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ВИТАУС ШЕНЯВИЧУС, АНТАНАС ШЕНЯВИЧУС

КОНТРОЛЬ ФІНАНСОВИХ РИНКІВ У КРАЇНАХ – ЧЛЕНАХ ЄВРОПЕЙСЬКОГО СОЮЗУ

З'ясовано, що моделі контролю фінансових ринків у країнах – членах Європейського Союзу варіюються від таких, що здійснюються окремими незалежними контролюючими органами, до схем, де існують об'єднані інстанції (централізований контроль), які контролюють увесь фінансовий сектор у цілому, у т.ч. банки, страхові компанії та інвестиційні організації.

Ключові слова: контроль фінансового ринку, інституційна структура, фінансова криза, реформа, Європейський Союз.

Financial supervision regimes vary significantly between the European Union member states. These "models" range from independent stand-alone supervisory authorities to consolidated (centralized) supervisors responsible for supervising the entire financial sector, including banks, insurance companies and securities firms.

Key words: financial market supervision; institutional structure; financial crisis; reform; European Union.

I. INTRODUCTION

Due to the lack of centralization with respect to supervision, the European Union (hereinafter – EU) financial market public administration scene is a cluttered landscape. More than sixty different EU member states authorities and central banks are involved in the oversight of the financial markets. The picture becomes even more crowded when authorities from the European Economic Area (hereinafter – EEA) countries and the European Central Bank and also the European Commission are taken into account [9, p. 2]. However, one could argue that the economic downturns and upturns, that are becoming more and more rapid, lead the EU member states to optimize and reform financial market supervisory systems.

The aim of this article is to distinguish the most common financial market supervision models within the EU member states and to overlook the latest trends in the financial market supervision of the EU member states. While there are no clear standards for what is "the most effective" supervisory model, beyond what already exists within the principles established by the Basel Committee, European Commission proposals and etc., this article shall not make any final conclusions as to whether the one or another supervisory model is optimal for all the member states.

This paper is organized as follows. In Section II, the institutional setting of the current financial market supervisory system in the EU is explained and followed by a review of the literature on financial supervision in the EU. Section III presents the empirical results on the impact of post-credit crisis supervision reforms in the EU financial markets (domestic and macro-supervision level).

In this article the retrospective, comparative, analysis and synthesis methods are used.

II. CURRENT FINANCIAL MARKET REGULATORY SYSTEM

The domestic financial sector public administration bodies are organized in different forms in different member states of the EU. The variety of the domestic supervisory models has led the EU institutions to enhance regulatory harmonization across EU member states. Therefore, the European System of Financial Supervision comprises of both: the EU financial market supervision across the EU and also the financial market supervision within the domestic level of member states.

The major powers of macro-supervision are in the hands of the newly created European Systemic Risk Board the purpose of which is to ensure supervision of the EU financial system. The other macro-supervision functions rest on the interaction between the domestic supervisory authorities and the three European Supervisory Agencies.

Supervision of domestic financial markets in the EU might be considered as a variety between the model "by objectives" and the model "by sectors". According to the supervisory model by objectives, distinct and independent agencies pursue their assigned objectives – stability, transparency and competition – across different institutions. In contrast, according to the supervision model by sectors, each supervision agency has full responsibility over a specific sector [11, p. 113]. Hence, in terms of domestic financial market supervision, we could distinguish three fundamental domestic structural models that are currently in force in the EU member states [2, p. 3–6]:

1) *centralized (single regulator) model*. In this model only one supervisory authority takes over the entire public administration over all financial market (e.g. Lithuania, Estonia, Ireland, United Kingdom). This model was adopted especially in the early stage of financial systems when the central bank was the dominant (or only) supervisory institution.

2) *vertical (institutional) model*. The vertical approach facilitates the practical implementation of supervisory powers. It represents an institutional supervision, a segmentation of the financial market system in three main sectors: banking, securities and insurance (e.g. Greece; Spain and Portugal financial markets public administration are also based on the said model).

3) *horizontal model*. Here each supervisory function is under the jurisdiction of a given authority, independently of the supervised subject. Hence each authority has cross-sector regulatory and supervisory powers in pursuing its function (Italy, France (however, France has some features of vertical public administration as well)).

The domestic financial markets supervision reflects differences in the way they have been organized and legal tradition differences over the way they are regulated and supervised. According to James K. Jackson, [10, p. 1], national financial markets are custom-made structures that reflect differences in national experiences, government institutions, laws, and national customs. Consequently, the current EU financial market supervision displays the common macro-level EU financial market supervision and the large spectrum of domestic level financial market supervision models.

