lies ahead. Nonetheless, the SSM offers a good basis for a European banking union that can contribute to a healthier and more stable financial sector – ultimately also benefiting the wider economy.

INTRODUCTION

29 June 2012. It was the morning of an enjoyable early summer day – at least by Belgian standards – when the President of the European Central Bank (ECB), Mario Draghi, stepped into the office of Herman Van Rompuy, his counterpart at the time at the European Council. In marked contrast with his state of mind over the previous few months, the ECB President had an air of relief about him. As Herman Van Rompuy would later recall, Mr Draghi told him “*Herman, do you realise what you all did last night? This is the game changer we need*” (Van Rompuy, 2014, p. 21).

The President of the ECB was referring to the previous day’s tumultuous meeting of eurozone Heads of State and Government. The meeting had been held at a tense moment, with the eurozone’s sovereign debt crisis having flared up once more. While previous moments in the crisis involved mostly smaller eurozone states, Italy and Spain – the third and fourth biggest countries in the euro club – were now caught in the eye of the storm. Markets were especially critical of Spain, as questions arose about the state of the country’s banking sector and the ability of its government to fund any costly bank restructuring programmes.

After long and heated discussions an unexpected – at least for the outside world – deal was struck during the summit. This game changer, as Mr Draghi called it, was a statement by eurozone leaders saying that it was “*imperative to break the vicious circle between banks and sovereigns*” (Euro Area Summit, 2012). With this commitment, eurozone leaders aimed at stopping a dynamic that had been experienced repeatedly in the preceding years, whereby banks and sovereigns dragged each other down. The cost of bank rescues proved difficult to bear for individual Member States, as shown in Ireland and Spain. At the same time, the troubled fiscal position of Member States jeopardised their banking sectors, as was the case in Greece and Portugal (Goyal, 2012; Hennessy, 2014).

Leaders aimed to break this vicious circle by lifting the responsibility for ensuring the soundness of the banking sector to the European level. The deal that was reached that day essentially consisted of two elements. First of all, eurozone countries would jointly provide the means to finance bank restructuring efforts. Initially, the finance took the form of a European loan to one country (Spain in this case). At a later stage, direct European-level action would be possible.¹ The second part of the deal consisted in pooling the supervision of the banking sector at European level. As eurozone leaders indicated, this involved creating a single supervisory mechanism (SSM in short). The logic behind this double deal was that Europe would be willing to jointly fight banking crises in the future, but, as a *quid pro quo*, the banking sector

¹ As was later agreed, this would be through direct recapitalisation by the European Stability Mechanism. The instrument was finally adopted on 8 December 2014, see ESM (2014).

should also be monitored at European level. This step-up in integration became known as the EU's banking union, and was a vital part in efforts to move towards a "genuine" Economic and Monetary Union (Van Rompuy, 2012).

This Egmont Paper focuses on the second part of the agreement that was reached in June 2012: the SSM, now also referred to in more general terms as European banking supervision. More specifically, the paper discusses how the commitment by eurozone leaders led to a new reality for policy-makers and practitioners alike, requiring both speed and ingenuity from them in order to make the SSM operational and effective. First, the paper provides a brief overview of the decision-making process that led to the SSM. Subsequent sections look at the two key challenges that were encountered in creating the SSM, namely: (i) addressing the legal hurdles and (ii) the timely build-up of European supervisory capacities. The paper goes on to shed some light on the institutional challenges that lie ahead, as the SSM's creation in no way resulted in a steady-state environment. Finally, some conclusions are drawn.

FROM COMMITMENT TO REALITY

The promise by eurozone leaders to establish the SSM was the start of an intense process during which legislators needed to reach an agreement on the legal texts, while the ECB and national supervisors had to make the SSM operational. With the crisis in mind, all of this occurred in a remarkably short timeframe – breath-taking for EU standards.

Even though the June 2012 agreement provided a firm commitment to create the SSM, it contained only scanty details on the mechanism’s actual design. Leaders merely defined the EU Treaty basis for the SSM (Article 127(6) TFEU²) and stipulated that the mechanism would involve the ECB.

The ECB’s role was controversial for some, given its eurozone monetary policy tasks (see below). Yet in many ways the involvement of the ECB was a logical choice. There had been roughly two alternatives to giving the ECB the role of European supervisor, yet both of them contained substantial risks. The first alternative was to endow another European institution (e.g. the Commission or the Council) with the task of bank supervision. However, the other European institutions were less well-equipped for this: they lacked financial expertise, political independence and/or were not ready to take the multitude of supervisory decisions that would be needed. The second alternative was to give the task to a European agency, with the European Banking Authority being the most likely option. Yet this alternative was legally uncertain, as agencies are not meant to apply the discretionary judgement that is inherently needed when exercising banking supervision.³ Hence, as the EU Treaties include a legal basis that can be used to endow the ECB with supervisory tasks, given its sound reputation and the urgency involved, the choice of the ECB proved quite natural in the end – even though entailing its own set of difficulties, as is discussed below (Wymeersch, 2014).

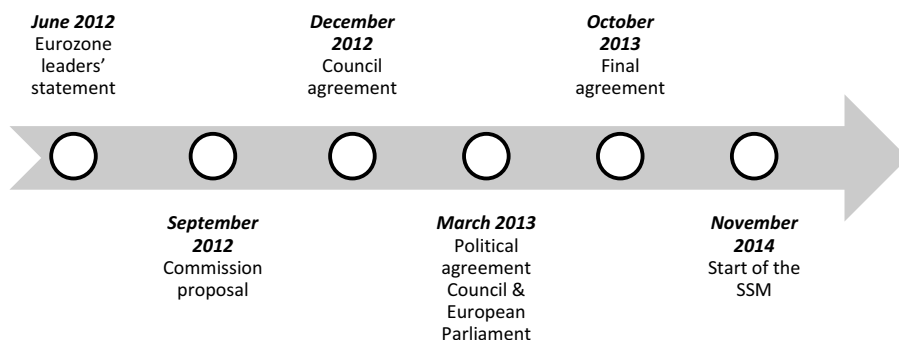
Following the agreement among eurozone leaders, including the choice of the ECB, the work of European legislators got under way. Given the crisis mood and looming European elections in 2014 (which would stall discussions), the Commission already came out with a proposal shortly after the summer of 2012. Member States then reached an agreement in the Council by the end of 2012. In March 2013, the Council and European Parliament were subsequently able to reach a political agreement. Then, somewhat unexpectedly, the negotiations dragged on for some months as an Interinstitutional Agreement was needed between the ECB and the European Parliament before concluding the legislative package. The discussion mostly evolved

² Treaty on the Functioning of the European Union.

