REGULATION, DEREGULATION AND CONTROL ON FINANCIAL MARKETS

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***Abstract**:*
Regulation, deregulation and control of the financial system and especially of the stock markets suffered major adjustments in recent years, this process is constantly changing. Even if lately, worldwide we can find a preference for deregulation of the financial system, it will require continuous adjustment of regulations in this area. This is mainly due to the changing needs of key market players.

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1. Introduction

Through their activity and the influences they perform in the real economy, stock markets have become one of the major pillars on which the modern world and the world economy rely on (Ciobanu, 1997, p 13). So that, they can be fully considered a pillar of the global economy, stock markets should first of all be the stabilizing element in any economy. But practice has

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shown that stock exchanges can also be extremely powerful destabilizing factors, sometimes with devastating impact on all contemporary economic activity.

2. Regulation, deregulation and control on financial markets

We believe that it is necessary to define the meanings of the three concepts mentioned: regulation, deregulation and control on the financial markets. Regulation refers to a form of supervision of the financial institutions outlining restrictions or requirements for financial market participants, so that it can be assured the integrity of the financial system. Market institutions which have to regulate the market can be both governmental and nongovernmental.

Unlike regulation, deregulation refers to the situation where the states authorities reduce their role in the market deliberately, so as to ensure greater freedom. Precisely for this reason, we find often associated with the notion of deregulation the one of market liberalization. The third term, namely control on financial market, is practically assimilated with the concept of deregulation, as long as financial institutions responsible for supervising the market are able to exercise also control over it.

Regarding the financial market regulation, its most important objective, from our point of view is that of financial stability. A financial stability is desirable in any market because it contributes to strengthening the financial system as a whole. One of the aims of regulation is to ensure confidence for market participants, thereby confirming the objective of maintaining confidence in the system and also to ensure the financial stability. Moreover, financial market regulation came as a measure of the state to reduce the financial fraud and illegal practices.

Regulatory authorities should be informed if market participants are holding or have information that could distort the proper functioning of markets (confidential or privileged information). The usage of such information is somewhat a paradox of stock exchange markets (Stoica O., 2002, p 60) because it can lead to obtaining impossible profits under normal conditions.

In exercising control or supervision of financial market, we can find several categories of institutions operating at different levels of the market. We can identify such authorities aimed supervision of stock exchanges, companies listed on the stock exchange, those who adopt measures to combat money laundering or financial intermediary firms.

Surveillance authorities of stock exchange markets shall ensure that stock exchanges transactions take place on the terms and conditions of the law, namely the formation of market prices is the result of the intersection of supply and demand for each title and not the result of manipulation techniques or influence by some participants. The responsibility of surveillance authorities in stock exchanges begins at the initiation of the intention (market orders) to the execution or settlement of them.

Surveillance authorities that provide the supervision and control of companies listed on the stock exchange, take into consideration the compliance of admission conditions and holding active in the market the securities of listed companies. Also they watch over corporate obligations relating to: periodic reports that they have to do and notifications of any kind, so that there is transparency in the market.

Regulators, supervision and control of financial intermediation companies shall ensure that intermediaries comply with applicable laws and always wear their clients interest in the law limits, not away from it.

It is known that there were money laundering activities, at least in the financial markets, big notoriety even worldwide. Authorities responsible for overseeing this segment should provide the rest of the market participants that such criminal activity will not put into danger the integrity of the overall market or financial market stability. Of course, it is not necessary for every market segment to have its own supervisor, an institution can cover several such segments.

The surveillance system is specific to each state but rather its organization reflects the degree of market development (Simon, 1997, p 279). In Romania we can not talk about a highly branched financial market surveillance, because on the Romanian market, C.N.V.M (The National Securities Commission) is the authority that oversees regulated markets to ensure transparency and proper functioning of trading activity and also the protection of investors. It is authorized to suspend part or all of the operations of the market, if it is find that there has not been respected the law (Law 297/2004 regarding the capital market, 2004).

Perhaps the most branched and complex financial market surveillance system is found in the United States, where regulation and supervision is provided by the Securities and Exchange Commission (SEC). The main reason that the SEC was created first is that of regulating stock exchanges and on the other to prevent abuse of any kind in the market. In addition, the Federal Reserve System (FED) also participates in supervising exchanges, especially in the segment of credit instruments.