III. POST-CRISIS FINANCIAL MARKET SUPERVISION TRENDS IN THE EUROPEAN UNION

One thing the crisis has demonstrated, though, is that despite the said differences, financial markets have become highly integrated. The financial crisis which began in industrialized countries quickly spread to emerging market and developing economies. Investors pulled capital from countries, even those with small levels of perceived risk, and caused values of stocks and domestic currencies to plunge. Also, slumping exports and commodity prices have added to the woes and pushed economies worldwide either into recession or into a period of slower economic growth [3, p. 2]. As a result, it has become increasingly more difficult to contain financial problems in one market from affecting markets in seemingly unrelated or indirectly related areas.

As a consequence, the public administration models of domestic financial markets in EU appeared not capable to deal with the current financial crisis. The facts show that financial markets public administration institutions of the EU member states failed to identify and evaluate the risks in the financial markets (the apparent examples are Italy's financial problems or Greece's bailout) and due to these failures the EU deals with the systematic financial risk of the euro zone.

Financial market supervision tendencies across the EU

Within the EU level the efforts to reform the European Community's (hereinafter – EC) financial market supervision was based on five key objectives:

1) to provide the EU with a supervisory framework that detects potential risks early, deals with them effectively before they have an impact, and meets the challenge of complex international financial markets.

2) the EC will move to reform those areas where European or national regulation is insufficient or incomplete by proposing: a comprehensive legislative instrument that establishes regulatory and supervisory standards for hedge funds, private equity and other systemically important market players.

3) to ensure European investors, consumers, and small and medium-size enterprises can be confident about their savings, their access to credit and their rights, the EC will: advance a Communication on retail investment products to strengthen the effectiveness of marketing safeguards.

4) in order to improve risk management in financial firms and align pay incentives with sustainable performance, the EC intends to strengthen the 2004 Recommendation on the remuneration of directors and to bring forward a new Recommendation on remuneration in the financial services sector followed by legislative proposals to include remuneration schemes within the scope of prudential oversight.

5) to ensure more effective sanctions against market wrongdoing (i.e. insider dealing and market manipulation) and to make proposals on how sanctions could be strengthened in a harmonized manner and better enforced [1].

Beyond supporting increased supervision over these broad areas of market activities, policymakers remain divided over the specific ways that such public administration should be administered. As the approach to financial market public administration varies in the continental and common law tradition EU, it is always a complicated issue to find the consensus between the EU member states. In addition to the abovementioned, the financial crisis has slightly changed the political priorities of the EU member states – the countries are still not sure about the bright future of the EU financial system and this tensed environment might be felt as long as the common stability is not granted.

Notwithstanding the structures in place to enhance EU cooperation and coordination on matters related to financial crisis management, central bankers and supervisors formed the new architecture of the financial market public administration that should protect the Europe from the uncontrolled financial crisis across the EU. On 2 September 2010, the EU institutions achieved a compromise deal in trilogue negotiations on a new European System of Financial Supervision (ESFS) architecture, setting up a pan-European regulator composed of three new European Supervisory Authorities for micro-prudential supervision (ESAs, for Banking (EBA), Insurance and Pensions (EIOPA), Securities and Markets (ESMA)) and a European Systemic Risk Board (ESRB) for macro-prudential supervision, which came into force in January 2011. The new authorities have binding rights to intervene in the markets and act vis-a-vis national supervisors. The legislation was approved by the Council on 7 September and formally adopted by the Parliament on 22 September, and constitutes an important step forward, paving the way for a new EU financial architecture and strengthening the regulation of Europe's financial markets [11, p. 4].

However, some authors criticize the proposed structure due to the lack of integrity between the ESAs. According to Sebastian Dullien and Hansjцrg Herr, the division into three authorities, separated both geographically and in terms of subject-matter, is problematic. It is becoming increasingly difficult to assign modern financial institutions to a certain segment of the financial sector. According to the authors, the division of supervisory competence to three authorities brings with it the danger of divergent application of regulations and of transitions which lead to regulatory gaps. As the example Sebastian Dullien and Hansjцrg Herr distinguish the insolvency of United States insurance group AIG that was near the bankruptcy because it gambled in the credit derivatives market - the danger is that a fragmented supervision, like the one planned by the EU, would fail to see such connections [4, p. 9]. On the one hand we may agree with the provided opinion, but on the other hand, the risk of the supervision with "gaps" is diminished due to the functions of European Systemic Risk Board that has to ensure the effective copperation between these three pillars.