³ The legal uncertainty stems from the Meroni doctrine, the implications of which remain under debate (see Chamon, 2011).

around the ECB's accountability towards the European Parliament, with several accountability instruments being agreed upon in the end.⁴ Following that agreement, the overall package was approved at the end of October 2013, or 16 months after the eurozone leaders' commitment to create the SSM. Roughly one year later, in November 2014, the SSM finally became operational (see Figure 1 for an overview of the process).

Figure 1: Decision-making leading up to the SSM



Source: Own compilation

From an outside perspective, moving from a political commitment to the practical functioning of European banking supervision in about 2.5 years might not seem much of an achievement. From a European policy perspective, a different assessment emerges. The difficulties of agreeing on such a comprehensive shift in sovereignty from national to European level, and the associated legal and practical efforts almost by definition mean that such major integration projects take much more time. By way of comparison, the creation of the common currency was put high on the political agenda by the Delors Report in 1989 and became a reality in 1999. The process thus took four times as long as the creation of the SSM.

⁴ See the Interinstitutional Agreement between the European Parliament and the ECB of 30 November 2013 (hereinafter "Interinstitutional Agreement")

CHALLENGE NO. 1: ADDRESSING THE LEGAL HURDLES

The expeditious decision-making does not mean that the design of the SSM was without difficulties, quite the contrary. In the past, major shifts in European integration had frequently been accompanied by Treaty change, which enables the EU's primary law to be amended where necessary. In contrast, due to time constraints and the reluctance to revise the EU Treaties, the SSM was put in place within the boundaries of the existing Treaty framework.

The key EU Treaty limitation in endowing the ECB with supervisory responsibilities, as requested by EU leaders, revolved around its decision-making. Primary law provides for decisions at the ECB to be taken by the ECB's Governing Council. The fact that the ECB is designed as the *monetary policy* authority for the *eurozone* is obviously reflected in the structure of the Governing Council, as it is composed of the heads of the eurozone's national central banks and six European-level members (Articles 129 and 283 TFEU).

The Governing Council's focus on the eurozone and on monetary policy posed inter-linked hurdles for the legislators, given that the aim for European banking supervision was very different: it was to (i) involve supervisors in its decision-making process, and (ii) be open to non-eurozone Member States. Finally, some legislators also insisted on the need to prevent interference between monetary policy and banking supervision at the ECB. The measures taken to meet these three aims are discussed below.

A. Supervisory Decisions by Supervisors

It was only natural that national supervisors should be involved in the ECB's supervisory decision-making. Confining this task to central bankers alone was not sufficient, as in a number of Member States the central bank is not responsible for banking supervision (in the eurozone, about half of the countries have a supervisory authority that is separate from the central bank).

To accommodate the desire to include supervisors, legislators agreed to put in place a decision-shaping body at the ECB that focuses solely on banking supervision: the Supervisory Board. This body consists of the following members:

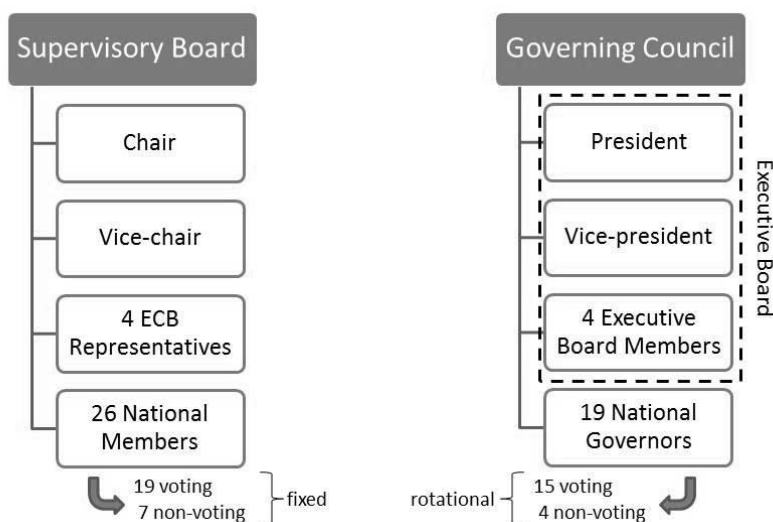
- A Chair;
- A Vice-chair (who is also a member of the ECB's Governing Council);
- Four ECB representatives;
- A representative from the national supervisory authority of each SSM country. For those countries where banking supervision does not come under the remit of the national central bank, that central bank is also a member of the Supervisory

Board, but it does not have the right to vote (that way, one vote is given to an authority from each Member State).⁵

In its present shape, with the SSM being limited to the eurozone (see below), the Supervisory Board has 32 members, 25 of whom have voting rights. Decisions by the Supervisory Board are usually taken by simple majority. Only when the Supervisory Board votes on ECB regulations are decisions taken by qualified majority.

The configuration of the Supervisory Board is to a large extent similar to the ECB's Governing Council. Both bodies include six European-level members, in addition to members from each participating Member State. Furthermore, not all members around the meeting table can cast a vote. See Figure 2 for a comparison between the two bodies.

Figure 2: ECB supervisory decision-shaping bodies



Source: Own compilation

Notwithstanding the similarities, there are also important differences in the design of the two bodies. First of all, the Supervisory Board has more members, as some countries are represented by both the supervisor and the central bank. Secondly, the governors of the national central banks rotate voting rights among them in the Governing Council. In contrast, voting rights in the Supervisory Board are fixed (i.e. all supervisors have a vote, non-supervisory central banks do not).

⁵ See Article 26 of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (hereafter "SSM Regulation"), and Article 6(2) of the Rules of Procedure of the Supervisory Board.

Finally, arguably the biggest difference between the two bodies lies in the status of the European-level representatives: in the Governing Council, the six European-level members together make up an Executive Board. The latter plays a key role in the preparation of decisions and in operational matters. The Supervisory Board has no such equivalent. It would have been possible (and still is possible) to create a similar body, but this is not included in the legal texts. Instead, the Supervisory Board has a Steering Committee, whose membership rotates among Supervisory Board members. Its role is to prepare upcoming meetings of the Supervisory Board, which is somewhat different from preparing the actual draft decisions and dealing with operational matters.

