Disclaimer: The views in this Report do not necessarily coincide with those of Banco de Portugal. Any errors or mistakes are solely the author's responsibility.

GENERAL QUESTIONS

What do you consider to be the most important challenges/problems raised by Banking Union? To what extent are the measures adopted to establish Banking Union likely to fulfill its declared objectives?

Firstly it is crucial to implement the proposals on the *European deposit insurance scheme (EDIS)*, with the aim of further minimize the nexus between banks and sovereigns. As the Commission has noted EDIS would increase the resilience of the Banking Union against future final crises by reducing the vulnerability of national guarantee schemes to large local shocks and the link between banks and their home sovereign. This is even more important because in the euro area households have almost 30% of their consolidated financial assets in bank deposits, because some Member States guarantee deposits several times higher than their GDP and because the relative importance of deposits in euro area banks' funding has increased with the crisis. According with the proposals of the European Commission, EDIS would begin with a reinsurance approach (first three years), then moving to a co-insurance approach (during four years) which would gradually increase the rate of mutualisation until a full insurance scheme would be achieved (by 2024). The underlying principle of EDIS is cost neutrality during the first two stages for Member States. During the reinsurance phase, the national DGS would have first to exhaust its funds, besides complying with the current EU Directive. Furthermore, EDIS would only contribute up to a certain percentage of the shortfall and up to a specified maximum cap, in order to avoid moral hazard risk and the possibility of first mover advantages. Co-insurance, on the other hand, implies that the pay-outs would be shared as of the first euro of loss, but other features would be similar. The Commission proposes that a strong and independent authority at Banking Union level will administer EDIS, decide on the ex ante risk-adjusted contributions from the banks, monitor contribution inflows and manage pay-out cases. This could be assigned to the Single Resolution Board, with an appropriate modified governance structure in order to address any potential conflict of interest between the resolution and deposit guarantee functions. Actually, the Single Resolution Board's experience with the progressive mutualisation of the national compartments of the Single Resolution Fund could provide the expertise for the evolution from a reinsurance scheme towards a full mutualised EDIS. The rationale of this proposal is also reinforced by the view that resolution and deposit insurance are two highly interlinked dimensions of dealing with banks in trouble. In this perspective, the two dimensions could be merged into one institution.

Secondly, and in the *short-term a bridge financing arrangement* for the Single Resolution Fund is key. As the Commission has elicited, bank contributions to the SRF will begin in 2016, but the SRF will not reach its steady-state target of circa 55 billion Euros until 2024. Besides, the progressive mutualisation of contributions during this eight year period may limit the borrowing capacity of the SRF. Therefore, it will be necessary not only to establish national credit lines to support the non-mutualised compartments, but also began discussing other financing arrangements, such as a credit line via the European Stability Mechanism. Even in 2024, and notwithstanding a robust prudential regulatory and supervision framework, it will be important to have available an *effective common fiscal backstop* to be used as a last resort. Along with the Commission proposal, such backstop would imply a temporary mutualisation of potential fiscal risk related to bank resolution across the Banking Union. Its use would be fiscally neutral in the medium term as any public funds would be reimbursed over time by the banks via ex-post contributions to the SRF.

In accordance with the Commission, the backstop function could be achieved through a credit line by the European Stability Mechanism, which would however require a change in the ESM Treaty.

This initiative of the Commission will most probably be very controversial. Just to give an example, it should be recalled that bank's contributions will be based, during the first phase, based on their risk profile vis-à-vis their national banking system, whereas in the second phase they will be determined in relation to the risk profile of the EU banking system. As it is stated in the draft Regulation "an analysis show that (i) the risk-weighting of contributions changes the distribution of the financial burden among the banks of a given banking sector, (ii) assessing the risk of a given bank relative to banks of the Banking Union rather than to the banks of the national or DGS's banking sector is likely to change the level of contributions to be paid by that individual bank. However, no group of banks was identified as being advantaged or disadvantaged".

Thirdly, there seems not to be any governmental mechanism to settle disputes between agencies operating at different levels.

Fourthly, several *risk reduction/mitigation measures* have to be pursued. To begin with, the SSM should clearly delineate its supervisory priorities for 2016, e.g. Thematic review on bank's profitability drivers at firm level and across business models; Credit risk with a focus on non-performing loans and concentration (e.g. sovereign exposures; commercial and residential real estate exposures); Capital adequacy (OND; deferred tax assets; improving SREP assessments and addressing the communication strategy (transparency of SREP processes and/or outcomes; comparability and quality of internal models; banks' preparations for gone concern scenarios); Risk governance and data quality; Liquidity. After, issues like the application of bail-in rules, the assessment of insolvency laws and restructuring proceedings, the CRD IV/CRR amendments, including the regulatory treatment of sovereign exposures, as well as the problems related with the so-called shadow banking should also deserve priority.

Fifthly, strengthening the macro-prudential framework (also for non-bank financial institutions, such as insurance companies or CCCPs) should be pursued to better align the financial regulatory framework with country- or sector specific developments.

Sixthly, creating a *Capital Markets Union,* if we consider it as a complement, from a supply side perspective, to the Banking Union, as a way to increase the share of corporate financing from capital markets and ensure private better risk sharing in the European Union. It should also include the identification of areas of private law which can be materially affected by the Banking Union: banks' corporate governance, resolution and customer relationships (see *Annex 1*).

Seventhly, Economic and Monetary Union also needs to be deepened in several areas, as the Five Presidents' Report has identified (see *Annex 2*).

Finally, in 2016 there will be the *review of the European System of Financial Supervision* (ESFS), which cannot ignore the set up of Banking Union (in particular, of the SSM), in order to minimize institutional overlaps/competences, while avoiding institutional gaps. In this context the EBA should focus in the regulatory framework and in the promotion of supervisory convergence and of cooperation (the latter between non-participating Member States e between these and SSM countries). The ESRB, on the other hand should give priority to the design and implementation of macro-prudential policy for the EU as a whole and covering all financial sub-sectors (although taking into account the prevalence of banking in the Union). Also, the governance and membership of the General Board (and its substructures) could be revisited, given the creation of macro-prudential ("designated") authorities in several Member States (see *Annex 3*).

Do you consider that the legal bases of Banking Union measures are appropriate?

