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STRENGTHENING OF THE REGULATORY FRAMEWORK AIMED AT FINANCIAL STABILITY AND PREVENTION OF BIG BANKING SCANDALS

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Abstract

Numerous big banking scandals in the period from 1980 to the collapse of financial markets in the US in September 2008 indicate that the Global economic crisis was inevitable. This is because the basic causes of the crisis are built into the foundations of the US neoliberal model of speculative financial capitalism. The previous anti-crisis policies in the United States, which decisively shape global regulation as well, have not yielded the desired results because the ruling political, economic and military elite of the US is not ready to adopt and implement fundamental social and economic reforms. For this reason, the big banking scandals which marked the past five-year period (2010 - 2015) are not a big surprise. Bailed out by taxpayers' money, global banks continue to behave in the same way they behaved until the collapse of financial markets in September 2008, which brought the whole world to a crisis of unprecedented proportions. New big banking scandals imply a new wave of crisis with incalculable economic and social consequences of global proportions. In this regard, the main objective of this paper is to point to the necessity of global, regional and national institutions to redesign the existing and build a comprehensive and effective regulatory and supervisory framework, in order to prevent the deepening of the crisis so that the third decade of the 21st century can be entered with a stable, socially responsible and sustainable banking system.

Key words: big banking scandals, financial crisis, financial stability, regulatory framework, supervisory framework.

ЈАЧАЊЕ РЕГУЛАТОРНОГ ОКВИРА У ФУНКЦИЈИ ФИНАНСИЈСКЕ СТАБИЛНОСТИ И СПРЕЧАВАЊА ВЕЛИКИХ БАНКАРСКИХ СКАНДАЛА

Апстракт

Бројни велики банкарски скандали у периоду од 1980. године до слома финансијских тржишта у САД у септембру 2008. године указују на то да је Светска економска криза била неминовна. Ово је због тога што су основни узроци кризе уграђени у темеље америчког неолибералног модела шпекулативног финансијског капитализма. Досадашње антикризне политике у САД, које уједно пресудно обликују глобалну регулативу, нису дале жељене резултате јер владајућа политичка, економска и војна елита САД није спремна да усвоји и спроведе темељне друштвене и економске реформе. Зато велики банкарски скандали који су обележили протекли петогодишњи период (2010–2015) нису велико изненађење. Саниране новцем пореских обвезника, глобалне банке настављају да се понашају по истом обрасцу по којем су функционисале до слома финансијских тржишта у септембру 2008. године, који је цео свет увукао у кризу невиђених размера. Нове велике банкарске афере имплицирају нови талас кризе са несагледивим економским и социјалним последицама у светским размерама. С тим у вези, основни циљ рада је да укаже на неопходност да глобалне, регионалне и националне институције редизајнирају постојећи и изграде свеобухватан и ефикасан регулаторни и надзорни оквир да би се продубљивање кризе спречило, а почетак треће деценије 21. века дочекао са стабилним, социјално одговорним и одрживим банкарским системом.

Кључне речи: велики банкарски скандали, финансијска криза, финансијска стабилност, регулаторни оквир, надзорни оквир.

INTRODUCTION

When it comes to global economy, the beginning of the new millennium was marked by, among other things, big corporate scandals. The scandals at the centre of which were global banks attracted special attention, because of the importance of the stability of the banking system for normal functioning of the financial and economic system. Big scandals have occurred on all continents and had a cyclical character. Scientific literature clearly describes all stages of the cycle, and there is a general agreement that the cycles are of unequal duration. For practical reasons and for this study, we have performed an approximate division into five-year cycles. During each five-year cycle, after big scandals, professional, public and internal regulatory bodies and institutions took partial measures within their competence to protect shareholders, creditors, employees, investors in debt securities and other damaged stakeholders. There were also certain action plans for financial stabilization of the banking system and restoring global banks' position in the zone of socially and ethically responsible business.

Instead of the desired stability of the banking system and the change in the way large global banks and other financial institutions function, only four years after the rescue of many US and world banking giants with an energetic cash intervention by FED and other central banks, in 2012 and in the first half of 2013, we witnessed numerous scandals that involved leading international banks (British banks - HSBC, Barclays and Standard Chartered; the Swiss USB, the Vatican bank, the Royal Bank of Scotland and five US banks - Bank of America, Citigroup, Wells Fargo, Ally Financial and JP Morgan). It will be recorded in the history of banking that all these banks were fined on the basis of serious and proven accusations of systematic manipulation of the Libor (the

Libor scandal), money laundering for drug cartels and terrorist groups, the underestimation of risk in lending to uncreditworthy clients, as well as financial transactions with countries under UN sanctions.

