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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, xxx
SEC(2009) xxx

**COMMISSION STAFF WORKING DOCUMENT**

**Accompanying document to the**

**Communication from the Commission**
**'European financial supervision'**

**IMPACT ASSESSMENT**

**{COM(2009) xxx final}**
**{SEC(2009) xxx}**

Outline of the Impact Assessment report:

# 1. Introduction

In its Communication "Driving European recovery" of 4 March 2009, the European Commission committed itself to come forward with proposals for reform of the EU framework for financial supervision. It was specifically highlighted that the Commission would present a Communication on European financial supervision before the end of May 2009, for discussion at the June European Council. This initiative is part of a broader programme for financial market reform announced in that Communication, consisting of a series of initiatives for adjusting the EU regulatory framework for financial services to address the problems revealed by the recent financial crisis.

In the absence of adequate EU-action, there is a risk that the financial integration process in Europe will slow down as a result of fragmented national responses to the financial and economic crisis. The other initiatives undertaken by the Commission – apart from the work on financial supervision – include improving and removing gaps in regulation (e.g. concerning alternative investment funds and capital requirements for banks), protecting consumers and SMEs (e.g., initiatives to foster responsible lending and borrowing), improving incentives to reduce excessive short-term risk-taking (e.g., initiatives on remuneration in financial services) and strengthening sanctions for infringements of the rules. The Commission is also working to ensure that appropriate crisis intervention tools are available in all Member States to allow early intervention in ailing banks or insurance firms, in order to guarantee the continuity of key financial services, whilst minimising costs to the taxpayer. Specific regulatory issues related to large and complex financial groups are being addressed in the context of the review of the Financial Conglomerates Directive (FCD).

The Commission's action in the area of supervision takes due account of and builds on the findings and recommendations of the High Level Group on financial supervision in the EU, created by President Barroso in October 2008 and chaired by J. de Larosière. The de Larosière report[1], which cannot be quoted in extenso here, examines in detail the causes of the crisis. These were numerous, often with a global dimension. The report subsequently covers the issues of how to organise the supervision of financial institutions and markets in the EU; how to strengthen European co-operation on financial stability oversight, early warning and crisis mechanisms; and how EU supervisors should co-operate globally. The Group brought forward a number of recommendations on regulation of financial markets. However, it is the recommendations regarding the building blocks for a new European financial supervisory framework which are relevant here. They are based on two pillars:

- a *European System of Financial Supervisors (ESFS)*, for the supervision of individual financial institutions ("micro-prudential supervision") consisting of new European Supervisory Authorities working in tandem with the national financial supervisors, and
- a *European Systemic Risk Council (ESRC)* to oversee the stability of the financial system as a whole ("macro-prudential supervision") and provide early warning of systemic risks and recommendations where necessary.

The Spring European Council agreed on the need to improve both regulation and supervision of financial institutions in the EU and concluded that the de Larosière report is indeed the

[1] "Report of the high-level group on financial supervision in the EU", chaired by J. de Larosière, Brussels 25/2/2009. Available at: http://ec.europa.eu/internal_market/finances/docs/de_larosiere_report_en.pdf. The report has also been endorsed by the Spring European Council as a basis for action to reform financial supervision. See annex for a summary of the deviations from the de Larosière report in the options retained in this Impact Assessment.

basis for action. At the informal Ecofin Council in Prague on 4 April 2009, EU Finance Ministers and Central Bank Governors discussed the key principles for the reform of financial market supervision, including establishing a European body responsible for the oversight on the stability of the financial system and the transformation of the existing Committees of Supervisors into three new European Supervisory Authorities. These discussions demonstrated that there was a large agreement on the objectives that should be achieved. The informal Ecofin confirmed that the June European Council wishes to analyse this issue again, on the basis of a document from the Commission.

Parallel efforts to strengthening financial supervision in the international context have also been undertaken at the global level by the G-20. At the summit in London on 2 April, the heads of state agreed to "take action to build a stronger, more globally consistent, supervisory and regulatory framework for the future financial sector, which will support sustainable growth and serve the needs of business and citizens"[2]. The Action Plan agreed at the first G-20 summit in Washington in November 2008 includes as objectives the creation of supervisory colleges for all international banks and strengthening international and regional crisis management. The leaders have also agreed on reshaping their regulatory systems to strengthen macro-prudential supervision, both at the national and international level. The newly established Financial Stability Board (FSB)[3] will collaborate with the International Monetary Fund (IMF) to provide early warning of macro-economic and financial risks at the global level. The US is putting in place a powerful financial stability body as well. The EU should also act and establish a new body responsible for identifying financial stability risks at European level and, where necessary, issue risk warnings. Being the two largest financial markets in the world, the EU and the US must closely work together to contribute to global stability and security.

This impact assessment provides an analysis of the rationale, the alternatives and the impact of the Commission proposals for reform of financial supervision in the EU presented in the Communication on European financial supervision[4]. It will be followed by a more comprehensive and detailed impact assessment for the envisaged legislative proposals to implement the reform.

# 2. Consultations and procedural issues

In preparing its report in the period November 2008 – February 2009, the de Larosière Group organised a number of hearings with experts representing the supervisory and regulatory authorities at the EU and international level as well as various segments of the financial services industry[5]. Their input has been reflected in the conclusions of the final report.

The Commission conducted a public written consultation on the de Larosière report between 10 March and 10 April 2009. A list and summary of contributions received is included in annex.

An Impact Assessment Steering Group was constituted in order to steer the preparation of this Impact Assessment, comprising representatives from DGs: MARKT, ECFIN, SG, SJ, ENTR, EMPL, COMP, SANCO. The Steering Group met twice on 25 March and 6 April 2009 and there was a written consultation on the last draft of the text. The Impact Assessment was submitted on 15 April 2009 and discussed by the Impact Assessment Board on 22 April 2009.

[2] London Summit – Leaders' Statement, 2 April 2009, §13.
[3] The successor to the Financial Stability Forum (FSF).
[4] COM(2009)XXX of 13 May 2009
[5] The list of consulted parties is included in Annex II of the de Larosière report.

The IAB opinion was delivered on 24 April 2009, endorsing the report with several suggestions for improvement, including the recommendation to delimit more clearly the scope of the initiative, better define the options analysed, strengthen the analysis of the impacts of the preferred options, and highlight the specific case of cross-border banks and financial conglomerates. The respective parts of the report have been revised accordingly.

The Impact Assessment Steering Group agreed to inform the sectoral social dialogue committees in the financial services sectors (banking, insurance) about the initiative and impact assessment and to consult them, with the assistance of unit EMPL/F1, on the impact assessments for the upcoming legislative proposals.

# 3. Problem definition

## *3.1. General problems*

As the de Larosière report stated, although the way in which the financial sector has been supervised in the EU has not been one of the primary causes of the crisis, there have been real and important failures, both of micro- and macro-prudential supervision[6].

As highlighted by recent events, it is very difficult to achieve simultaneously a single financial market and stability in the financial system, while preserving fragmented nationally-based supervision and crisis management[7].

Financial stability is clearly a common good. It refers to a condition in which the financial system is capable of withstanding shocks and the unravelling of financial imbalances, thereby mitigating the likelihood of disruptions in the financial intermediation process which may significantly impair the allocation of savings to profitable investment opportunities and exert unsustainable pressure on public budgets and automatic stabilisers to cope with the real economy effects of the crisis[8]. This has certainly not been the case amid the current financial crisis, where problems in the banking sector have disrupted the flow of credit at both wholesale and retail levels.

From an Internal Market perspective, the ambition is to create an efficiently functioning internal market in financial services. Financial markets are crucial to the functioning of efficient economies. The more integrated these markets are, the more efficient allocation of capital and the higher long-run economic growth will be. Completing the single market for financial services is therefore a crucial part of the overriding objective of delivering stronger, lasting growth, and creating more and better jobs.

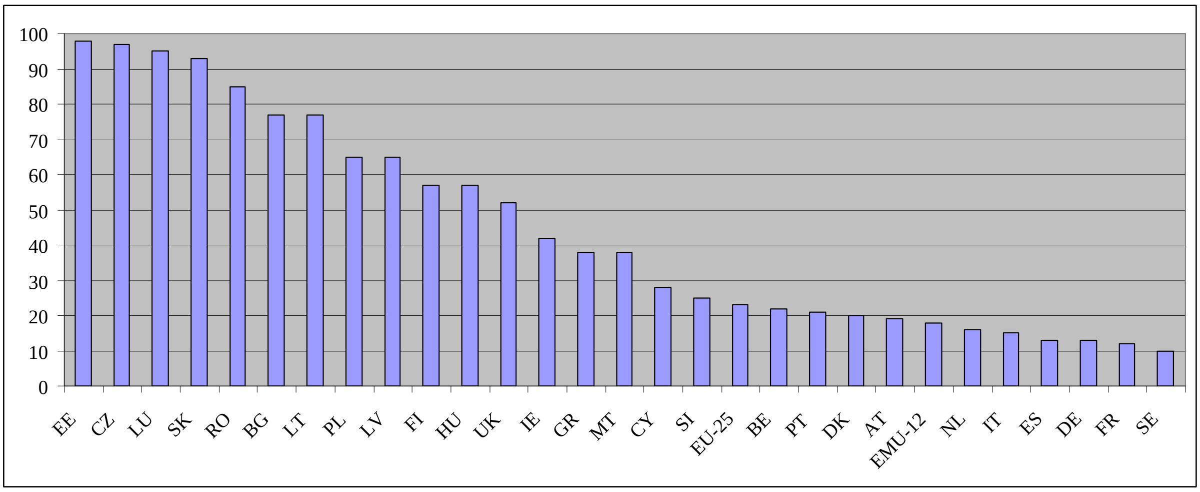
EU financial markets are increasingly integrated, especially at the wholesale level. The banking and insurance markets are dominated by pan-European groups, whose risk management functions are centralised in the group's headquarters. There has been an increase in cross-border M&A transactions in terms of value since 2003. This trend was particularly strong in 2005, when several large-value cross-border transactions were conducted, amounting to over 50% of the total M&A value in the euro area banking system. EU banks

[6] De Larosière report §152.

7 See Thygesen, Niels (2003) 'Comments on the political economy of financial harmonisation in Europe', in Jeroen Kremers, Dirk Schoenmaker and Peter Wierts (eds) Financial Supervision in Europe, Cheltenham: Edward Elgar.

**8** "A condition whereby the financial system is able to withstand shocks without giving way to cumulative processes, which impair the allocation of savings to investment opportunities and the processing of payments in the economy". See T.P. Schioppa, Central banks and financial stability have become more international than ever, expanding into foreign markets both in Europe and beyond. Currently around 70% of EU banking assets is in the hands of some 40 banking groups with substantial cross-border activities. Especially in the EU-12, banking markets are dominated by foreign (mostly Western European) financial groups (see figure 1). In these countries, on average 65% of banking assets are in foreign-owned banks. In countries like Estonia, the Czech Republic and Slovakia over 92% of banking assets are in foreign-owned banks.

**Figure 1. Market share of foreign-owned banks (% of total assets)**




Source: European Commission, European Financial Integration Report 2008 (2009)

As for financial markets, the available evidence suggests that integration has progressed considerably, but varies depending on the market segment, and is to a large extent correlated with the degree of integration of the underlying financial infrastructure. Table 1 provides an overview of the level of integration of the various segments. It should be noted that due to intensive cross-border consolidation of stock exchanges, concentration of the underlying infrastructures is increasing (i.e. the market share of the five largest stock exchanges in Europe exceeded 90% in 2006).

**Table 1. Integration of various market segments**

| **Market segment** | **Degree of integration** |
|---|---|
| Money market | High degree |
| Bond markets | |
| • government bonds | Considerable degree |
| • corporate bonds | Considerable degree |
| Equity markets | Increasing integration |
| Banking markets | |
| • interbank/wholesale activities | Increasing integration |
| • capital market related activities | Increasing integration |
| • retail banking activities | Fragmented |

Whilst the Lamfalussy process has since 2001 contributed to a closer co-operation between national supervisors, the EU is still in a situation where the supervision of the EU markets and financial groups is fragmented and exercised at the national level, both with respect to prudential and conduct of business supervision (e.g. disagreements between national supervisors regarding the prudential assessment of cross-border mergers of financial institutions in the cases of ABN AMRO/Antonveneta in 2005 and Unicredit/Bank BPH in 2006).

The crisis which in 2008 hit the European financial sector as a whole has brought into sharp focus the weaknesses of the present arrangements to guarantee adequate protection for depositors, policy-holders and investors, as well as financial stability in the EU. Even though, at national/regional level, small groups of Member States took urgent and coordinated decisions to rescue cross-border institutions, overall the response was characterised by decisions which were ad hoc and mainly informed by national interests. Supervisors were unable to adopt rapid common decisions to tackle the most imminent cross-border problems (e.g. various unco-ordinated national bans on short selling of different durations). Some Member States took unilateral decisions which had the potential of undermining the soundness of other Member States' financial institutions (e.g. difficulties of collaboration between national supervisors in the case of Fortis). Member States have appeared strongly divided in the search for urgent and radical measures which could rebuild confidence and stabilise the situation. All this contributed to further weaken confidence and render the financial sector even more fragile.

On the other hand, the Commission intervened in October 2008 to facilitate the agreement of a framework for intervention in the financial sector, including respect for the state aid rules and prevention of distortions of competition. Overall, the EU can do much better, both in preventing and managing future financial crises. In this respect it should also be stressed that variations between national rules in member States continue to cause incoherencies in the internal market (examples include the wide variety of definitions of "own funds", impediments to asset transfers and temporary bans on short selling in some Member States but not others).

Another serious challenge highlighted by the crisis is the fact that the present EU arrangements – like arrangements at national and global level - place too much emphasis on the supervision of individual firms, and too little on risks to the stability of the financial system as a whole. Such analyses were fragmented and executed by different authorities at different levels. To the extent to which risks were identified there was no EU mechanism to ensure that this assessment of risk was translated into action. If Europe is serious about building a stable and truly integrated market, it will be necessary to make progress in resolving these weaknesses by developing a new concept for the supervision of the EU financial sector.