The legal basis for banking union is a series of legislative texts that were adopted in 2013 and 2014 the political decisions of 2012. The Single Supervisory Mechanism (SSM) Regulation of October 2013 is based on Article 127(6) of the Treaty on the Functioning of the European Union (TFEU), which was included in the Maastricht Treaty to enable the conferral of supervisory responsibilities to the European Central Bank (ECB). The Single Resolution Mechanism (SRM) Regulation of July 2014, which establishes the Single Resolution Board (SRB), is based on Article 114 TFEU, which is the usual basis for internal market legislation and which had already been used to create EU agencies (e.g. the European Banking Authority – EBA). The SRM Regulation also establishes the Single Resolution Fund (SRF) under the authority of the SRB, but its financing arrangements are detailed in a separated intergovernmental agreement signed in May 2014. Also based on Article 114 TFEU are: the Deposit Guarantee Scheme Directive of April 2014, and the Bank Recovery and Resolution Directive of May 2014. Therefore, the banking union has a hybrid legal basis, which derives partly from the euro area policy framework with Article 127(6) as the basis for the SSM, and partly from the EU single market framework, with Article 114 as the basis for the SRM.

Having as its legal basis Article 127(6), has allowed a swift process of implementing the SSM, as a matter of urgency, with no need to change the Treaty. At the same time, however, it may have brought some limitations to the SSM functioning, excluding non-prudential functions which in practice are related to prudential tasks (e.g. the prevention of money laundering and of terrorism financing or consumer protection measures), or to the scope of supervised entities (e.g. excluding in certain circumstances financial holding companies or CCPs, in the latter case except if they have been qualified as credit institutions for all or part of their activities).

Please note that in the case of the SRB, CJEU guidance has been followed, in the sense that the Court has stated that Article 114 TFEU could be used as a legal basis if it is "actually and objectively apparent from the legal act that its purpose is to improve the conditions of the establishment and functioning of the internal market". Moreover, the CJEU currently holds that the delegation of tasks to a Union agency is possible where the measures to be adopted require a high specific professional and technical expertise and the capability of such body to respond swiftly and appropriately (current standing of the Meroni doctrine).

To what extent and, if so, how do the rules governing Banking Union affect or are likely to affect the constitutional principles of the EU, the division of powers between the EU and the Member States, and the institutional balance at EU level?

Looking at the multiplicity of EU bodies/agencies, with a bear in supervision/ regulation/ resolution matters (e.g. ECB, EBA, EIOPA, ESMA, ESRB, SRB, ESM if the role in direct bank recapitalization materializes), which reflects, to a certain extent, the ad hoc answer to the financial crisis, and that do not share a common geographical scope, there may be risks of duplications, or more seriously, potential tensions between them, which the Commission is already working on in the context of the ESFS revision.

Actually, Article 114 has been criticized by some as the legal basis for the creation of the SRB (instead of resorting to Article 352 TFEU), despite the most recent CJEU rulings (e.g. on the Short Selling Regulation). It is argued that, given the focus of the SRM/SRB in the euro area, it has to be proven that benefits to the latter always positively influence the overall internal market. I would say that at least the mitigation of risks in the euro area will always be beneficial to the internal market as a whole…

In the case of Article 127(6), I would argue that the legal position of the SSM/ECB does not raise material concerns, if we take into account the safeguards surrounding non-participating Member States that decide to opt in, through the close cooperation mechanism. Naturally that some treatment disparities may always be invoked (e.g. non participation in the Governing Council, suspension or removal of such countries from the close cooperation arrangements), but they should be assessed against the ECB obligation of having full regard to the unity and integrity of the internal market.

Interplay between the EBA and Banking Union **–** Actually, the co-existence of the EBA and of the ECB may be understood as the juxtaposition of the Single Market and of the

Banking Union. Nevertheless, they have been created at different stages of the crisis, and somehow pursue two distinct even if complementary goals. The EBA to counteract/ rebalance the principles of minimum harmonization and mutual recognition (given the potential drawbacks of regulatory arbitrage, difficulties for cross-border supervision and for the functioning of cross-border banking groups) and the Banking Union to centralize prudential banking supervision.

Although the roles of the EBA (EU, focusing in regulation and standard setting, as well as on coordination/cooperation with non-BU supervisory authorities but with a network's philosophy) and of the SSM (centralization, with a uniform application of supervisory tasks) are complimentary, EBA is going to be (or better has already been) impacted, with (e.g.) changes in the decision-making rules of the Board of Supervisors (double majority rule), as well as with expected changes in its strategic direction of work.

Actually, for regulatory matters, the principle of simple majority of votes (and it should be recalled that the SSM representative has only an observer status in the Board of Supervisors) does noy hold. Instead, a qualified majority prevails, but it should encompass a simple majority of participating states and a simple majority of non-participating states (the latter seeing their negotiating position upgraded). The double simple majority rule also applies to decisions related to the provisions of "breach of Union law", "emergency decisions" and "dispute settlement".

As it has been publicly stated, "indeed, the double majority rule raises serious concerns, since it increases the risks of deadlocks imposed by minority blocks, and rests on the implicit assumption that the participation in the Board of Supervisors is driven by national interests. Therefore, in the review of the ESFS attention should be paid to a better balance within the EBS's governance between representation of national viewpoints and more centralized European representation".

Furthermore, there is a lack of clarity on the legal scope of EBA's mediation role under article 19 of EBA Regulation, which should be addressed in the next review of the ESFS.

The rules establishing Banking Union seek to safeguard the principle of equality of Member States and financial institutions. Do they succeed in doing so?

Notwithstanding the possibility for non-participating EU Member States to opt in the Banking Union through close cooperation agreements, we should take into account two facts – they may not doing it in practice and, if they do, they will not have exactly the same rights as euro countries, regarding, for instance, the decision making process of the SSM (see above).

As to financial institutions, there will also be an un-level playing field, especially concerning credit institutions/banking groups of non-participating EU Member States that, in certain circumstances will continue to be governed by a series of different prudential regimes (both at the regulatory and at the supervisory level).

Among participating Member States it seems not to be the case of the being discrimination between significant and non-significant banks (see below).

To what extent and how does Banking Union affect or is likely to affect the internal market, including the rules of competition and state aid?

See above.

The creation of the Banking Union must coexist with the current framework for competition and state aid. This is particularly relevant in the area of resolution, given the European Commission (Directorate General for Competition – DG-Comp) control of state aid and bank restructuring, watching for their compliance with EU law.

Actually if we ask if there is a need for state aid control in a BRRD/SRM environment, the official answer will be positive, possibly base on three arguments:

- The SRM does not cover all banks in the European Union, and it is key to ensure that resolution measures happens at the same term, to safeguard the single market.
- The objectives of state aid control and resolution are largely aligned.
- The Commission has an extensive knowledge and experience in resolution/restructuring operations.

Furthermore, the state aid control plays an important role under the SEM regulation (e.g. it contains express references to the application of state aid rules; state aid criteria are applicable by analogy to interventions of the SEF).

See the planned review the European System of Financial Supervision (Annex 3).

Does Banking Union threaten in any way the independence of the ECB?