The global banking industry which caused the crisis and survived thanks to generous government interventions, whose order of magnitude is measured in thousands of billions of dollars, continued the behaviour that threatens to lead to a new crisis, even more destructive than the previous one. Therefore, it is important to investigate the causes of big banking scandals. This is not possible if we do not consider the history i.e. chronology of the scandals in the first decades of the new millennium, including those that marked 2015. Their brief genesis, given in the first part of the paper, is not only a list of facts. It should enable the identification of the most important causes of the growing tendency toward scandalous behaviour of global banks, which the second part of the work is dedicated to. Finally, at the end of the paper, we expose the key measures taken so far, some of which have to be redesigned, in order to finally build an effective regulatory and supervisory framework. The framework should provide sufficient financial stability and minimize the number of banking scandals.

1. THE HISTORY OF BIG BANKING SCANDALS IN THE NEW MILLENNIUM

The first cycle of big corporate scandals (2001 - 2005) showed that the system of neoliberal capitalism embodied in the phrase "free market and parliamentary democracy" was very destructive. What happened in this period stunned the whole world. It started in 2001 with the Enron scandal, which is now a commonplace in the literature and a paradigm of big corporate scandals. Naturally, Enron was connected to the operations of large banks and its bankruptcy had to reflect on their business. At the height of its fame, when Enron was the seventh corporation with a market capitalization of 75 billion dollars, "top banks, such as JP Morgan Chase, Citibank, and Merrill Lynch were waiting in line to lend it money" (Otte, 2009, p. 106). This was followed by the bankruptcies of the following corporations: Pacific Gas and Electric Company (USA, 2001), Allfirst – a US subsidiary of Allied Irish Banks (AIB) (2002), Global Crossing (USA, 2002), WorldCom (USA, 2002), Xerox (USA, 2002), Merrill Lynch (USA, 2002), Credit Suisse First Boston (CSFB) – the US subsidiary (2002), Conseco (USA, 2002), United Airlines (USA, 2002), etc. "As an example, the loss in market capitalization which occurred as a result of fraud in the financial statements of Enron, WorldCom, Quest, Tyco and Global Crossing was estimated at 460 billion dollars, whereas the bankruptcy of WorldCom alone was accompanied by the loss of 175 billion dollars and 60 000 jobs in 65 countries, and the pension funds which were left with worthless shares that were once worth 25 billion dollars" (Malinić, 2011, p. 245).

While, on one hand, property, jobs, savings and other resources were being destroyed, on the other, managers were amply rewarded for unsuccessful operations. This is contrary to the basic neoliberal hypothesis that the market rewards successful players in the market, and sanctions the unsuccessful. In this regard, "alarming enough is the fact published in Fortune magazine (2 September 2002, p. 64) that the directors of 25 companies whose shares dropped by 95% or more, between January 1999 and May 2002, and which had business and reporting problems, left the companies taking 23 billion dollars." (Malinić, 2011, p. 252). When it comes to big banking scandals in this period, it is important to point out the cases of Merrill Lynch, CSFB and AIB.

The investment bank Merrill Lynch was fined 10 million dollars in 2002 because the bank officials advised investors to buy shares which the bank's analysts knew were practically worthless so as to increase the investment activity of the bank and the revenue it brings.

At the same time, Boston-based CSFB, the US subsidiary of the Swiss bank Credit Suisse, was fined 4 million pounds from the British stock exchange regulatory body for committing tax evasion. In addition, even though investing in hedge funds was highly risky, "by May 2002, the investment bank Credit Suisse First Boston accumulated credit portfolio in various hedge funds in the amount of 250 billion dollars, which it turned into high-value loans called "Collateralized Fund Obligations". Without any problems, this loan was disbursed in several tranches. This whole process can go more or less smoothly, as long as the financial system does not get into serious trouble." (Otte, 2009, p. 99). The financial system started having problems in 2007, whereas the entire structure collapsed in September 2008, when the financial markets in the United States crashed.

