The EC's Priorities in Developing EU Regulation in Banking and Insurance

Mario Nava
Acting Director, Financial Institutions,
Prof. Karel Van Hulle
Head of Insurance and Pensions
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Internal Market & Services DG

The International Scene

- EU Banking and Insurance Sectors have a major relevance internationally. Cannot do rules *per se* or in isolation.
- Banking rules are based on the BCBS guidelines to which the EU COMM contributes
- Insurance rules are developed in the EU with specific arrangements for relations with third countries
  - Equivalence (Switzerland, Bermuda, Japan)
  - Provisional equivalence (final list still to be decided
- The better we are in developing our rules, the greater “regulatory leadership” we gain

IAIS

- There is no internationally agreed solvency regime yet
- The recently revised ICP's contain a solvency framework that is similar to SII
- The missing piece is pillar 1: valuation and confidence level
- Common Framework for the supervision of IAIG

BCBS

- There are internationally agreed Basel guidelines applicable to all “internationally active banks”
- The EU is the first jurisdiction in the world to propose rules for Basel3. Essential that also others do so and a level playing field is maintained
- The EU translates those guidelines into binding law, following its own democratic procedures
- Furthermore, EBA is entrusted with producing technical standards of the agreed rules

How to avoid excessive procyclicality?

BANKING:

- An issue already singled out in previous legislation and object of constant review (also with ECB)
- Buffers and Risk Weights (including innovative ideas, such as Haldane 2011)
- Transitional measures and phasing-in

INSURANCE

- Two capital levels with early intervention and supervisory ladder of intervention
- Specific message to supervisors to avoid procyclicality in their actions
- Specific provisions to avoid procyclicality as a result of artificial volatility
- Transitional measures and phasing in

Risk of over-regulation?

INSURANCE

- Solvency II was planned as Level 3 Lamfalussy approach
- Current discussions surrounding Omnibus II are making this approach more difficult to implement
- Framework Directive and Implementing measures are principles based

BANKING

- Lots of legislative production yes (at World Level), but also lots of financial innovation, lots of new risks, deep crisis.
- The issue is not so much over-regulation, but rather comprehensive regulation

EBA and EIOPA will produce BTS and guidelines and a final word on the right amount of regulation may only be said then

Regulation is complex

- EU regulation is a complex matter with lot of institutional and political (process-generated) checks and balances
- EU regulation often at the level of principles and then there may be a need (natural tendency?) to fill the holes in the principles
- Proportionality is essential, but difficult to implement in practice
- EBA and EIOPA production will certainly follow this spirit and will make regulation easier to apply, more granular, more precise, but not necessarily simpler.

Corporate Governance

- Corporate governance without self-regulation is not workable
- Corporate governance limited to self-regulation is difficult to implement and may be less effective
- Solvency II remains principles based on corporate governance
- CRD4 introduces principles and some rules on Corporate Governance. Up for discussion in Council
- No intention at this stage to invest EBA and/or EIOPA with detailed powers to regulate CG
- Stakeholders involvement needed and welcome

Maximum Harmonisation vs National Flexibility

The Q is not “IF”, the Q is “HOW

- One of the objective of CRD4/S2 is to have a Single Rule Book, as requested by Council at unanimity in 2009. Single market should be facilitated, and not hindered, by the rules.

CRD4:

- Eliminates all the former national options in exchange of framing national flexibility in four clear ways (RE, Buffers, Commission delegated Act, extended Pillar 2) for purposes of both national needs and EU Macro-Policy
- EU Macro-Policy cannot mean “national rules always”; serious externalities risks

S2:

- contains virtually no MS options: bulk will be a regulation, with some in directive (goldplating risk?)
- A certain degree of national flexibility will always remain

Sanctioning Powers

- In order to have a level playing field, there must be some coordination also on sanctions
- Solvency II introduces a uniform toolkit for supervisors, but does not yet contain harmonised sanctions
- CRD4 ventures into the area of sanctions and proposes (minimally) harmonised, but proportional to the offender, sanctions

Appropriate timing of regulatory tightening?

- There is often a question on right timing, but equally often conclusions tend to be….”we should have done that long ago”!
- Several IA for both CRD4 and S2 have been conducted. They all point to a positive impact of regulation.
- Yes there are costs, but benefits dwarfs costs by multiples in some cases
- The financial crisis has boosted the need for proceeding fast with CRD4 and had an impact on the implementation of S2
- Regulatory Phasing in of both CRD4 and S2 is necessary…but “Markets” may request to go faster!