In general terms, one of the outcomes of the international financial crisis has been the reunification in central banks of monetary policy functions and prudential (micro and macro) prudential functions. In the particular case of the euro area the political urgency of solving (or at least minimizing) the sovereign debt crisis without resorting to a lengthy process of changing the TFEU also contributes to explaining the shifting of supervisory powers and competences to the ECB.

Conceptually, there are arguments favoring and against the allocation of prudential banking supervision at a central bank. Among the former, central banks benefit from informational synergies (because they should have granular data that allows them to perform the solvency test in the context of emergency liquidity assistance), or given their knowledge/role in financial markets/payment systems; they have a high degree of independence and gather the necessary analytical capabilities. Among the latter, potential conflicts of interest are usually invoked, as well as reputational risks.

We do not consider that assigning prudential supervision tasks to the ECB has had a negative effect on its independence, laid down in Article 130 TFEU. However, this is counterbalanced in terms of the changes introduced on its accountability duties (as a prudential supervisor).

In the new accountability environment, some elements should be highlighted:

- Regular reporting not only to the European Parliament and Council, but also the Eurogroup and the Commission.
- Reporting obligations to national Parliaments of participating Member States.
- Establishment of an Administrative Board of Review which may review decisions addressed to natural or legal persons.
- Co-appointment and dismissal of the chair and vice-chair of the Supervisory Board by the European Parliament.

Please provide a brief description of the domestic measures adopted in your State to implement Banking Union: Indicate whether such measures have taken the form of primary legislation, executive rule-making (and if so by which authorities) and/or soft law; What are the most important problems that banking union gives rise to from the perspective of your national law?

The Portuguese Banking "Code" (Regime Geral das Instituições de Crédito e Sociedades Financeiras – RGICSF), dated back from 1992, had two main objectives – (a) the implementation of EC Directives (regarding prudential matters, such as rules of establishment and prudential rules governing credit institutions' activities) and (b) the codification of remaining national legal provisions related with credit institutions. The RGICSF was approved by a Decree-Law from the Government (although its sanctioning provisions are to be approved by the Parliament).

Up to a large extent, the RGICSF has been the instrument used in the transposition of prudential EC/EU Directives, and much more so during the period of minimum harmonization (where the European legislation was broadly characterized by general principles/provisions) and of recourse to directives instead of EU regulations. It should be underlined, however, that the use of the RGICSF proved not to be possible in the implementation of the Annexes of Directive 2006/49/EC, given their complexity and technical detail. In this case, two different decree-laws have been enacted which basically enabled Banco de Portugal to issue technical prudential requirements/standards ("Avisos" or "Instruções").

Probably, the main difference between the current RGICSF and the 1992 one is the densification of the content of the legal provisions (highly influenced by the evolution from minimum to maximum harmonization). This also probably reflects the objectives of the legislators (both EU and national) to reduce the discretionary powers of supervisory authorities (also aligned with the replacement, at the EU level, of directives with regulations).

Two of the main operational challenges raised by CRR and other EU Regulations were exactly (a) to identify the regulatory standards/guidance previously issued by Banco de Portugal that should be considered redundant or tacitly revoked and (b) to answer to questions by banks on the practical application of EU regulations and their associated delegated acts or guidelines/recommendations.

Mention should be made to the fact that the designation of Banco de Portugal as the national macro-prudential authority and as the national resolution authority has been operated through changes to its Organic Law/Statutes, respectively in 2013 and 2012.

The designation of Banco de Portugal as the national macro-prudential authority corresponds to the compliance with Recommendation ESRB/2011/3, and attributes to the Central Bank the responsibility of defining and conducting macro-prudential policy, "in particular by identifying, monitoring and assessing systemic risk, and by proposing and adopting measures to prevent, mitigate or reduce such risks in order to strengthen the resilience of the financial sector", conferring upon Banco de Portugal the possibility to issue orders, recommendations and warnings that may be deemed necessary to fulfil its mandate. Banco de Portugal shall also establish mechanisms for cooperation with other relevant public authorities and financial supervisors. Three different and independent authorities are responsible for supervising the Portuguese financial system. Banco de Portugal which is both the macro-prudential authority and the micro-prudential supervisor, the Securities Markets Commission (Comissão do Mercado de Valores Mobiliários – CMVM), which is the supervisor and regulator of securities market (and markets for other financial instruments) as well as of the activity of those who operate in such markets, and the Insurance and Pension Funds Supervisory Authority (Autoridade de Supervisão de Seguros e Fundos de Pensões – ASF), which is responsible for supervising and regulating the insurance and pension funds sector. In line with the formal mandate of Banco de Portugal as macro-prudential authority, the legal framework assigns the National Council of Financial Supervisors (Conselho Nacional de Supervisores Financeiros – CNSF) an advisory role to Banco de Portugal, although the latter has the ultimate decision as regards defining and implementing macro-prudential policy. The CNSF is chaired by the Governor of Banco de Portugal and is composed of permanent representatives from the three supervisory authorities, specifically the member of the Board of Directors of Banco de Portugal responsible for prudential micro-supervision and the presidents of ASF and CMVM. Furthermore, when acting under its macro-prudential advisory role, a representative from the Minister of Finance and also the member of the Board of Directors of Banco de Portugal responsible for macro-prudential matters will participate in CNSF's meetings as observers.

The designation of Banco de Portugal as the national resolution authority largely results from its knowledge about the banking system, given its role as prudential supervisor of credit institutions and investment firms. However, the resolution activities should be internally organized following a strict separation principle, not only in relation to the supervisory (micro and macro), but also in relation to any other activity of the central bank. Furthermore, decisions concerning resolution matters should be based on strictly technical criteria and not on "opportunity" reasons.

THE SINGLE SUPERVISORY MECHANISM

Does Regulation No. 1024/2013 provide for clear and appropriate rules determining the allocation of powers and supervisory tasks between the ECB and the national competent authorities? In particular: Are the rules allocating competences clear? Are the areas of respective competence easily separated? Are there sufficient mechanisms to safeguard the powers of national competent authorities and ensure that they have a meaningful input? Article 6(4) provides for the criteria that determine which banks fall within the direct supervisory powers of the ECB. Do you consider those criteria and the way they have been applied appropriate? Do they give rise to any major problems/risks?

As it has been published, "it should be noted that the Regulation describes the involvement of national supervisors not in terms of contractually delegated parties, but as an "integral part of the SSM", preventing national supervisors from being regarded as more or less autonomous players in the overall mechanism. This feature explains the right of the ECB to address general instructions to national supervisors and, in extreme cases, to pre-empt supervision of a specific bank or groups of banks".

As a corollary, it has been argued that "this cooperation is however of a different nature from the previously existent one, as laid down in the directives, in the sense that the latter is horizontal, relating to supervisor standing at the same level, where in the SSM, the cooperation is vertical and aims at ensuring the overall functioning of the SSM, under the leadership of the ECB".