By creating the Supervisory Board, legislators succeeded in allowing national supervisors from all SSM countries to be involved in supervisory decision-making. But it is important to remember that its creation in no way modifies the ECB's Treaty-based decision-making rules. There is no legal delegation of decision-making to the Supervisory Board, i.e. the Governing Council remains the ECB's supreme decision-making body and still adopts all final supervisory decisions.⁶ Nonetheless, the desire was to endow the Supervisory Board with as wide a role as possible in decision-shaping. In a demonstration of legal ingenuity, legislators therefore designed a supervisory decision-making procedure that maximises the role of the Supervisory Board as *de facto* decision-maker, while not touching on the Governing Council's *de jure* decision-making powers.

The decision-making procedure, dubbed the *non-objection procedure*, always starts with the Supervisory Board adopting a draft supervisory decision. This draft decision is then submitted to the Governing Council for approval. Only when the Governing Council formally objects to the decision within at most 10 days (less in urgent cases), the decision is not approved. Hence, if the Governing Council does not explicitly react, the Supervisory Board's draft decision becomes the final ECB decision.

In the rare cases where the Governing Council were to object to a draft decision from the Supervisory Board, the latter can convene a Mediation Panel. This Panel comprises a member of each SSM country, either the governor of the national central bank or a representative of the national supervisor. The Governing Council still has the final say, but the Panel's views are likely to have some moral authority. The Panel is especially relevant for those national supervisors that are not represented in the Governing Council, as it allows them to challenge its views. In addition to convening the Mediation Panel, the ECB President also has to inform the Chair of the European Parliament's Economic and Monetary Affairs Committee whenever the

⁶ In fact, the European Commission's initial legislative proposal contained a provision on delegation of decision-making from the Governing Council to the Supervisory Board. This delegation was, however, omitted from the final legal text because its legal soundness was not assured (Ferran & Babis, 2013)

Governing Council objects to a Supervisory Board decision. This is likely to serve as an additional brake on opposing the Supervisory Board's draft decisions.⁷

This non-objection procedure is a somewhat cumbersome procedure, as it involves multiple layers of decision-making, with both a *de facto* and a *de jure* decision-making body. From an efficiency point of view, this might not be optimal. Yet given the legal constraints at hand, credit goes to those who came up with the procedure. It allowed for the implementation of a key response to the crisis, and – while perhaps not fully efficient – the procedure was acceptable to all. Furthermore, it has proven effective since the start of European banking supervision.

B. Openness to the Eurozone 'Outs'

The ECB's focus on the eurozone, as enshrined in the European Treaties, goes in two directions. On the one hand, non-eurozone countries have no voting power in the ECB's Governing Council (see above). On the other hand, and as a consequence, the ECB cannot take decisions that are binding on non-eurozone bodies. Hence, the ECB is not able to instruct supervisors and banks outside the eurozone in a legally binding manner.

This dual limitation makes it at first glance difficult to include non-eurozone Member States in the SSM. For this reason, the Commission's initial legislative proposal provided rather little scope for non-eurozone involvement in the SSM. However, due to the political desire to be as open as possible, European legislators substantially broadened the venues for involvement of non-eurozone countries in European banking supervision. The legislators' work resulted in giving non-eurozone Member States the possibility of signing a *close cooperation agreement* with the ECB, which allows them to participate both in the SSM and in Supervisory Board meetings.

Through signing the agreement, both the non-eurozone Member State and the ECB take on a number of commitments. For its part, the non-eurozone country commits itself to implementing the ECB's decisions. While this does not allow for ECB decisions to be directly addressed to banks, it does mean that the ECB can take decisions addressed to the national supervisor. The supervisor has the responsibility to make sure that the decision is applied, notably by taking supervisory decisions addressed to individual banks. The ECB in turn undertakes to duly consider the interests of the non-eurozone country that signed the close cooperation agreement. In this respect, the non-eurozone country can request a reasoned opinion by the Governing Council should the latter object to a Supervisory Board decision (in addition to the supervisor's capacity to request a verdict by the Mediation Panel, see above).

⁷ See I.4 of the Interinstitutional Agreement.

These close cooperation arrangements obviously do not override the EU Treaty provisions: the supervisor outside the eurozone could still decide not to implement a specific ECB decision. Yet, in that case, the ECB has the possibility to stop the close cooperation with that country altogether. Similarly, the non-eurozone country too is allowed to exit the close cooperation when it is unsatisfied with an ECB decision. After three years of close cooperation, a Member State can even pull out of the close cooperation arrangement without referring to a specific decision. Both partners signing the agreement are hence able to end their cooperation rather easily (Article 7 SSM Regulation).

The above might appear like an overly non-committal relationship between the ECB and the participating non-eurozone country. However, several elements make sure that signing a close cooperation agreement is not something to be taken light-heartedly. Most notably, a country is not able to re-enter into a close cooperation agreement for three years after its previous close cooperation has ended – putting a brake on spur-of-the-moment decisions to leave. Leaving the SSM could also delay eurozone membership, as being member of the SSM is an integral part of eurozone membership. Besides, putting an end to close cooperation would entail political costs for both the ECB and the non-eurozone Member State involved. If the country in question faces certain banking upheavals, it is likely to avoid upsetting the financial markets through such a decision.

By striking the above balance between engagement and revocability, the necessary stability for the SSM's architecture should be ensured. Defining the nature and conditions of possible close cooperation has demanded sizeable efforts by rule-makers. Yet, by November 2016, it had still not been used by non-eurozone countries. It remains to be seen whether it will be put to use in the future (see below).

A related discussion concerned the impact of the SSM on the functioning of the EU-wide European Banking Authority (EBA), based in London. Non-eurozone countries – the UK in particular – feared that the SSM would have a dominant role in the EBA. For this reason, a double majority rule was introduced for most EBA decisions. This rule means that decisions have to be approved by both a majority of SSM countries and a majority of non-SSM countries. It demonstrates that the creation of European banking supervision has had an impact well beyond its participating members.

C. Separating Monetary Policy and Banking Supervision

Reconciling the ECB's banking supervision tasks with its existing mandate also faced its own complications. As stipulated by the EU Treaties, the primary objective of the ECB is ensuring price stability, with one of its specific tasks being to contribute to the smooth conduct of financial supervision (Article 127 TFEU). During the legislative work on the SSM, some feared that endowing the ECB with bank supervision tasks

would lead to an unwanted entanglement of the ECB's missions. On the one hand, monetary policy could be affected by supervisory tasks if they prevented the ECB from pursuing its price stability objective. On the other hand, banking supervision might be deficient due to the ECB's prime focus on price stability. For these reasons, a strict separation between the two tasks was called for by some Member States; a "*Chinese wall*" to use the words of Germany's Finance Minister (Schäuble, 2012).