The surveillance system in the United States of America also includes:

• Financial Industry Regulatory Authority (FINRA) – is the National Association of Securities Dealers (NASD) successor (Wasendorf & McCafferty, 1993, p 128). This is a self-regulated private company conducting financial regulation brokerage firms active in stock market but also for the foreign exchange market is SEC directly subordinated (www.finra.org, 2012).

• Commodity Futures Trading Commision (CFTC) - (Lautier & Simon, 2009, p 101) is a non-governmental company, aimed for regulating the futures and options market. Its challenge is to protect market participants and the market as a whole from the possible manipulation acts, fraud or unfair practices in the trading of futures and options contracts (www.cftc.gov, 2012).

For the UK market, regulation, supervision and control authority rests to Financial Services Authority (FSA) - whose aim is to regulate the entire financial services industry in the UK. Although it is acting independently of government, the management team is appointed by the Treasury. In the UK were established the objectives of FSA by the law responsible for markets and financial services (www.fsa.gov.uk, 2012) as follows:

• Confidence in the market - FSA must maintain the confidence of participants and also of those not involved in the financial system;

• Financial stability - FSA must contribute continuously to ensure and strengthen the stability of the UK financial system;

• Investor protection;

• Reducing financial fraud - we found in literature also the term of financial crime, with the same sense.

Regulatory authority in each state, has about the same powers and purposes as those presented and some examples are found in the table below (Spieser, 2007, p 180):

Tabel 1. Regulatory authority in different state in the world

Country	Regulatory authority
Germany	Federal Financial Supervisory Authority (BaFin)
France	Autorité des marchés financiers (AMF)
Italy	Commissione Nazionale per le Società e la Borsa (CONSOB)
Switzerland	Swiss Financial Market Supervisory Authority (FINMA)

Nederlands	Netherlands Authority for the Financial Markets (AFM)
Japan	Financial Services Agency (FSA)
China	China Securities Regulatory Commission (CSRC)
Brazil	Comissão de Valores Mobiliários (CVM)

Source: authors processing, using regulators websites.

We believe that at the level of a national market for securities, it is required a more efficient cooperation between market regulators and central banks of each country. This is because central banks provide banking regulation, the other part of the financial markets. It is desirable that the regulation and permissiveness in the two markets were similar, so there are no major differences likely to cause distortions in the financial market as a whole. In fact, many banks have divisions that are authorized to operate as brokerage companies for any type of customer on the stock market. Is the case of Romania, where the first positions in trading on Bucharest Stock Exchange, we can find divisions of commercial banks.

In addition to this necessary collaboration, regulatory authorities from the various Member States must cooperate between them, so as not to create undue differences between different markets. As a result of gap in national regulations with those of the international level we see a market segmentation (Stoica O., 2002, p 68).

3. Cooperation at regulatory level

Especially in this field, the effect of internationalization and globalization was felt perhaps more than in any other field. International cooperation between different regulators have give birth to new organizations. One of these is the International Capital Market Association (ICMA) – which is being formed in 2005 following the merger of the International Primary Market Association (IPMA) and the International Securities Market Association (ISMA), and which aimed to promote ethical trading practices in the market and of course, its proper regulation. ICMA, numbering over 400 from 50 countries around the world, is a pan-European organization, but that has connections everywhere. The association is in Zurich, but it has offices also in London and Paris. Its area of influence covers securities brokers, dealers, commercial banks and private investment banks or fund managers (www.icmagroup.org, 2012).

IOSCO (International Organization of Securities Commisions) - is an organization that regulates the functioning of financial instruments as securities and futures markets in the world. Members of this organization are Securities Commissions in over 100 countries, and its headquarters is located in Madrid. According to IOSCO, it can cover more than 90% of the world market securities. Its main role is to promote global regulatory standards and aims to be a mediator if necessary for national regulatory authorities, members of the association (www.iosco.org, 2012).

International cooperation can be seen also in the stock exchanges, grouped in international federations, as follows: World Federation of Exchanges (WFE) - is a professional association currently consists of 54 stock exchange trading shares, bonds , futures, options or other derivatives, and its desire was that of the operation of key components of the financial world (www.world-exchanges.org, 2012).

