



Association Européenne des Institutions Paritaires de Protection Sociale

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Reforms of the Supervisory and Regulatory Structures in the EU

Francesco Briganti
NYC – 3rd annual conference
AEIP-MEBCO-NCCMP
9 June 2011

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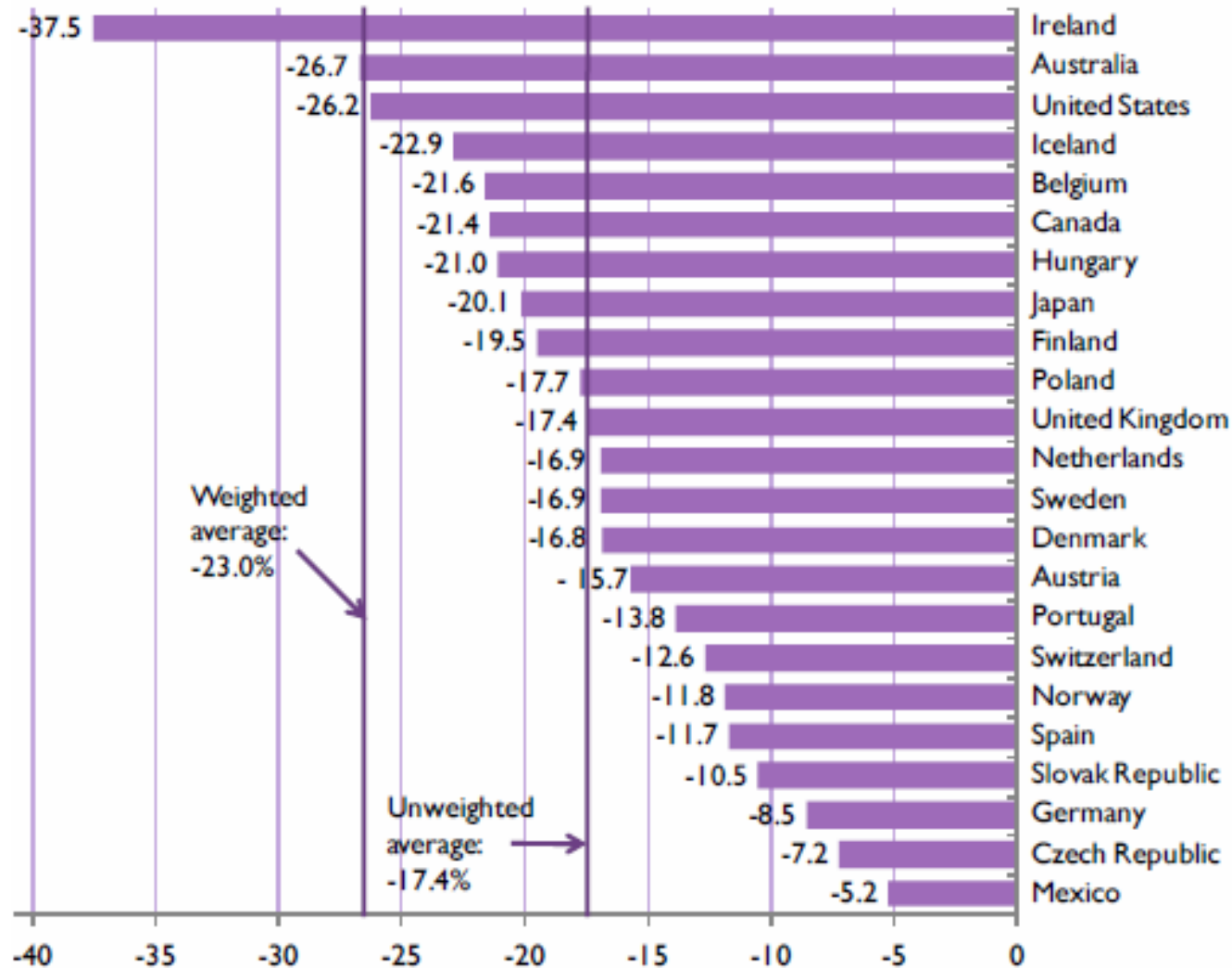
The impact of the crisis