In summary, the crisis exposed that the arrangements for financial supervision in the EU can create risks to stability through the **mismatch between the level of European integration of EU financial markets and the national organisation of supervisory responsibilities.**

The seriousness of this problem is magnified given the other weaknesses exposed by the crisis:

- **Increased risks of cross-border contagion for EU financial markets linked with the increased integration, both throughout the EU and with global financial markets.**
- **Undermined confidence of consumers, employees, pensioners, small business and retail investors contributing to the economic recession.**
- **Reduced global competitiveness of the European financial industry, compared with what would have been the case with better supervisory practices.**

- **Risks of unco-ordinated policies driven by national interest with negative impact on the Single Market**

These **general problems** are common to both micro-prudential supervision and macro-prudential supervision.

## *3.2. Affected stakeholders*

Both theoretical and empirical research confirms that there is a strong positive link between the functioning of the financial system and (long-run) economic growth[9]. Better functioning financial systems ease the external financing constraints that impede expansion of firms and institutions and offer individuals and firms the possibility to trade, diversify, and manage risk. Financial instability can therefore have a significant negative impact on the real economy and lead to substantial output losses. It can seriously impair the lending of funds from savers to borrowers, resulting in a sharp reduction in the ability of the financial system to allocate credit. It can severely reduce the possibilities for individuals to diversify risks and smooth their consumption over time.

Given the fact that – especially in advanced economies – total financial assets often represent multiples of GDP, the fiscal costs of financial crises can be substantial. A study by the IMF[10] of 40 financial crisis episodes puts the fiscal costs associated with resolving financial crises in the average country at 16% of GDP. Although this average includes some small and emerging economies, the fiscal cost is equally high among industrialised economies - at 15% of GDP on average. About half (or 8% of GDP) of these fiscal outlays relate to costs associated with government-assisted recapitalisation of banks. The remainder relate mainly to costs associated with government asset purchase and debtor relief programs.

Up to now, EU governments have pledged around EUR 3 trillion in recapitalisation obligations and different guarantee schemes (i.e., 28-30% of GDP). While not all of these obligations and guarantees will actually be used, the fiscal costs of the current crisis are likely to be substantial.

Due to their broad impact on the financial sector and the whole economy, financial instability will affect a very wide range of stakeholders, i.e.:

- Financial institutions, including their shareholders and employees;
- Users of financial services, including depositors, investors, pensioners, and non-financial companies, and
- Public authorities, including supervisors, central banks and finance ministries.

To the extent that financial instability damages the economy, a whole range of stakeholders will be affected (e.g., employees and consumers) and to the extent that public intervention is required, taxpayers will also be affected.

## *3.3. Micro- and macro-prudential supervision: definitions*

In analysing the problems related to organisation of financial supervision in the EU, the de Larosière Group distinguished between micro-prudential supervision and macro-prudential

[9] Levine, R. (2005), Finance and Growth: Theory and Evidence, in: P. Aghion and S. Derlauf (eds.), Handbook of Economic Growth, chapter 12, 865-934, North-Holland: Elesevier.
10 Laeven, L. and F. Valencia, 2008. “Systemic Banking Crises: A New Database”, Working Paper No. 08/224, International Monetary Fund.

supervision (see table 2). This division also holds throughout the subsequent analysis, so it is important to define these concepts at the outset.

The main objective of **micro-prudential supervision** is to supervise and limit the risk of distress in individual financial institutions. By preventing the failure of individual financial institutions, micro-prudential supervision attempts to protect the clients of the institutions and prevent (or at least mitigate) the risk of contagion and the subsequent negative externalities in terms of confidence in the overall financial system. However, the fact that the financial system as a whole may be exposed to common risks is not always fully taken into account.

**Macro-prudential supervision** focuses on limiting risks to the financial system as a whole that may arise from broad developments in the economy (e.g., excessive domestic credit expansion). While risks to the financial system can in principle arise from the failure of one financial institution alone if it is large enough in relation to the country concerned and/or with multiple branches/subsidiaries in other countries, the much more important systemic risk arises from a common exposure of many financial institutions to the same risk factors. Macro-prudential analysis therefore must pay particular attention to common or correlated shocks and to shocks to those parts of the financial system that trigger contagious knock-on or feedback effects. Obviously it should also focus on any other contagion mechanisms that could be a source of systemic risk, like interlinkages between financial institutions and overreactions provoked by imperfect information.

Micro-prudential supervision and macro-prudential supervision are interlinked. In this respect the de Larosière report stresses that macro-prudential supervision cannot be meaningful unless it can somehow impact supervision at the micro-level; whilst micro-prudential supervision cannot effectively safeguard financial stability without adequately taking account of macro-level developments.

**Table 2. Micro- and macro-prudential supervision**

| | **Micro-prudential supervision** | **Macro-prudential supervision** |
|---|---|---|
| Immediate Objective | Limit risk of distress in individual institutions | Limit risk of financial system-wide stress due to macro-economic developments |
| Ultimate Objective | Consumer and user protection | Avoid correlated negative shocks that may threaten system stability and trigger output (GDP) costs |

## *3.4. Micro-prudential supervision*

The current system of prudential supervision in the EU is based on the principle of home country control combined with minimum prudential standards and mutual recognition. A financial institution is thus authorised and supervised in its home country and can expand throughout the EU (by offering cross-border services in other EU member States or establishing branches in those States) without additional supervision. The host country has to recognise supervision from the home country authorities on most prudential issues.

In practice, however, financial institutions can also choose to operate through subsidiaries (separate legal entities) in other countries. These subsidiaries are separately licensed and supervised by the host country authorities. The scope for control by host countries of these subsidiaries is limited in practice, as key decisions are often taken at the parent company in the home country and the financial health of the subsidiary is closely linked to the well-being of the financial group as a whole. The primary effective control of large financial groups as a whole is therefore essentially in the hands of the consolidated supervisor in the home country. The latter may create tensions as decisions by home country authorities to preserve the stability of their national financial system can affect outcomes in host countries..

The cross-border nature of many financial institutions requires close co-operation between national supervisory authorities. This co-operation takes place in three main ways:

- Within the Lamfalussy framework[11] national supervisors are grouped in three committees (known as the Lamfalussy level 3 Committees): the Committee of European Banking Supervisors (CEBS), the Committee of European Insurance and Occupational Pension Supervisors (CEIOPS) and the Committee of European Securities Regulators (CESR). These Committees of Supervisors have been established with the aim of: ensuring convergence of supervisory practices; agreeing on common application of EU rules with non-binding guidelines; and fostering greater mutual trust. Supervision of financial conglomerates is carried out jointly by the Committees in the Joint Committee on Financial Conglomerates (JCFC). These committees are institutionally part of the Commission and have no regulatory or executive powers.
- Recently, colleges of supervisors have started to be created for the larger financial institutions in the EU. Within these colleges co-operation and information exchange between home and host authorities is reinforced.
- Ad hoc bilateral Memoranda of Understandings (MoUs) between respective supervisory authorities.

As highlighted in the de Larosière report, the situation nevertheless remains sub-optimal, as these co-operation mechanisms do not have the potential of removing the most serious inefficiencies of the present supervisory set-up. Supervisors are still not able to take binding decisions at the EU level. National supervisors will tend to take decisions on the basis of domestic considerations, even when the problems at hand have a European dimension and would require coordinated decisions and actions in order to achieve the best possible outcome for all.

Against this background, the main issues in the area of micro-prudential supervision can be aggregated in the following **problems**:

- **Imbalance of interests of the home and host countries in the current supervisory model (resulting in a misalignment of incentives in cross-border crisis management).**
- **Risks of competitive distortions in the Internal Market and of regulatory arbitrage by financial companies (arising in part from differing supervisory rules and practices),**

[11] The Lamfalussy framework is a four-level legislative procedure procedure. It divides the legislation into high-level framework provisions and implementing measures. Under the Lamfalussy arrangements, the Commission proposes framework legislation and it is adopted under the 'co-decision' procedure by Council and Parliament (Level 1). It is supplemented at Level 2 by more detailed implementation measures, adopted by the Commission and endorsed by a qualified majority of Member States. The detailed Level 2 legislation is prepared by the Commission on the basis of advice provided by representatives of national supervisory authorities, acting through the 'Level 3' committees (CEBS, CEIOPS and CESR). The Level 3 committees also aim to foster supervisory convergence and best practice, principally through the creation of (non legally binding) guidance. Finally, at Level 4, the Commission ensures that Member States are complying with applicable legislation and it pursues enforcement action where required.

- **Lack of co-operation and information exchange between national supervisors,**
- **Excessive costs and administrative burden to cross-border companies due to fragmented and inconsistent financial supervision**

They are linked with a number of particular **problem drivers** encountered in day to day practice of co-operation between national supervisors from various Member States, including:

– *Failure to challenge supervisory practices on a cross-border basis*. Home country authorities are given powers over branches but may well be unable or unwilling to use them, while host countries are losing powers that they have been willing to use. This gap may become a real problem once there is a banking group or bank that is systemically relevant in a host country. As national authorities are merely accountable to their national Parliaments and taxpayers, there is no guarantee that host authorities will take the interests of host countries into account in the event of a crisis with a cross-border dimension. The imbalance between home and host countries may be further deepened by differences in size between countries. The present processes and practices for challenging the decisions of a national supervisor on a cross-border basis have proven to be inadequate to address this (e.g. conflict between the Polish and Italian banking supervisors concerning minimum capital ratios of Pekao, the Polish subsidiary of Unicredit);

– *Lack of consistent rules, powers and sanctions across Member States*, mainly due to a lack of harmonisation in certain areas (e.g. national discretion under the Capital Requirements Directive) or differences in transposition (e.g. “gold plating” in transposition of the Transparency Directive, different interpretation of the Insurance Mediation Directive etc.)[12];

– *Differences in supervisory practices*, e.g. in areas where the host supervisor of a branch has supervisory discretion (such as in the area of liquidity supervision), or in cases where supervisors take different perspectives (like an accounting perspective, which induces a focus on reporting, or a risk perspective, which induces a focus on group risk assessments with supervisory risk methodologies);

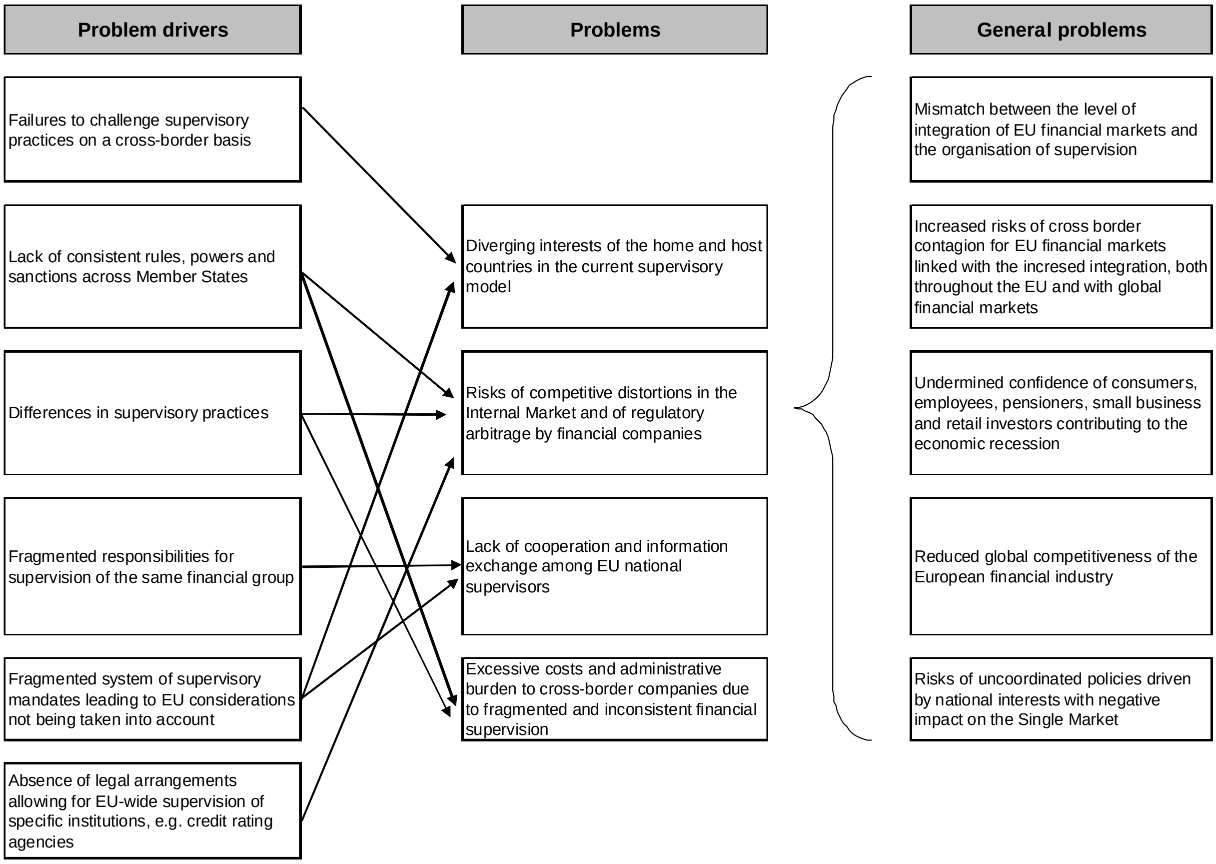
– *Fragmented responsibilities* (or lack of legal certainty regarding responsibilities) for supervision of the same European financial group complicate co-ordination, cause incomplete oversight of group-wide risks and of growing risks, but also cause insufficient liability for decisions regarding group-wide risk management and capital allocation. There is no single entity which has the complete overview of the financial situation of a cross-border group or a market and which is in a position to take the often extremely urgent decisions which need to be taken in potential crisis situations;

– *Absence of legal arrangements allowing for EU-wide supervision of specific institutions* (e.g., credit rating agencies and post-trading infrastructures);

As a consequence of fragmented responsibilities, incomplete co-ordination, and national mandates/interests, actors in the financial sector can exploit loopholes and arbitrage opportunities in the European financial system, causing risky activities to fall outside scope of supervision. The relations between the general problems and the problems specific to the areas of micro-prudential as well as their drivers can be visualised in this problem tree:

[12] The Communication of 4 March "Driving European Recovery" announced a programme to review differences between national rules and achieve greater convergence.