In order to address these concerns, a separation principle was introduced at the ECB. Key elements of this separation are the creation of the Supervisory Board and the non-objection decision-making procedure, as discussed above. Furthermore, whenever the Governing Council is to discuss supervisory matters, these discussions need to take place in separate meetings from the meetings where monetary policy is discussed. The separation principle also applies at staff level, as the ECB staff working on supervisory policy is to be organisationally separated from the ECB staff working on other tasks. In practice, supervisory and monetary policy staff members are even physically apart, as they have their offices in different buildings. All of this results in different decision-making lines. Supporting services – e.g. human resources and IT – can nonetheless be shared among the two strands of the ECB, in order to avoid inefficiency and duplication of tasks (Article 25 SSM Regulation).

In terms of accountability too, the banking supervision regime is clearly differentiated from the ECB's other work. This was to prevent supervisory accountability from having an impact on the ECB's monetary policy accountability and independence. In many ways, the mandatory accountability requirements for supervisory policy go beyond those for monetary policy. Besides regular appearances in the European Parliament and answers to written parliamentary questions (which is also the case for monetary policy accountability), the Supervisory Board Chair or Vice-chair can be required to have discussions behind closed doors with key figures in the European Parliament's Economic and Monetary Affairs Committee. The ECB furthermore has to provide confidential records of the proceedings of Supervisory Board meetings to that parliamentary committee. As regards the Council, the Chair of the Supervisory Board also participates in exchanges of views, and the ECB replies to questions from the Council. Accountability to national parliaments is also put in place, including the possibility for discussions with Supervisory Board members.⁸

While these *mandatory* accountability arrangements for banking supervision often stretch beyond those for monetary policy, there is in some ways more *voluntary* openness on monetary policy towards the broader public. Both strands of work – of course – communicate with the public, via press releases, public speeches, annual reports, etc. But there are also some differences. Notably, each Governing Council monetary policy meeting is followed by a press conference, where the decisions are

⁸ See Article 20 SSM Regulation, as well as section I of the Interinstitutional Agreement.

explained. In 2015, the ECB started publishing public accounts of its monetary policy meetings. Hence, monetary policy accountability often involves the public directly, while the accountability of European banking supervision largely occurs through parliaments and the Council. Such a distinction is logical given the different natures of both tasks.

The separation principle results in a clear division between the monetary and supervisory functions at the ECB. This does not mean that there is no link whatsoever between the two. In the end, decisions are still approved by a single body, the Governing Council. Furthermore, the separation is not necessarily applied to the same extent at national level. While this raises concern for some (e.g. Buch, 2014), others point to the potential benefits of sharing information between the two fields of work: monetary policy and supervisory policy indeed depend to a large extent on the same kind of information (Beck and Gros, 2012). Ultimately, the most important objective seems to be that monetary policy and banking supervision are not unduly influenced by each other. The current provisions appear to be achieving this.

CHALLENGE NO. 2: MAKING EUROPEAN BANKING SUPERVISION OPERATIONAL

Addressing the legal hurdles was only a first challenge in setting up European banking supervision. The new European supervisory architecture also needed to be up and running in a narrow time span, as legislators and supervisors had to operate within tight deadlines.

As a result, the job of legislators was to work out the division of labour inside the SSM (see A.). The ECB, for its part, had to start an expeditious process of recruitment and organisational change (B.). Finally, before the SSM could start, the ECB and national supervisors had to conduct a vast health check of the banking sector – so as to get the SSM started on a sound footing (C.).

A. Involving the ECB *and* the National Supervisors

In the months following June 2012 legislators had to work out how the SSM would operate in practice. In general terms, they stipulated that it would be composed of both the ECB and the national supervisory authorities. The ECB was mandated with the overarching task of ensuring the effective and consistent functioning of the SSM, and in turn the national supervisors were required to assist the ECB in performing its tasks.

The legislators also had to define the more precise division of responsibilities between the central (the ECB) and decentralised elements (the national supervisors) of the SSM.⁹ This division of responsibilities essentially gives either the ECB or the national supervisors the responsibility for adopting the necessary supervisory decisions. The division is based on two yardsticks: the type of supervisory decision and the size of the bank.

As regards the type of decision, a distinction is made between a limited number of core supervisory decisions and the other types of supervisory decisions. The core supervisory decisions are always made at the central level, irrespective of a bank's size. This covers authorisation of a bank, withdrawal of its licence and approval of major shareholdings in a bank. National supervisors help prepare these decisions, but it is the ECB that takes the final decisions in these fields for any bank.

⁹ The working relations are defined in the SSM Regulation and were detailed in an ECB Framework Regulation. For the latter, see: Regulation (EU) No. 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the single supervisory mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17), OJ L 141, 14.5.2014.

For all other supervisory decisions (the vast majority), the distinction in responsibilities is based on the relative significance of a bank. The ECB directly supervises the most important banks, dubbed “significant” banks. The national supervisors in turn supervise the other banks, which are called “less significant” banks. The European legislators stipulated that a bank is deemed significant if it meets at least one of the following five criteria:

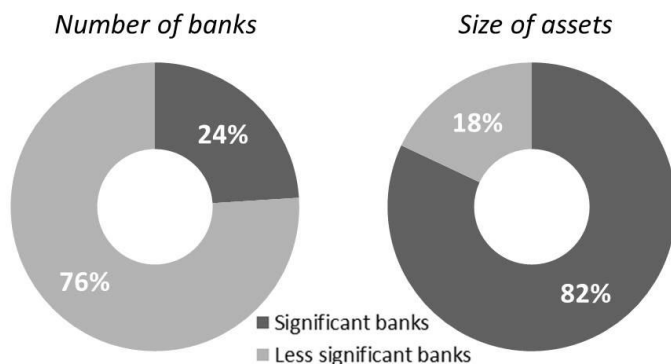
1. Assets exceed EUR 30 billion
2. Assets exceed EUR 5 billion *and* 20% of the Member State’s GDP
3. Among the three most significant banks in a Member State
4. Substantial cross-border activities¹⁰
5. Receives eurozone public financial assistance

With these five criteria, legislators wanted to include banks that are important on a European and a cross-border level (criteria 1 and 4), as well those that are important relative to the Member State where they are based (criteria 2 and 3). Criterion three furthermore makes sure that all Member States are covered by the ECB’s direct supervision. Finally, the fifth criterion was included so as to monitor banks where European taxpayers’ money is at stake.

