

Treaty changes
proposed in connection with the establishment of “banking union”
and EU-wide supervision of the financial sector

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Proposed Treaty changes

(1) Treaty on European Union

- Article 13, paragraph 1, add two new indents:
 - the European Financial Supervisory Authority
 - the European Systemic Risk Board.
- Article 13, paragraph 3, TEU, amend as follows:
The provisions relating to the European Central Bank, and the Court of Auditors, the European Financial Supervisory Authority and the European Systemic Risk Board and detailed provisions on the other institutions are set out in the Treaty on the Functioning of the European Union.

(2) Treaty on the Functioning of the European Union

Part Three – Union policies and internal actions

Title VIII – Economic and Monetary Policy

To be followed by an additional Title VIII A - Financial sector supervision

Article 144 A

The European Financial Supervisory Authority (EFSA) shall oversee the financial system in the European Union, and the economic agents forming part thereof, in the interests of its stability, sustainability, competitiveness and functioning for the wider societal interests.

To this end, the EFSA shall authorise credit institutions, securities firms, insurance undertakings, payment institutions and other financial undertakings with a Union dimension, as defined in regulations adopted pursuant to Article 114 A, oversee their operations with a view to their soundness, safety and effective and efficient rendering of services to consumers and with a view to the stability of the Union financial system, paying due regard to global systemic stability. Such authorisation and supervision is conducted on the basis of regulations adopted pursuant to Article 114 B.

The EFSA shall coordinate the authorisation and the supervision, of credit institutions, securities firms, insurance undertakings, payment institutions and other financial undertakings without a Union dimension, with a view to the same aforesaid purposes, ensuring competitiveness and openness.

The EFSA shall collaborate closely with the European Central Bank, with National Central Banks, with national competent authorities, with its counterparts in third countries and with international organisations.

Regulations adopted pursuant to Article 114 A will mandate collection and exchange of information among these central banks, authorities and organisations agencies and their mutual collaboration for the public good, and shall protect the confidentiality of this information without impinging on the need for transparency in the markets and accountability for supervisory activities.

The EFSA shall operate in close consultation with the European Systemic Risk Board.

The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, the European Central Bank, the European Financial Supervisory Authority and the European Systemic Risk Board, adopt regulations with a view to the **soundness and safety** of credit institutions, securities firms, insurance undertakings, payment institutions and other financial undertakings (hereafter: “financial sector institutions”) as well as to the **effective rendering of services** by the latter **to their clients**. Such regulations shall aim at **the stability of the Union financial system**, paying due regard to **global systemic stability** and shall ensure the **competitiveness and openness** of the Union’s financial system, paying due regard to global systemic stability and to **the Union’s values**.

The European Parliament and the Council shall, following the same procedure, adopt regulations on **deposit insurance** and on the **resolution of financial sector institutions** which aim at swift procedures, continuity of critical economic and societal functions, equal treatment of creditors, avoidance of moral hazard and the effective functioning of the internal market. **These regulations shall not imply an overall guarantee of deposits or other claims on financial sector institutions except to a limited extent in the interest of continuity and protection of savers, in line with sound market practice.**

NB 1

Title VIII – Economic and monetary union

Article 127, paragraph 6, delete the last six words (“with the exception of insurance undertakings”)

NB 2 Similar amendment to Article 25.2 ESCB Statute

Article 144 B

The EFSA shall implement international and Union legislation and standards with a view to coherence, effectiveness and efficiency in the rules applying to the financial sector. These rules shall apply Union-wide and financial sector-wide, with derogations for Member State, regional or subsector specificities permitted by way of exemption or in order to take the acknowledged specifics of a situation into account.

Article 144 C

The EFSA shall take over the functions hitherto performed by the European Supervisory Authorities. Regulations adopted pursuant to Article 114 A shall provide detailed provisions for this transition.

Part Six - Institutional and Financial Provisions - Title I Institutional Provisions

Chapter 1 - The Institutions

Add a Section 8 - The European Financial Supervisory Authority

Add a Section 9 – The European Systemic Risk Board
[detailed provisions – possibly implemented in separate protocols]