



**CONSOB**  
COMMISSIONE NAZIONALE  
PER LE SOCIETÀ E LA BORSA

“Riforma delle European Supervisory Authorities (ESAs):  
verso una nuova architettura della vigilanza europea?”

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# Financial regulation/supervision around the world

Country	Banking	Securities	Insurance/Pension fund
Austria	FSA	FSA	FSA
Belgium	CB/FSA	FSA/CB	CB/FSA
Denmark	FSA	FSA	FSA
Finland	FSA	FSA	FSA
France	PA/IP	PA/IP	PA/IP
Germany	FSA	FSA	FSA
Greece	CB	S	CB/G
Ireland	CB	CB	CB/PF
Italy	CB/S	S/CB	I(CB)/PF
Luxembourg	FSA	FSA	I/FSA
Netherlands	CB/S	CB/S	CB/S
Portugal	CB/S	S/CB	I
Spain	CB/S	S/CB	G
Sweden	FSA	FSA	FSA
UK (macro FPC)	P(CB)/IP	P(CB)/IP	P(CB)/PF
EU (macro ESRB)	SSM/EBA/CA	ESMA/CA	EIOPA/CA
United States	B/CB	B/CB/S/S	Is/CB
Japan	FSA	FSA	FSA

CB (Central bank), PA (Prudential Authority on banks, securities and insurance, different from CB), B (Prudential Agency for banks), IP (Investor protection Authority for banks, securities and insurance), S (Securities Authority), I (Insurance Authority), PF (Pension Fund Authority), IPF (Insurance and Pension Fund Authority), FSA (Single prudential and investor protection regulator), G (Government department), CA (National Competent Authorities)

# Existing European Financial Market Regulation

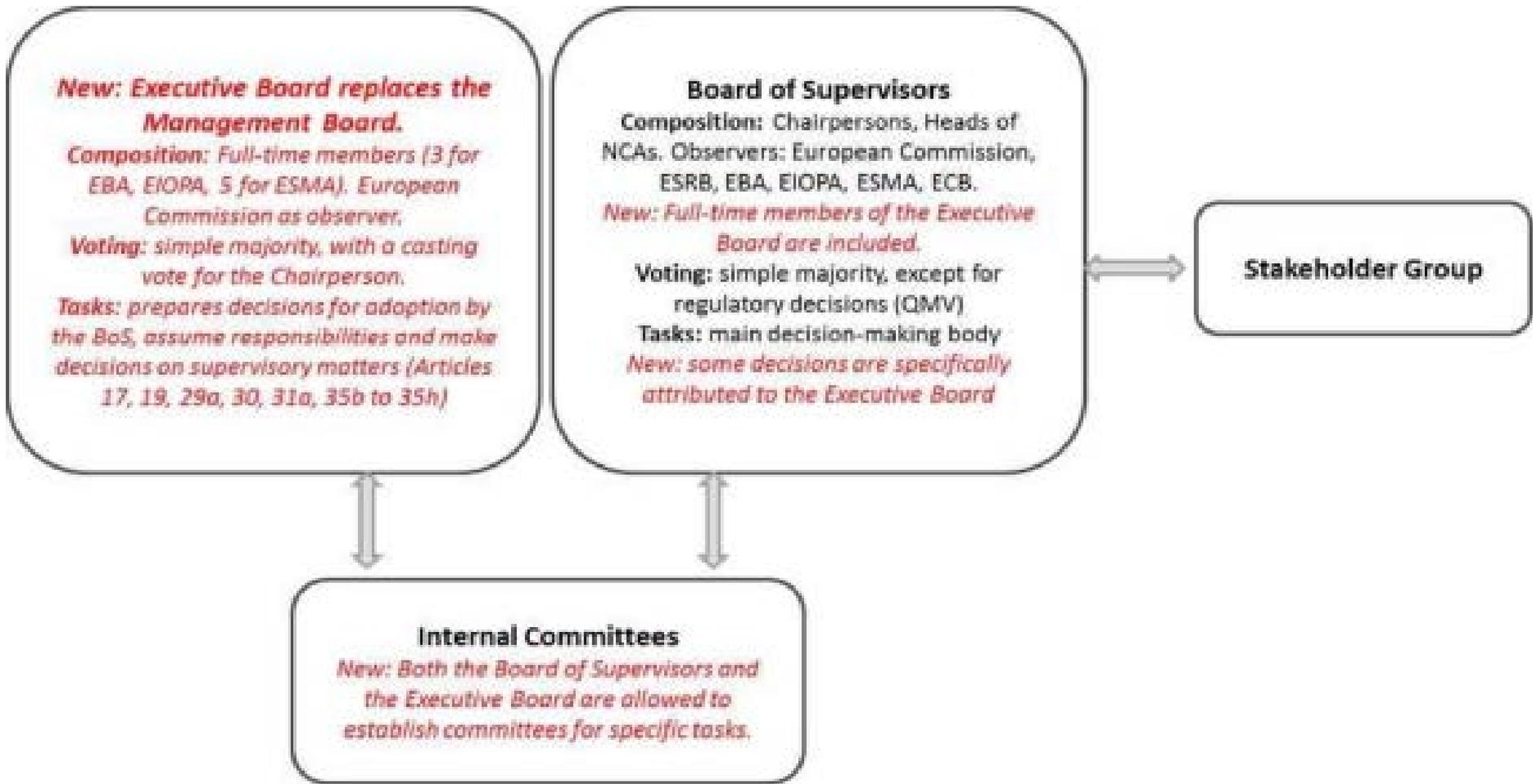
- 3 (cities?) micro-prudential (?) supervisory (?) authorities (?) (EBA, ESMA, EIOPA) and ESRB (macro-prudential).
- Banking Union: ok, more or less...