**Figure 2. Problem tree: micro prudential supervision**




## *3.5. Macro-prudential supervision*

Macro-prudential supervision aims to identify risks in the economy (including macro-economic imbalances) and in the financial system which may have implications for the stability of the financial system as a whole, and, where necessary, advise on measures which could be taken to address these risks. In this respect, the de Larosière report concludes that there has been a lack of adequate macro-prudential supervision in Europe. In particular the report notes the following phenomena, which can be identified as problem drivers:

- *the present EU supervisory arrangements place too much emphasis on the supervision of individual firms, and too little on the macro-prudential side*. The soundness of individual firms was often supervised in isolation and there was little or no awareness of the degree of “interdependence” or “interconnectedness” between financial institutions and between markets;
- *early warning systems in the EU were largely ineffective*, insofar as macro-prudential risks were identified (there was no shortage of comments about worrying developments in both macro-economic imbalances and the lowering price of risk for example) but *there was no EU mechanism to ensure that this assessment of risk was translated into action*.

Another problem driver is the *fragmented approach to macro-prudential supervision*. At present, a great number of different authorities are in one way or another involved in macro-prudential analysis as well as the identification of possible policy measures, including the following bodies: The Economic and Financial Committee (EFC), The Joint Committee on Financial Conglomerates, the European System of Central Banks (ESCB) and the European

Central Bank (ECB), including its The Banking Supervision Committee (BSC). The role of the EU Committees of Supervisors ("level 3 Committees", CEBS, CEIOPS, CESR) as regards the safeguarding of financial stability has recently also been enhanced. All of these bodies are described elsewhere in this report[13].

As a result of the problem drivers described above, the specific **problems** affecting the current EU arrangements for the safeguard of financial stability can be summarised as follows (see figure 2 below):

- **Lack of appropriate analysis of macro-prudential risks at EU level, including risks stemming from macro-economic imbalances;**
- **Lack of interaction between micro- and macro-prudential analysis. The soundness of individual firms' was often supervised in isolation and there was little or no awareness of the degree of "interdependence" or "interconnectedness";**
- **Lack of adequate corrective action, cooperation and co-ordination by competent authorities during the building up and in the course of financial crisis.**

These conclusions are confirmed by the ECB (2009)[14] which argues that the present crisis has revealed that micro-prudential supervision in many cases proved inadequate to identify, in a timely manner, the nature and size of accumulating risks and to impose appropriate remedial action. Moreover, although the build-up of financial imbalances, the underpricing and lack of internalisation of risk and the rise in the degree of leverage in the financial system had been identified as sources of potential instability by international institutions and central banks, it did not trigger appropriate responses either by market participants or by the authorities responsible for the oversight of individual financial institutions or specific market segments.

It is therefore argued that there is a manifest need to strengthen both the macro-prudential and micro-prudential supervision of the financial system and to do so in a way that achieves valuable synergies and has a mutually reinforcing impact on the stability of the financial system as a whole. In particular, the role of macro-financial factors, of the interconnectedness of markets and institutions and of cross-border financial integration in determining the size, nature and propagation of systemic risk calls for the strengthening of macro-prudential supervision in Europe and globally. This should help prevent the recurrence of similar episodes of externalisation of risks, market excesses and corrections in the future, with disruptive effects on the real economy and unsustainable pressures on public budgets and social policy instruments to cope with these effects, and it should help ensure that the financial system is socially responsible, dynamically stable and resilient to shocks.

Against this background, the G20 has decided to reinforce the global arrangements: the newly established Financial Stability Board (FSB)[15] will collaborate with the International Monetary Fund (IMF) to provide early warning of macro-economic and financial risks at the global level. The US is putting in place a financial stability body as well. Further streamlining in the EU is therefore critical as well, as macro-prudential analysis is currently fragmented and executed by different authorities at different levels. Once the crisis spread, this fragmented approach posed real challenges in terms of getting a timely and and reliable overview of

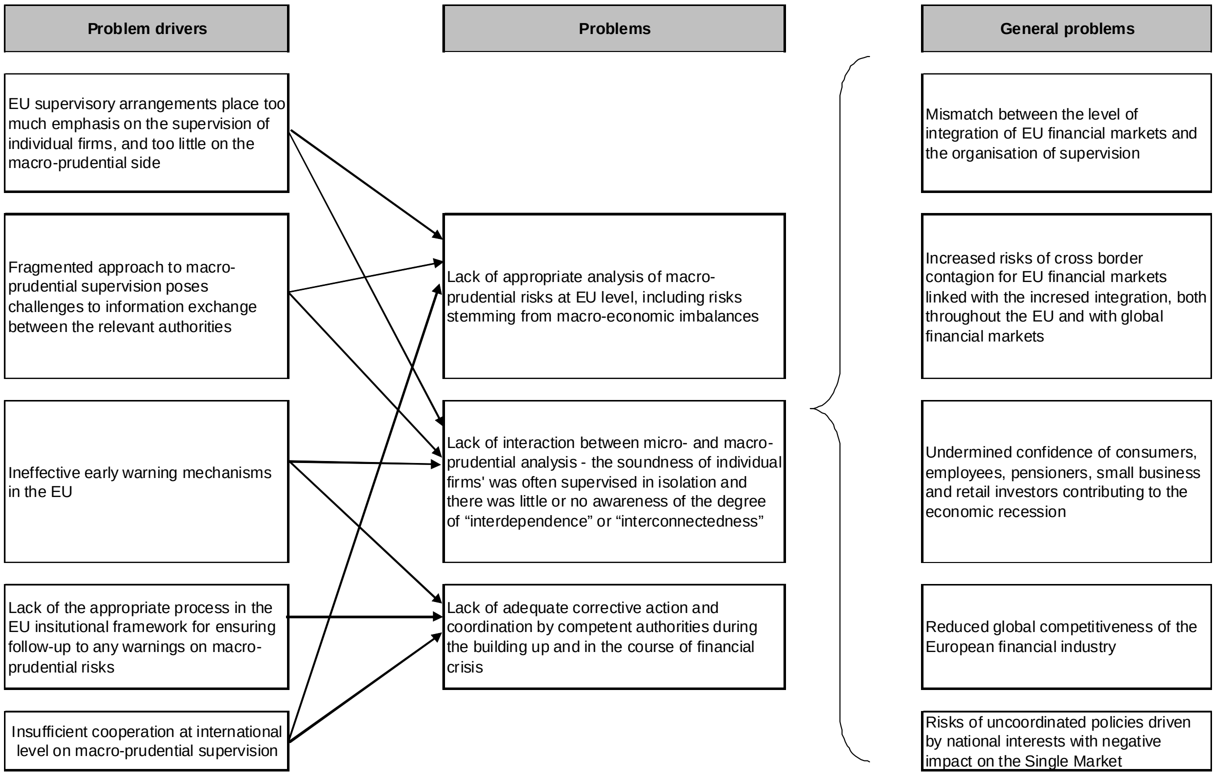
[13] See section 5.2. This JCFC, not described in that section, includes CEBS and CEIOPS, and focuses exclusively on prudential issues in relation to the Financial Conglomerates Directive and on the identification/assessment of the potential risks of financial conglomerates

[14] Speech by Mr Lucas Papademos, Vice President of the European Central Bank, at the conference on "After The Storm: The Future Face of Europe's Financial System", organised by Bruegel, National Bank of Belgium and the International Monetary Fund, Brussels, 24 March 2009

[15] The successor to the Financial Stability Forum (FSF).

developments in the economy and in the financial system relevant for the stability of the financial system. The latter is also related to legal and practical obstacles to information sharing between the relevant authorities.

**Figure 3. Problem tree: macro-prudential supervision**




## *3.6. Baseline scenario*

The baseline scenario would be one in which the EU would continue to build on its existing framework and continue to rely on the existing Committees of Supervisors, which are merely advisory bodies to the Commission, and the recently-established colleges of supervisors. Recent reforms of the three Committees of Supervisors, which are currently being implemented, will reinforce the functioning of these bodies to a certain extent. In particular, the fact that the Committees will be able to take decisions by qualified majority should help accelerate the process of convergence in the implementation of EU Law. Moreover, once all colleges of supervisors are up and running, co-operation and information exchange between national supervisory authorities should be improved. This scenario nevertheless remains sub-optimal, as these co-operation mechanisms do not have the potential of removing the most serious inefficiencies of the present supervisory set-up (see section 3.4).

Within this scenario the EU would also retain its fragmented approach to macro-prudential oversight, without introducing a mechanism ensuring follow-up to warnings and recommendations. While the recent lessons of the crisis would probably lead to an increased awareness of direct and indirect linkages in the financial system, it is questionable whether in the absence of a proper institutional framework the EU would be effective in pooling and analysing all relevant information and be able to trigger corrective action.

The baseline scenario is presented as a "dynamic" status-quo option for both micro- and macro-prudential supervision.

### *3.7. Case for EU action*

Against the background of what is possibly the worst economic and financial crisis since the 1930s, an overhaul of the European regulatory and supervisory system is needed. If Europe is serious about building a stable and integrated financial market, it must put in place a supervisory framework that acknowledges this.

On micro-prudential supervision, the EU has reached the limits of what can be done with the present status of the EU Committees of Supervisors - which are merely advisory bodies to the Commission. The EU cannot remain in a situation where there is no mechanism to ensure that national supervisors arrive at the best possible supervisory decisions for cross-border institutions; where there is insufficient co-operation and information exchange between national supervisory authorities; where all the technical details of financial regulation have to go through slow and cumbersome procedures; where joint action by national authorities needs to take account of the patchwork of regulatory and supervisory requirements; where only national solutions can be implemented in the face of European problems.

The weaknesses of the present macro-prudential arrangements clearly have had dramatic consequences. Like the G20 and the US, the EU should establish a new body responsible for identifying financial stability risks at European level and, where necessary, issue risk warnings. The present EU arrangements place too little on the macro-prudential side of supervision; macro-prudential analysis is fragmented and executed by different authorities at different levels; there is no mechanism in the EU to ensure that macro-prudential risk warnings and/or recommendations are translated into action.

The analysis of the principles of subsidiarity and proportionality is included in the comparative assessment of options (Chapter 6).

## 4. Objectives

The reform of EU financial supervision has general, specific and operational objectives. At each level, they correspond to the identified problems (the general problems, the problem drivers, and the specific problems).

The **general objectives** are the same for the reform of the EU supervisory framework:

1. **Establish a more effective framework for financial supervision in the EU, adapted to the level of financial market integration;**
2. **Enhance financial stability in the EU (and thereby contain potential risks to the real economy and to the public finances);**
3. **Safeguard interests of consumers, investors, other users of financial services and other relevant stakeholders, notably employees;**
4. **Increase competitiveness of EU financial markets, and**
5. **Foster integration of EU financial markets supportive of sustainable development.**

These objectives are in line with the initiatives described in the Commission Communication 'Driving European Recovery' of 4 March 2009. The specific objectives set in the areas of micro-prudential supervision and macro-prudential supervision (see below) are aimed at contributing to achieving these general objectives.

## *4.1. Micro-prudential supervision*

The **specific objectives** in the area of micro-prudential supervision are to:

1. **Balance home and host supervisor interests, i.e., reinforce processes and practices for challenging the decisions of national supervisors on a cross-border basis;**
2. **Ensure a level playing field for financial institutions operating in various Member States;**
3. **Improve crisis prevention and crisis management on the European scale, and**
4. **Improve effectiveness and cost efficiency of supervision for supervised companies.**

The table below links the problem drivers for micro-prudential supervision with the operational and specific objectives in this area.

**Table 3. Problem drivers and objectives: micro-prudential supervision**

| Problem drivers | Operational objectives | Specific objectives | | | |
|---|---|---|---|---|---|
| | | Home-host balance | Level playing field | Crisis prevention and management | Cost efficiency |
| Failure to challenge supervisory practices on a cross-border basis | Ensure adequate process for challenging decisions of national supervisors to balance home and host interests | v | v | | |
| Lack of consistent rules, powers and sanctions across Member States | Provide for a possibility to adopt binding technical standards at EU level | | v | v | v |
| Differences in supervisory practices | Increase consistency of supervisory practices in the EU | v | v | v | v |
| Fragmented responsibilities for supervision of the same financial group | Ensure effective functioning of colleges of supervisors | v | | v | v |
| Fragmented system of supervisory mandates leading to EU considerations not being taken into account | Create framework for pooling relevant information on supervised companies at EU level | | v | v | |
| | Strengthen EU dimension in prudential assessment of cross-border mergers and acquisitions | v | v | v | |
| | Provide for a strong coordination at EU level in crisis situations | v | v | v | v |
| | Ensure effective cooperation with 3rd countries on supervisory issues | v | v | v | |
| Absence of legal arrangements allowing for EU-wide supervision of specific institutions, e.g. credit rating agencies | Grant to an EU-level authority responsibility for licensing and supervision of specific EU-wide institutions | v | v | v | v |

## *4.2. Macro-prudential supervision*

The **specific objectives** in the area of macro-prudential supervision are to:

1. **Develop European macro-prudential risk assessment;**
2. **Enhance effectiveness of Early Warning mechanisms, and**
3. **Allow for risk assessments to be translated into action by the relevant authorities.**

The table below links the problem drivers for macro-prudential supervision with the operational and specific objectives in this area.