- Crisis without precedent in post-war economic history

3 phases:

- 1) financial crisis
 - 2) economic crisis
 - 3) public budget or sovereign debt crisis
- Consequences for public PAYG systems as well as funded schemes

The impact of the crisis: Pension funds real return '08





Policy implications

The crisis has highlighted the interlinkages between pension systems/welfare systems and labour and financial markets



Actions:

- **Reforms of the supervisory and regulatory structures**
- **Reforms of the financial market rules**
- **New solvency rules and transparent rules for pens.funds**
- **Reforms/adjustments to the public-budget expenditure**
- **New (European) Economic Governance structure**
- **Reforms of the social systems and cut of benefits (plus raise retirement age, shift from DB to DC plans, etc...)**



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REFORMS OF THE SUPERVISORY AND REGULATORY STRUCTURES IN THE EU

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De Larosière report

(where it all started...)

February 2009: a high-level group headed by former IMF Managing Director and ex-Bank of France Governor **Jacques de Larosière** recommended to **reform cross-border financial supervision in the EU** to remedy flaws in the bloc's patchwork of national-based supervision

The report's main recommendations are:

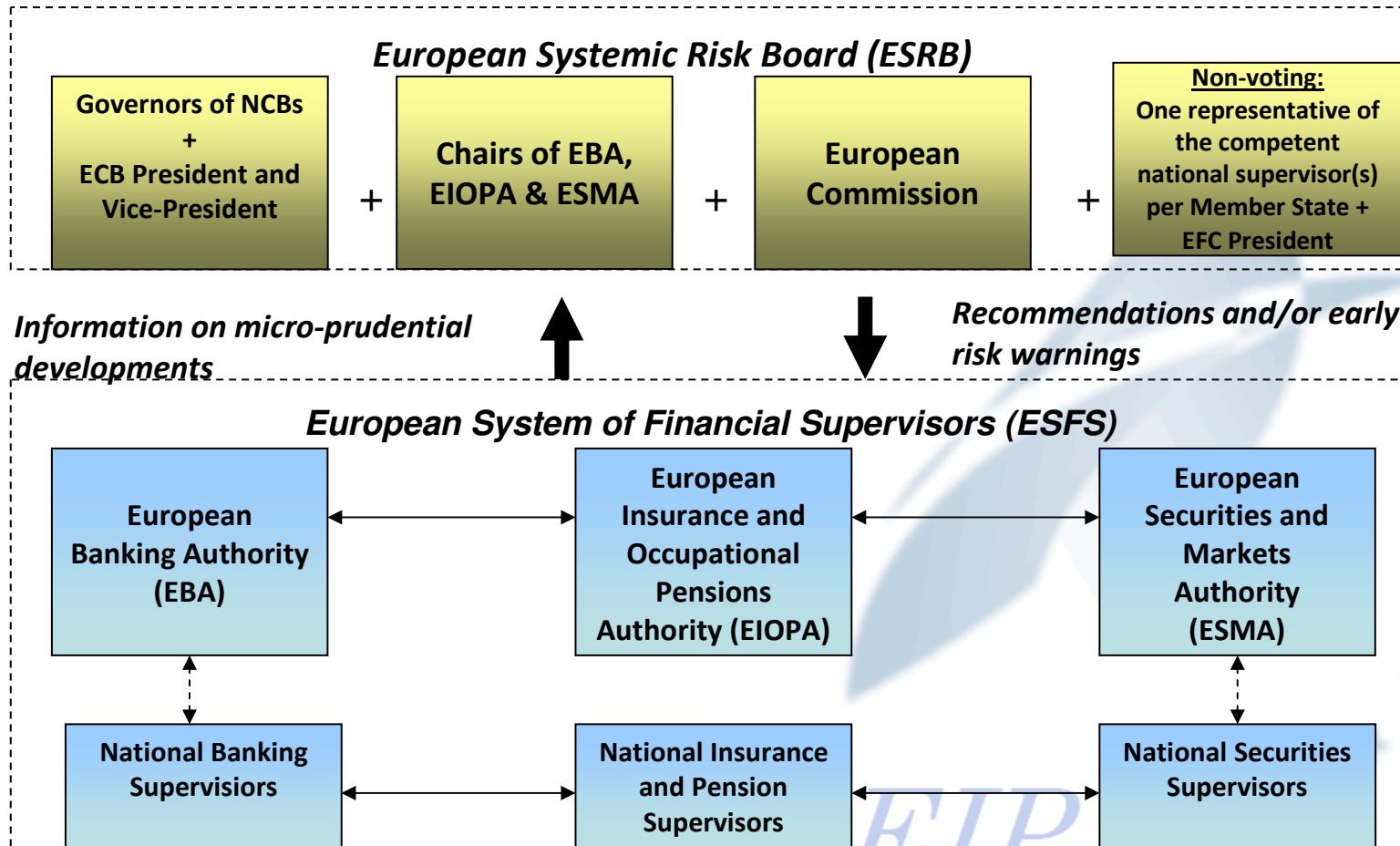
- **Market-wide supervision of risk**
- **Day-to-day supervision**
- **Reforming institutions**
- **Enforcing the new security rules for the insurance industry (Solvency II)**