Allfirst, the Allied Irish Banks' subsidiary based in Baltimore, is a copy of the Barings scandal, only on a smaller scale. John Rusnak, a broker in this branch, made a loss of almost 700 million dollars in five years. He "gambled" just like Nick Leeson, a broker in the British Barings Bank, who lost a whopping 1.86 billion pounds on the Singapore International Monetary Exchange in 1995 (Milojević, 2000, p. 88).

The previous, briefly described, big corporate and banking scandals in the United States, which took place at the beginning of the new millennium, were serious warning signals that the US financial markets and stock exchanges were rapidly approaching a dramatic collapse.

The second cycle of big corporate scandals (2006 - 2010) was marked by the collapse of financial markets in the United States in 2008. This was a scandal of unprecedented proportions because the collapse unmasked the Ponzi scheme of the US financial system. "What is also striking is that when one looks beneath the surface, beyond the new financial products, the subprime mortgages, and the collateralized debt instruments, this crisis appears so similar to many that have gone before it, both in the United States and abroad. There was a bubble, and it broke, bringing devastation in its wake." (Stiglitz, 2013, p. 14).

Previous discussion about the growing tendency of big banking and corporate scandals, followed by a financial crisis whose proportions increase from cycle to cycle, forms the basis for the conclusion that the Great Depression was not created overnight. Quite correctly, Mark Zandi sublimated its genesis in one sentence: "Behind the confusion often lie esoteric and complicated financial institutions and instruments: program-trading during the 1987 stock market crash; junk corporate bonds in the savings & loan debacle in the early 1990s; the Thai baht and Russian bonds in the late 1990s; and the technology-stock bust at the turn of the millennium." (Zandi, 2010, p.1).

From 2008 until today, the great global financial and economic crisis has been a topic most written about and discussed at various international and national conferences, as well as in the leading international and national magazines. Numerous books by renowned authors, some of whom have won the Nobel Prize in Economics, have been published. Some of these books have become worldwide bestsellers. Taking into account that the target readers of this paper are familiar with the aforementioned literature, we direct their attention to the third cycle which is in progress.

The third cycle of big corporate scandals (2011 - 2015) is a cycle in which, as in the previous one, global banks were the main players behaving shamefully. What is devastating is the fact that the banks which caused the crisis and survived it through financial injections by Central banks which amounted to several thousand billion dollars, continued to behave as if nothing had happened. At the end of December 2012, when the most significant events of the year about to end were analysed, web sites dealing with banking, corporate governance and financial markets, released the following statement: "The outgoing year 2012 will be remembered, among other things, for the scandals by leading global banks which were fined over six billion dollars on charges of money laundering, fixing interest rates, breaching sanctions and systemic fraud" (www.korporativnoupravljanje.com – 29 January 2013).

The following banks were at the centre of the mentioned banking scandals: British – HSBC and Barclays, Swiss – UBS AG, Scottish – Royal Bank of Scotland, Dutch – ING NV, American – JP Morgan, Bank of America, Citigroup, Wells Fargo and Ally Financial). They were fined for the following criminal activities:

- Money laundering for drug cartels and terrorist groups (HSBC)
- Fixing the London Interbank Offered Rate – LIBOR (Barclays, SCB, UBS)
- Electricity market manipulations in California (Barclays)
- Carrying out financial transactions with countries under UN sanctions (ING NV, RBS)

- Deliberate underestimation of credit risk when granting loans (Bank of America, Sitigroup, Wells Fargo, JP Morgan)
- Fraud for mis-selling financial derivatives to the city of Milan (Deutsche Bank, UBS, JP Morgan, Depfa Bank).

Naturally, the LIBOR scandal ("the LIBOR interest rate scandal") deserves the biggest attention. "The LIBOR scandal erupted in June 2012 when British bank Barclays was fined 290 million pounds by the decision of the British and US regulators for attempted manipulation of LIBOR and Euribor interbank rates between 2005 and 2009" (www. capital.ba – 5 February 2013). In this connection, forecasting what will happen globally in the banking sector in 2013, Lionel Barber wrote in "The Economist": "In 2012 universal bankers and, more importantly, their clients at last realised that financial capitalism had moved too far towards transaction banking at the expense of “relationship banking”. Politicians and regulators won the argument. Bankers came to understand that in a world of lower leverage—using money borrowed on the wholesale markets to invest—the old turbo-charged transaction model no longer worked. The libor rate-fixing scandal was the final straw." (Barber, 2013, p. 102).