**Table 4. Problem drivers and objectives: macro-prudential supervision**

| Problem drivers | Operational objectives | Specific objectives | | |
|---|---|---|---|---|
| | | **Developing a European risk assessment framework** | **Enhance effectiveness of Early warning mechanisms** | **Ensuring follow-up** |
| Current EU supervisory arrangement are quasi-exclusively focused on micro-prudential supervision | Identify macro-prudential risks in Europe and analyse the interconnection with individual financial institutions' soundness | v | v | |
| Legal and practical obstacles to information sharing between supervisors, central banks and finance ministers | Establish adequate procedures to pool information about macro-economic risks for financial stability | v | v | |
| Absence of adequate, EU-wide early warning mechanisms | Issue warnings to the relevant actors and recommend the appropriate actions | v | v | v |
| Lack of the appropriate process in the EU institutional framework for ensuring follow-up to any warnings on macro-prudential risks | Ensure follow-up to warnings and recommendations | v | v | v |
| Insufficient cooperation at international on macro-prudential supervision | Ensuring effective interfacing with international organization dealing with financial stability | v | v | v |

# 5. Identification of policy options

To address the identified problems – and fulfil the objectives – two separate sets of options have to be considered: one for micro-prudential supervision and one for macro-prudential supervision. These options have been identified by the Commission services on the basis of general ongoing debate on financial supervision among various stakeholders in the EU.

## *5.1. Micro-prudential supervision*

The options for organising micro-prudential supervision in the EU may be considered in two stages:

- Stage 1 considers the various options with regard to the solutions for organising micro-prudential supervision at the Community level;
- Stage 2 analyses the various institutional structures possible for bodies tasked with financial supervision activities at the EU level.

## Stage 1: Supervisory system

### 1. Dynamic status quo: home country model and the Lamfalussy framework

This option implies a situation in which the room to improve the European supervisory framework is limited by the constraints presented in the description of problems in the current framework for micro-prudential supervision (section 3.4).

### 2. Step back: host country model

Under this option the model of host country supervision adopted in the 1970s would be restored. The First Banking Directive (1977) granted full responsibility for supervision of banks operating in a given country to national supervisors. It also stipulated that national supervisors should co-operate and that foreign identity could not be a ground for refusing a banking licence. It allowed for cross-border branching under the host-country rule, which meant that a bank had to obtain permission to operate in a foreign country by the supervisory agencies of that country. The foreign branches were required to compete on equivalent standards with the host country's own banks. The range of activities deployed by the branch was also limited by the host country's legislation. The advantage of this model would be that the relevant authorities would have full control over the activities in their territory and to an extent, fiscal and supervisory responsibilities would be clearer (although it should be noted that there is an increasing mismatch between the legal and operational structures of firms). However, it would be inefficient as every branch would have to pledge (additional) capital and it would not solve the problem of inadequate co-operation among supervisors in the context of cross-border banks. Furthermore, over time divergence of supervisory approaches might lead to increased risks to financial stability.

### 3. Lead supervisor model

The lead supervisor model, involving extended powers for the supervisor of the parent company of a number of cross-border subsidiaries (already the case for branches), would be one option for evolution of the existing supervisory framework. There are different versions of this model foreseeable: the lead supervisor could be responsible for supervision merely on a consolidated level, or also on the solo and sub-consolidated level. In its most radical form, it would grant full powers for supervision of cross-border financial groups to the home state supervisor. Under this model, the lead supervisor would be the single point of contact for the financial institution and would be the sole authority for all matters of prudential supervision at the level of the group and its constituents, including model validations and authorisations, capital allocation etc. However, strengthening the role of the lead supervisor seems to be unrealistic as Member States remain reluctant to transfer powers to other Member States (as shown in Council discussions on the proposed changes to the Capital Requirements Directive for banks and Solvency II for insurance). Furthermore, over time divergence of supervisory approaches might lead to increased risks to financial stability – particularly as different approaches may be applied within the same jurisdiction.

## 4. de Larosière proposal: European System of Financial Supervisors (ESFS)

The de Larosière report recommended that the EU should establish an integrated European System of Financial Supervisors (ESFS) by transforming the existing EU Committees of Supervisors into three European Supervisory Authorities: a European Banking Authority (EBA), a European Insurance and Occupational Pension Authority (EIOPA) and a European Securities Authority (ESA). The three new European Supervisory Authorities (whose role is essentially coordination rather than supervision) would work in a close network with the national financial supervisors, who would continue to be responsible for executing day-to-day supervision. They could also have the legal possibility to delegate supervisory tasks upwards to the EU-level authorities if they choose to do so, and not only between each other.

At the EU-level, the new European Supervisory Authorities, at the centre of the new network,would fulfil all the missions of the current Committees of Supervisors, but with more power and authority. They would, in addition, make a greater contribution than at present to the emergence of a true harmonised rulebook (for example by issuing guidelines and recommendations, and adopting technical standards and rules) and improve the supervision of cross-border institutions by developing common supervisory approaches settling possible disputes between home and host supervisors, and acting as direct supervisors for certain pan-European institutions (such as credit rating agencies or Central Counterparty Clearing infrastructures). They would thus act as guarantors of a consistent application of EU law. They could also exercise a role in crisis management, and could represent the EU in international supervisory fora (participating in global colleges of supervisors, liaising with multilateral bodies on micro-prudential supervision etc). Flexibility and a network arrangement would be at the heart of the arrangement, and the EU and national authorities would constitute a network within which tasks could be shared.

As a follow up, the supervisory set-up chosen should be evaluated after three years the and consideration of whether any further changes are necessary made.

## 5. A single EU-level supervisor

As for the option of establishing a single EU supervisor the following questions need to be addressed:

- a single supervisor for all financial institutions or only the pan-European groups?, and
- should pan-European groups be supervised directly by the central EU agency or would it built on the existing network of national supervisors (i.e., a hub and spokes model)?

As for the first, there are many small and medium-sized financial institutions which operate mainly within national borders. For these institutions there is no need for any direct supervisory powers at the EU level (i.e., the existing national supervisors are best placed to supervise domestically oriented institutions). So the single EU supervisor should focus its attention on pan-European institutions.

As for the second, there are two options for the architecture of the European supervisor:

(i) a single EU supervisor which would replace national supervisors for supervision of cross-border entities and would leave no role for national supervisors in monitoring cross-border groups, and

(ii) a single EU supervisor which would built on the existing network of national supervisors, so as to preserve experience, expertise and continuity (i.e., a "hub and spokes" model). In this particular case, the Authorities could for example ask national authorities to perform on-site inspections on its behalf (as they are closer to the firm and more familiar with local market conditions).

The further discussion is valid for both options, focussing on powers and responsibilities of a single EU supervisor. These would be the same (centralised at the EU level), irrespective of the chosen organisation: a single central entity or a "hub and spokes' model.

Under this scenario all supervisory competences for institutions with cross-border activities would be consolidated at the Community level. The single EU supervisor would bear the full responsibility for day-to-day supervision of the biggest cross-border institutions in the EU (and not rely on the existing network of national supervisors). It would also be responsible for creating a regulatory and supervisory level playing field between pan-European banks and domestically oriented banks, as both are competing in the same markets.

## Stage 2: Institutional structure

Once the preferred option at stage one has been identified, one can consider the best option in terms of institutional structure. The options listed below may in principle apply to any of the options proposed at stage one. However, we assume that for Options 1, 2 and 3 presented above the Committees of Supervisors at level 3 of the current Lamfalussy framework would be maintained, to continue their current role, even though merging the existing committees or adding a new independent committee for financial conglomerates could be potentially considered. The consideration of the institutional structure is clearly of direct relevance for Options 4 and 5, which imply the creation of new institutions at the EU level.[16]

## A. One body, i.e., the integrated approach

One body could cover the whole financial sector (banking, insurance and securities markets) and all aspects of financial supervision (prudential oversight as well as conduct-of-business supervision).[17]

## B. Two bodies, the approach by objective

This approach (often referred to as "twin peaks") would be based on the principle of supervision by objective not by sector. It refers to a separation of supervisory functions between two supervisors: one that performs prudential supervision and the other focuses on conduct-of-business supervision.[18] A Steering Committee could co-ordinate between the two bodies.

## C. Three bodies, i.e., the sectoral approach

Under this approach each supervisory body covers a particular sector, i.e., a banking supervisor, an insurance and pensions supervisor, and a securities supervisor[19]. This is for example the case of the current framework with the three EU Committees of Supervisors (CESR, CEBS and CEIOPS), in line with the sectorally-based EU financial legislation[20]. The three-body model could in particular benefit from an overarching steering committee to co-

[16] For a detailed discussion of different supervisory structures, see the G30 report "the structure of financial supervision: approaches and challenges in a global marketplace", G30 6/10/2008.

[17] Member States with a single supervisory model separate from central banks: BE, DK, EE, FI, IE (with a separate supervisor for pensions), HU, LA, MT, PL, UK, SE. Member States with a single supervisory model with a link to (or integrated within) central banks: AT, CZ, DE, SK.

[18] In the EU this model is adopted only by NL.

[19] Member States with a sectoral model: BG, CY, ES, FR, GR IT, LT, LU, PT, RO, SI.

[20] For example, the Markets in Financial Instruments Directive for securities sector; the Capital Requirements Directive for banking sector and the Solvency II Directive (not yet adopted) for the insurance sector.

ordinate the supervisory activities across sectors, incorporating the Joint Committee on Financial Conglomerates (JCFC), in which CEBS and CEIOPS meet to discuss issues related to the supervision of financial conglomerates.

### D. Four bodies, i.e., the institutional approach

In addition to the three bodies responsible for supervision of banking, insurance and securities sectors, a distinct fourth body, replacing the JCFC, could be created for supervision of financial conglomerates (groups including banking and insurance activities), following the Financial Conglomerates Directive, supplementary to CRD and Solvency II.

## *5.2. Macro-prudential supervision*

### A. Status quo

This scenario implies no or hardly any change of the existing EU arrangements, i.e., the EU would retain its fragmented approach to macro-prudential oversight, without introducing a mechanism ensuring follow-up to warnings and recommendations (see section 3.6).

### B. Build on existing or proposed structures

This option would involve one of the following existing or proposed bodies being tasked with the same macro-prudential responsibilities proposed in the de Larosière report for the suggested ESRC.

- **The Economic and Financial Committee (EFC)**

This body of the ECOFIN Council includes representatives of ministries of finance, the European Commission, the ECB, and central banks. It provides high-level assessments of developments in financial markets and services and advises ECOFIN and the European Commission. Twice a year the EFC meets as the "Financial Stability Table" in a configuration including the Chairs of the Banking Supervision Committee (BSC – see below) and the EU Committees of Supervisors. Discussions are based on input from various sources, e.g., ECB, the Financial Services Committee (FSC), CEBS, CEIOPS, CESR, BSC, and the Commission. The FST brings together the broadest group of actors in matters of financial stability (prudential, monetary and fiscal authorities) and is a forum that can provide policy co-ordination.

- **The European System of Central Banks (ESCB)/European Central Bank (ECB)**

The ESCB contributes 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. The ECB and the ESCB have three tasks in the field of financial stability:

– Financial stability monitoring: the ECB, together with the ESCB, systematically monitors cyclical and structural developments in the euro-area/EU banking sector and in other financial sectors. The purpose is to assess the possible vulnerabilities in the EU financial sector, and its resilience to potential shocks. The assessment is undertaken in collaboration with the EU national central banks and supervisory agencies. They are all represented in the ESCB Banking Supervision Committee (BSC)[21].

[21] The Banking Supervision Committee (BSC), which was set up in 1999, is a committee of ESCB. Its members include representatives of the ECB, the national central banks and the banking supervisory authorities. The Committee supports banking supervision and helps forge financial stability, for example, by providing advice to

– Provision of advice: the ECB is frequently asked by the competent authorities at EU level and national level to contribute its technical expertise to the design and definition of financial rules and supervisory requirements. The ECB can also make a contribution on its own initiative, and

– Promotion of co-operation: the ECB, together with the ESCB, promotes co-operation between central banks and supervisory authorities in the EU. This is primarily done through the BSC (see above).

Under this option, the ECB would be entrusted with the task of carrying out macro-prudential supervision in the EU. In so far as compatible with the Treaty and the Statute of the ECB, the new tasks and related powers could be implemented by the ECB or with the support of an "enlarged and empowered" Banking Supervision Committee (including for instance the Chairs of the Committees of Supervisors).

- **The ESFS**

Under this option, the new European authority or authorities as recommended by the de Larosière report to strengthen EU micro-prudential supervision could be entrusted with the task of macro-prudential supervision. They would be supported by the network of national supervisors.

The institutional structure of the EFSF – among the 4 options possible (see "stage 2" above) - would impact on the (hypothetical) practical feasibility of this option. Indeed, while a single body could also be tasked with the responsibility for monitoring macro-economic risks, it would be challenging to attribute this responsibility to the ESFS comprising several authorities. In that case one could imagine giving the functions related to macro-prudential supervision to the overarching ESFS Steering Committee including the chairs of the different authorities (see description of ESFS above, "stage 1", point 4).

## C. Establish a new body (European Systemic Risk Council, ESRC)[22]

This option foresees, in line with the recommendations of the de Larosière Group, the establishment of a new body, the European Systemic Risk Council (ESRC). For such a new body to be effective, it would need to: (a) identify macro-prudential risks (risks to financial stability) sufficiently in advance; (b) competently identify appropriate measures to reduce these risks; and (c) trigger corrective action to address the identified risks. The effective functioning of the ESRC would be determined by a range of factors, including its status, composition, operational and technical support, status, mandate, and operating procedures. Moreover, choices made in respect of these various factors would be crucial in ensuring that the ESRC would enjoy the necessary legitimacy to assure corrective action in response to its warnings.