Therefore, each country will have to strike a balance between gaining more independence at national level (in other words, less regulatory capture) and the loss of autonomy in decision-making.

On the criteria to qualify banks as significant institutions or less significant institutions (Article 6(4) of the Regulation) it is our view that no discrimination will result for the latter if the rules underlying the "indirect supervision" are properly applied by national competent authorities. Actually, the ECB is entitled to:

- Issue regulations, determinations and general instructions.
- Bring under its direct supervision, in its own initiative, a less significant institution.
- Supervise the functioning of the SSM.
- Require information on the supervisory activities carried by the NCA.

Reference should be made to the fact that, given the provisions of article 127 TFEU, the *regulatory competences* of the ECB are very limited. The ECB should apply the EU legislation/single rulebook, and where that legislation takes the form of directives the national provisions through which Member States have transposed them (see the section on the single rulebook).

The *ECB governance model and decision-making process*, as prudential supervisor, entails several challenges, stemming from its complexity and from the very narrow degree of actual empowerment conferred by the Governing Council to the Supervisory Board. There are also problems derived from the composition of the Supervisory Board (ECB in a minority position), and especially from the independence of their members, that (theoretically) "shall act in the interest of the Union as a whole", although they are high-level staff of the national competent authorities. It is rather "peculiar" that the Regulation does not establish any safeguards when voting an issue that affects a bank in a particular jurisdiction…

Even if the decision-making power pertains entirely to the Governing Council, it is uncertain if the deadlines defined in the Regulation (even taking into account the non-objection procedure) would allow the Governing Council to adequately discharge its responsibilities.

It has been mentioned – and I quote Nicolas Véron – that "on a more medium-term basis, the ECB will need to convince observers that the governance structure of the SSM, in which representatives from national supervisory authorities hold a majority of votes in the ECB's Supervisory Board, is conducive to consistent, impartial decisions on matters of general policy and on individual banks". "Moreover, the ECB will need to aim at consistent supervisory outcomes for thousands of less significant banks that remain supervised by national authorities on a day-to-day basis, but for which the ECB retains ultimate responsibility".

Allocation of powers and tasks between the ECB and national competent authorities:

Micro-prudential dimension – The centralization of prudential supervision by a supranational authority is, in principal, the first best solution, in a scenario of extensive cross-border spillover impacts and higher risks of regulatory/supervisory capture. However, it may have negative effects the higher the heterogeneity between national economies, national regulations and national banking systems.

In pragmatic terms, it would have been impossible to put under the direct supervision of the ECB all participating States' credit institutions. However, it should be signaled that the criteria for classifying significant institutions (centrally supervised) and less significant institutions, the most important of which is size, is not always coincident with non-systemically relevance (just remember the cases of BPN in Portugal or of Northern Rock in the UK). The other side of the coin – allowing smaller credit institutions to be solely supervised at the national level – would have perpetuated the risks of fragmentation, un-level playing field and regulatory arbitrage.

Therefore, Article 6(4) may be considered an intermediate solution, as national supervisors act under the general (and uniform) guidance/instructions of the ECB/SSM (except for fields – such as authorization and qualifying shareholdings – which pertain to the exclusive competence of the ECB), must give information on the decisions taken and where the ECB retains the ability to directly supervision of a smaller institution if it deems it to be appropriate.

Nonetheless, it cannot be ignored that institutions/banking groups under the direct supervision of the ECB may enjoy some comparative advantages (one supervisor; a single set of prudential rules and of reporting requirements).

Macro-prudential dimension – Financial stability and macro-prudential policy in a banking (and monetary) union are important factors, given the free capital flows, the cross-border financial spill-over effects between interconnected national banking sectors. However, business and financial cycles are not synchronized across countries and the structural features of economic and financial sectors remain, to a significant extent country specific. Therefore, an intermediate solution has been found: co-responsibility shared by the ECB and the designated national authorities in the macro-prudential policy framework. Actually, the ECB powers remain limited because it can only act to top up measures taken by national authorities and where such measures are foreseen in EU legislation. This may require extending ECB powers for borrower-based instruments (e.g. LTV, LTI, DSTI), what would require a EU legislative change, as well as a better and more expeditious articulation between the ECB and national authorities. Also the interaction between the SSM/ECB and the European Systemic Risk Board should be reassessed.

To what extent does the EU regulatory framework guarantee successfully the separation between the supervisory powers of the ECB and its monetary policy function?

First, it should be recognized that monetary policy (including all the non-conventional measures implemented by the ECB) is not designed to deal with asymmetric shocks within the euro area and, thus, banking union (or better micro and macro prudential policies) should be understood as a necessary (although not sufficient) tool.

Second, a clear formalized separation principle has been followed, coupled with measures regarding internal organization (separate directorates, governance and management), Chinese walls of secrecy, different lines of hierarchical reporting and decision-making processes.

On the decision-making process, it should be underlined that the ultimate decision on prudential matters rests with the Governing Council, who has “the power to reject or to modify partly or fully any draft decisions submitted to it by the Supervisory Board” (non-objection procedure). The Regulation has taken a conservative approach vis-à-vis the Meroni doctrine. Actually, the SSM is not an institution but rather a mechanism (leaving no doubts about delegation of competences), and the Supervisory Board has been designed as an intermediate phase of the ECB decision-making process, without legal personality or external competences (the only exception foreseen in the Regulation being to report to the European or national Parliaments). As a consequence, there is no internal or external review against decisions of the Supervisory Board, because they are only proposals to be ultimately adopted by the Governing Council.

Moreover, the Mediation Panel enables national competent authorities to solve diverging stances between the Supervisory Board and the Governing Council, whenever resulting from concerns of a monetary nature.

Evaluate the effect of the SSM on non-participating Member States. Without prejudice to the generality of this question, comment, as necessary, on: the powers of the ECB over credit institutions established in non-participating Member States; the powers of the ECB over activities in non-participating Member States of credit institutions established in a participating Member State.

The SSM regime will have effects on non-participating Member States, because the Regulation is binding in the overall European Union. However, the articulation will be based in the "traditional directives" lines of coordination and cooperation (e.g. home-host relationships; colleges of supervisors…), unless "close cooperation agreements" are established (see above).

THE SINGLE RESOLUTION MECHANISM

The SRM provides for the involvement of various actors which include the Single Resolution Board (SRB), the Council, the Commission, the European Banking Authority (EBA) and the national resolution authorities. To what extent does Regulation No. 806/2014 provide for a clear division of competences among them? What legal problems, if any, arise in this respect? Comment also, as necessary, on the relationship between the SRB and (a) the EU institutions and (b) EU bodies and agencies.

Firstly, it should be underlined that the EU Treaties do not expressly establish powers for the resolution of banks.