These static criteria are supplemented by the possibility for the ECB to take over direct supervision of any bank. That way, the ECB is able to deal directly with possible problematic banks, even if they would normally be considered less significant on the basis of the pre-defined criteria above. Indeed, as the crisis has shown, even small banks can cause great harm and should not by definition be considered “less significant” (e.g. the *Cajas* in Spain).

Applying the five criteria above resulted in the identification of 129 banking groups as significant (as of 2016), comprising about 1,100 banks in all. As Figure 3 shows, these groups represent roughly a quarter of the SSM’s total bank population. When making the comparison in terms of assets, the opposite picture emerges. In total, significant banking groups encompass more than 80% of SSM banks’ assets. In this sense, the ECB is indeed focusing on a limited selection of banks that nonetheless represent most of the eurozone banking sector’s activities.

¹⁰ This criterion was defined by the ECB as having both (i) assets exceeding EUR 5 billion and (ii) the ratio of its cross-border assets/liabilities above 20%.

Figure 3: The SSM banking landscape

Source: 2015 ECB Annual report on supervisory activities and own calculations

This division of responsibilities should not lead to believe that the ECB supervises significant banks on its own, nor that less significant banks stay outside the ECB's remit. In practice, there is intense mutual cooperation for both categories of banks. As regards significant banks, a dedicated joint supervisory team has been created for each banking group (composed of several dozen supervisors for the largest banks). These teams are led by the ECB, but are always composed of staff from both the ECB and the national supervisory authorities. The teams count on average about two national supervisors for each ECB staff member in the team (Nouy, 2015). For less significant banks, the national supervisors report on a regular basis to the ECB. The intensity of reporting depends on the relative importance of the bank. But the idea is always that the ECB is kept in the loop for the supervision of all banks, and is able to steer wherever desirable. The SSM has additionally developed a supervisory manual that details how supervisory actions are to be conducted, both regarding significant and less significant banks. Such a uniform, SSM-wide manual is to ensure that supervision is consistent across the SSM.

By setting out the above-mentioned arrangements involving both the ECB and the national supervisors, the legislators had two aims: allowing for the European banking supervision system to be launched in good time – which in any case made full centralisation impossible –, and ensuring high-quality supervision. Based on the legislative texts, it is clear that the key role of national supervisors in European banking supervision is not meant as a transitional measure, but rather serves as an essential feature. This mechanism approach has the potential of combining the strengths of both levels of supervision, and limiting their respective weaknesses. On the one hand, the ECB's central role is to avoid regulatory capture or defending “national champions”. On the other hand, the involvement of the national supervisors enables them to draw on their respective strengths: proximity, local knowledge and the absence of language barriers.

B. Building up the ECB's Supervisory Capacities

Even with the support of the national supervisors, the ECB still faced a formidable task in finding the necessary human resources and implementing the organisational changes in a short space of time. It is important to recall that the ECB had no experience in the supervision of individual banks: while it had dealt with financial stability since its inception, the tasks of a bank supervisor had until then remained outside its remit. What complicated the matter further was that the ECB could only start recruiting supervisory staff from November 2013 onwards, i.e. when the SSM Regulation officially entered into force. This meant that it had only one year to recruit the necessary staff ahead of the SSM's operational start one year later.

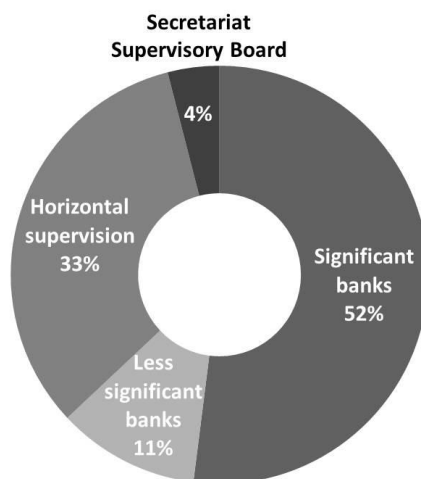
In that one-year period, the ECB hired nearly 1,000 staff members in light of its supervisory tasks. Of these new recruits, about 770 were specifically hired to carry out banking supervision. The remainder took up functions in other services such as IT, legal services and human resources.¹¹

The division of staff members at the ECB's banking supervision arm reflects the weight of its different tasks. Roughly half of the supervisory staff members work on the supervision of significant banks. In contrast, only 11% of the staff work on less significant banks. This means that only about 85 people at the ECB deal with 3,500 less significant banks, or 1 ECB staff member per ± 40 banks. This proportion highlights that national supervisors play by far the biggest role in the supervision of these less significant banks.

One-third of ECB banking supervision staff works on so-called horizontal supervision, i.e. on specific supervisory areas. This includes for example on-site inspections, internal models and supervisory planning, but also crisis management and sanctioning. Finally, a small number of people work in the secretariat of the Supervisory Board, where they are to ensure a smooth functioning of the decision-making machinery (see Figure 4 for an overview).

This first hiring process reflected the staff estimates that were made prior to the SSM. As often, actual practice has shown that these estimates were overly optimistic in some areas. For this reason, a staff increase at the ECB has been agreed, with the recruitment of 160 additional supervisory staff members in 2016 and more to come in 2017. This will bring the number of supervisory staff at the ECB to around 1,000. However, even with increased staff levels, it should be clear that most of the SSM staff works at the national supervisory authorities: with more than 4,700 supervisors, the national level makes up more than 80% of the SSM's total supervisory staff (Dombret, 2016).

¹¹ Figures are in full-time equivalents. In total, 1,073.5 staff members were budgeted for at the ECB for SSM purposes for 2014. By January 2015, 960 staff members had been recruited. See the 2014 and 2015 ECB Annual Reports on supervisory activities.

Figure 4: Division of ECB banking supervision staff as of end-2015

Source: 2015 ECB Annual Report on supervisory activities

C. Verifying the Health of the Banking Sector

The goal of policy-makers was to let European banking supervision start with a clean slate. There were fears in the markets and among policy-makers that several banks were no longer viable, but it was not clear which banks and how big the problems were exactly. As a consequence, Member States were only willing to transfer banking supervision to the European level if the existing weaknesses in the banking sector were identified beforehand. Scrutinising the health of the banking sector was therefore a pivotal condition for meeting the June 2012 commitment by European leaders.