Under the proposal of the de Larosière report, the ESRC would be an independent body placed outside the ECB, but chaired by the President of the ECB. Operational and technical support would primarily be provided by the ECB/ESCB. The Council would therefore not be built from scratch, so as to preserve experience, expertise and continuity.

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the banking supervisory authorities. It focuses on macroeconomic issues, such as developments in the banking and financial system. Its activities also focus on providing advice to the European Central Bank on issues relating to national and EU law where these issues affect banking supervision and the stability of the financial system. It also promotes co-operation and exchange of information between central banks and supervisory authorities on issues of common interest, including the prevention and effective handling of financial crises.

[22] Further discussions between DG ECFIN and DG MARKT are needed on the functioning of the ESRC.

In order to perform this role, the ESRC would carry out all the tasks of an EU macro-prudential supervisor, that is:

- collect and analyse all information relevant for financial stability, pertaining to macro-economic conditions and macro-prudential developments in all the financial sectors;
- identify and prioritise risks to the stability of the EU financial system;
- issue macro-prudential risk warnings;
- give recommendations on the appropriate measures to be taken in reaction to the risks identified;
- ensure follow-up to warnings and recommendations, and
- be the interface with the IMF, the FSB and third country counterparts.

The composition of the ESRC is reflected in the box below. To ensure that the ESRC can work efficiently, the membership of supervisors in the ESRC would be limited to the three chairmen of the European Supervisory Authorities. However, each central bank governor should be accompanied by one senior representative of the national supervisory authorities as observer (i.e., a 1+1 formula). In those Member States where there are several supervisory authorities, the representative accompanying the central bank governor could vary from meeting to meeting, depending on the issues to be discussed by the ESRC.

All ESRC members and observers would have the right to attend and to speak at these meetings. In order to streamline the decision-making process, however, only ESRC members would have the right to vote, i.e. only central bank governors, the chairmen of the European Supervisory Authorities and the Commission member would be voting members.

**Box 1. Composition of the European Systemic Risk Council (ESRC)**

Members:

- Chairperson: President of the ECB (or alternatively a Governor elected by ESRC members);
- Vice-Chairperson (elected by ESRC members);
- Governors of the 27 national central banks;
- President of the ECB (if the latter is the chairperson of the ESRC, the ECB would be represented by its Vice-President);
- Chairpersons of the three European Supervisory Authorities;
- Member of the European Commission.

Observers:

- A representative of the national supervisory authorities, accompanying the central bank Governor in a 1+1 formula;
- Chairperson of the Economic and Financial Committee;
- A representative of each national central bank of the EFTA-EEA countries.

# 6. Preliminary analysis of impacts and comparison of options

This section examines the effectiveness of the identified options in achieving the set objectives. We are looking in particular at the Specific Objectives which have been set separately for the areas of micro- and macro-prudential supervision. The options will also be compared with regard to the criteria of effectiveness, efficiency and coherence, according to the following definitions:

- **Effectiveness:** The extent to which options achieve the objectives of the proposal with sufficient legal certainty;
- **Efficiency:** The extent to which objectives can be achieved for a given level of resources/at least cost (cost-effectiveness);
- **Coherence:** The extent to which options are coherent with the overarching objectives of EU policy, and the extent to which they are likely to limit trade-offs across the economic, social, and environmental domain.[23]

## *6.1. Micro-prudential supervision*

There are four Specific Objectives defined for the reform of the EU framework for micro-prudential supervision, as presented in chapter 4:

1. **Balance the home and host supervisor interests: reinforce processes and practices for challenging supervisory practices on a cross-border basis;**
2. **Ensure a level playing field for financial institutions operating in various Member States;**
3. **Improve crisis prevention and management on the European scale;**
4. **Improve cost efficiency of supervision for supervised companies.**

### Stage 1 – Options for Supervision

At stage 1 of the assessment, we shall analyse how effective the proposed options can be in achieving the above objectives.

### 1. Dynamic status quo: home country model and the Lamfalussy framework

The current supervisory framework in the EU, based on the proposals of the Lamfalussy committee, was a step forward in the evolutionary process of enhancing co-ordination of financial supervision in the Internal Market. It introduced the notion of close co-operation of national supervisors to harmonise rules and practices and build mutual trust, as well as an institutional framework to achieve that. Recently, the system has been strengthened by improvement of decision making procedures, formalising supervisory cooperation on financial conglomerates and additional funding from the EU budget. Colleges of supervisors have been being set up for all major cross-border groups. However, during seven years of supervisory co-operation in the securities area and four years in the banking and insurance sectors the progress has turned out to be much slower and more limited than expected.

In terms of achieving a **balance between home and host** supervisor interest in the supervision of cross-border financial groups, the current system is clearly lacking a mechanism for solving conflicts between participating supervisors. As national authorities are merely accountable to their national Parliaments/national taxpayers, host authorities can only hope that home authorities will take their situation into account in the event of a crisis. The imbalance between home and host countries may be further deepened by differences in size between countries.

[23] Impact Assessment Guidelines

The Lamfalussy framework has proved suboptimal in ensuring consistent implementation and enforcement of EU rules. Diverging national interpretations of supervisory rules remain the common problem. In some cases, even slight differences in the approach may favour national companies or act to the detriment of foreign competitors. Without legal powers to set binding supervisory standards and decisions on individual firms, CESR, CEBS and CEIOPS have not been able to move forward much in this area. The existing situation cannot achieve a **level playing field**. The lack of progress in harmonisation of supervision also causes higher **compliance costs** for companies.

The existing mechanisms have proved to be ineffective in ensuring a co-ordinated reaction during the recent financial **crisis**. Prudential supervision, as well as the capacity to manage the stability of the financial system, is highly dependent on the quality of co-operation and information exchange between supervisors. Problems of communication, or a lack of trust between supervisors, can severely endanger the effective control of the institutions or financial systems concerned.

In summary, it is likely that the EU has reached the limits of what can be done with the present status of the Committees of European Supervisors as advisory bodies to the Commission. If serious progress is to be made on building a stable and integrated financial market, the costs of this option clearly outweigh the benefits.

## 2. Step back: host country model

By granting full powers to the host country supervisor, this model would not fulfil the objective of ensuring the appropriate **balance between home and host** supervisors. Concerning **crisis management**, full control by national supervisors over companies operating in their domestic market would likely be beneficial from the perspective of consumer protection and financial stability. On the other hand, taking into account the prevention aspect, the main deficiency of this model is the lack of any kind of oversight of big cross-border financial groups. Moreover, the scope for control of cross-border groups by host countries would be limited in practice, as key decisions are often taken by the parent company in the home country and the financial health of the subsidiary is closely linked to that of the financial group as a whole. The effective control of large financial groups would therefore be primarily in the hands of the supervisor in the home country, but it would not take account of subsidiaries and branches in other countries. Furthermore, from the Internal Market point of view, the host country model would not fulfil the objective of creating a **level playing field**. It would also be ineffective in terms of **reducing costs**, as companies wishing to operate cross-border would have to comply with various national sets of supervisory requirements and practices, incurring significant compliance costs. In other words, host country control could not work without significant financial disintermediation and removal of many of the benefits of the internal market in terms of income and welfare. For example, a complete legal and operational alignment of branches and subsidiaries with the domestic legislation of the host country would lead to a complete unbundling of cross-border groups, which would damage efficiency.

## 3. Lead supervisor model

This model entails significant reallocation of responsibilities to home country supervisors from host country supervisors (in the case of branches) and from home country supervisors of subsidiaries to home country supervisors of the parent company. In a college of supervisors, the lead (home) supervisor would make use of the expertise and knowledge of local supervisors and delegate to them tasks and, where possible, responsibilities. But in the end decisions would be made by the home authority. This raises serious questions with respect to ensuring an appropriate balance between **home and host** interests, as reflected by the reluctance of a vast number of Member States to move towards stronger group-wide supervision[24].

While home country supervisors would be fully responsible for oversight of cross-border financial groups, national (host) supervisors would remain responsible for financial stability in their own jurisdiction. As for **crisis management**, this option would result in a misalignment between the accountability of host authorities to their taxpayers and their (decreasing) competencies in terms of prudential requirements. In this respect, this option could have a particularly negative impact on the new Member States, where on average 65% of banking assets are in foreign-owned banks, while in countries like Estonia, the Czech Republic and Slovakia over 92% of banking assets are foreign-owned.

Also in terms of ensuring a **level playing field,** the lead supervisor model would not accomplish the objective of the reform. Under this model, each financial group operating on a cross-border basis would indeed have to comply with only one set of supervisory standards and practices, as required by the lead supervisor. However, supervisors in different countries could still have differing requirements. This would create an increasing risk of situations where in a given country companies operate according to various supervisory regimes: that of the local supervisor – for domestic firms, and those of various lead supervisors – for subsidiaries of financial groups based in other countries. Moreover, this model would create the risk of supervisory arbitrage in which lead supervisors could compete by easing the rules to favour their domestic undertakings. Another possibility would be that cross-border groups will choose to establish themselves in the Member State with the lightest prudential regime.

Concerning **cost reduction for financial institutions,** the lead supervisor concept would allow for minimising supervisory costs at a company level as there would be a 'one stop shop'. However, supervisory competition between lead supervisors could entail significant costs for companies and society in case of a failure linked with too lenient supervision.

## 4. de Larosière proposal: European System of Financial Supervisors (ESFS)

The proposal for a European System of Financial Supervisors (ESFS) addresses the specific problems identified in the area of supervision in the EU. It ensures the necessary co-ordination at the Community level while preserving Member States' primary competence in the area of supervision. The decision-making powers of the Authorities are primarily related to ensuring a correct and coherent application of EU law.

To ensure the **balance between the different** supervisory interests, the Authorities would be granted certain powers. Specifically in case of conflicts between home and host authorities on the application of EU rules, the European Supervisory Authorities/y could be called in by the respective national authorities to settle disputes. With regard to instutitions for which global colleges of supervisors exist (in line with recent G20 conclusions), such interventions of the new Authorities could have the role of good examples.

In order to ensure a **level playing field** for all financial companies in the EU, the European Supervisory Authorities would be called on to develop technical standards and interpretative

[24] For example, the Member States rejected the Commission proposals to strengthen home country control for capital add-ons in subsidiaries in other Member States under the banking Capital Requirements Directive. Likewise, they also vetoed Commission proposal under the insurance Solvency II directive to allow the home based firm to allocate capital throughout the group in an efficient way, subject to safeguards to protect the financial soundness of all the legal entities belonging to the group.

guidelines which would be applied by national supervisory authorities. This would bring about more harmonisation in the rules to be applied by supervisors as well as greater consistency in the execution of day-to-day supervisory tasks.

They could also have **direct decision-making** powers with regard to certain specific situations pertaining to their exercise of ensuring consistent application of EU law and with regard to certain pan-European financial institutions which are regulated at a European level (Credit Rating Agencies, Central Clearing Counterparties, etc.).

The powers of the new Authorities would also allow them to be more effective in **crisis prevention and management**. They would: have a strong co-ordinating role in crisis situations; facilitate co-operation and exchange of information between the competent authorities; act as mediator when that is needed; verify the reliability of the information that should be available to all parties; and help the relevant authorities to define and implement the right decisions. In specific crisis situations, the Authorities would adopt emergency decisions based on specific parameters set by legislation. For example, they could have played this role in the Fortis case quoted in chapter 3.

The ESFS would improve **cost efficiency** of supervision for supervised companies, as they would benefit from (more) harmonised prudential and reporting rules.

## 5. Full supervisory centralisation: a single EU Supervisor

As explained above in 5.1, the working hypothesis for this option assumes that a single EU supervisor (organised either as a single central unit or as a 'hub and spokes' model with the central unit and national branches, which could be based on the existing national supervisory authorities) would replace national supervisors for supervision of cross-border entities. This would practically eliminate the issue of **balance between the home and host** supervisory authorities, as all cross-border institutions would be supervised by one central authority. Thus, it would completely fulfil one of the objectives of the reform. In the same way, supervision at the EU level would guarantee a **level playing field** across the Internal Market, with a fully uniform set of rules, standards and practices for cross-border groups applied in each Member State. The creation of a two-tier system, with an EU supervisor for cross-border institutions and national supervision for institutions with domestic activities only, could however risk creating an un-level playing field in supervision between pan-European banks and banks operating within one Member State only, while both would be competing on the same market for customers. To address this, the EU Supervisor could exercise co-ordination powers to ensure harmonised supervisory approaches in each national market.

The full harmonisation of supervisory standards and practices would also clearly lead to the reduction of **compliance costs** of cross-border financial groups.

Centralised supervision at the EU level would also be effective in co-ordination of **crisis prevention and management mechanisms**. However, this would need to be coordinated withburden-sharing arrangements given that certain decisions could have fiscal consequences.

## Conclusion

In light of the above analysis, options 1 (Status quo), 2 (a step back) and 3 (Lead supervisor) are rejected (as they fail to meet the specific objectives). This means that option 4 (ESFS, leaving responsibility for day-to-day supervision with national supervisors as described above) and option 5 (EU Supervisor, with EU-responsibility for cross border groups) are retained for further comparative assessment.

**Table 5. Effectiveness in achieving the Specific Objectives (Level 1)**
(0 baseline; + positive; - negative; / difficult to establish)

| **Options** | **Specific Objectives** | | | |
|---|---|---|---|---|
| **Level 1: Supervisory system** | **Home-host balance** | **Level playing field** | **Crisis prevention and management** | **Cost effectiveness** |
| 1. Status quo: Lamfalussy framework | 0 | 0 | 0 | 0 |
| 2. Stage back: host country model | -- | -- | - | -- |
| 3. Lead supervisor model | -- | - | - | ++ |
| **4. De Larosière proposal: ESFS** | **++** | **++** | **++** | **++** |
| **5. Full centralisation: single EU supervisor** | **++** | **++** | **++** | **++** |

## Comparison of the selected options (4 &5)

### Effectiveness

Any future structure should obviously have as its prime objective to ensure the greatest possible *effectiveness* of supervision and, thereby, guarantee adequate protection for depositors, policy-holders and investors, as well as financial stability in the EU.