The SRM Regulation does however define that resolution should aim at:

- Ensuring the continuity of critical financial functions of the institutions under resolution.
- Maintaining financial stability, by avoiding contagion to other financial institutions/financial market infrastructures (e.g. payment systems).

- Reducing banks' reliance on public finance (from bail-outs to bail-in, while treating equally creditors of the same class, unless public interest is invoked and reasoned, and applying the principle that no creditor would be worse than if insolvency proceedings have been activated) and protecting covered depositors.

- Minimizing the cost of resolution.

Secondly, as the scope of application of the SRM coincides with the scope of application of the SSM, non-SSM participating Member States are not covered, the argument being that wrong incentives might emerge. The mitigating factor is that the SRB and the national resolution authorities of such Member States may conclude Memoranda of Understanding concerning the terms of cooperation within the context of the BRRD. On the other hand, one should recognize that the application of the SRM only to SSM may still have benefits for other credit institutions/banking groups. In other words "it is in the best interest of all Member States as a means to preserve competition and to improve the functioning of the internal market. In view of the increased interdependence of banking systems, in the absence of the SRM, banking crises in SSM Member States would have a stronger negative impact also in non-participating Member States".

Thirdly, it cannot be hidden that the involvement of various actors which include the Single Resolution Board (SRB), the Council, the Commission, the European Banking Authority (EBA) and the national resolution authorities makes the functioning of the SRM extremely complex and cumbersome.

Probably, "the powers to trigger the resolution procedure and to place an institution under resolution are the most critical areas within the SRM". Currently, SRB (operating in executive session) can act, on its own initiative or after having received a communication from the ECB, if the following requirements are fulfilled:

- The institution is failing or likely to fail (here, the ECB has a central role).

- There is no realistic alternative private solution (in principle this assessment will be carried out in conjunction with the ECB).

- The resolution is necessary in the public interest (also considering the proportionality for the achievements of the resolution objectives and comparing costs vis-à-vis normal insolvency/liquidity proceedings).

Question mark – the SRM is cumbersome, legally fragile and politically vulnerable?

In your view, what are the main strengths and weaknesses of the rules governing the resolution of financial institutions under Regulation No. 806/2014?

In this report, we will assess the main strengths and weaknesses of the SRM against the criteria of efficiency (the SRM Regulation requires the adoption of "efficient, effective and speedy resolution decisions"), legal certainty and political legitimacy.

From an institutional point of view, one of the most sensitive issues to be dealt with relates to the operating relationship between the ECB and the SRB, in the field of recovery and resolution planning. Since the positive conclusion of assessment of the criterion of “failing or likely to fail” can be initiated by either authority, we may end to an issue of “competitive decision-making”. We will see in practice whether this problem will materialize in the future.

Following the reasoning in the last part of the previous question, it seems sensible that also the Commission and the Council have some intervention in this field.

The Commission is entitled to control the existence of any State aid or SRF aid and its compatibility with the internal market, which seems to be mainly dictated by political reasons (because the decision does not pertain to Member States and the SRF funds are part of the SRB budget, which in turn is mainly funded through ex ante bank contributions). The control from the Commission applies the same criteria as the ones used in assessing the compatibility of State aid with the TFEU (which grants it material powers – e.g. imposing conditionality requirements). At the end of the day, the Commission, according to Article 19 of the SRM Regulation may de facto block the resolution procedure if it judges that it is incompatible with the internal market. However, it should be mentioned that the Commission’s role “consists in an ex-post control of the discretionary aspects of the SRB decision on the resolution scheme”.

“In addition the final text of the SRM Regulation has introduced a limited but rather important role for the Council in the decision-making process:

- If the Commission objects to the resolution scheme proposed by the SRB on grounds of public interest it should make a proposal to the Council. If the Council agrees with the Commission, then the institution will be subject to insolvency proceedings;

- If the Commission approves or objects to a material modification of the amount of the Fund (5 percent or more) the Council will decide on simple majority”.

“Concluding, the final architecture of the SRM is a mixture of a centralized model where important powers are exercised at the EU level (shared between the SRB, the Commission and the Council), with a decentralized execution of decisions carried out by national resolution authorities”. In our view – again – this reflects a pragmatic political compromise.

It is however questionable, taking into account the importance of resolution decisions and even taking into account the very tight deadlines, which the Commission and the Council are not bound to justify their objections to the proposals put forward by the SRB.

Lastly, but not least, the BRRD system is largely based on the assumption that banks fail individually and not in a scenario of a systemic banking crisis

Evaluate the rules governing the Single Resolution Fund and the intergovernmental Agreement on the transfer and mutualisation and contributions and identify any problem to which in your view may give rise.

The option for an intergovernmental agreement does not raise objections in our view "(economically speaking, if the resolution funding would be kept on national grounds, in the long term the link between sovereigns and the banking sectors would not be minimized). On the other hand, according to Article 96 of the SRM Regulation, for participating Member States, the SRF will replace the national resolution financing arrangements under the BRRD". However, some authors question the adoption of the SRF intergovernmental agreement on the following legal arguments – compliance with the autonomy of EU law; compliance with the ECJ's ruling in Pringle and; implications for future EU decision-making procedures.

"In general terms, intergovernmentalism leads to increased judicial scrutiny of the agreements by national courts, which may lead to tensions in the markets which would be uncertain of the applicability of the adopted measures". Furthermore, if EU institutions, like the European Parliament would have been involved, either as a co-legislator or by giving its consent, democratic legitimacy would have been enhanced.

The SRF intergovernmental agreement will enter into force when ratified by Member States that represent 90% of the aggregate of the weighted votes of Member States participating in the SRM.

However, taking into account the overall banking system's total size, the target levels of the SRF seem clearly insufficient to manage a systemic crisis (target level, at the end of the transition period, in accordance with the Commission proposals, of circa 55 billion euro and overall possible direct recapitalization by the ESM subject to an overall cap of 60 billion euro). We should remember that in those circumstances, both the recourse to borrowing and the activation of ex post contributions by participating institution will most probably not to be feasible. Again, this shows the need for a credible fiscal backstop and its mutualisation.

On the institutional side, the decision-making process risks to (i) overweight the influence of financially bigger countries (because the SRB is not a genuine European institution, but rather a board where national resolution authorities are represented) and (ii) veto the activation of the direct recapitalization instruments, given the unanimity rule. These factors clearly lessen the predictability and credibility of the resolution arrangements.

THE SINGLE RULEBOOK

What are the main legal problems arising from the introduction of the single rulebook? Are there any specific areas which you consider particularly problematic?

In this paper, we take the single rulebook as including three levels:

- Level 1 composed of directives and regulations.

- Level 2 with Union implementing measures (most of them Commission's delegated and implementing acts, under the so-called comitology procedure, mostly deriving from the endorsement of technical standards emanated from the EBA).