However, accustomed to high profits made at all costs, reinforced with taxpayers' money, regardless of numerous regulatory frameworks and supervisory mechanisms, global banks continued the same practices in the last year analysed. In January 2015, London-based The Guardian published shocking information about the criminal activities of the Swiss subsidiary of the British bank HSBC. "Despite being legally obliged since 1998 to make special checks on high-risk customers, the bank provided accounts for clients implicated in six notorious scandals in Africa, including Kenya’s biggest corruption case, blood diamond trading and several corrupt military sales," writes The Guardian. "HSBC also held assets for bankers accused of looting funds from former Soviet states, while alleged crimes by other account holders include bribery at Malta's state oil company, cocaine smuggling from the Dominican Republic and the doping of professional cyclists in Spain." (www.blic.rs – 12 January 2016). In the middle of 2015, the US judicial authorities launched an investigation into the corruption scandal plaguing the World Football Federation (FIFA). "As reported by the AFP news agency, Credit Suisse bank, Deutsche Bank, HSBC and Delta National Bank, based in New York, are under investigation for facilitating illegal payments" (www.balkans.aljazeera.net – 12 January 2016).

2. CAUSES OF BIG BANKING SCANDALS

Big financial scandals at the centre of which were the leading global banks have their causes and effects. While the effects are clearly visible, the causes have led and still lead today to ideological, intellectual, political, media, lobbying and other battles. It is understandable that identifying the causes defines measures to be taken. These measures can significantly jeopardize the position of interest groups in the US and EU, as well as the position of numerous national economies. Thus, it is not surprising that there are so many points of view on the causes of the crisis and the ways in which it can be overcome.

Global banking scandals are the result of the neoliberal model of capitalism and "parliamentary democracy" of the US or British type. In fact, until the emergence of the Chicago school of economics of Milton Friedman, the world's leading ideologist of neoliberalism, and the implementation of the liberal economic doctrine into practice in the United States ("Reaganomics") and the UK ("Thatcherism"), scientific literature was dominated by the opinion that the main objective of business entities, including banks, was to maximize profit in the long term, while maintaining permanent financial solvency. Thus defined long-term goal had built-in "stabilizers". In fact, achieving profitability in the long term requires management to make long-term business plans and assume long-term leadership of the entity.

This, among other things, means that managers must take into account the conjunctive i.e. cyclical tendencies of capitalism, and count on years with lower profits, as well as years with transient losses. The stabilizing effect of this premise on long-term approach to corporate management in achieving the objectives in terms of economic cycles means: greater reliance on own capital as a source of funding, vigilance in terms of cost of financing (financial leverage), as well as establishing an adequate level of reserves from profit.

The requirement for permanent preservation of financial solvency acts as a stabilizer as it implies adherence to horizontal and vertical rules of financing. Among them, the well-known golden rule of banking is particularly important for a stable operation of banks and other financial institutions. A set of regulations adopted by the US Congress after the Great Depression had an even greater importance for the stability of the banking system in the United States. "Specifically, in response to the 1930s crisis, the US Congress adopted a regulation in 1933 (the Glass-Steagall Act), which prohibited commercial banks to engage in the investment business. In 1956 a new act (the Bank Holding Company Act) was passed which regulated even stricter the area of finance and banking and prevented the merger of banks and other financial organizations and affiliates of banks across the states, imposing a restriction that banks can only operate in the state in which they were registered, and in 1980 an amendment (the Douglas Amendment) was adopted, which prevented the connection (interdependence) of ownership in the states" (Pavlović, Ljumović, 2009, p. 80).

The neoliberal doctrine redefined the primary objective of modern business corporations and banks. In fact, it is believed that the basic aim is to maximize the wealth of the owner, which must be verified in the financial markets (dividend + capital gains). Since the financial statements of global banks and corporations that are listed on the US and British stock markets are disclosed quarterly, top management is focused on short-term profit maximization and share price increase. Constant pressure to achieve infinite quarterly profit rate growth and market capitalization has serious repercussions on the operations of banks and other corporations. The management of a corporation is torn between strong pressure coming from the stakeholders to continuously make the corporation operate successfully and the possibility of losing huge salaries, bonuses and other privileges. Therefore, the upward trend of various forms of illegal behaviour should not be a surprise.