There is a strong case for decentralisation. First, there are many small and medium-sized financial institutions which operate exclusively within national borders. There is no need for direct supervisory involvement at the European level for these institutions. Second, prudential supervision should be executed at the local level where the financial institutions are based. The use of field inspections is an important tool of prudential supervision. By being close to the actual activities of the firm, supervisors would get a feeling for what is going on in an institution and would also be more familiar with the local market conditions in which an institution is operating. The proposed ESFS recognises this by building on the existing decentralised structure and preserving experience, expertise and continuity. The focal point would remain at the national level, as the national supervisors would conduct day-to-day supervision. One drawback of a single EU supervisor would be that the distance between this body and the supervised institutions may be too large – both physically and in terms of familiarity with local circumstances. So the single EU supervisor could not fully replace national supervisors, which would still need to deliver a local element of supervision. This could be partly alleviated by having branches within the Member States, but this would increase cost. Furthermore, an EU body would not have the legal power to apply rules made at national level within the Member States.

While the single EU supervisor option would practically eliminate the home-host issue, the ESFS option would also grant the necessary powers to the EU Authorities to enforce solutions balancing the interests of home and host authorities and avoid decision-making deadlocks. Both the ESFS and the single EU Supervisor would possess the competences to issue technical standards and interpretations, thus fostering a level playing field in the Internal Market.

Concerning crisis prevention and management, in both options the authorities would have access to the relevant information at the EU, individual country, and individual company level. While the preferred route to solving a failure of a financial institution is a private sector solution, recent events have shown that in extreme situations governments may be forced to step in so as to secure the stability of the financial system. As such, EU-level supervision could raise complicated issues with respect to the fiscal costs of a possible bail-out (as highlighted before, over the past months, EU governments have already pledged around EUR 3 trillion in recapitalisation obligations and different guarantee schemes). However, the proposed ESFS addresses this by ensuring that the focal point remains at the national level (see the foregoing description in section 6.1). In the absence of an EU-level mechanism for financing cross-border crisis resolution efforts, transferring additional supervisory responsibilities to the EU level, would need to be accompanied by more detailed criteria for burden sharing.

In terms of legal feasibility, the competences proposed for the ESFS raise a number of challenges and specific solutions would have to be sought within the current EU legal framework.

In conclusion, both the ESFS and the EU Supervisor options would fulfil well the specific objectives of the reform. However, in contrast to the single EU supervisor, the proposed ESFS clearly recognises the need for decentralisation and would create a network of EU financial supervisors, based on the principles of partnership and flexibility within a network arrangement. This is also in line with the existing responsibilities in the field of crisis prevention and management. However, in line with the recommendations of the de Larosière Group, the functioning of the ESFS should be reviewed after some time, among other things to examine the case for wider supervisory duties at the EU level (e.g., examine the case for transferring supervisory responsibilities for cross-border institutions to the proposed Authorities).

## Efficiency

The criterion of efficiency helps assess the extent to which objectives can be achieved for a given level of resources/at least cost. We shall take into account the impact on the supervised financial companies, both operating cross-border and local (firms); supervisors, regulators and other public authorities (supervisors); and other stakeholders including consumers, employees, pensioners etc. (taxpayers).

In terms of cost effectiveness for **supervised companies**, both models would lead to potential reduction of compliance cost for cross-border groups thanks to a harmonised set of supervisory rules. Both options would also entail no significant change of the compliance costs of domestic companies (i.e., small and medium-sized financial institutions which operate within national borders).

Looking at the impact on **supervisors**, both options would enhance cost-efficiency. The ESFS would foster greater efficiency through the promotion of consistency and arbitration between national authorities, and by taking over responsibility for a number of decisions pertaining to EU-wide groups or firms. A single EU supervisory authority for cross-border groups could be a way of making some economies of scale in comparison to the present situation (although this would be limited by the fact that national authorities would remain in place to oversee firms active in one Member State only). However, the detailed cost and staffing of the European Supervisory Agencies would depend on the specific tasks delegated to these bodies. It is evident that enhanced resources are needed, both in personnel and budget, but at this stage it is not possible to specify the exact numbers. This requires a detailed management plan linked to the specific functions of these Authorities.

In terms of impact on **taxpayers**, both proposals should strengthen the resilience of the EU financial system, thereby lowering the risk of financial crises that could imply high fiscal costs. Both bodies would require their own budget, which could be financed by industry and/or contributions from the public sector (including the EU budget). While the EU Supervisory Authorities within the ESFS would primarily rely on the execution of supervisory tasks at the national level, their resources would be relatively limited in comparison with the resources needed for the single EU supervisor (as the latter would replace national supervisors for the supervision of cross-border groups). From the perspective of the Community budget, the ESFS should at this stage be a better option as it would allow for achievement of the same objectives as the single EU supervisor, but at lower cost. Yet, looking from the perspective of EU taxpayers in the long-term, it is not possible to establish the differences in terms of general efficiency of the two models at this stage.

## Coherence

Under the criterion of coherence we shall examine the extent to which options match the overarching objectives of EU policy, and the extent to which they are likely to limit trade-offs across the economic, social, and environmental domain.

Both options are consistent with the overall objectives of the EU to contribute to sustainable economic growth and job creation, to foster the Single Market and to promote EU industry globally. Numerous studies have shown the positive impact of well-functioning financial markets and intermediaries on the real economy[25]. The financial sector in the EU is also an important employer, not only in a few financial centres in Europe but practically in all Member States. A number of other studies, including Commission analyses[26], have pointed to the interplay between the level of financial integration and the increased risk of cross-border contagion. So, effective cross-border arrangements for supervision are an essential element in fostering stable and integrated financial markets. By fostering a sound and prosperous financial sector, both options would also contribute to increasing international competitiveness of EU industry.

## Subsidiarity and proportionality

Another important aspect of comparative assessment is testing the options with regard to the EU principles of **proportionality** and **subsidiarity**. The former requires that Community action does not go beyond what is necessary to achieve the objectives satisfactorily. The latter requires that any action at EU level is justified by the added value as compared to action at the Member State level.

The ESFS would be largely based on experience with the current supervisory framework. The proposed system consists of one or more new European Supervisory Authorities working in tandem with the national financial supervisors. Key elements of the ESFS would be: decentralised day-to-day supervision by national supervisors, centralisation of specific tasks to foster harmonised rules and coherent enforcement, and enhanced co-operation and information exchange at all levels. The ESFS option therefore meets both the criteria of proportionality, by presenting targeted solutions to the identified problems, and of subsidiarity, by transferring at the Community level only the minimum of necessary competences.

[25] London Economics (in association with PricewaterhouseCoopers and Oxford Economic Forecasting), *Quantification of the Macro-Economic Impact of Integration of EU Financial Markets*, Report to European Commission, November 2002.

[26] European Financial Integration Report 2007-2008, Financial Integration Monitor 2004-2006

The above cannot be said of a single EU supervisor, which - apart from the competences necessary to address the problems identified – would transfer to the Community level all responsibility for financial supervision of cross-border groups in the EU. Full centralisation of supervisory responsibilities for cross-border groups can only be considered when there are strong arguments in favour of such a proposal. At this stage, the complexities entailed by such a proposal are such that creating a single EU supervisor would be disproportionate to the current problems and therefore out of keeping with the subsidiarity principle.

## Conclusion

In light of the assessment criteria, the ESFS is the preferred option for reform of the EU financial supervisory system. Especially with respect to effectiveness, it is questionable whether a single EU supervisor would be sufficiently close to the activities of a financial group to guarantee adequate protection for depositors, policy-holders and investors as well as financial stability in the EU. Within the ESFS, the focal point would remain at the national level, as the national supervisors would conduct day-to-day supervision. It builds on the existing decentralised structure and therefore preserves experience, expertise and continuity. It is also an evolutionary model, allowing if needed for the transfer of additional supervisory responsibilities to the EU-level over time. As for the efficiency condition, the ESFS should at this stage be a better option as it would allow for achievement of the same objectives as the single EU supervisor, but at lower cost. Another key point is that at present there is no EU-level financing mechanism for use when intervention is needed to assist an institution in difficulty. Therefore, it will be important to also make progress on burden sharing and crisis management and resolution arrangements in the cross-border context.

**Table 6. Micro-prudential supervision: comparison of options (Level 1)**
(+ positive; - negative; / difficult to establish)

| **Options** | **Assessment criteria** | | | |
|---|---|---|---|---|
| **Level 1: Supervisory system** | **Effectiveness** | **Efficiency** | **Coherence** | **Subsidiarity and proportionality** |
| **4. De Larosière proposals: ESFS** | **++** | **++** | **++** | **++** |
| 5. Single EU supervisor | ++ | ++ | ++ | - |

## Stage 2 – Institutional set-up

We may pass to assessing the institutional set-up for the new Authority or Authorities, a question which is valid regardless of whether the ESFS or a single EU supervisor is chosen. Four options exist, involving establishment of one, two, three or four bodies (see the description in the previous section). These options must be analysed according to the criteria of effectiveness, efficiency and coherence. We shall treat the option C with three Authorities as the baseline as it corresponds to the current Lamfalussy framework.

Firstly, with regard to **effectiveness**, the empirical evidence which exists as to the different supervisory models is inconclusive and is in any case drawn from different regulatory environments around the world, as noted by the G30.[27] The ESFS would have as its main tasks activities other than direct supervision (co-ordination, harmonisation of rules etc.), and

[27] See the G30 report, "The Structure of Financial Supervision – approaches and challenges in a global marketplace" G30, 9/10/2008, which states "In general, no one model has proven unambiguously superior in achieving all the objectives of regulation."

therefore evidence related to national supervisors, whose main task is day-to-day supervision of individual entities, cannot be directly applied. We can however note that the current structure of the Committees of Supervisors involves a sectoral approach with three committees and a Joint Committee for Financial Conglomerates, so any move towards a different structure would probably involve a short-term drop in effectiveness during a transitional period. Furthermore, if a non-sectoral approach were to be adopted (single supervisor or "twin peaks" for example), the effectiveness for each sector would depend on a good representation of that sector in the oversight management staff and work plan of the authority(ies) in question. We can therefore only conclude that there is no decisive evidence as to the effectiveness of the different models as regards the tasks proposed for the ESFS at EU level.

As to **efficiency**, it would seem a priori logical to suppose that the smaller the number of authorities, the lower the level of duplication of administrative resources and expenses would be, and the higher the cost-efficiency. This would point towards a single authority as the most efficient set-up, then a two-authority structure, and so forth. As mentioned above, the detailed costs and staff requirements for the different supervisory options is something that would need to be set out in the impact assessments accompanying the legislative proposals in the autumn. The efficiency of a "twin-peaks" option would depend on the balance of work at ESFS level between prudential matters and conduct-of-business matters, which will be clearer after a few years of ESFS existence.

Coming to **coherence**, the most coherent structure would be that which best reflects the nature of financial regulation in the EU and the structure of financial institutions in the EU. Here, it must first be observed that EU regulation is currently organised on a sectoral basis, with separate legislative acts and separate prudential and conduct of business requirements, for the banking insurance and securities sectors, and there is no sign that this will change in the foreseeable future. The current structure of the Committees of Supervisors reflects this fact, and a similar sectoral structure for the ESFS would seem therefore to be the most coherent with current legislation. Secondly, although many EU financial institutions are financial conglomerates, this trend may not continue and may even reverse[28].

Given the fact that no one option emerges as a clear leader under the above analysis, it is considered at this stage that the most proportional solution, involving the minimum of necessary change, is to retain the current sectoral structure of the three Committees of Supervisors by creating three European Authorities with the same sectoral mandates as these Committees, combined with a review clause which commits to an analysis of the functioning of the new structures three years after the entry into being of the ESFS. The proposed Steering Committee could ensure cross-fertilisation and interlinkage between the three Authorities and also replace the current Joint Committee on Financial Conglomerates. If the future review were to decide that effectiveness, efficiency and coherence could be better achieved by passing to a different supervisory model, taking account of the evolution of market structure in the meantime, then the existence of the Steering Committee could facilitate any changes.

**Table 7. Micro-prudential supervision: comparison of options (Level 2)**
(+ positive; - negative; / difficult to establish)

| Options | Assessment criteria | | |
|---|---|---|---|
| Level 2: Institutional set-up | Effectiveness | Efficiency | Coherence |

[28] For example, ING announced on 9/4/2009 that it will separate out its banking and insurance businesses.

| | | | |
|---|---|---|---|
| A. One body | / (-)* | + | 0 |
| B. Two bodies | / (-) | + | 0 |
| **C. Three bodies** | **0** | **0** | **0** |
| D. Four bodies | / (-) | - | - |

* (-) marks the drop of effectiveness in the short term due to transition to a new set-up

### *6.2. Macro-prudential supervision*

The assessment will be carried out in relation to the specific objectives ( see section 4.2.) according to the usual criteria of effectiveness, efficiency and coherence. If not specified differently, the assessment of the single criterion is deemed to be referred to all of these objectives at the same time.

As regards the criterion of **coherence** all options (except for A – dynamic status quo), as regards all the specific objectives referred above, are consistent with the overall objectives of the EU to contribute to economic growth and create jobs, to foster the Single Market and to promote the competitiveness of EU enterprises. The setting-up of an EU framework for macro-prudential supervision will contribute to preserving financial stability, thus providing for one of the essential pre-conditions for the achievement of the goals mentioned above. The objective of a macro-prudential approach is indeed to limit the risk of episodes of financial distress with significant losses in terms of real output for the economy as a whole.