(EU has also started working on a security scheme for the pension industry).

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The new architecture





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Objective of the ESRB

Develop a European macro-prudential perspective;

Enhance the effectiveness of early warning mechanisms;

Improve the interaction between micro-and macro-prudential analysis;

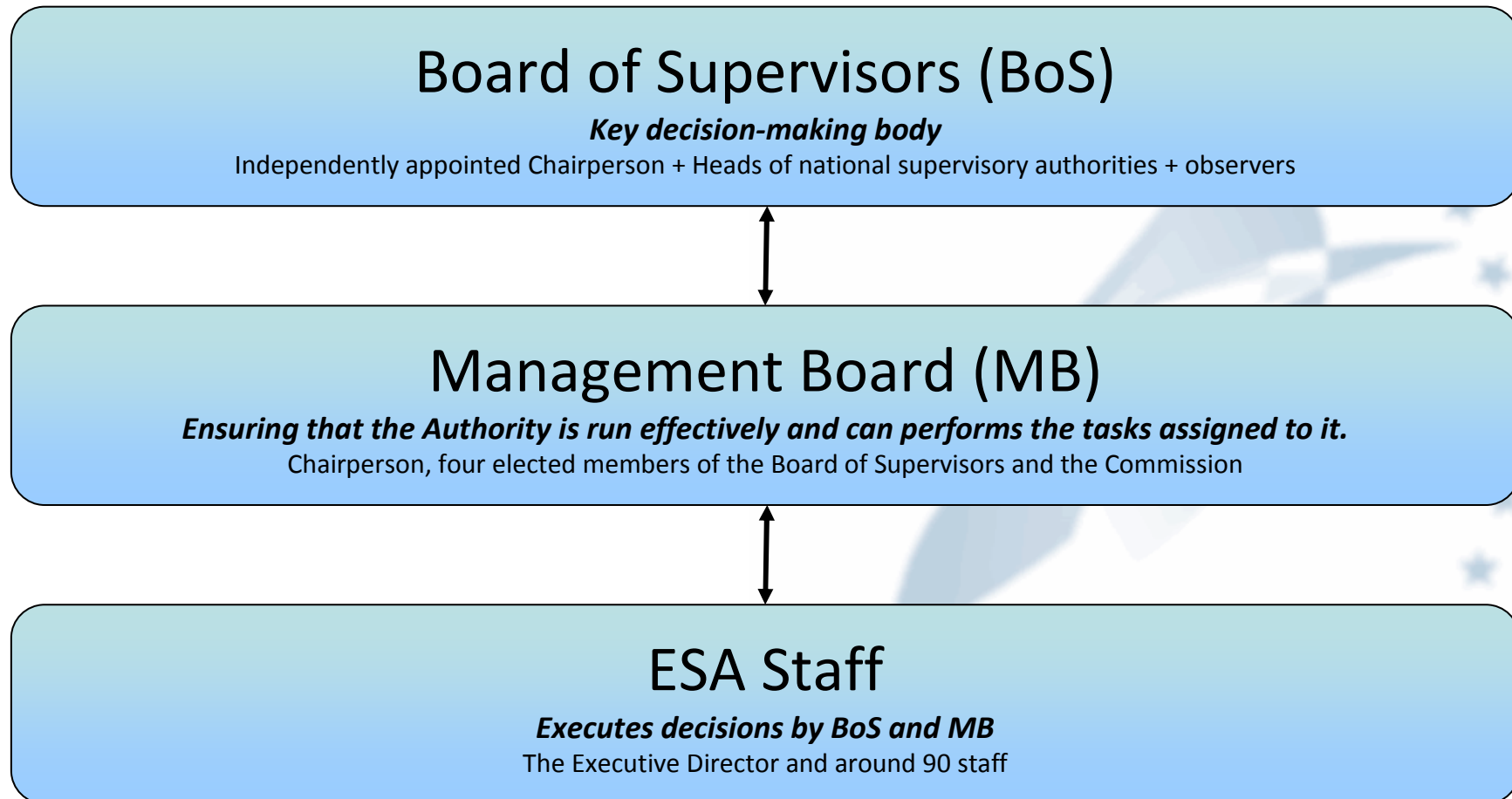
Allow for risk assessments to be translated into action by the relevant authorities.

