ECB Banking Supervision and Beyond

Prospectus for a CEPS Task Force

Chairman: José-Maria Roldan,
former Director General of the Bank of Spain
and former Chair of the Committee European Banking Supervisors (CEBS)

Rationale

The last five years have witnessed a huge redesign in the regulation of financial markets in Europe, culminating in the transfer of supervision of the largest banks in the eurozone to the European Central Bank (ECB). The regulatory agenda was largely set at the international level in the context of the G-20, while the supervisory change was a specifically European response to shortcomings at the national level. This raises the question: What next?

The start of the ECB as supervisor will coincide with the coming into office of a new European Commission, and before that a new European Parliament. As the EU and the world move out of crisis mode, it is likely that the Commission will be asked by the Parliament to set a more long-term agenda for Europe’s financial markets.

With the agreement on bank resolution and recovery Directive (BRRD), and the expected compromises on the single resolution mechanism (SRM) and the deposit guarantee scheme (DGS), full banking union comes in sight. Not every element will apply immediately, however, and long transition periods apply, raising issues for the interim period. In addition, there will be a lack of clarity concerning who is in charge, the ECB or the member states, which will create confusion and stir up turf battles for some time to come.

CEPS proposed to form a Task Force to explore these different issues in an in-depth and systematic way to produce a series of policy recommendations, focusing on the implications for EU banking, supervision and European integration. Members of the Task Force will discuss these matters in a methodical manner over three meetings in the coming six-to-nine months.

CEPS is inviting banks and other financial institutions, government representatives and associations as well as international experts and academics to openly discuss the unresolved issues related to the EU’s Banking Union and specifically the role of the ECB as a banking supervisor, and the new regulatory architecture.

The Task Force will provide an opportunity for a full debate on these matters among policy-makers, executives and experts. Thanks to its privileged access to European institutions, but also building upon its expertise in financial regulation and bank business models, CEPS will bring together a high level of expertise and ensure in-depth discussions of the ‘open issues’.

The meetings will be ‘off the record’ and will be held at CEPS’ premises in the centre of Brussels. We aim for a well-balanced group of about 25-30 persons.
Description

Banking Union is undoubtedly a quantum step forward in EU financial integration, offering a new institutional structure that will force other institutions, markets and operators to adapt. But it also demonstrates how much remains to be done, 20 years after the completion of the single market. Banking Union can thus be expected to be the catalyst to address issues that remained unresolved for quite a while.

The intention of the Task Force is not to discuss the long-term structural changes that Banking Union may bring about, but rather the medium-term agenda. One set of issues relates to supervision, and the role of the ECB, a second to regulatory matters, and the remaining role for the member states.

On the regulatory side, a whole new set of rules was adopted in the recent years, which are still in course of being implemented. The most significant are the new rules on capital, contained in the CRDIV (capital requirements Regulation and Directive, V.4). Furthermore, there are the rules on resolution, which are still being finalised, with the bail-in of up to 8% of liabilities and the contribution to the resolution fund(s).

We enumerate below the salient issues that we expect to emerge:

- **Division of powers between the ECB and the national competent authorities.** Many articles in the SSM Regulation as well as those in the CRR and CRDIV deal with this issue, all of which provide for a rather complex structure (see, for example, CRDIV Arts 128-134). This structure could give rise to a host of problems between the ECB and the participating SSM states.

- **Powers of the ECB to issue its own regulations and guidelines.** The SSM Regulation, but also the EU Treaty and the ECB statute give the ECB the powers to adopt its own regulations. How will these powers interact with existing EU law? What will be the impact of these rules in non-participating member states?

- **Home/host competences and ECB powers.** What are the remaining powers for member states in the regulation of subsidiaries and branches, and in the control of the free provision of services? What about the cooperation with non-SSM participating member states in the supervision of branches or in the free provision of services? Will national supervisory authorities have the power to impose higher standards and how would they qualify?

- **Division of powers and cooperation between the ECB and EBA.** The division of powers between both entities seems to be clear: the ECB is the supervisor and the EBA the standard setter, at least for the SSM. However, some articles in the EBA Regulation give supervisory powers to the EBA. How will this work in practice? Or will this only remain of importance for non-participating member states?

- **Relationship between the ECB and other European and national authorities, e.g. ESMA, EIOPA, DG Competition and national competition authorities.**

- **Emergency Liquidity Assistance (ELA) and Lender of Last Resort principles.** The ECB and DG Comp have recently adopted new rules on ELA. Have these rules effectively been followed by the national central banks? Have the ECB and DG Comp effectively been informed by the NCBs? How will ELA function in combination with the BRRD?