#### A. Dynamic status quo.

As highlighted in section 3.5, the present EU arrangements are not effective as they place too little emphasis on the macro-prudential side. Moreover, there is no mechanism in the EU to ensure that macro-prudential risk warnings and/or recommendations are translated into action. Nor are the present arrangements efficient, as macro-prudential analysis is fragmented and executed by different authorities at different levels.

#### B. Build on existing or proposed structures

- **The EFC**

As regards **effectiveness** it could be argued that the role of this committee in preparing political discussion within the ECOFIN Council tends to discourage a candid assessment of risks and specific recommendations for corrective action as a search for consensus could lead to dilution in the messages coming from the committee. Such drawbacks are heightened by the fact that Finance Ministers could be direct addressees of risk warnings.

In terms of powers and resources, two main drawbacks can be highlighted with regard to the option of giving the EFC lead responsibility for macro-prudential assessment. First, the EFC Secretariat, as currently stands, would not provide the adequate level of expertise to effectively undertake the operational tasks required for such a body. It is common understanding that central bank representatives would be better placed to provide the right level of analytical support, including the development of methodology (macro-systemic stress testing), and management of a complex and wide set of early warning indicators at EU and

Member State level[29]. The latter also requires substantial resources (both in terms of staff and budget).

As concerns pooling of information, the composition of the EFC (i.e. its political dimension due to the presence of ministries of finance) could induce national supervisors to adopt a quite conservative approach, particularly on information which may raise confidentiality issues (i.e. concerning individual systemically relevant institutions). Supervisory authorities might be reluctant to disseminate sensitive data to a body having not exclusively a technical dimension.

In terms of **cost efficiency** this option would lead to substantial cost (and duplication) if the necessary expertise and technical infrastructure would have to be built up from scratch (and not be based on existing experience and expertise of for example the ESCB).

- **The ECB/ESCB**

In terms of effectiveness it would make sense to give central banks a leading role in macro-prudential supervision. Historically, the two main objectives of central banks relate to the maintenance of monetary and financial stability. Both objectives are closely interlinked; monetary policy has significant implications for financial stability, while financial stability is an essential pillar for effective monetary policy. Identifying vulnerabilities in the financial and non-financial sectors and potential shocks in these markets is therefore a vital part of the work of central banks. Moreover, central banks have a clear financial safety net function through their role as lender of last resort. Safeguarding financial stability has therefore been and always will be a fundamental objective of central banks.

The European Central Bank (ECB)/European System of Central Banks (ESCB) has wide-ranging macro-prudential expertise and is at the heart of the EU monetary system. It has also demonstrated its effectiveness in times of crisis management. The ECB/ESCB therefore seems to be uniquely placed to have a prominent position in macro-prudential supervision. In view of the integrated financial market in the EU and the geographical distribution of financial activities, it is however essential that all EU central banks be associated, not merely those in the euro area.

On the other hand, three arguments can be presented against the attribution of the macro-prudential supervision to the ECB/ESCB. First, there may be a conflict of interest between financial and monetary stability, in connection with concerns that the ECB/ESCB for reasons of financial stability would pursue a more accommodating monetary policy than warranted for the pursuance of price stability. On the other hand, in the light of the primary task of maintaining price stability, it can also be argued that the ECB/ESCB might be induced to take account of financial instability mainly to the extent that the latter is relevant for the prospects of inflation.

Second, there would be a reputational risk linked to the conduct of macro-prudential supervision. A perceived failure in fulfilling the task of early warning or in advising on the most effective measures to react to risks identified might prove detrimental to the reputation of the ECB/ESCB, thereby jeopardising their credibility as a monetary authority as well.

Third, the **concentration of power argument** could also be mentioned; attributing to the ESCB/ECB the powers linked to macro-prudential supervision might be considered

[29] These must encompass Aggregate capital adequacy ratios; financial gaps: liquidity, interest rate, funding and foreign exchange rate gaps; household indebtedness; balance sheet growth rate; level of provisions; non-performing loans; risk concentration ratios; growth rate of domestic credit, rate of growth of house and other asset prices.

detrimental to the system of checks and balances within the framework for managing the EU economy and financial sector.

Having regard to the **efficiency** criterion, giving to the ECB/ESCB the mandate of undertaking the macro-prudential supervision would allow to fully benefit from the available qualified resources to carry out the analytical and statistical work. Therefore the costs linked to implementation of this option would be reduced.

- **The ESFS**

This option would imply giving the leading role in macro-prudential supervision to the new Authorities with the support of the network of national supervisors.

As highlighted before, the scope of macro-prudential supervision differs considerably from micro-prudential supervision. The former aims at limiting the risk of episodes of widespread financial distress with significant losses in terms of the real output for the economy as a whole. This differs from the objective of micro-prudential supervision, which is to limit the risk of episodes of financial distress at individual institutions, independently of their impact on the overall economy. Given this considerable difference in scope, it would not be effective to transfer this task to the ESFS.

As for cost efficiency, this option would lead to substantial cost (and duplication) if the necessary expertise and technical infrastructure would have to be built up from scratch (and not be based on existing experience and expertise of for example the ESCB).

## C. Establish a new body, i.e., a European Systemic Risk Council (ESRC)

The envisaged composition of the ESRC should attain high level of **effectiveness** and provide the ESRC with an adequate level of legitimacy. In this respect, the de Larosière report argues that membership of any body responsible for macro-prudential supervision should be at the highest level. Having both central bankers and supervisory authorities around the table would create valuable synergies and have a mutually reinforcing impact on the stability of the financial system. As indicated, it is vital to give **central banks** a leading role in macro-prudential supervision. Within the EU, the ESCB is uniquely placed to provide the analytical and statistical support for the functioning of the ESRC.

Central banks' focus on system stability puts them in a position to better assess not only the likelihood and the potential of macro-shocks or disturbances in domestic and international capital markets, but also the operation of common factors affecting the stability of groups and intermediaries.

The involvement of **micro-prudential supervisors** through the *3L3 Committees* (or through the future European Authorities) as full members and the presence of national supervisors as observers, would ensure a close cooperation and efficient and timely exchange of information. As a result the synergies between supervisors and central banks will be enhanced. This is essential particularly for the detailed knowledge in financial markets micro-prudential supervisors hold and because they play a crucial role in early intervention mechanisms in case of a financial crisis.

Participation of the **Commission** would provide an essential contribution to the ESRC work. Indeed, the Commission plays a key role in macro-economic surveillance[30]; it would

[30] See Art. 99, §3 and 4 of the EC Treaty: "3. In order to ensure closer co-ordination of economic policies and sustained convergence of the economic performances of the Member States, the Council shall, on the basis of reports submitted by the Commission, monitor economic developments in each of the Member States and in the

therefore be in position to confirm, complement or challenge the risks identified and provide a broader perspective of risks to the financial system. Furthermore, on its own initiative or upon invitation by the Council, the Commission could intervene in the follow-up to risk warnings and recommendations issued by the ESRC, for example proposing legislation.

The technical profile of members should avoid any major risk of interference of political stances in carrying out the analysis and providing advice on corrective actions. Moreover, the level of members will provide the ESRC with the adequate legitimacy to perform its duties, in particular to ensure adequate follow-up to its advice. Involvement of the EFC Chair, albeit with observer status, is advisable as it would ease the information exchange process with political authorities. Indeed, the latter will in many cases play a relevant role in the follow-up to the warnings, particularly in connection with their prominent responsibilities in the crisis prevention and management. Giving the EFC (through its Chair) the possibility to attend meetings of the ESRC would enhance the commitment of Finance ministries in ensuring proper follow-up when their action is requested. This would also reflect the role of finance ministries in crisis management and resolution and ensure a smooth flow of information between the ESRC and the political authorities.

As regards the decision-making mechanism, various options can be envisaged at this stage: giving voting powers to ESCB Members only, extending these powers to the new European Supervisory Authorities and the Commission too, or even more widely also to (national) supervisors. The option of giving votes to all the parties involved would be too unwieldy, as it would seriously hamper the effectiveness of the body. The first option would mean for ESRC activities to benefit from light and fast procedures, thereby potentially increasing its effectiveness and preventing a potential blurring of responsibilities. This would stem, inter alia, from the level of homogeneity of voting Authorities. As a possible negative effect this mechanism could impact on the commitment of supervisors within the ESRC. Moreover giving voting power to the central bankers only might blur the distinction between the ESRC and the ECB/ESCB, thereby involving for EU Central Banks the same drawbacks as placing the ESCR within the ESCB, i.e. a “reputational risk” in connection to their participation in the ESRC. Letting European Supervisory Authorities supervisors and the Commission participate in the decision-making process, might be an acceptable intermediate way which would increase the willingness of the EU Authorities to act more proactively within the ESRC and might reduce the reputational risk for individual Members for any potential failure of the new body and fully preserve their credibility in fulfilling their own specific mandates.

The ESRC would introduce an effective mechanism for addressees of warnings and recommendations to act on them. Proper follow-up to warnings and recommendations would be ensured by introducing a "comply or explain" mechanism. As far as the addressees of its recommendations are concerned, there are two main options:

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Community as well as the consistency of economic policies with the broad guidelines referred to in paragraph 2, and regularly carry out an overall assessment. For the purpose of this multilateral surveillance, Member States shall forward information to the Commission about important measures taken by them in the field of their economic policy and such other information as they deem necessary.

4. Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Council may, acting by a qualified majority on a recommendation from the Commission, make the necessary recommendations to the Member State concerned. The Council may, acting by a qualified majority on a proposal from the Commission, decide to make its recommendations public. The President of the Council and the Commission shall report to the European Parliament on the results of multilateral surveillance. The President of the Council may be invited to appear before the competent committee of the European Parliament if the Council has made its recommendations public”

- the ESRC could interact directly with any relevant Authority or Institution at all levels (national and supranational). This would increase its effectiveness as the recommendations would be immediately transmitted to those that should implement the corrective measures suggested. On the other hand, interfacing with a wide range of Institutions and Authorities of different nature and level could imply setting-up a quite complex network of institutional relationships, with a numerous and varied group of interlocutors;
- the alternative option would be to have a rather limited number of counterparts at EU level, like the ECOFIN Council and the 3 new European Authorities (which would then forward the recommendations to the final addressees) and at global level, like the FSB and the IMF This would ensure better coordination and a proper overview of ongoing activities, reduce the administrative actions (and burden) for the ESRC and heavily simplify and speed-up its activities, offsetting in several cases the additional time needed for the transmission to the final recipients. This second option would seem to be the best one.

The ESRC would decide in each case whether a recommendation should be kept confidential or made public, on the basis of its own judgement. However, bearing in mind that the recommendations by the ESRC would not be binding, public disclosure would be expected to increase their effectiveness.

As regards the **cost efficiency** criterion the ERSC would be supported by a Secretariat staffed with officials working in the ECB[31] with rather limited costs mainly related to the equipment and running costs.

## Conclusion

Based on the previous assessment, the ESRC emerges clearly as the best solution for the EU framework for macro-prudential supervision. The envisaged architecture, status and operating procedures should allow this body to meet the three objectives in the most effective way. It would be effective as having sole responsibility for macro-prudential risk warnings and a composition which would: create valuable synergies, ensure an appropriate level of representation, and have a mutually reinforcing impact on the stability of the financial system. As for efficiency, it would build on operational and technical support from the ECB/ESCB.

## Subsidiarity and Proportionality

Concerning the **subsidiarity** principle it can be observed that only Community action would provide an effective solution to the problems identified with the existing arrangements for macro-prudential supervision. Macro-prudential supervision requires, in addition to the judgement made by individual Member States, a judgement to be taken at the EU level. The “interconnectedness” of macro-prudential risks reflects a variety of direct and indirect linkages in the financial system and involves in-depth analysis across national and sectoral borders.

Regarding the principle of **proportionality,** the establishment of the ESRC, as explained above, would not involve excessive administrative and financial costs, as it would obtain logistical support from the ECB. Moreover the proposed solution would achieve the right balance between the sovereignty of national authorities and the need to ensure an appropriate

[31] The ESRC Secretariat could be also strengthened with personnel seconded from national Central banks or from national supervisors.

macro-prudential supervision at EU level. Other options would entail a sub-optimal representation of national/EU authorities.

**Table 8. Macro-prudential supervision: comparison of options**

| **Options** | **Assessment criteria** | | | |
|---|---|---|---|---|
| | **Effectiveness** | **Efficiency** | **Coherence** | **Proportionality** |
| Status quo | 0 | 0 | 0 | 0 |
| EFC | + | + | + | + |
| Tasking the ESFS | + | + | + | + |
| ECB/ESCB | +++ | ++ | + | + |
| **ESRC** | **++++** | **++** | **+** | **++** |

# 7. Impact of the selected options

The selected options should achieve the objectives of the reform by giving effect to a number of immediate changes to the organisation of micro-prudential and macro-prudential supervision in the EU, subject to the appropriate legal framework. These changes will be achieved by work of the newly established ESFS and the ESRC, fulfilling the operational objectives listed in Chapter 4.

It is important to emphasise that the preferred options are neutral as to the organisation of supervision at the national level. They will be consistent with any of the models currently adopted in Member States. Secondly, regarding the competencies of the new Authorities, they will not include decisions with direct fiscal consequences.

The table below presents the comparison of the impact of the ESFS and ESRC on various groups of stakeholders, including consumers, employees, industry, supervisors etc, as identified in the problem description.