- Level 3 comprising EBA's recommendations and guidelines (or even the Q&A "compendium"), because although non-legally binding contribute (through the comply or explain mechanism) to the uniform/more convergent application of prudential rules across the Union.

As has already been underlined, the single rulebook is essential to avoid a bifurcation of the single market between the banking union and the non-banking union countries.

In essence, the single rulebook corresponds to a shift of legislative powers from Member States to the EU level (mirrored by the trend to rely more and more, on regulations rather than on directives), raising some concerns about compliance with the subsidiarity principle. Also the compliance with the principle of proportionality may be called into question, if we look at the level of detail and granularity of (e.g.) of some Level 2 measures.

However, centralized supervision in the SSM needs common rules, especially due to the very limited rule-making capacity endowed to the ECB (the preamble of the SSM Regulation states that the ECB should not replace the exercise of the EBA's tasks of developing draft technical standards and guidelines and recommendations, ensuring supervisory convergence and consistency of the supervisory outcomes within the Union). But the application of common rules by the ECB has to pass a double test – they have to be part of the single rulebook and be included in areas where the ECB has an exclusive supervisory task. This approach thus requires – at least in some cases – an individual assessment, and some grey areas are not to be excluded.

On the other hand, the single rulebook does not enable the ECB to apply the same rules in the same way in all cases. Firstly, regarding prudential rules, there still remain material differences between Member States due to discrepancies in national regulations when implementing (e.g.) directives and in such cases the ECB is not entrusted with the power to make them uniform (an exception being where such divergence stem from national competent authorities' prerogatives – see the recent "options and national discretions" (OND) exercise. Secondly, there is a series of other types of national legislation (e.g. corporate law, taxation) that impact the activities (or ultimately banks' business models) that are out of the realm of the single rulebook.

Lastly, it should also be mentioned that last September the Commission Services launched a Call for Evidence on the EU regulatory framework for financial services, with the main objective of assessing the combined impact of the large amount of legislation put in place (and their interactions) and its potential unintended consequences. The areas covered by the Call for Evidence are the following: (1) Rules affecting the ability of the economy to finance itself and grow (unnecessary regulatory constraints on financing;

market liquidity; investor and consumer protection; proportionality/preserving diversity in the EU financial sector); (2) Unnecessary regulatory burdens (excessive compliance costs and complexity; reporting and disclosure obligations; contractual documentation; rules outdated due to technological change; barriers to entry); (3) Interactions, inconsistencies and gaps (links between individual rules and overall cumulative impact; definitions; overlaps, duplications and inconsistencies; gaps); and (4) Rules giving rise to possible other unintended consequences (e.g. procyclicality).

Indeed, the financial crisis has led to a far-reaching reform of the European (and international) regulatory framework and a redesign of its supervisory architecture. The regulatory framework for banks is largely in place, but some important initiatives are still to be finished. Some examples are the net stable funding ratio (NSFR), the leverage ratio (LR), total loss absorbing capacity (TLAC) for global systemically important banks (G-SIBS), the fundamental review of the trading book, the revision to the standardized approach (including the regulatory treatment of sovereign exposures) and to the IRB approach. Moreover, further efforts are needed to tackle potential risks stemming from the non-bank sector, notably to finalize the work plan on CCP resilience, recovery and resolution and to develop the macro-prudential toolkit for non-banks. Reaping long-term benefits implies both assuming temporary costs that emerge in the transition period and complementing the reform with measures correcting any identified unintended long-term impact. Enhanced capital requirements for banks will have net positive effects which will prevail in the long-term, while adverse loan supply effects are expected to be concentrated in the transition phase as banks adjust to the new requirement. Evidence from international and EU studies also demonstrate a positive or neutral impact of financial regulation on GDP growth. Simple, transparent and standardized securitizations facilitate the transfer of credit risk and can be an important source of funding for the real economy, improving the overall resilience of the financial system. Although the reforms have included additional reporting and disclosure requirements, thereby increasing transparency and market discipline, there may be scope to further streamline requirements to avoid unnecessary duplication. Standardising information (unique identifiers for institutions, products and transactions) is key to avoiding unnecessary regulatory burdens.

To what extent does the lack of a centralized framework for the administration of deposit guarantee schemes undermine Banking Union?

As the European Commission has expressly and publicly stated, the Banking Union retains a substantial weakness, as long as Deposit Guarantee Schemes (DGS) remain national, because Member States' budgets will continue to be exposed to risk in their banking sectors. Simultaneously, as the Commission has also underlined, there is no level playing field within the Banking Union, as the divergences between national DGS affect the strategy of banks to expand their activities on a cross-border basis. For instance, the choice of cross-border groups' structure (e.g. branches versus subsidiaries) may depend on the choice between banks' home deposit guarantee scheme (branches) and the host scheme (subsidiary), depending on the relative financial soundness of those two schemes. On the hand, as responsibility for supervision and resolution are already shared as a result of SSM and SRM, the circumstances in which a national DGS has to pay out insured depositors are to a significant extent no longer under national control.

Consequently, the Five Presidents' Report proposed setting up a European Deposit Insurance Scheme (EDIS), as the third pillar of a fully-fledged Banking Union. EDIS would also contribute towards the reintegration of the euro area banking system, partially fragmented by the sovereign debt crisis. Probably, a common euro area scheme would be more fiscally neutral over time than national DGS, because risks would be spread more widely between different countries and because bank contributions would be raised over a much larger pool of financial institutions.

BANKING UNION IN CONTEXT

What is the role of the CJEU on matters of Banking Union? Are there any special issues or challenges in this respect?

Under Article 263 TFEU, ECB decisions may be ruled out by the CJEU on the following grounds: lack of competence, infringement of an essential procedural requirement, infringement of the Treaties or of any rule of law relating to their application or misuse of powers.

However, the application by the ECB of a national law (e.g. transposing an EU Directive) may not be tried before the national jurisdictions, but only by the ECJ, as the latter is the only jurisdiction that is entitled to decide on recourse against an ECB decision. At the same time, however, is questionable if the CJEU has the legal ability to do it…

Annex 1 – CMU: Rationale, list of actions and indicative timeline

Overall rationale **-** The CMU might strengthen the functioning of the banking union and vice-versa (e.g. the SSM will help to incentivize cross-border investments under the CMU, thus helping recapitalization of weaker banks and limit the impact of local crises; in parallel by easing banking funding pressures CMU may reduce the fragmentation of interbank markets).

Critical differences between the two Unions (BU and CMU):

- The banking union aims at a supra-national safety net that will promote an efficient and stable single market, while the capital markets union (comprising a large number of disparate reforms) is not targeted to address financial stability concerns.
- The interdependence of the three pillars of the banking union is not apparently present in the capital markets union project.
- The geographical scope of the two Unions is diverse – the banking union is mainly a euro area programme whereas the capital markets union is aimed at the whole European Union.

