

European Banking Union: Getting the Design Right

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The Single Supervisory Mechanism (SSM)

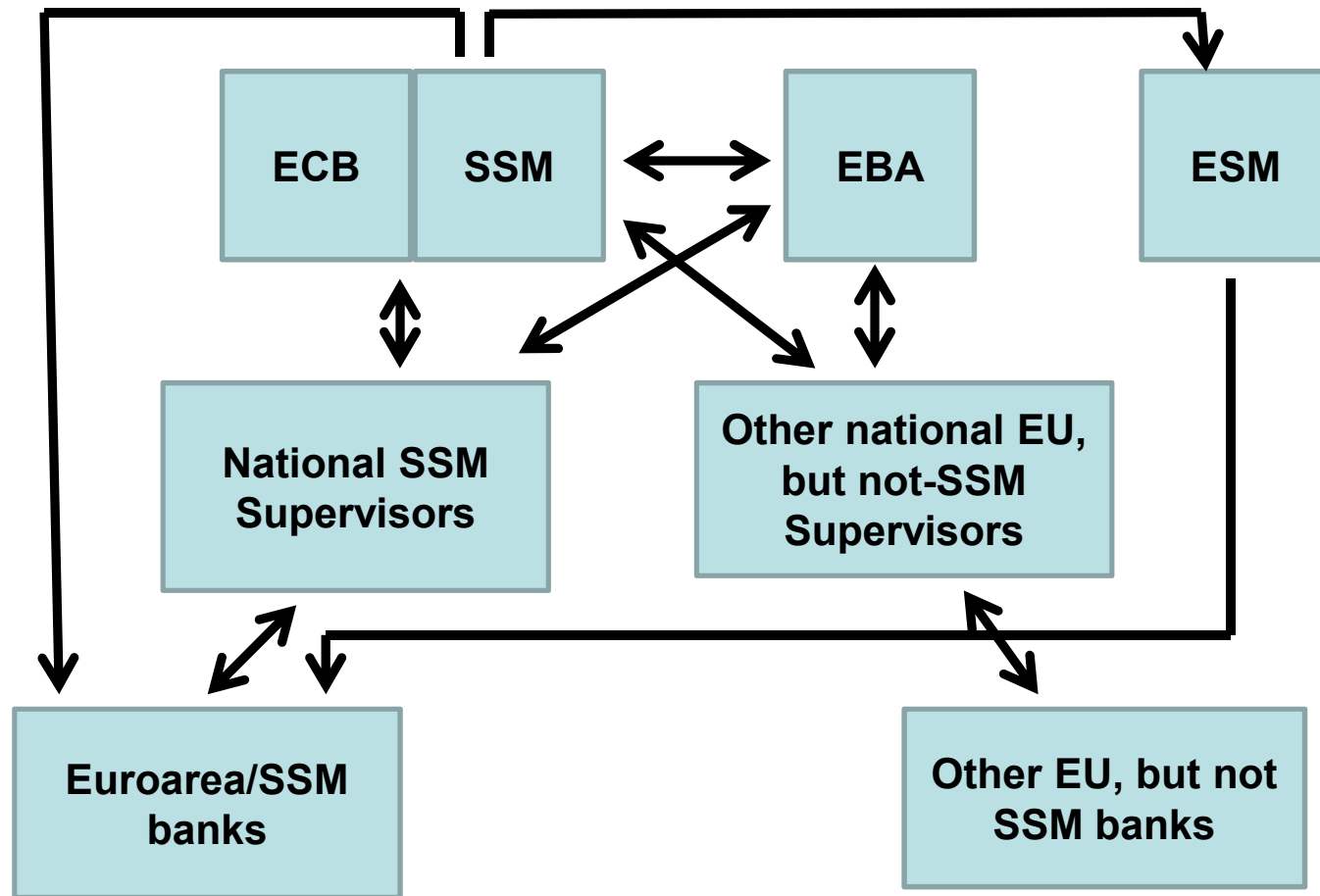
➤ Purpose

- break the vicious circle between banks and sovereigns (Euro area Heads of State, June 29,2012),
- prevent re-nationalisation of banking markets
- ensure banking supervision with high common standards as a pre-condition for common backstops.