**Table 9. Impact of the selected options on the stakeholders**

| | **Micro-prudential supervision**<br>**ESFS (3 Authorities)** | **Macro-prudential supervision**<br>**ESRC** |
|---|---|---|
| **Financial industry: cross-border** | +<br>Prevent failure of financial institutions through better co-ordinated supervision. Ensure level playing field and reduce compliance costs thanks to harmonised standards and supervisory practices. Improve business environment thanks to financial stability and more effective crisis prevention in the EU | +<br>Prevention of failure of financial institutions through systemic contagion from other financial institutions in difficulty. Improved business environment due to financial stability and crisis prevention in the EU |
| **Financial industry: local** | =<br>No significant changes, possible adaptation to the EU standards and improved business environment | +<br>Prevention of failure of financial institutions through systemic contagion from other financial |

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| | due to more effective financial stability and crisis prevention in the EU | institutions in difficulty. Improved business environment due to financial stability and crisis prevention in the EU |
| **Financial industry: 3rd countries** | + <br> Attracting investments to Internal Market thanks to harmonised business environment and high quality supervision | + <br> Attracting investments to Internal Market thanks to increased financial stability |
| **Consumers and users of financial services (including retail investors)** | + <br> Greater convergence of conduct-of-business supervision in Europe | + <br> Increase confidence by strengthening financial stability |
| **Employees** | + <br> Preventing job losses in individual financial institutions by better detecting and remedying prudential-related difficulties | + <br> Preventing job losses in the economy as a whole arising from spill-over of financial sector difficulties to the real economy |
| **Pensioners** | + <br> Providing incentives for development of cross-border occupational pension funds and strengthening their oversight. Improve stability of pension funds | + <br> Strengthened confidence of pensioners by strengthening financial stability. Improve stability of pension funds. |
| **Corporations from non-financial sector and SMEs** | + <br> Facilitating access to finance by better preventing failure of individual institutions (e.g. European Authorities in oversight of credit ratings, approval of prospectuses) | + <br> Preventing major financial crises with damaging impacts on corporate equity value. Preventing major economic recessions linked with reduction of trade and demand. |
| **Supervisors** | + <br> Ensuring more effective cooperation by clarifying the roles and responsibilities of supervisors at the national and Community level and establishing an effective framework for conflict resolution between supervisors. Indirect strengthening of supervisory independence. | + <br> Creating a framework linking micro-prudential supervision with macro-prudential supervision. Facilitating exchange of information and leading to creation of a common information pool. |
| **National governments** | + <br> Establishing EU supervisory arrangements that are more consistent with European financial integration. Less risks of having to inject public money in the financial system. | + <br> Providing governments with recommendations for actions needed to protect macro-economic stability in the EU and individual Member States |
| **Central banks** | + <br> Establishing EU supervisory | + <br> Giving effectiveness to the |

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| | arrangements that are more consistent with European financial integration. | analysis of macro prudential developments carried out in the central banks. Facilitating exchange of information and leading to creation of a common information pool. |

In general, by contributing to safeguarding financial stability and more effective control over conduct of financial companies, the ESFS and the ESRC would increase the welfare of most stakeholder groups in the Internal Market.

# 8. Monitoring and evaluation

A number of indicators are applied to monitor the trends related to the General Objectives of the reform: financial stability, consumer and business confidence, international competitiveness of EU financial industry, financial integration (see the European Financial Integration Report[32]). However, it is difficult to establish the degree to which the EU policies, in particular the reform of financial supervision, influence the evolution of these indicators.

To monitor effectively the impact of the EU action in the area of micro- and macro-prudential supervisions, specific indicators should be matched with the specific objectives and –where possible – also with the operational objectives. These indicators should serve to evaluate the performance of the ESFS and the ESRC in fulfilling their tasks. As for the functioning of the ESFS, one could examine the progress in moving towards harmonised rules, powers and sanctions, measure confidence among supervisory authorities, and verify the effectiveness of processes and practices to challenge supervisory practices on a cross-border basis. For the ESRC to be effective it would need to fulfil three key conditions: (i) it should be effective in identifying macro-prudential risks sufficiently in advance; (ii) it should be able to competently identify appropriate measures to reduce these risks; and (c) it should be able to effectively trigger corrective action to address the identified risks. These indicators should be developed in more detail in the impact assessment of legislative proposals implementing the supervisory reform.

[32] SEC(2009)19 final

# Annex 1 – Comparison of the retained options with the de Larosière report

**Major differences between the options retained by the Commission and the proposals of the de Larosière report**

Micro-prudential supervision:

* Timing: implementation in one phase not two
* Sectoral coverage: European Insurance Authority to cover also occupational pensions

Macro-prudential supervision

* Composition of the ESRC: national supervisors would always be represented
* Voting in the ESRC: one vote per national delegation
* Addressee of ESRC warnings: only through ECOFIN Council and ESFS and not directly to national Central Banks and Supervisors (in addition to the EFC)

# Annex 2- Summary of public submissions received

The total number of submissions received to date in reply to the public consultation on financial supervision is 116 (including those which arrived after the deadline of 10 April 2009, which were accepted). The breakdown is as follows (NB all submissions not containing a registration number for the submitting organisation have been classified as individual replies):

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|---|---|
| Public authorities: | 26 |
| Registered organisations: | 16 |
| Individuals: | 74 |

Many of the submissions covered not only supervisory issues from the de Larosière report but also regulatory ones. A few did not touch on supervisory issues at all. Most congratulated the de Larosière group and broadly supported its conclusions, but some noted the lack of representativity of the group (being composed only of bankers with no representatives of other financial sectors nor of consumers or employees). The majority of contributions noted that more details are needed on the powers and composition of both macro- and micro-supervisors in order to reach definitive positions.

Submissions were received from public authorities in 18 EU and EFTA Member States and international bodies such as the IMF and the existing "Level Three committees" (for some Member States more than one submission was received from different public bodies – see annex).

On *micro-supervision*, all submissions from public authorities strongly or cautiously support the principle of the ESFS, with one exception, which withheld its support. But most submissions have issues of detail to express. Three submissions explicitly oppose binding powers for new ESFS authorities over national authorities. Most submissions highlight the need to resolve issues of governance independence and answerability in the ESFS, notably with regard to fiscal responsibility and burden-sharing arrangements. Most responses do not explicitly refer to the structure of the new authorities; of those that did, one favour "twin peaks" and four favour a unitary authority.

On *macro-supervision*, none of the responses from public authorities opposes the proposed ESRC but while some replies strongly support the proposal others support it conditionally upon further details being provided. Some favour an ESRC within the European System of Central Banks while others prefer it to be outside the ESCB.

The three EFTA submissions are supportive of the de Larosière proposals. They all support a unitary authority for micro-prudential supervision, and all advocate for observer representation of EFTA-EEA countries on both the ESFS and the ESRC.

The joint response of the existing level 3 committees is supportive of the de Larosière report (with the exception of one national delegation). On micro-prudential supervision, they emphasise the need for independence and accountability, and adequate legal powers (while recognising the legal challenges). They are open on the question of the number of authorities. Colleges of supervisors should remain at the core of supervision of cross-border groups in their view. On macro-prudential supervision, they support the ESRC proposal, while emphasising that information should be fed in by micro-supervisors not individual institutions. The IMF supports a "twin-peaks" model for micro-supervision, with some direct supervisory powers at EU-level. It strongly supports the ESRC, advocating mandatory follow-up to ESRC recommendations and co-ordination with global bodies such as the IMF. Both responses argue in favour of strong participation by micro-prudential supervisors in the macro-prudential body.

The bulk of the contributions received are from financial sector associations and institutions, whether or not registered as representative interest groups, and views are diverse.

As a broad generalisation, those responses which refer to the *macro-prudential* proposals of the de Larosière report either cautiously or more openly support them, subject to further clarifications on the exact powers and composition of the ESRC. There is no explicit opposition to the ESRC proposal expressed in sectoral submissions. Many replies emphasise the importance of good linkage between the ESRC and micro-prudential supervisors, including exchange of information; others question the mechanism which will be used for ensuring follow-up to ESRC recommendations. A number of replies emphasise the importance of avoiding double reporting requirements and of confidential treatment of information received.

On *micro-prudential supervision*, a majority of sectoral submissions express cautious support for the proposal for an ESFS. A number note that in their view colleges of supervisors should be the heart of supervision for cross-border groups, with lead supervision by the home country supervisor (and EU level oversight). Views differed on the issue of binding powers for the ESFS authorities, and on the question of direct EU-level supervision of cross-border groups. Regarding supervisory structure (one, two or three bodies), the majority of contributions either do not refer to this question or favour three bodies. Contributions from insurance associations all oppose merging banking and insurance into one supervisory body. A small number of sectoral submissions favour "twin peaks" or a single supervisor.

One contribution from the pensions sector criticises the absence of any reference to pensions in the de Larosière report and argues in favour of a separate mandate for pensions in any new supervisory structure.

On timing, a number of sectoral submissions argue for a cautious, two-stage approach, as proposed by the de Larosière report. Very few of them explicitly favour a rapid approach.

Of the nine submissions from consumer and end-user associations, only four cover the issue of supervision. One opposes the ESRC because of lack of clarity as to its competences, and on micro-supervision supports a single EU supervisor for cross-border institutions, with strengthened national supervisors for other institutions. Another emphasises the general goals of equality and sustainability for financial supervision, and favours global level (not EU-level) macro-prudential supervision. A third agrees with the need for a macro-prudential supervision body, and on micro-supervision argues that co-operation between colleges of supervisors needs to be strengthened. Another argues in favour of European Agencies for both macro- and micro-supervision, with rule-making powers in the case of micro-supervision, while leaving day-to-day supervision at national level. All consumer contributions emphasise the need for independence and transparency of supervisory bodies, and for involvement of stakeholders including consumers (possibly via an advisory panel).

All of the three trades unions which responded argue for the need for consultation of employees by both micro- and macro-level supervisors, via a consultative panel. All support the principle of the ESRC, though one favours global-level co-ordination of macro-prudential supervision. Two of the three union responses support direct EU-level supervision of cross-border financial groups.

# Annex 3 - List of public submissions received

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| ***Public Authorities*** |
| 3L3 committees (joint response) |
| Austria (finance ministry, financial market authority, central bank joint response) |
| Autorité des Marchés Financiers (FR) |
| Bulgarian finance ministry |
| Comisión Nacional del Mercado de Valores (ES) |
| Czech Central bank |
| Danish Financial Services Authority |
| EFTA EEA Standing Committee |
| Estonia finance ministry |
| Hungarian Financial Supervisory Authority |
| Hungarian Ministry of Finance |
| Hungarian National Bank |
| Iceland government |
| IMF |
| Ireland Ministry of Finance |
| Irish Financial Regulator |
| Latvian finance ministry |
| Netherlands Finance Ministry |
| NL Central Bank |
| NL Financial Market Authority |
| Norway (finance ministry, Central Bank & Supervisory authority joint submission) |
| Polish Financial Supervision Authority |
| Portugal Finance Ministry |
| Slovak Republic |
| Swedish FSA and Central Bank |
| UK (government and FSA) |
| |
| ***Registered Organisations*** |
| Association fédérative internationale des porteurs d'emprunts russes (AFIPER) |
| Association of British Insurers (ABI) |
| Bundesverband Investment und Asset Management (BVI) |
| Comité Européen des Assurances (CEA) |
| Eumedion (NL corporate governance forum) |
| European Fund and Asset Management Association (EFAMA) |
| Fédération des Associations Indépendantes de Défense des Epargnants pour la Retraite (FAIDER) |
| Federation of Enterprises in Belgium (FEB) |
| Forum of European Asset Managers (FEAM) |
| German Insurance Federation ( GDV) |
| Investment & Life Assurance Group (ILAG) |
| La Voix des Emprunts Russes |
| Luxembourg Banking association (ABBL) |
| Nordic Finance Trade Union (NFU) |
| Royal Institution of Chartered Surveyors (RICS) |
| UK Investment Management Association (IMA) |
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| ***Individuals*** |
| Alternative investment management association |
| Association Française des entreprises privées |
| Association Française des Marchés Financiers |
| Association of Chartered Certified Accountants |

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| Association of international life offices |
| Associazione Bancaria Italiana |
| Aviva |
| Banco Santander |
| Bank Track |
| Barclays |
| Baxter Fianncial Services |
| Bundesverband Deutscher Banken |
| German Association of Energy and Water Industries (BDEW) |
| BEUC (Bureau Européen des Unions des Consommateurs) |
| BIPAR (European Federation of Insurance Intermediaries) |
| BNP-Paribas |
| Business Reporting - Advisory Group |
| British Bankers' Association |
| Building Societies Association |
| BVR-DSG-VÖB-VDP (German Banking Associations) |
| Confederation of British Industry |
| Caisse des Dépôts and Cassa Depositi e Prestiti |
| Confédération Européenne des Associations de Petites et Moyennes Entreprises |
| CFA Institute Centre for Financial Market Integrity |
| Consumers International |
| European Association of Co-operative Banks |
| European Association of Public Banks |
| European Banking Industry Committee |
| European Financial Services Round Table |
| European Federation for Retirement Provision |
| European Savings Banks Group |
| Euroclear |
| European Banking Federation |
| European Contact Group |
| European issuers |
| F Roels |
| Fédération Bancaire Française |
| Fédération Européenne des Conseils et Intermédiaires Financiers |
| Federation of European Stock Exchanges (not for publication) |
| Fédération des experts comptables européens |
| Fédération française des sociétés d’assurance |
| Fédération française des sociétés d’assurance mutuelles |
| FIN USE |
| Futures and Options Association |
| Financial Services Consumer Panel |
| Groupe Consultatif Actuariel Europeen |
| HSBC |
| Institute of Chartered Accountants of Scotland |
| International Capital Market Association |
| ING |
| Irish Stock Exchange |
| J P Marin Arrese |
| LIBA, SIFMA, and ISDA |
| M Wendschlag |
| MAF, SMABTP, MACSF |
| Managed Funds Association |
| M Grinover |
| NASDAQ OMX |
| Nederlandse Vereininging van Banken |
| NYSE-Euronext |
| Omgeo |
| Pan-European Insurance Forum |

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| PriceWaterhouseCoopers |
| Quoted Companies Alliance |
| R K Associates |
| S Walby |
| Transparency International |
| UNI Europa |
| Unicredit |
| Unite the Union |
| Verbraucherzentrale Bundesverband |
| Which? |
| XBRL Europe |
| Zentraler Kreditausschuss |