As the reform is quite new and now it is early to discuss the efficiency of such model, none could argue that the reform of the financial sector public administration was required and is important step towards the thorough EU financial market regulation. Overall, the measures, which the EU took, should help to keep EU markets attractive, and to ensure that the European economy has the means to promote growth. Also, according to the European Commission, the efficient macro public administration of the EU member states financial market is also about improving the daily life of every European citizen, simplifying his everyday life and bringing the transparency and security that the said should expect from Europe [5, p. 18].

Financial market supervision tendencies in the domestic level

One may emphasize, that in recent decade, a number of countries with advanced financial markets (i.e. United Kingdom, Germany) have moved to consolidate supervisory authorities. Other EU member states that have moved toward regulatory consolidation include Belgium, Finland, Norway, Sweden, Lithuania etc. Therefore, the question is, whether the financial market supervision centralization model is the most effective or is this just the coincidence?

According to Ellis Ferran, the centralized financial market supervision model may be more effective than alternative regulatory models because its structure is better suited to the increasingly integrated nature of financial markets [8, p. 21]. A single regulator's position allows looking across the entire financial industry and devoting regulatory resources to where they are most needed. These resources include human, as well as financial, resources: the single regulator model should facilitate efficient use of available expertise and experience, a factor that may be particularly significant where such expertise and experience are in short supply [8, p. 17]. However, the key political economy lesson is that the crisis and ensuing recession have acted as a catalyst for structural reforms, especially in OECD countries, where reforms were most needed [7, p. 19]. As a consequence to it, in some member states of EU the financial crisis has led to reconsideration of "single regulator" financial market supervision efficiency.

For instance, a few EU member states, such as United Kingdom, Belgium are struggling to reform the centralized model in order to ensure the efficient financial market supervision. This should be mainly because the "single regulator" model was insufficient (or imperfectly competent) to deal with the global financial crisis.

On the other hand, as of 1 January 2012 the supervision of the Lithuanian financial market was centralized. Therefore, the Central bank of the Republic of Lithuania is the sole supervisory authority that supervises the Lithuanian financial market. Among other things, the aim of the centralisation was to reform the supervisory system in order to ensure operational independence and also to unburden the administrative costs of the financial supervisory institutions. The European Central bank on his opinion on financial market supervisory reform in Lithuania (CON/2011/46), dated 30 May 2011, expressed the opinion, that the proposal to integrate financial market supervision within one institution should be considered as the most appropriate financial market supervision model for a relatively small financial market, such as Lithuania.

Therefore, on this point we may state that the pre-crisis trend of centralization of financial market supervisory institutions shall not be considered as the imperative trend which all the European Union member states shall join. The development level of the EU member states' financial markets differs; therefore, the one domestic financial market supervision model may not be acceptable in all the EU member states.

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С. В. СТЕПАНЕНКО

ТИПОЛОГІЯ ТА МОДЕЛІ ДЕРЖАВНОГО РЕГУЛЮВАННЯ ПРОЦЕСІВ ЕКОНОМІЧНОГО РОЗВИТКУ У СФЕРІ СУСПІЛЬНОГО ВІДТВОРЕННЯ

***Р**озглянуто питання, пов'язані з державним регулюванням економіки та трансформацією регуляторних функцій держави у процесі її реформування. Досліджено типологію та моделі державного регулювання процесів економічного розвитку у сфері суспільного відтворення та причини невідповідності здійснюваної економічної політики викликам сьогодення.*

Ключові слова: державне регулювання економіки, трансформація, держава, моделі, розвиток, суспільне відтворення.

***Q**uestions are examined the economies related togovernment control and by transformation of regulatorfunctions of the state in the process of her reformation. It isinvestigational to the typology and model of governmentcontrol of processes of economic development in thesphere of public recreation and reason of disparity of thecarried out economic politics to the challenges of presenttime.*

Key words: government control of economy, transformation, state, models, development, public recreation.

Високорозвинена ринкова економіка – це оптимальне поєднання засад, притаманних ринковому товарному виробництву, та цілеспрямованої державної політики регулювання процесів економічного розвитку. Державне регулювання доповнює ринковий механізм, що в сукупності становить єдину систему макроекономічного регулювання народного господарства. Сьогодні відбувається зростання економічної ролі держави, що різко обмежує дію стихійних ринкових сил.