➤ Proposal of EU Commission September 2012

- ECB as anchor of SSM, prudential supervision for all Euro area Cis, based on Art. 127(6) of Lisbon Treaty (see Appendix).
- National supervisors day-to-day supervision and preparation and implementation of ECB decisions
- European Banking Authority (EBA) to develop a Single Supervisory Handbook to preserve the integrity of the single market and ensure coherence in banking supervision for all 27 EU countries

Complex Organisation & Governance



Some Open Questions with Respect to the ECB

1. How can monetary policy independence be effectively preserved?
ECB accountable in supervision towards European Parliament and Eurogroup.
Monetary policy and banking supervision linked, but different.
Banking supervision very dangerous for ECB's credibility and independence.
2. How to organize decision making in the SSM?
SSM Supervisory Board with strict separation from ECB
But ECB Governing Council with ultimate responsibility. How will that work?
3. How to organize efficient structures in the SSM to be able to take rapid decisions in the day-to-day business in banking supervision (e.g. crisis-management)? Supervisory board has at least 23 members of which 17 are national supervisors.
4. How to get to grips with the logistics given the tight time schedule (2014)?
„Quality is more important than speed“

Some Open Questions Regarding the Role of EBA

EBA develops single rulebook applicable to all 27 Member States and make sure that supervisory practices are consistent across the whole Union.

1. Voting arrangement to be changed within EBA to continue “balanced decision-making structures” and “preserve fully the integrity of the Single Market”. How to do this? It seems very unlikely that members of SSM will not dominate EBA decisions.
2. EBA has no real power against national supervisors, the ECB will have that. This may finally change distribution of powers between ECB and EBA.
3. ECB will dominate EBA board of supervisors. Danger of permanent outvoting of non-SSM members (sensitive issue, not only for UK)

Some More Open Issues to Solve

- Non-Euroarea member states who want to join will be able to do so but have to meet specific conditions (implementation of relevant ECB acts) . Their representation in ultimate decision making still unclear.
- Opposition of Germany's savings and cooperative banks (local supervisor for local banks!?)
- EBRD argues for “opt-in possibility for membership in SSM and ESM”!? Level playing may be distorted by exclusive ESM access of euro area countries with competitive disadvantage for banks outside.
- “Neutrality of cost” for this new supervisory architecture is an illusion.

Conclusions

- SSM is necessary, but EC-proposal is a result of actual crisis management. Several fundamental questions of right design haven't been addressed.
- Complicated corporate governance and cooperation structures of SSM – may give rise to conflict. Consistency of decision making within ECB and EBA may be difficult.
- Rigid and transparent separation of responsibilities of different supervisors and supervisory levels important - danger of ineffectiveness and increase in bureaucratic procedures (neutrality of cost!?)
- Level playing field of single market – inside vs. outside banking union - endangered
- Efficient resolution is key for breaking vicious circle between sovereigns and banks!! SSM will not suffice.

Appendix

Article 127, Lisbon Treaty

1. The primary objective of the European System of Central Banks (hereinafter referred to as "the ESCB") shall be to maintain price stability. Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 119.
2. The basic tasks to be carried out through the ESCB shall be:
 - to define and implement the monetary policy of the Union,
 - to conduct foreign-exchange operations consistent with the provisions of Article 219,
 - to hold and manage the official foreign reserves of the Member States,
 - to promote the smooth operation of payment systems.
3. The third indent of paragraph 2 shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.
4. The European Central Bank shall be consulted:
 - on any proposed Union act in its fields of competence,
 - by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out - by the Council in accordance with the procedure laid down in Article 129(4).

The European Central Bank may submit opinions to the appropriate Union institutions, bodies, offices or agencies or to national authorities on matters in its fields of competence.
5. The ESCB shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.
6. **The Council, acting by means of regulations in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament and the European Central Bank, confer specific tasks upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.**