

EU Banking Union To Impose Dictatorship

by Ulf Sandmark and Claudio Celani

Jan. 15—Documents now available on the European Union's soon-to-be-completed Banking Union show that it is not only “the most complicated piece of legislation drawn up in the EU,” as the website euinside.de put it, but that it also gives unprecedented powers to a restricted body of non-elected persons to manage the private-sector economy of nations, the public sector already being under the thumb of the Troika (the IMF, European Central Bank, and European Commission), and make real reforms all but impossible.

The Banking Union is a tool conceived to manage the bankruptcy of the European banking system by selectively choosing which national or regional sector should be sacrificed in case of a major bank insolvency, to keep “financial markets” functioning. Thanks to the Banking Union, EU supranational bodies, led by non-elected technocrats, will be able to shift losses around from privileged banks, typically overexposed investment banks, to targeted banks, putting the latter through a resolution process and looting real assets and deposits in favor of the former.

The model for this is what happened with Monte dei Paschi di Siena, Italy's third-largest bank, and the oldest bank in the world (founded 1472), which was intended to absorb the losses of the Dutch giant ABN AMRO in 2008. ABN AMRO had acquired an Italian bank, Antonveneta, in 2005. When ABN-AMRO went bust in 2007, the City of London mobilized to prevent a systemic collapse. ABN AMRO was acquired by a consortium comprised of Royal Bank of Scotland, Santander, and Fortis. Part of the losses were then dumped on Monte dei Paschi (MPS), by selling them Antonveneta at an overpriced value of \$9 billion, \$3 billion more than ABN AMRO had paid for it.

That purchase, done against any commercial logic, has bankrupted MPS, which went into debt and incurred derivative losses to finance the deal. MPS will probably be the first bank to be “resolved” according to the new EU guidelines, with a combination of bail-in and bail-out procedures.

Ruling Out Glass-Steagall

The legislative proposal also rules out any attempt by any EU member-state to adopt an actual separation of commercial from investment banks, as with Glass-Steagall. Ring-fencing of banking operations creates obstacles to the exercise of fundamental freedoms and distorts competition in the internal market, the proposed intergovernmental treaty for a Single Resolution Mechanism (SRM) asserts.

The EU proposal for ring-fencing from the High Level Expert Group led by Erkki Liikanen, in October 2012, was delayed by the European Commission, so that there is no chance for any decision this year, although a proposal for an EU Directive on Bank Recovery and Resolution (BRRD) for handling banks in crisis could come as early as this Spring. This lends credibility to the report published in the Jan. 6 *Financial Times*, according to which EU Commissioner Michel Barnier is working on a watered-down version of the already toothless Liikanen ring-fencing scheme.

Bank resolution (liquidation) is an extremely important issue, as it involves controlling changes in the power structure of banks and their relationship to their customers. The process begins with deciding which bank to put in resolution. One of many options could then be implemented: The bank could be sold or reconstituted with a new management; its assets could be transferred to separate bridge institutions (“bad banks”), or could be sold; or with a bail-in, the liabilities to creditors and depositors could be written off or converted into bank shares. In addition, the bank resolution fund could be used for a bailout.

Bank resolution procedures are laid out in the draft Directive of the EU, which cannot be rejected by EU member-states. However, before the Directive can be implemented, the SRM Treaty has to be ratified. That Treaty establishes a Single Resolution Fund (SRF), as well as the Single Resolution Mechanism. Contrary to previous reports, governments are sidelined in the new institution, which is to be managed by a Board of five persons. According to the SRM agreement itself, this Board is a new, unique kind of organizational structure of the EU system. It will work alongside the already established and very powerful single supervisor (SSM) at the ECB.

Decisions on what to do with a bank that has been fingered by the SSM will be worked out by the SRM Board and sent to the EU Commission for approval. Only if the Commission disapproves the proposal sub-

mitted by the Board will the governments of the EU member-states be contacted. Indeed, the Commission needs the support of the finance ministers to disapprove a SRM Board proposal, but since the Commission is represented on the SRM Board, any disagreement is highly unlikely.

Bail-In Gives Priority to Speculators

The general procedure for handling banks in crisis was laid out in the Bank Recovery and Resolution Directive (BRRD), applicable to all 28 EU member-states. In the non-euro states, it will be handled by national bank resolution authorities, while the SRM names the authority responsible in the Eurozone. The content of the BRRD and the SRM was agreed on in a final compromise at the December 2013 EU summit. We have obtained a copy of the otherwise hushed-up 336-page document.

Fearing public backlash after the outrageous bail-in system implemented in Cyprus, EU authorities have solemnly promised that the accounts of small and medium-sized enterprises (SME) will be better protected, and all deposits under EU100,000 will be secured (within the limits of the Deposit Guarantee

system). SME accounts could, under exceptional circumstances, be given special priority among the unsecured creditors. However, there is still priority for others, for instance, derivatives, which would make the improved protection meaningless in a crisis.

Privileged creditors in the event of a bank in crisis are holders of all secured liabilities (including hedging instruments, securitizations, and counterparties for those assets as per Art. 68(2)), and all liabilities with a maturity of less than seven days. The intention of the draft proposal of the BRRD to protect all derivatives straightaway, before the depositors, is toned down, but is still there.

The EU directive on bail-in procedures can only be implemented if the SRM Treaty is ratified by national parliaments and by the European Parliament. EU leaders now hope to rush the Treaty through before the European elections in May, fearing that a new, Euroskeptical-dominated Parliament would take it off the agenda.

So far, national parliaments have ratified all EU treaties, shamefully and unconstitutionally surrendering their sovereignty. This is the last chance for them to redeem themselves by voting against the ominous SRM Treaty.

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