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The ESAs at work





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CEIOPS / EIOPA

(one of the 3 ESAs - particularly important for AEIP)

CEIOPS is transforming into the European Authority of Insurances and professional Pensions (following the feedback of the Larosière report)

EIOPA will have more responsibilities

EIOPA will have the power to issue binding decisions

EIOPA will have the power to give direct instructions to firms

EIOPA will deal with the disagreements between national arbitrators

AEIP continues to play a role in the new Consultative panel = Stakeholder Groups of EIOPA.

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Stakeholder Groups of EIOPA

- **EIOPA established 2 stakeholder groups for consultation:**
- **Insurance and Reinsurance SG: 30 members (industry, employees, consumers, users)**
- **Occupational Retirement Provision SG: 30 members (funds, members, beneficiaries, consumers, users)**
- **SG meet four times per year.**

AEIP is represented in the ORPSG by Bruno Gabellieri.

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Benefits of the system

- Fully connected macro-micro supervisory framework;
- Strong cooperation and enhanced trust;
- Reinforce colleges of supervisors;
- Move towards harmonised rules and powers;
- Reinforcement of supervisory resources;
- New procedures for supervisors to take common decisions;
- Comprehensive means to challenge cross-border decisions;
- Quick mechanism allowing for collaborative decisions in emergency situations.

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*New Financial Market Rules and
Regulatory Oversight
of Investments in the EU*

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Background

Michel Barnier, European Union internal market commissioner, pledges for:

- “**more secure**” and “**more transparent**” **financial markets**
- “**good supervision**” of **commodities**

This goes through:

- reforming the **Markets in Financial Instruments Directive** (Mifid)
 - = new rules on the trading of shares, bonds and derivatives
 - = covers about half the scope of the **Dodd-Frank reforms**

Tighter rules on:

- So-called dark-pools and broker crossing networks
- **Over-the-Counter (OTC) and Commodity Derivatives**



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MiFID

- increase competition and consumer protection in investment services
- replaced the Investment Services Directive

Key Aspects:

- Authorisation, regulation, passporting
- Client categorisation
- Client order handling
- Pre-trade transparency
- Post-trade transparency
- Best execution
- Systematic Internaliser

The European Commission is now working on a review to present a MiFID II before the end of 2011 (new rules on the trading of shares, bonds and derivatives)

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MiFID II

- Private trading systems run by banks would have to be redesigned as formal trading venues, with prices posted publicly at the end of each day
- As far as super-fast trading systems are concerned (“high-frequency” trading - HFT), those involved in it will have to be authorized as an investment company, once certain quantitative thresholds are defined
- Algorithms, or the computer programmes used by HFT firms, will have to be explained to regulators, while over-the-counter (OTC) derivatives should largely be traded on exchanges
- The size and scope of the MiFID review has been likened to the Dodd-Frank reforms unveiled in the US in the wake of the financial crisis.