To check the health of the banking sector, a comprehensive assessment of Europe's 130 biggest banking groups was conducted.¹² This assessment had three objectives in mind. First, foster transparency on the state of the eurozone's banking sector, i.e. find any "*skeletons in the closet*" as some say (Beck, 2015). Secondly, take corrective action were needed. Finally, and perhaps most importantly, restore confidence in the banks, both among the public and in national capitals.

Time was again limited, as the exercise needed to be concluded before the start of the SSM. As a further difficulty, the ECB's banking supervision staff was still being recruited, resulting in limited centralised resources in Frankfurt. Despite these constraints, the ECB was to conduct an assessment of the banking sector that was unprecedented at EU level. As had been the case in previous exercises, the stress test

¹² The selection of banks did not match exactly the number of significant banks, as it was not known at the start of the comprehensive assessment which banks would be deemed significant.

examined what would happen to the banks in case of renewed crises. Additionally, and this was novel, a detailed review of the quality of banks' assets had to be conducted (Asset Quality Review or AQR): the review entailed checking more than 100,000 borrowers and more than 100,000 collateral items on banks' balance sheets. Given the time and resources constraints, the ECB obviously could not perform this task by itself. So, it collaborated with national supervisors and external consultants. In total, over 6,000 people were involved in the whole process.

The stress test simulations resulted in a total hypothetical capital depletion of EUR 260 billion at the 130 banks, and assessed what the impact would be on meeting capital requirements. The results, announced at the end of October 2014, showed a total capital shortfall (i.e. below the desired levels) of EUR 24.6 billion in 25 banks. Taking into account capital that had been raised in the months preceding the results of the comprehensive assessment, the final shortfall of capital stood at EUR 9.5 billion in 13 banks. These 13 banks were given nine months to correct the shortfall.

For some observers, the capital shortfalls identified by the comprehensive assessment were surprisingly low. Indeed, market analysts had often envisaged higher shortfalls. What is sometimes overlooked, however, is that many banks had anticipated the comprehensive assessment by already strengthening their balance sheets prior to the outcome of the comprehensive assessment. Between 1 January and 30 September 2014 alone, banks subject to the comprehensive assessment had raised EUR 57 billion in additional capital. Through these extra capital-raising measures, and together with the existing capital buffers, the banks were able to withstand most of simulated stress, resulting in relatively minor levels of actual shortfalls (ECB, 2014; Gren *et al.*, 2015).

At the same time, even if the whole exercise was wide-ranging and unprecedented, this naturally does not mean that all possible weaknesses in Europe's banks were identified. As evidenced by the subsequent non-performing loan issues in some countries, it takes more than a single exercise to ensure the soundness of the banking sector. But all in all, the comprehensive assessment seems to have succeeded in providing a much more accurate picture of the state of Europe's banking sector. For the ECB, this assessment was an excellent way to build its supervisory expertise.

With the conclusion of the comprehensive assessment in October 2014, the final hurdle was taken for the start of the SSM. As Supervisory Board Chair Danièle Nouy put it, the comprehensive assessment gave the SSM "*the opportunity to start its supervision on a credible footing*" (Nouy, 2015). On 4 November 2014, less than two weeks after the publication of the assessment's results, the new reality of European banking supervision finally kicked in.

THE CHALLENGES AHEAD

The start of the SSM in no way meant that European banking supervision was entering into a steady-state environment. While the design phase and the build-up of supervisory capacities provided the ground work, the real job only got started after 4 November 2014. First and foremost, the essential task of the SSM is, of course, to supervise the banking sector and to act wherever needed. Given the low-interest rate environment and the high level of non-performing loans in some countries, this is a particularly challenging job for a young supervisor.¹³

This section will focus on a different aspect of the SSM's upcoming challenges, that is, the institutional setting in which it operates. Some of the institutional challenges discussed below are matters internal to the SSM (see A.). Other issues will have to be dealt with together with other players (B.) or are even largely outside the remit of the SSM (C. and D.). Nonetheless, the response to all these challenges will determine to a large extent whether European banking supervision can be successful in the future.

A. Towards Steady-state European Supervision

Even though European banking supervision has been operational for some time, it is in many ways still maturing. Supervisors and banks are still adjusting to the new supervisory landscape. The ambition of the SSM should be to work towards a fully mature, European way of supervision that nonetheless allows for some local specificities where needed. A lot has already been accomplished in this respect, yet achieving steady-state European supervision will be a gradual process spanning several years. There are three broad dimensions to it.

First of all, there is the adjustment to the *European functioning* of the SSM. The mechanism aspect of European banking supervision results in supervision being carried out across authorities and across borders. This is a marked departure from the past, where supervisors had a national focus and tasks were often designated to a single authority. The practical consequences of the changeover are well illustrated by the joint supervisory teams. In contrast to the past, they now conduct day-to-day supervision in multi-country, multi-authority teams that have to work intensely together while being physically apart. Of course, making a success of such working relations requires efforts from both the European and the national side.

National supervisors have to adapt to working in an international environment, with a European instead of a national mindset. Giving up the final say on supervisory

¹³ For an assessment of the SSM supervisory practices, see Schoenmaker and Véron (2016).

decisions is not easy either. The ECB for its part has to concentrate on making the best possible use of the available national capabilities, providing national supervisors with a role that goes beyond the mere execution of supervision. The ECB indeed stresses the need to continue working towards a shared “SSM team spirit”, in which the different supervisors feel part of a single, common project.

A second dimension in the move towards truly European supervision concerns *legal convergence* across the SSM. The fact that the ECB sometimes has to apply 19 different sets of rules obviously complicates its work. This problem is partly mitigated by the EU’s efforts towards a single rulebook for the banking sector, which has led to significant regulatory convergence across the EU. Yet there are still legal differences, even within the SSM. Work on streamlining legislation beyond the single rulebook is therefore ongoing in the SSM. To this end, the ECB adopted in 2016 a Regulation to harmonise part of the options and discretions that are left to national supervisors.¹⁴

Even with all these efforts, it would be an illusion to believe that all national differences can be done away with in the foreseeable future. Several of the legal differences do not fall under the remit of the supervisors, but are the prerogative of national legislators. Although legislators are working on European convergence of financial law, this will be a long-drawn-out process. In addition, some differences stem from other areas of national law (such as tax or company law) or target a specific feature of a country’s banking landscape. While the SSM should urge for harmonisation of the regulatory framework, it also has to respect the outcome of national democratic processes. To deal with these legal differences, the SSM will therefore have to adopt a dual approach: it must continue to push for harmonisation wherever possible, but it should at the same time be able to cope with the legal differences that will remain.

