

Banking supervision

Commission's package: How will it work?

By Manon Malhère | Tuesday 04 December 2012

On 12 September, the European Commission presented its package setting up a single supervisory mechanism (SSM) for financial institutions in the eurozone.

Draft Council regulation giving the European Central Bank (ECB) specific tasks in the area of prudential supervision of financial institutions (requires unanimous adoption by the 27 after consultation of the EP).

- The banking supervisor of eurozone member states will be the European Central Bank, which will have exclusive powers of prudential supervision. "This is a transfer of powers to the ECB, which will adopt decisions of last resort," summed up a Commission official.
- Interested non-eurozone states may participate in the supervision mechanism under certain conditions by means of close cooperation.
- The separation of the ECB's supervisory tasks from its monetary policy tasks will be governed by organisational principles and a supervisory board will be set up in the bank. It will be made up of a chairman and vice-chairman, four ECB representatives and a representative of each national central bank or competent authority. The ECB Governing Council will adopt final decisions but may delegate certain tasks to the supervisory board.
- The text defines the specific tasks the ECB will carry out, such as issuing or withdrawing banking licences in the eurozone states, conducting supervisory stress tests or monitoring the prudential requirements established by EU law concerning, for example, capital or liquidity requirements (the CRD IV-CRR reform on prudential requirements for banks is currently being negotiated by the European Parliament and Council). The ECB may also impose higher prudential requirements on banks if necessary as well as additional capital buffers.
- The ECB will be granted powers of supervision and investigation to execute its tasks. National supervisory authorities of eurozone states will become ECB 'agents'. They will have to assist the ECB in the exercise of its supervision and follow its instructions: they will prepare and implement ECB decisions. Once the legislation is in force, the ECB will have to define national authorities' role precisely.
- The national authorities will keep their competences in areas not specifically mentioned, such as consumer protection or supervision of payment services.
- The ECB will supervise all 6,000 eurozone banks no later than one year after the text enters into force.
- The ECB will be accountable for its supervision to the European Parliament and Council (reporting annually and answering questions raised by the EP).

Legislative proposal amending Regulation 1093/2010 establishing the European Banking Authority (EBA - adopted by co-decision).

- The EBA ensures integration and stability in the banking sector for all 27 EU member states. It contributes to the creation of a single rulebook for financial services and the coherence of supervision practices throughout the Union.
- To safeguard the interests of the 27 states, the voting procedure used in the EBA will be changed.
- At present, a decision adopted by simple majority by the EBA Board of Supervisors can be adopted by the 17 eurozone member states alone. However, "all decisions require proper representation of those inside and those outside" the eurozone, observed a Commission official. The solution proposed is an independent panel made up of the EBA president and two representatives of the 27 (one representing the eurozone states and the other the non-eurozone states) to draft decisions on matters decided by simple majority, namely: infringements of EU law and disputes between national supervisors. These decisions will be deemed to have been adopted unless they are rejected by a simple majority that includes at least three eurozone states and three non-eurozone states.

This measure will keep eurozone states from forming a blocking minority in cases of decisions taken against one of them.

- The procedure for EBA mediation will be binding on national supervisors but not on the ECB (which is independent).

Key problem areas

The main problem areas of the package, which are being negotiated by the Council and European Parliament, are as follows:

- Representation and fair treatment of states not belonging to the eurozone that wish to participate in the SSM, and more specifically these states' rights and responsibilities in the ECB. The question is legally complex since the ECB has no powers outside the eurozone. Also at issue is the division of voting rights in the bank's future supervisory board
- Differentiation of supervision, in other words the division of tasks between the ECB and national supervisory authorities. Everything is a question of calibration at this point.
- Voting and mediation procedures in the EBA