

ABSTRACT:

Banking regulation and supervision has come to the fore of attention mainly in recent several years, as the banking sector has undergone important and far-reaching changes. To some extent these changes reflect globalization, financial innovation and technological development. Political agents and regulators seek to respond to these changes, but they are unable to keep pace with them, as proved by the numerous banking crises. In response to such crises the existing rules and practices tend to be complemented or entirely rebuilt. The current global financial crisis that highlighted a range of deficiencies is no exception. At the present time, therefore, there is a wide array of initiatives and proposals, aimed at improving the current system of banking regulation and supervision. This “regulatory mania” is welcomed by some, disapproved by others.

Hence, the first of the aims of this work is to tackle the deficiencies within the system of banking regulation and supervision. Furthermore, it aims to assess the submitted and even the already adopted proposals and discover whether these can lead to an improved system of banking regulation and supervision at all. This aim, however, cannot be achieved without an analysis of the existing system of banking regulation and supervision, which therefore represents the centrepiece of this work. The system of banking regulation and supervision is examined in both global and European contexts with focus on the Czech Republic, which is much facilitated by worldwide approximation of rules. This approximation is backed by numerous international bodies, the most important one being the Basel Committee on Banking Supervision encompassing central banks and regulators from North and South America through Europe to Asia.

Further aim of this work is to discover whether, in any of the developed countries, there are institutes and practices in the area of banking regulation and supervision that could be applied in the Czech Republic or in Europe-wide scale. For this examination I picked the United Kingdom and the United States, mainly because the banks there have played an important role

for decades and their banking sector is highly developed. Although in the case of the United Kingdom it can be expected that their system, due to the rather comprehensive European harmonisation, corresponds significantly to the one in the Czech Republic, there still exist institutes that are uncommon in either Czech Republic or in other European countries. The focus on the system of US banking regulation was motivated also by the fact that it stands outside the European framework. To fulfil this aim in the thesis it was needed to outline and analyse the British and American system of banking regulation and supervision. Although both countries belong to the area of common law legal systems, the issue of banking regulation and supervision is codified in rather detailed manner allowing for its proper examination. The analysis of the system of the US banking regulation is also very topical due to the global financial crisis as the USA were at its epicentre.

This thesis consists of seven parts, each subdivided into several chapters. Before dealing with the issue of banking regulation and supervision itself, it is important to underline, in part two, the specificities of banks as compared to other institutions, and to define the term “bank”. Further in part two the thesis describes the reasons for banking regulation. For that purpose I deal with the issues of market failures and objectives of regulations. I also discern several categories of banking regulation in terms of the objectives they are to fulfil

The third part aims at exploring the main aspects of banking regulation and supervision. This part entails a range of questions. These concern what to regulate and to what extent, how often and by what instruments, and which institution should have the role of regulator. This part is based on general theses explored in the context of regulatory system in different countries with focus on the Czech Republic. Some attention is also given to European directives establishing numerous standards of banking regulation. This part also tackles the question what change of the existing rules will the global financial crisis bring about. Apart from that this part also deals with the prerequisites the regulatory body must fulfil so that its work is effective.

The fourth part is focused on the rules of capital adequacy, which are some of the most disputed rules. I consider their existence in the case of banks to be highly needed, as in their absence banks would not be forced to hold not even a part of the capital and their leverage would be even higher. Mainly in the context of the global financial crisis the rules of capital adequacy are a very frequent topic of discussion. Many experts point out their deficiencies as they were unable to prevent the global financial crisis. The concept of capital adequacy recently undergoing unprecedented evaluation and critique, this part explores it in greater detail and tries to unveil the above-mentioned deficiencies.

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The fifth part deals with regulation of internationally active banks. The fact that banking regulation is primarily set within the national borders while many banks operate across several countries is a source of numerous problems. This part focuses on the one hand on the role of the Basel Committee on Banking Supervision in defining international standards of regulation and supervision, on the other hand on the rules adopted by the European Communities. Global financial crisis underscored that problems related to the regulation of international banks are not pure within the realm of theory; therefore I assess, within this part, the adopted and proposed changes within European area.

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The sixth part explores the systems of banking regulation and supervision in the United Kingdom and in the United States of America. As these systems have been to a large extent formed by historical developments, these are considered properly. Moreover, this part presents an analysis and comparison of British and American systems of banking regulation and supervision. With respect to the aims of the thesis I would recommend, from the US system, introduction of quick redressing measures and bridge banks. From banking regulation and supervision system applied in the other country considered, the United Kingdom, I would recommend taking up the adoption of objectives and the form of regulation based on principles. The last part of the thesis is the Conclusion summing up the ideas discovered.

As to the question whether the proposals adopted and further introduced can lead to an improved system of banking regulation and supervision, the answer is an uneasy one to give, as the contemporary “regulatory mania” is mainly driven by an urge to change something, which is to my mind a natural reaction to a crisis. When things go wrong – in case of global financial crisis even very wrong indeed – relevant authorities react by adopting further rules. Although I consider many proposals to be beneficial, they nevertheless entail one crucial issue. New rules lead to new ways to evade them. Experts agree that an improved system of banking regulation and supervision can be ensured by better or smarter regulation rather than more regulation. They disagree, however, what content is behind this term.