OTC Derivatives (Overview)

= Commission proposal on Over-the-Counter (OTC) Derivatives and Market infrastructures

- OTC derivative contracts are not traded on an exchange but instead privately negotiated between two counterparts
- **OTC derivatives account for almost 90% of the derivatives markets**
- In December 2009, the notional value of outstanding OTC derivatives was around \$615 trillion (€435 trillion)
- **OTC derivatives are used in a variety of ways, including for purposes of hedging, investing, and speculating**
- The European Commission is proposing legislation on OTC derivatives because they play an important role in the economy and they are also associated with certain risks
- **This initiative aims to increase transparency in the derivatives market and to address financial stability concerns**



Proposal of OTC reform

Objectives of the proposal:

- Increase transparency in the OTC derivatives market
- Make it safer by reducing counterparty credit risk
- Reduce operational risk

The proposal gives ESMA (*see slide 4*) a key role:

- ESMA will be responsible for the identification of contracts that will be subject to the clearing obligation



OTC - What are the next steps?

- The proposal now passes to the Council and the European Parliament (standard co-decision)
- Member States undertook at the June 2010 European Council to conclude all negotiations relating to G20 commitments on financial reform by end of 2011
- In line with G20 commitments, the new rules should be fully in place and operational by the end of 2012.



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Current discussions and reforms in the US (slides provided by NCCMP)

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The National Commission on Fiscal Responsibility and Tax Reform

Recommendation: Health Benefit Tax Exclusion

	Current Law	Illustrative Proposal (Fully Phased In)
Employer Provided Health Care Insurance	Excluded from income. 40% excise tax on high cost plans (generally \$27,500 for families) begins in 2018; threshold indexed to inflation	Exclusion capped at 75th percentile of premium levels in 2014, with cap frozen in nominal terms through 2018 and phased out by 2038; Excise tax reduced to 12%
Retirement	Multiple retirement account options with different contribution limits; saver's credit of up to \$1,000	Consolidate retirement accounts; cap tax-preferred contributions to lower of \$20,000 or 20% of income, expand saver's credit



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Congressional Research Service – Study of the Tax Exclusion for Employer Provided Health Insurance



The Tax Exclusion for Employer-Provided Health Insurance: Issues for Congress

Janemarie Mulvey
Specialist in Aging and Income Security

January 4, 2011

Congressional Research Service
7-5700
www.crs.gov
R134767

CRS Report for Congress
Prepared for Members and Committees of Congress

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The Patient Protection and Affordable Care Act of 2010 (ACA)

- **Issues Confronting Plans in 2011**
- **Exchanges become effective in 2014**
- **Current bargaining cycle**
 - **Can Plans Become Exchanges?**
 - **Can Plans Become Co-ops?**
 - **How will subsidies Work**
 - **How will they affect Parties' Desires to continue plans?**



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2014 – PPA Funding Rules

- **Funding rules sunset in 2014**
- **Need to lead reform process**
- **Alternatives to traditional DB plans under review**
- **Current Media Assault on Public Sector plans will adversely affect our plans**

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Fee Disclosures under 408(b)(2)

Expands required disclosure requirements by providers to Pension (primarily DC) plans to identify sources of indirect or undisclosed compensation

Sets forth new aspects of what must be disclosed in order to determine what constitutes “Reasonable Compensation”

- **May be in multiple documents**

Requires that plans may terminate services under “reasonably short period” without penalty



Assault on DB Plans

Begins with, but not limited to Public Employee Pension Plans

- What is the Relationship to Multiemployer Plans?**
- Only two major segments of the economy with DB plans**

Who is leading the charge?



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Proposed Changes in Accounting Rules

IAS 19

FAS 450 : Loss Contingencies

**Subtopic 715-80: Proposed Exposure Draft on
Multiemployer Withdrawal Liability**

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Questions?

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