- **Close cooperation agreement (CCA) with non-eurozone member states.** The procedure for opting-into the SSM has been clearly spelled out (Art. 7 SSM), but how will this work in practice? When will the first states opt in? Will the possibility of stepping back from CCA create a supervisory arbitrage?

- **The relationship between micro-prudential and macro-prudential supervision.** The ECB was previously entrusted to carry out macro-prudential tasks as it hosts the secretariat of the European Systemic Risk Board (ESRB). Under the SSM, macro-prudential tasks also need to be exercised, for the enforcement of the CRDIV provisions, for example. How will macro- and micro-prudential supervision work under one roof? How will they interact with the tasks of the participating member states, which remain the guardians of financial stability under the EU Treaty? How will macro-prudential objectives be internalised in a micro-prudential framework?

- **Disclosure of supervisory information.** This is an old issue on which not much progress has been made, unfortunately. Only one member state, Denmark, has the practice of disclosing information in response to supervisory inspections on the spot.
Operational interdependencies of the SSM and further elements of banking union, especially SRM/recovery rules, resolution fund(s), ESM and the deposit guarantee schemes. How precisely would these work in practice?

Supervisory fees. How will they be enacted? How will they be calculated? Will national supervisory fees in SSM participating member states be abolished?

Reporting standards. Work on financial reporting (FINREP) and common reporting (COREP) is 10 years old, but the level of harmonisation continues to be insufficient, or there are possibly too many reporting cells. Will the ECB superimpose a tighter level of integration?

Further harmonisation of technical standards, related to supervisory items, e.g. non-performing loans and accounting standards.

Provisional Meeting Schedule

First Meeting 5 May 2014: Preparing for the SSM

Session 1. The EU banking system on the verge of SSM

This session will set the scene for ECB banking supervision to start in November 2014. How does the EU banking sector compare? The presentation will be based on internal (CEPS Bank Monitor) and external research (speakers: analysts, banks).

Session 2. The ECB: Preparing for SSM

How will ECB supervision work? What will be business as usual, and what will change? State of progress towards the start date of November 2014 and preparation by the banking sector and by large specialised financial institutions (speakers: ECB rep, banks).

Second meeting July 2014: The new regulatory framework: Will it work?

Session 1. Is the single rulebook and the Lamfalussy process working?

The last five years have seen a huge process of financial re-regulation, with more detailed level-one rule making, and a growing demand for detailed level-2 measures. Has this process spiralled out of control? Is it adapted to the diverse state of financial market development in the EU? What should be recommended to the next European Commission on the subject? (speakers: experts, European Commission, banks).

Session 2. What next?

Will Banking Union provoke a new wave of integration? If so, will it lead to spillovers in other fields, such as company law, taxation or contract law? Or do we need a further phase of simplification? (speakers: expert, banks).

Third meeting October 2014: Discussion of a final report

A report will be prepared, based on the discussions in the first two meetings, which will set out a series of recommendations, supported by in-depth analysis. It will be discussed in detail with the members of the group for publication and presentation.

Intended stakeholders

This Task Force is intended for the following stakeholders:

- Large cross-border and local banks
- International and national supervisory bodies
- Representatives of European institutions
- Representatives of national governments
- Experts from academia
Timeline

The first meeting will take place in April 2014, to discuss and set the agenda with the Task Force members. A total of three to four full-or half-day meetings will take place over the next five to six months. A final report will be published before the SSM becomes operational and with the coming into office of the new European Commission.

Methodology

CEPS Task Forces are processes of structured dialogue among stakeholders, backed by independent research and analysis carried out by CEPS, one of Europe’s leading think-tanks. Based on the agenda outlined in this Prospectus, CEPS will organise a number of private meetings for Task Force members, with the participation of academics, stakeholders, regulators and supervisors.

Team

The Task Force will be chaired by José-Maria Roldan, former Director General of the Bank of Spain and former Chair of the Committee of European Banking Supervisors (CEBS), the predecessor of EBA. The research for this Task Force and the exploration of practitioners’ views will be carried out by CEPS staff, led by Karel Lannoo, CEPS CEO and senior research fellow, with the help of Rym Ayadi, senior research fellow and Willem-Peter de Groen, research fellow.
**Registration form:** ECB Banking Supervision and Beyond

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