

Opening Editorial to the Symposium on the Financial Crisis in the EU

As its name suggests, the EJRR focuses on risk regulation by privileging a European perspective. This issue does not intend to depart from this characterizing feature of the journal. What would make it “special” then? The “specialty” has to be found in the type of risk which our authors deal with in their articles contributing to the symposium: the one posed by, and intrinsic to, financial markets, with a particular view to the recent (better said, current?) financial crisis.

This is the first part of the symposium devoted to the analysis of some of the responses given by the EU institutions in their effort to cope with the financial crisis, to tame its effects and build a safer and more stable economic and financial environment on the old continent.

Between the lines of our regulators’ interventions, however, one could glimpse a deeper and broader reflection on how financial regulation itself may need to be reformed for the future in order to avoid the occurrence of turmoil of this size and even to justify its own existence. The financial crisis is likely to become a pillar in the history of financial regulation, a tremendous opportunity to rethink its role, its trends and its ways of operating in practice.

Our authors lead us through some of the debates and the challenges that the regulators (and anyone who deals with financial regulation) could (and should) have been confronted with.

Transparency has for a long time been a mainstay in financial regulation and Iris Chiu of the University College of London leads us through an innovative analysis of the role of transparency, the rationales for its fundamental importance, and its trajectory in the “surveillance age”.

Despina Chatzimanoli of the new European Banking Authority makes us think of the continuously mutating relationship between law and new governance practices in the EU financial services sector: is the financial crisis mainly a crisis of governance?

We are then faced with one of the major contributing factors to the financial crisis of the years 2007-09, with Anselm Lenhard of Freshfields Bruckhaus Deringer (Munich Office) discussing alternative regulatory solutions to the EU (and US) responses to perceived shortcomings in the shift from the traditional relationship banking model to a more transaction-oriented “originate-to-distribute” model of bank finance.

Finally, a truly pan-European Professor (the Spanish Maria Elvira Méndez-Pinedo, lecturing EU Law at the University of Reykjavík) takes cue from the “Icesave” dispute and the “Icesave” agreements which followed the collapse of Iceland banks for revisiting the principles of State liability, prohibition of State aid and non-discrimination in European law.

Before leaving you to our authors, I would just like to say two big “Thank You’s”. The first is to Professor Alberto Alemanno of HEC in Paris, who gave me the opportunity to act as the editor of this special issue. The second is to Professor Niamh Moloney of the London School of Economics and Political Science, who encouraged me to undertake this wonderful project and (above all) kindled my enthusiasm for European financial regulation.

I wish you a happy reading, hoping that financial regulation will soon become a “regular guest” of the EJRR, with a view to a mutual enrichment of this fascinating discipline with other areas of risk regulation.

Giorgio Tosetti Dardanelli