New EU agencies? – Possible areas: International Financial Reporting Standards (IFRS) enforcement; Oversight of external audit firms; Supervision and resolution of financial market infrastructure firms (like CCPs).

Objectives and measures of CMU:

A. *Financing for innovation, start-ups and non-listed companies*

1. Support venture capital and equity financing: Proposal for pan-European venture capital fund-of-funds and multi-country funds (Q2 2016); Revise EuVECA and EuSEF legislation (Q3 2016); Study on tax incentives for venture capital and business angels (2017).
2. Overcome information barriers to SME investment: Strengthen feedback given by banks declining SME credit applications (Q2 2016); Map out existing local or national support or advisory capacities across the EU to promote best practices (2017); Investigate how to develop or support pan-European information systems (2017).

3. Promote innovative forms of corporate financing: Report on crowdfunding (Q1 2016); Develop a coordinated approach to loan origination by funds and assess the case for a future EU framework (Q4 2016).

B. Making it easier for companies to enter and raise capital on public markets

4. Strengthen access to public markets: Proposal to modernize the Prospectus Directive (Q4 2015); Review regulatory barriers to SME admission on public markets and SME Growth Markets (2017); Review EU corporate bond markets, focusing on how market liquidity can be improved (2017).
5. Support equity financing: Address the debt-equity bias, as part of the legislative proposal on Common Consolidated Corporate Tax Base (Q4 2016).

C. Investing for long term, infrastructure and sustainable investment

6. Support infrastructure investment: Adjust Solvency II calibrations for insurers' investments in infrastructure and European Long Term Investment Funds (Q3 2015); Review the CRR for banks, making changes in infrastructure calibrations, if appropriate (Ongoing).
7. Ensure consistency of EU financial services rulebook: Call for evidence on the cumulative impact of the financial reform (Q3 2015).

D. Fostering retail and institutional investment

8. Increase choice and competition for retail**:** Green Paper on retail financial services and insurance (Q4 2015).
9. Help retail investors to get a better deal: EU retail investment product markets assessment (2018).
10. Support saving for retirement: Assessment of the case for a policy framework to establish European personal pensions (Q4 2016).
11. Expand opportunities for institutional investors and fund managers: Assessment of the prudential treatment of private equity and privately placed debt in Solvency II (2018); Consultation on the main barriers to the cross-border distribution of investment funds (Q2 2016).

E. Leveraging banking capacity to support the wider economy

12. Strengthen local financing markets: Explore the possibility for all Member States to authorize credit unions outside the EU's capital requirements rules for banks (Ongoing).
13. Build securitization markets: Proposal on simple, transparent and standardized (STS) securitizations and revision of the capital calibration for banks (Q3 2015).
14. Support bank financing of the wider economy: Consultation on an EU-wide framework for covered bonds and similar structures for SME loans (Q3 2015).

F. Facilitating cross-border investing

15. Remove national barriers to cross-border investment: Report on national barriers to the free movement of capital (Q4 2016).

16. Improve market infrastructure for cross-border investing: Targeted action on securities ownership rules and third-party effects of assignment of claims (2017); Review progress in removing Giovannini barriers (2017).

17. Foster convergence of corporate law and of national insolvency proceedings: Legislative initiative on business insolvency, addressing the most important barriers to the free flow of capital (Q4 2016).

18. Remove cross-border tax barriers: Best practice and code of conduct for relief-at-source from withholding taxes procedures (2017); Study on discriminatory tax obstacles to cross-border investments by pension funds and life insurers (2017).

19. Strengthen supervisory convergence and capital market capacity building: Strategy on supervisory convergence to improve the functioning of the single market for capital (Ongoing); White Paper on ESA's funding and functioning (Q2 2016); Develop a strategy for providing technical assistance to Member States to support capital markets' capacity (Q3 2016).

20. Enhance capacity to preserve financial stability: Review of the EU macroprudential framework (2017).

Annex 2 – Roadmap towards a complete Economic and Monetary Union

Overall rationale **–** The Economic and Monetary Union (EMU) remains incomplete, which raises doubts about the long term viability of EMU and makes more difficult to achieve a more rapid, even and sustainable recovery in the short term.

Sequencing logic:

- Frontload private sector risk – sharing (through banking union and capital markets union.
- Link higher public sector risk-sharing (through fiscal stabilization/shock absorption functions) to progress on further pooling of sovereignty on fiscal and structural policies.
- Shift from rules to institutions (joint decision-making on national budgets and structural policies).

Stage 1 – Deepening by doing (1 July 2015 – 30 June 2017):

- Boost competitiveness and structural convergence.
- Complete the Financial Union (Banking Union and Capital Markets Union).
- Achieve and maintain responsible fiscal policies.
- Enhance democratic accountability and legitimacy.

Stage 2 – Completing EMU:

- Convergence process would be made more binding.
- Progress in convergence is a pre-condition to participate in a mechanism of shock absorption for the euro area.

Stage 1 – 1 July 2015 – 30 June 2017

Economic Union

- A new boost to convergence, jobs and growth
  - Creation of a euro area system of Competitiveness Authorities.
  - Strengthened implementation of the Macroeconomic Imbalances Procedure.
  - Greater focus on employment and social performance.

- Stronger coordination of economic policies within a revamped European Semester (better take into account the euro area dimension).

Financial Union

- Complete the Banking Union
  - Setting up a bridge financing mechanism for the Single Resolution Fund (SRF).
  - Implementing concrete steps towards the common backstop to the SRF.
  - Agreeing on a common Deposit Insurance Scheme.
  - Improving the effectiveness of the instrument for direct recapitalization in the European Stability Mechanism (ESM).
  - Launch the Capital Markets Union**.**
  - Reinforce the European Systemic Risk Board.

Fiscal Union – Create a new advisory European Fiscal Board (EFB) with three functions:

- Giving economic opinion on appropriate fiscal stance at national and euro area levels.
- Coordinating the network of national fiscal councils.
- Providing an ex-post evaluation of how the governance framework was implemented.

Democratic accountability, legitimacy and institutional strengthening

- Revamp the European Semester **–** Reorganize the Semester in two consecutive stages, with the first stage devoted to the euro area as a whole, before the discussion of country specific issues in the second stage.
- Strengthen parliamentary control as part of the European Semester (Plenary debate at the European Parliament on the Annual Growth Survey both before and after it is issued by the Commission, followed by a plenary debate on the Country-Specific Recommendations; More systematic interactions between Commissioners and national Parliaments both on the Country-Specific Recommendations and on national budgets; More systematic consultation and involvement by governments, national Parliaments and social partners before the annual submission of National Reform and Stability Programmes).
- Increase the level of cooperation between the European Parliament and national Parliaments.
- Reinforce the steer of the Eurogroup.
- Take steps towards a consolidated external representation of the euro area.