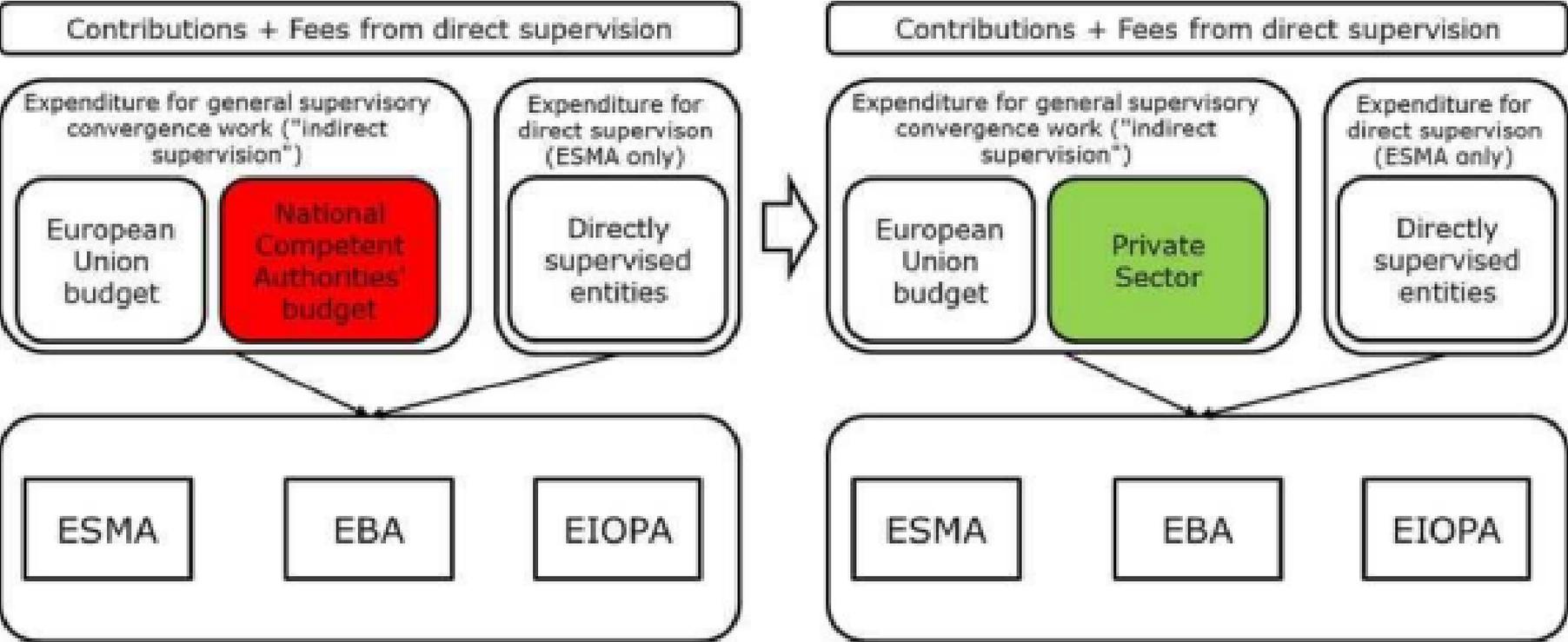
# ESAs Review

- Review of ESAs every three years (next by **January 2<sup>nd</sup> 2020** (2014+3+3?) ex art. 81.2 ESAs Regulations not modified.  
Appropriateness of separation of banking, insurance, securities and financial markets and separation of prudential supervision and business conduct; coherence in ESFS of macro and micro levels and between the ESAs; move ESAs to a single seat
- **ESMA SMSG Contribution** on ESAs Review: Short and Long term proposals. Enlarging powers to areas of 1(3); no authorization of NCA for results of peer review; CG of ESAs; direct supervisory powers on all entities with EU-wide reach; ESAs in the treaty; twin peaks with microprudential outside (E)CB in London and Investor Protection in Paris
- EU Commission September 20<sup>th</sup>, 2017, package: Communication, ESAs and ESRB review

