

CONTENTS

<i>Foreword and acknowledgments</i>	v
Chapter 1. The theoretical substratum	1
1. Towards the decline of national sovereignty	1
2. Max Weber and the notion of sovereignty.....	4
3. Market rules and public administration rules	9
4. Max Weber's legacy in contemporary philosophical and legal thinking.....	13
4.1. Jurgen Habermas: "the German respondent to Max Weber"	15
5. The legal world as a chessboard	19
6. The new model of reticular cooperation in the European system	21
6.1. Globalisation.....	24
7. The adhesive between globalisation and autonomistic tendencies: the principle of subsidiarity	26
Chapter 2. The economic substratum	29
1. Introduction: the supervisory authorities in the financial system, between economic principles and global standards.....	29
2. Introductory outline of the financial system.....	30
3. Control of the financial system: objectives	31
4. From the notion of market to that of "financial conglomerate"	33
5. Models of supervision	35
6. The "centralised" model of supervision	37
7. The "decentralised" model of supervision	38
8. Coordination between supervisory models. The case of the European Central Bank.....	39
9. The current institutional situation of the supervisory function. The Lamfalussy Committee	41
10. Global actors in the financial sector: a system of Chinese boxes	43
11. The financial system of the Europe "box"	46
12. On behaviour standards of financial intermediaries: the transparency principle. Toward the realisation of the third Pillar of Basel II	48

13. Other directives regarding supervision. Implementation of the first and second pillars of Basel II	48
Chapter 3. The German system	53
Section 1. Powers.....	53
1. Independent Administrative Authorities in the German system	53
2. The German financial system from a functional perspective.....	54
3. Prospectus transparency obligations: an example of normative systematisation in finance	56
3.1. The notion of informative prospectus.....	57
4. Establishment and aims of the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	58
5. BaFin's Structure.....	59
6. Functions	61
6.1. BaFin's powers under the Financial Instruments Law (Wertpapierhandelsgesetz – WpHG).....	61
6.2. The advisory committee.....	62
6.3. On duties of international and national cooperation between supervisory authorities.....	63
7. Regulatory supervision and internal audits	67
8. Concluding comment.....	68
Section 2. Liability	68
1. On public administration liability in general.....	68
2. Liability of supervisory bodies	70
3. The German system of supervision and Community law	72
4. The influence of Community law on Bundesgerichtshof decisions	74
5. Concluding comment.....	76
Chapter 4. The British system	79
Section 1. Powers	79
1. On supervision of the financial system in the United Kingdom, and the decision to devolve the various market segments to a single authority	79
2. The Authority's Structure	81
3. MiFID and Basel II: the FSA reaction	85
4. Interlude	87
Section 2. Liability	89
1. Overview of the US model.....	89
2. The system of regulatory agencies in the UK	93
3. The effects of legislation on case law	94
Second Reading	97