On the european market, the European Parliament and the Council of Europe initiated a law in 2004, which became applicable only in 2007 and refers to the harmonization of rules of financial investment services in all Member States of the European Economic Area (the 27 Member States of the European Union, to which are added Liechtenstein, Norway and Iceland). European directive known as MiFID (Markets in Financial Instruments Directive) aims to increase competition and investor protection in investment services. Highlights of this relates to conditions such as authorization, regulation and listing various tools on the market, the transparency of its investment process at all levels that the preparation of the transaction, the actual transaction and post-transaction stage (settlement) instruments financial. MiFID imposes strict conditions regarding best execution of client orders, also classifying the clients.

4. Deregulation of financial markets

Deregulation, seen in opposition to regulation means to encourage the creation and development of competition in the markets and also at the participants level, whether intermediaries or investors. Financial deregulation, suppose the regulatory authorities dispensing from the direct regulatory methods of the money supply and fully control of transactions for indirect methods (Stoica O., 2002, p 70). Since the 1980s, most developed countries have started a process of market deregulation, driven mainly by the internationalization of markets.

By its purpose, deregulation raise any barriers to entry or exit from a market imposed by regulation. Of course, we are not talking in this case about the total abolition of these regulations, because they are necessary to ensure financial stability overall. Waive certain regulations likely to obstruct the investment process, rather envisages liberalization of markets. This financial markets in the states open to the international market, thus arranged the adoption of new practices that build trading, or some new trends in this area, especially open for free movement of capital. It thus creates an interdependence between markets that can bring many benefits to a national financial market, but also many disadvantages. Strong correlations that currently exist between various stock exchanges developments are likely to create effects in the form snowballs as Warren Buffett calls them, with serious consequences for the world economy as a whole.

We talk about the idea of deregulation of markets since 1975 when the May 1, New York Stock Exchange adopted the practice of fixed commissions on stock transactions as a result of pressure launched Supervisory Commission (U.S. Securities and Exchange Commission). This time, 1 May 1975 remained in history as "May Day" and is associated with the beginning of deregulation worldwide (Fleuriet & Simon, 2000, p 201).

For the European market, deregulation measures came later in the market, in 1980, when with the Conservative election victory in 1979 in Great Britain by Margaret Thatcher, was initiated an extensive program of deregulation and privatization.

Triggered phenomenon has remained as the "Big Bang", and was associated with the sudden moment of financial market deregulation. It consisted in eliminating fixed commissions charged by intermediaries, the London market was open gradually (in 1982) also for the intermediaries from other countries. There were made a series of boundaries in terms of categories and the role of intermediaries in the market, making a clearer distinction between the jobber and stock exchange agencies. The floor trading on the London Stock Exchange was gradually replaced by an electronic form of it. We cannot say that it went straight to exclusively electronic trading, because in that moment electronics and communications industry were in the early stages of their development. However, in 1986 the London Stock Exchange market began to use telephone orders and electronic trading, thus abandoning materialized shares. All these measures have made this stock trading volumes to increase significantly, the proportion of foreign brokerage companies that operate in it becoming significant for both number and value traded. Because of that, we can say that in 1986 the London Stock Exchange is considered a reference to all the great actors of this market. In fact, in 1987 the London Stock Exchange is changing its name into International Stock Exchange (Montousse, Bourachot, & Renouard, 2010). The whole financial reform culminated in the autumn of 1986 with the adoption of legislation adapted to the new financial and market reforms embodied in the Financial Services Act, which was passed by the Parliament of Great Britain under Margaret Thatcher's government. This law has undergone further changes until 2000, the Financial Services and Markets Act (Financial Services and Markets Act) coming to fill it.

5. Conclusion

We conclude here by saying that deregulation or regulation of the financial system and especially the stock markets suffered major adjustments in the last 30 years, but we cannot say that this process has been completed. It is constantly changing, just as the needs of this market actors are constantly changing. Thus, a permanent adjustment of regulations in this field will be required, even though at the international level, it was found lately a penchant for massive deregulation in this sector.

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