Finally, a mature SSM also requires mature *decision-making* processes. As the decision-making processes were designed without knowing how the system would operate in practice, they need reviewing on the basis of experience gained. One thorny issue is the many supervisory files that need to be approved by both the Supervisory Board and the Governing Council (more than 1,500 files in 2015 alone). This high volume runs the risk of losing sight of the more important decisions. To this end, a possible delegation of certain decisions is rightly being envisaged by the ECB (Lautenschläger, 2016).

In addition, stepping up the role of the ECB representatives in the Supervisory Board could be examined, as it might be able to contribute to the effective European-level management of the decision-making process. It would be possible in this respect for the six European-level members of the Supervisory Board to jointly prepare draft supervisory decisions and deal with the SSM’s operational functioning. They would

¹⁴ ECB Regulation 2016/445.

then exercise a function similar to that of the Executive Board for the ECB's Governing Council. This would represent an internal organisational change that does not require any legislative amendments.

B. Brexit and the Eurozone 'Outs'

As of November 2016, no Member State outside the eurozone had sought to become a member of the SSM. Nonetheless, some of them have shown an interest in participating (e.g. National Bank of Romania, 2014). As a potential benefit of joining the SSM, non-eurozone countries tend to focus on the possibility of being more closely involved in supervising banking groups that have a large presence in their domestic markets. At the same time, they perceive disadvantages, such as the loss of national decision-making powers and no vote in the ECB's Governing Council (see above). A wait-and-see approach also likely plays a role, as Member States prefer to hold out on joining a young mechanism that is part of a still-to-be completed banking union (IMF, 2015). Nonetheless, if the banking union is able to show its added value in the coming years, non-eurozone countries could decide to join.

The British decision to exit the EU is a momentous event for European integration. Yet it will not lead to changes in the SSM's institutional set-up as such, given that the UK supervisor was never a member in the first place. Nonetheless, it is clear that Brexit will have repercussions for the SSM as well. Importantly, European banking supervision will have to keep a close eye on financial sector movements during the Brexit process, monitoring in particular eurozone banks with large exposures to the UK. In terms of membership of the SSM itself, the question is whether Brexit will prove an incentive or a disincentive for non-eurozone Member States to join.

What is clear, nevertheless, is that the UK's EU exit will drastically change the relative weight of the eurozone versus the EU's non-eurozone banking sector. With more than EUR 9 trillion in total assets, the UK's banking sector is substantially bigger than any other EU Member State's. It even dwarfs the banking sector of all other non-eurozone Member States combined, which totals about EUR 3 trillion. Following Brexit, the eurozone's banking sector will represent a much bigger part of the total EU banking sector: the former made up about 72% of the EU's banking sector before Brexit; with the UK out, the eurozone's share will swell to more than 91% of total EU bank assets.¹⁵ This shift is bound to lead to a profound reflection on how the European Banking Authority functions, notably the interaction between SSM and non-SSM supervisors inside the EU agency (in addition to discussions on the EBA's new location, following its departure from London).

¹⁵ All data refer to 2013. See Schoenmaker and Peek (2014).

Following Brexit, the SSM countries will inevitably have a bigger influence in the EU financial sector debate. This might provide non-eurozone countries with an impetus to join the mechanism. At the same time, given the political frictions during the Brexit process, they might feel more secure in sticking to supervision as they know it.

If a non-eurozone country does wish to join the SSM, the necessary framework has been foreseen to allow for such an expansion. Yet it is clear that this would represent an adaptation to the ECB's functioning. More importantly, it would test the close cooperation provisions that have been put in place. Furthermore, there would be a differentiation in the geographical scope of the ECB's activities from then on, with monetary policy focused on the eurozone and banking supervision dealing with a broader sub-set of EU Member States. This would to some extent change the nature of the ECB, and with it the EU's overall institutional architecture.

C. Completing Europe's Banking Union

European banking supervision alone cannot achieve the eurozone leaders' ambition of breaking the vicious circle between banks and sovereigns. To achieve this, the EU will also have to be capable of mitigating and tackling financial crises. This requires completing the two other pillars of Europe's banking union: a common resolution framework and a common deposit insurance.

As regards the common resolution framework, much progress has already been made. A *Single Resolution Mechanism* (SRM) has been operational since the start of 2016, together with the wider legal framework for dealing with troubled banks (the so-called Bank Recovery and Resolution Directive, or BRRD). The task of the SRM is to deal with banks when they are no longer viable in their current shape, yet without relying on financing by the taxpayer. If financial resources were needed, the SRM can rely on a Single Resolution Fund that is paid for by the financial sector (totalling about EUR 55 billion by 2023). Yet this Fund alone is not sufficient as a safety net for the SRM: a credible backstop needs to be put in place for when the Single Resolution Fund no longer has enough financial resources to deal with a crisis at one or more (large) banks.

For this reason, EU policy-makers have undertaken to put in place a backstop by the end of 2023 at the latest (i.e. once the Single Resolution Fund is fully mutualised at European level). In the meantime, bridge financing is available in the form of national credit lines to the Single Resolution Fund. Starting discussions on the design of the permanent backstop for the Single Resolution Fund was made dependent on a series of conditions (see Council, 2013 and 2015). Following the full transposition of the Bank Recovery and Resolution Directive in all Member States, all these conditions are met. So, it is important that Member States discuss (and agree on) the backstop arrangements, so as to follow up the EU's commitments with the necessary specifics.

While the supervision and resolution pillars of the banking union are quite advanced, discussions on *common deposit insurance* – the final pillar of the banking union –, are still at an early stage. This lag should not signal that deposit insurance is less important than the other parts of the banking union in ensuring financial stability. On the contrary, such insurance is essential in preventing bank runs by making sure that depositors can redeem their savings up to a certain amount if a bank fails (EUR 100,000 in the EU). If responsibility for such deposit insurance was to remain at national level (as is the case today¹⁶), this would inevitably continue to link the fate of the sovereign State and its banking sector during times of crisis – despite all other efforts to mitigate this link. The aim for many is therefore to transcend national insurance by putting in place a common insurance mechanism at European level. The Commission has taken a first step by proposing a European Deposit Insurance Scheme (EDIS) end 2015. Under the Commission’s proposal, there would be a gradual move towards a common European deposit insurance (by first offering European re-insurance, before switching to co-insurance and finally full European-level insurance). In November 2016, talks on the matter were still ongoing in the European Parliament and the Council.