Banking was beginning to be perceived as an industry that needed to offer new products constantly. Thus, investment banking developed a whole range of securities that were supposed to make high profits with low risk, as it was claimed then. During the deregulation process, and under pressure from the banking lobby, the term usury was abolished, that is, regulatory bodies were no longer able to limit interest. Attracted by profit rates and earnings on speculations with "financial innovations", commercial banks neglected the traditional retail and corporate banking and begin to compete with investment banks. This led to the formation of large universal banks.

Creating universal banks in the United States is a process that began in the 1980s in conditions of increasing deregulation and the inclusion of a number of non-banking entities in the transactions on the financial markets. "Trying to maintain their market position in such conditions, specialized banks began to look for "loopholes" in order to enter the non-banking activities sector. After 66 years of validity, the Glass-Steagall Act was formally repealed by the passing of the Gramm-Leach-Bliley Act of 1999, which allowed financial holding company affiliates to deal with the non-banking activities as well, which means that the process of reuniversalisation of banks occurred" (Krstić, Jemović, 2015, p. 31).

To make matters even more serious, new financial institutions were created with headquarters in exotic islands and continental mini states. The operations of these new forms of financial institutions are non-transparent and absolutely beyond the reach of legal regulations and investigative bodies of countries from which the capital originates. US banks established affiliates in "tax havens" in order to launder money and help clients to evade taxes. "Vast portions of global capital flow through secrecy havens like the Cayman Islands—it hasn't become a two-trillion-dollar banking centre because the weather there is particularly conducive to banking. These are deliberately created "loopholes" in the global regulatory system to facilitate money laundering, tax evasion, regulatory evasion, and other illicit activities." (Stiglitz, 2013, p. 196).

The academic community, rating agencies, audit firms, the supreme political elite and other business players, with a few honourable exceptions, begin to behave like the employees of Wall Street. US economic theorists who "creatively innovate" the neoliberal paradigm are rewarded with high donations for projects, well-paid advisory positions in the US administration, the IMF, the WB and numerous other privileges. Rating agencies create and assign ratings depending on the financial capacity of clients. The rating downgrade of Enron and other corporations at the time when their bankruptcy was inevitable was of no help to anyone.

The political elite accumulates personal wealth by creating a business environment which suits the structures that brought them to power by financing their election campaign. Rather than leave the bank involved in the scandal to the market, that is, leave it to market sanctions, the supreme administration helps it in many cases, in a way that damages the owners of debt securities, and even shareholders. The political elite and the apologetic academic community have created a new category of banks. These banks are "too big to fail". "The moment the operations of these institutions are endangered, there is a danger of systemic risk. In such circumstances, competent regulatory authorities take necessary measures (infusion of capital, takeover by a stronger bank, nationalization, etc.) in order to prevent the spread of negative external effects" (Krstić, Jemović, 2015, p. 28).

Decades of "scientific", media, ideological and political glorification of neoliberalism have changed the course of conduct of business players, and brought the US and British economy to a state of social Darwinism. Justifying their actions with the thesis that personal enrichment contributes to the overall social welfare, numerous players use any means necessary to get rich. This can be seen from the genesis of the scandals. They are ready to evade taxes, launder money for drug cartels and terrorist groups, as well as ruin their clients and business partners financially.

Through a project called globalization, which was designed by the US interest groups, this behaviour was imposed, by hook or by crook, on a large number of countries in the world with the help of the International Monetary Fund ("The Washington Consensus"), the World Bank and the NATO pact. The project has led to unprecedented economic exploitation of the underdeveloped countries, developing countries and postsocialist countries. Due to the global interdependence of financial and commodity flows, the US–style speculative financial capitalism has caught the whole world in its claws.

Banking scandals have shown that the basic guiding principle of neoliberalism embodied in the thesis that individuals, guided by their own selfish interests, i.e. greed and the invisible hand of the market, will create wealth for themselves and for the nation, without being aware of it, did not pass the test of real life, which does not care for textbook hypotheses. However, since the 1980s, this idea has been embedded systematically and methodically in the consciousness and actions of shareholders, investors, management, employees, political elite and public opinion. Its operationalization has led to big banking and corporate scandals and finally, after a series of bubbles, to the current crisis.