# Proposed new governance



# Changes to the funding of the European Supervisory Authorities



# Supervisory powers for ESMA (EU/Third countries)

Area	Legislation	European Securities Markets Authority direct supervisory powers for EU entities	European Securities Markets Authority powers for third country entities
<b>Capital market entry</b>	<i>Prospectuses</i>	<i>Approval of certain categories of prospectuses by EU issuers</i>	<i>Approval of all prospectuses drawn up under EU rules by third country issuers</i>
<b>Capital market actors</b>	<i>Harmonised collective investment funds (EuVECA, EuSEF and ELTIF)</i>	<i>Authorisation and supervision of funds which are regulated at the EU level</i>	<i>N/a</i>
<b>Capital market infrastructure</b>	Central Counterparties (CCPs)	Supervisory powers in relation to CCPs (Commission proposal of June 2017)	Recognition and supervisory powers for third country CCPs (already existing; reinforced in Commission proposal of June)
<b>Capital market data &amp; information</b>	Credit Rating Agencies (CRAs)	Registration and supervision of CRAs (already existing)	Endorsement of third country CRAs (already existing)
	Trade Repositories (TRs)	Registration and supervision of trade repositories (already existing)	Recognition of third country TRs (already existing)
	<i>Data reporting services providers</i>	<i>Registration and supervision of data reporting service providers</i>	<i>N/a</i>
	<i>Benchmarks</i>	<i>Supervision of critical benchmarks</i>	<i>Endorsement and supervision of third country benchmarks</i>

# Pros and cons

- EU Commission package is very welcome as it projects National Competent Authorities (NCAs) into the European landscape. NCAs need to adjust their organization and modus operandi. This is true, obviously for CONSOB: as national authority, we will have to take more into account EU and ESMA initiatives, being increasingly involved at an earlier stage than today.
- Executive boards of ESAs ok (in EBA and EIOPA: too much power to Chairperson?). 5 years mandate, renewable once ok but need of staggered board (differentiating initial appointment)

## ESMA

- Stronger role over National Competent Authorities (independent reviews only of ESMA staff on resources, independence and governance) but also on other National Authorities (!?)
- Strategic supervisory plan
- EU Commission may ask ESMA to withdraw decision after input of SMSG
- New Committee on Financial Innovation
- New ESMA input to NCAs on suspect on market abuse

Need of more federal approach with direct supervision on SICMIs (Systemically Important Capital Market Institutions: cross-border and /or large size)

# What's next?

- Short term: Package to be approved ASAP (2018)
- Long term (2020 ESAs revision):
  - ❖ Increasing number of ESAs Joint Committee documents
  - ❖ 79 Financial Conglomerates (last ESAs list).
  - ❖ Limits of 127(6) TFUE prevent from granting SSM prudential supervisory tasks on insurance
    - And, by the way, the European Central Bank may have “specific tasks [...] concerning policies relating to the prudential supervision of credit institutions and other financial institutions”
  - ❖ 114 TFUE good legal basis for ESAs (including supervisory tasks) after ECJ Short selling decision
  - ❖ (German) (old) Debate on the Separation Monetary policy/banking supervision
  - ❖ New EU Regulations (less Directives) in financial market regulation
  - ❖ CMU objective: Establish a genuine single capital market in the EU where investors are able to invest their funds without hindrance across borders and businesses can raise the required funds from a diverse range of sources, irrespective of their location
  - ❖ Brexit? OtherExit? Increasing coincidence of EU/Euro (ECB is a EU Institution; Juncker speech)?

## De Larosiere Report (p. 58)

216) There may be merit, over time, in evolving towards a system which would rely on only two Authorities: The first would be responsible for banking and insurance issues, as well as any other issue which is relevant for financial stability (e.g. systemically important hedge funds, systemically important financial infrastructures). The second Authority would be responsible for conduct of business and market issues, across the three main financial sectors. Combining banking and insurance supervisory issues in the same Authority could result in more effective supervision of financial conglomerates and contribute to a simplification of the current extremely complex institutional landscape.

### **Too late for:**

- **having (regulation and) supervision ONLY at national level; too early to have supervision ONLY at the central/EU(ro) level**
- **having different (regulation and) supervision for different legal entities performing the same economic activities.**

Macro-stability, Micro-stability, Investor Protection (and Competition)



# A true Euro(pean) Financial Regulatory Architecture?

- Financial Union for EU countries (or opt-out for no-euro countries)
- Federal model: central regulation; central supervision for systemically important institutions. National supervision for other entities.
- Stronger legal basis (114 or 352?) to SSM extended to insurance firms; merger of Single Supervisory Board of the SSM with EBA and EIOPA?
- ... 4-peaks (separating macro and micro stability, investor protection and competition) irrespective of the nature of intermediaries; cancel one ESA
- National coordination committees at national and central level with policy makers (and EU Commission)

# 4-Peaks model for Euro(pean) Financial Union

