EU and euro area: latest developments

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Quadrilateral Meeting
13 September 2012
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a) The Outright Monetary Transactions program (OMT) of the Eurosystem

b) The integration of banking supervision in the euro area

c) Industry fears on an exiting of the euro
The Outright Monetary Transactions program

Adopted by ECB  6 September 2012

Legal basis: Art. 18.1 Statute ECB: the Eurosystem may “operate in the financial markets by buying and selling outright … marketable instruments”.

Objective: “safeguard the monetary policy transmission mechanism in all countries of the euro area
“preserve the singleness of ECB’s monetary policy”
“ensure the proper transmission of ECB’s policy stance to the real economy throughout the area”
“address severe distortions in government bond markets which originate from, in particular, unfounded fears on the part of investors of the reversibility of the euro.”
“if not addressed, these conditions would have severe consequences for the maintenance of price stability”

Legal doubts by the media: OMT runs against the prohibition of monetary financing for Eurosystem central banks.
Art. 123 EU Treaty prohibits the Eurosystem the “direct purchases of public debt instruments”
An implementing Council Regulation prohibits the circumvention of such prohibition in cases of secondary market purchases.

**Triple objective of the prohibition:**
1) **Fiscal discipline:** Member States need to finance themselves under market conditions.
2) **Central bank independence:** avoid the financial ‘capture’ of the central banks by the State; primacy of price stability over fiscal difficulties of Member States.
3) **Price stability:** financing a State creates inflationary risks.

**The three objectives are met in the design of the OMT:**
1) OMT will only be used only if and when a Member State submits to binding conditionality
2) ECB retains full independent capacity to activate or stop the OMT at any time – no commitment; only secondary market.
3) Injected liquidity by the operation of the OMT is to be re-absorbed to ‘sterilise’ its quantitative effect – no inflationary risks.

**CONCLUSION: TOTALLY WITHIN THE LEGAL MANDATE OF THE EUROSYSTEM**
The integration of banking supervision

Banking regulation: EU-27

Banking Single Rulebook

Level 1 legislation  Council/EP
Level 2  EBA binding technical standards
Level 3  EBA guidelines and recommendations

Supervision: Non-euro area

Non-euro area national competent authorities  ECB + euro area national competent authorities
National supervisory rules  ECB supervisory direction

Supervision: Euro area
ECB supervisory function: governance

- **Governing Council**
- **Supervisory Board (SB)**
  - 4 ECB + 17 national competent authorities
  - Chair and Vice-Chair elected from the GovC
  - Observers: EBA, Commission
- **Steering Committee**
  - composed from Supervisory Board members

Non-euro area member States (observers)

- Ultimate decision-making body
- Adoption of ECB legal acts on supervision
- Overseer of the Supervisory Board
- Prepares decisions on supervisory matters;
- Planning and execution of ECB supervisory tasks
- Clearly defined supervisory tasks and related decisions re. individual credit institutions or a set of identifiable credit institutions

Assists the SB and prepares its meetings

Assistance by national competent authorities
ECB supervisory function: organisation

Supervisory Board
ECB and euro area national competent authorities

ECB organisation
Basic monetary tasks
Other central banks tasks
National central banks

European System of Financial Supervisors
Mechanism of close cooperation with non-euro area competent authorities

Fees
Euro area credit institutions
Separation
## ECB supervisory function: tasks

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- **Qualifying holdings**
- **Compliance with prudential requirements**
- **Governance arrangements**
- **Stress-tests**
- **Capital buffers and other macro-prudential instruments**
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## ECB supervisory function: powers

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ECB Supervisory function: timetable

1.1.2013

- Entry into force of the 127.6 Regulation
- Supervision of banks having received or requested public assistance
- ECB decision

1.7.2013

- Publication by the ECB of the list of supervised institutions
- Credit institutions of European systemic importance

1.1.2014

- Full supervision of the euro area
- At least ½ of the euro area banking sector

1.3.2013
Exiting the euro

1.- Exclusive competence of the Union: ⇒ Art. 3 TEU; ⇒ Adoption of the € entails a transfer of competence to Union level ⇒ the € is a common currency of several States issued under a joint & several mode by the Eurosystem (not by individual NCBs). ⇒ the Lex Monetae is EU law.

2.- No legal basis to exit: The Treaty only foresees the possibility to exit from the European Union (Art. 50 TEU) ⇒ No “opt-out” foreseen other than UK and Denmark ⇒ Use of the “Flexibility clause” (Art. 352 Treaty): not possible to contradict or amend the Treaty, only to supplement ⇒ Many Treaty provisions would be disregarded in case of an exit ⇒ Treaty of withdrawal needed.

3.- Prohibition to establish capital controls: Within the EU restrictions to capital movements are clearly prohibited. Exceptions foreseen do not cover unilateral exit.
Exiting the euro (and 2)

Consequences of an unilateral national withdrawal:

a) Flight of capital ⇒ a “bank deposit freeze (‘Corralito’) = illegal.

b) Re-denomination of contracts: a mess of possible conflicts (lex monetae –EU- vs. , lex contractus, lex forii, lex loci debitoris, lex loci creditoris, lex solvendi, commercial sense, common sense, equity, pro domo sua, etc.) ⇒ contract continuity at risk ⇒ economic chaos.

c) Mismatch of balance sheets: assets/liabilities ⇒ litigation.

d) Acceleration of debts, public and private, credit event, fall of ratings, closing-down of access to external financing.

e) Introduction of a new currency: complexity, costs, creation of new references (i.e. substitution of Euribor), new monetary policy (high rates), immediate devaluations, new payments and clearing systems.

f) Legal liability of the State acting illegally; massive indemnities.

g) Possible suspension of voting rights in the institutions (Art. 7 TEU), also within the Governing Council of the ECB.
Any question?

Thanks for your attention!

[DISCLAIMER: THIS PRESENTATION DOES NOT NECESSARILY REPRESENT THE VIEWS OF THE ECB, BUT THE OPINION OF THE SPEAKER]