- Integrate into the framework of EU law the Treaty on Stability, Coordination and Governance; the relevant parts of the Euro Plus Pact; and the Inter-governmental Agreement on the Single Resolution Fund.

Stage 2 – At the latest by 2025

Economic Union **–** Formalize and make more binding the convergence process; Agree on common high-level standards defined in legislation (e.g. labor markets; competitiveness; taxation).

Fiscal Union **–** Set up a Euro Area fiscal stabilization mechanism/shock absorption mechanism.

Democratic accountability, legitimacy and institutional strengthening **–** Integrate the European Stability Mechanism into the EU law framework; Set up a euro area treasury accountable at the European level; Full-time presidency of the Eurogroup.

A deep review of the European System of Financial Supervision (ESFS) is required. Until now, the European Commission has published, in August 2014, two Reports, one addressed to the European Systemic Risk Board (ESRB) and the other to the European Supervisory Authorities (ESAs). Both reports, however, fail to target the most important issue – the "duality" between the Banking Union and the Internal Market.

Actually, in the case of the *ESRB report*, the identified areas for improvement relate mainly to the organizational identity; the internal organization and working structures; and the toolbox. As such, the Commission suggests some short term initiatives that would not require legislative changes:

- A more proactive communication strategy and earlier interaction with potential addresses (e.g. involvement with the Economic and Financial Committee; more use of published letters or public statements).
- An increased frequency of the Steering Committee meetings.
- Less formalism in the drafting of ESRB recommendations.
- A rebalancing of the focus beyond banking risks.

In the view of the Commission, other issues need a more thorough assessment and would include a modification of the ESRB Founding Regulations. This would notably apply to a new two-tier managerial structure (e.g. the ECB President as the Chair and a new full-time Managing Director), and to streamlining the decision-making structure (e.g. size and composition of the General Board and the Steering Committee).

On the other hand, in the case of the *ESAs Report*, the Commission lists the following short term areas for improvement of EBA (that, again, would not call for legislative change):

- Increase the focus on supervisory convergence in order to ensure consistent implementation and application of EU law (e.g. through more and better peer reviews).
- Enhance the transparency of the process of preparing draft technical standards or advising the Commission.
- Enhancement of internal governance (e.g. role and visibility of the Joint Committee; reinforcement of the authority of the Chairperson).

In a medium term perspective the Commission will pay particular attention to the following aspects (amending most probably the EBA Founding Regulation):

- Rethink the governance of EBA – e.g. strengthen the authority and the role of the Chairperson and amend the composition and mandate of the Management Board in order to confer more permanent and executive functions on it.
- Reassess EBA's mediation role.
- Improve the funding arrangements of the EBA, including the use of alternative sources of funding.
- Allocate further tasks to EBA (e.g. internal model validation; shadow banking) and simplifying direct access to data.
- Reinforce the EBA dispute settlement powers.

References

Acharya, Viral V. and Steffen, Sascha – “Is the Banking Union as stable and resilient as it looks?”.

Angeloni, Ignazio (2015) – “Challenges and priorities for the ECB banking supervision”, Banking Union Conference, Dublin, 27 November 2015.

Beck, Thorsten (Editor; 2012) – “Banking Union for Europe: Risks and Challenges”, Centre for Economic Policy Research.

Beck, Thorsten – “Does Europe need a Capital Markets Union? And how would we get there?”.

Cappiello, Stefano (2015) – “The interplay between the EBA and the Banking Union”, EUI Working Papers, RSCAS 2015/77.

Constâncio, Vítor (2015) – “Macroprudential policy in Europe: ensuring financial stability in a banking union”, Keynote speech, 28 October 2015.

Dell’Ariccia, Giovanni – “A Capital Markets Union: a few thoughts”.

Elliot, Douglas J. (2012) – “Key issues on European Banking Union: Trade-offs and some recommendations”, Global Economy & Development, Working Paper, no. 52.

European Commission (2014) – “Report on the mission and organization of the European Systemic Risk Board”, COM(2014) 508 final.

European Commission (2014) – “Report on the operation of the European Supervisory Authorities (ESAs) and the European System of Financial Supervision (ESFS)”, COM(2014) 509 final.

European Commission (2015) – “Action Plan on Building a Capital Markets Union”, COM(2015) 468 final.

European Commission (2015) – “Call for Evidence on EU Regulatory Framework for Financial Services”.

European Commission (2015) – “Towards the completion of the Banking Union”, COM(2015) 587.

European Commission (2015) – “On steps towards Completing Economic and Monetary Union”, COM(2015) 600 final.

Gros, Daniel (2015) – “Completing the Banking Union: Deposit Insurance”, CEPS Policy Brief, no. 335.

Hadjiemmanuil, Christos – “Financial Stability and integration in the Banking Union”.

Hadjiemmanuil, Christos (2015) – “The Banking Union and its implications for private law: A comment”, EUI Working Papers, RSCAS 2015/74.

Juncker, Jean-Claude (2015) – “Completing Europe’s Economic and Monetary Union”.

Lastra, Rosa M. (2012) – “Banking Union and Single Market: Conflict or companionship?”, Fordham International Law Journal, vol. 36.

Lefterov, Asen (2015) – “The Single Rulebook: legal issues and relevance in the SSM context”, ECB Legal Working Paper Series, no. 15.

Merler, Silvia (2015) – “Squaring the cycle: financial cycles, capital flows and macro-prudential policy in the euro area”, Bruegel Working Paper 2015/14.

Moloney, Niamh (2014) – “European Banking Union: assessing its risks and resilience”, Common Market Law Review, 51 (6).

Niknejad, Mandana (2014) – “European Union towards the Banking Union, Single Supervisory Mechanism and challenges on the road ahead”, European Journal of Legal Studies.

Schoenmaker, Dirk (2015) – “Firmer foundations for a stronger European Banking Union”, Bruegel Working Paper, 2015/13.

Torrejón, Roberto Ugena (2015) – The Single Supervisory Mechanism (SSM)”, Revista de Derecho Europeo, no. 28.

Torres, Xavier (2015) – “El Mecanismo Único de Supervisión y el Papel de las Autoridades Nacionales”, Banco de España, Estabilidad Financiera, no. 29.

Véron, Nicolas (2015) – “Europe’s Radical Banking Union”, Bruegel Essay and Lecture Series.

Wymeersch, Eddy (2014) – “The single supervisory mechanism or SSN, part one of the Banking Union”, National Bank of Belgium, Working Paper Research, no. 255.

Zavvos, George and Kaltsouni, Stella (2015) – “The Single Resolution Mechanism in the European Banking Union: Legal foundation, governance structure and financing”, mimeo.