In their discussions, legislators have closely linked the risk-sharing that is implied by common deposit insurance with the need to reduce risks altogether. Therefore, the EU is committed to working on a series of risk reduction measures as well (Council, 2016). This notably includes measures to improve loss-absorbing capacities at banks, further EU regulatory convergence and the implementation of internationally agreed reforms. Another important element is a change in the regulatory treatment of banks’ exposure to sovereign debt. At present, these exposures to sovereigns are typically treated as risk-free, which is out of line with market views during the eurozone’s sovereign debt crisis. Agreeing on exposure rules is all the more complex as it requires interplay between the global (Basel), EU and eurozone level.

Given that proponents of risk reduction are often less enthusiastic about risk-sharing and *vice versa*, linking the two makes sense. However, this linkage should not result in blocking both strands of reform, or only reaching a minimalist compromise. The threat of such a low-key agreement is all the more real as other, more prominent EU files (migration, security, Brexit, etc.) are likely to divert political capital away from discussions on banking union. Nevertheless, the aim must be to achieve ambitious results for both risk reduction and risk-sharing. Only that way can these measures fully support European banking supervision in breaking the sovereign-banking nexus. Without them, the SSM would lack the backing to be fully credible.

¹⁶ The scope of the schemes has been harmonised at EU level, yet the schemes themselves and their financing still remain national.

D. Treaty Change?

Amending the European Treaties often appears as a no-go area. Past difficulties in changing the Treaties, with the rejection of the European Constitution in France and the Netherlands in 2005 as a high point, have led to very small appetite for a full-scale Treaty change. For this reason, it does not seem to be a short-term prospect. However, this should not lead to the conclusion that the Treaties will never be amended. At some point, there is bound to be a change in the EU's primary law.

Despite the reluctance to start a Treaty reform process, senior figures in recent years have actually often invoked the need for future Treaty changes – notably to complete the Economic and Monetary Union (de Schoutheete, 2014). Following the British referendum vote to leave the EU, the 27 other Member States furthermore committed themselves to a reflection on the design and possible reforms of the EU. Such moments of introspection will undoubtedly continue in the future, and might at some point result in initiating a Treaty change process. If this process were to actually be launched, it would most likely lead to scrutinising the SSM's set-up. As legislators had to work within the framework of the Treaties when designing the SSM, opening up the Treaties offers new possibilities.

Such Treaty change could notably aim for an even stricter separation of European monetary policy and banking supervision. In this respect, two changes might be envisaged. As a first possibility, the Supervisory Board could be transformed into an ECB body with *de jure* decision-making powers, resulting in two supreme ECB decision-making bodies. A second (more far-reaching) option would be to set up a new EU institution for banking supervision, separate from the ECB. That would result in a complete separation of banking supervision and monetary policy, as was desired by some at the SSM's inception. Yet separation would also do away with the obvious synergies that exist between banking supervision and monetary policy. Part of the common knowledge would be lost as a consequence.

Another possible goal of any future Treaty change could be to allow non-eurozone Member States to become fully-fledged members of the SSM, with exactly the same rights and obligations as their eurozone peers. This would imply substantial legal changes, as the ECB would have to be able to address decisions directly to banks in the participating non-eurozone countries. In return, these non-eurozone countries would need to have full say in European banking supervision decisions. This could be done for example by creating an extended Governing Council (in SSM composition), or via the *de jure* separation of decision-making described above.

While these changes are theoretically feasible, this does not mean that they are bound to occur when changing the Treaties. They would notably represent yet another revision of the supervisory landscape, requiring banks and supervisors to adapt once more. Therefore, if supervision is to function adequately in the event of

future Treaty change, the decision by leaders could simply be to leave European banking supervision mostly unaltered – instead focusing on other matters. In this sense, the future debate on the SSM depends as much on how well European banking supervision is functioning as on the challenges that the EU will face at that point in time.

CONCLUSION

There is an old joke about a traveller who asks a farmer on the Irish countryside for directions to Dublin. The farmer hesitates for a while, before replying “*Well sir, if I were you, I wouldn’t start from here*”. The clue of the joke is, of course, that the traveller cannot choose his starting point.

The same holds true for European banking supervision. Its starting point has not been ideal, as it had to be put in place in an urgent manner despite several legal and practical hurdles. Other big steps in European integration, like the single currency, took several years and were often accompanied by changes to the EU Treaties. Given the crisis context, however, this was simply not possible for the SSM.

When not considering this starting point, it is easy to criticise European banking supervision for being overly complex and lacking efficiency. Indeed, the non-objection decision-making and the possibility for close cooperation with non-eurozone Member States would definitely have been designed differently if legislators had been able to start off with a clean slate, i.e. if they had been able to change the EU’s Treaties.

Yet despite these limitations, the EU has been able to put in place a mechanism that has proven effective in its still early days. This constitutes a marked success for the European project as a whole, in a period of growing Euroscepticism. The mechanism approach of European banking supervision furthermore has the potential to improve the quality of banking supervision, by combining European strengths (the independent, EU-wide view) with those of national supervision (their local knowledge). If the potential weaknesses of the European and national level can be avoided (respectively an ivory tower approach and regulatory capture), the SSM can be advantageous for both the stability of the financial sector and the wider economy.

This rather positive preliminary evaluation of European banking supervision in no way implies that the job is done. In the short run, we need to move further towards true common European supervision. Certain organisational changes can improve the SSM’s functioning, without this requiring legislative change. One such idea that merits reflection is involving the ECB representatives in the Supervisory Board more closely in the management of the SSM and the preparation of important supervisory decisions, similar to the Executive Board’s role for the ECB’s Governing Council.

Besides its own efforts, the success of European banking supervision will be shaped by external factors, including European legislators’ response to future events such as Brexit discussions and possible crisis situations. This paper started by describing the meeting between ECB President Mario Draghi and European Council President Herman Van Rompuy in June 2012. In similar vein, ECB President Mario Draghi might find himself in a similar meeting – this time with the new head of the European

Council Donald Tusk – in the coming years to converse about the previous night’s long and tense debates. The outcome of such debates could once more surprise the outside world, be it radical steps towards completing the banking union or opening up the path towards Treaty change, for instance. Such decisions have the potential of altering the SSM – and the EU – in a fundamental manner. After all, European banking supervision is still maturing. Policy-makers and practitioners alike should be fully aware that its future is still very much in the making.

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