"The severity of the financial crisis has exposed the need for a systemic approach to regulation and supervision of the financial sector, bearing in mind the following facts: a) the development of the financial system has a far greater impact on economic activity than was previously thought; b) the costs of a financial crisis are very high; c) price stability is not enough to achieve financial stability. The big global financial crisis affirmed the tendency toward reregulation instead of the previous tendency toward deregulation. Strengthening of regulation takes place in parallel with the development of macroeconomic institutions established to preserve financial stability" (Marinković, Jemović, 2013, p. 358), which is the subject of discussion in the following part of the paper.

3. STRENGTHENING OF THE FINANCIAL REGULATORY AND SUPERVISORY FRAMEWORK AIMED AT FINANCIAL STABILITY AND PREVENTION OF BIG BANKING SCANDALS

Even if we just wanted to enumerate the measures, guidelines, policies, codes, standards and laws, which were a response to big corporate and banking scandals and crises, whether small or large, which ensued between 1980 and October 2007 (the 1987 stock market crash in the US, the 1990 Japan crisis, the 1997 Asian crisis, the 1998 Russian crisis, the 1999 Argentine crisis, the 2007 global economic crisis, the 2012 Greek crisis, etc.), the list would be longer than the specified scope of this paper. On the day when the Lehman Brothers bank declared bankruptcy, it was clear that the whole effort had been in vain. It was imperative to urgently and energetically save what could be saved. The efforts of all relevant factors, prior to the Lehman Brothers bank bankruptcy, were, to a lesser or greater extent, focused on **defining and implementing short-term, partial and microprudential anti-crisis policies. After September 2008, the focus moved to a broader task: to stop the Great Depression as quickly as possible and with the fewest negative consequences for the socio-economic system, and then employ long-term measures to build a stable banking and financial system**.

The creation of a new system of banking and financial regulation began immediately after the collapse of financial markets in the US at the end of 2008. "On the international level, the process of regulatory reform is in progress, with the aim to establish a new regulatory and supervisory framework in which financial institutions and financial markets can function freely and, at the same time, reduce the likelihood of a new financial crisis" (Radojičić, 2012, p. 215). Group G-20 held its first meeting immediately after the collapse of the financial markets and formed the

Committee for Financial Stability with many tasks. "The countries of the G-20 have put all of their effort into extinguishing the flames of the crisis. In less than a year, trillions of dollars were used to provide additional liquidity, recapitalize banks and other financial institutions, take over contentious and toxic assets, provide guarantees on both the assets side and the liabilities side" (Vujović, 2009, p. 332).

Naturally, in order to extinguish these flames, the participation of the International Monetary Fund (IMF) and the World Bank (WB) was inevitable. "According to the IMF (2009) and the World Bank (2009), the chief answers of the standard fiscal and monetary policy to the crisis include the following measures:

- Provision of additional liquidity at the national and international level (lowering interest rates, conversion of super-short credit deadlines into short and medium deadlines, reduction of mandatory reserves, establishment of new forms of the so-called swap facilities and facilitating the access to central bank loans),
- Expansion and deepening of the deposit insurance system and other forms of security for investors,
- Direct financial support for banks and other financial institutions (including recapitalization, restructuring of financial institutions, takeover of certain forms of contentious or toxic assets, and takeover of financial institutions through temporary nationalization),
- Guarantees and
- Measures to unfreeze loans and accelerate the lending process" (Vujović, 2009, p. 333/334).

The International Accounting Standards Board (IASB) also acted promptly, issuing without public debate, for the first time in its history, Amendments to IAS 39 Financial Instruments: Recognition and Measurement. By adopting the amendments with retroactive application as of 1 July 2008, banks were allowed to postpone losses on securities for the future by means of reclassification of financial instruments, rather than disclose them in their profit and loss accounts. This was done due to the pressure from a strong lobbying group IIF (The Institute of International Finance), which represents the interests of global banks. This creation of hidden losses and their deferral to future accounting periods, which is contrary to all principles of proper financial reporting, is justified by the need to prevent the spread of the crisis in the banking sector. "Criticizing such revisions of fair value accounting requirements, Moody's rating agency revealed data that by using this room for manoeuvre on the basis of reclassification of assets and choosing the best price, Deutsche Bank will reclassify assets worth 32 billion dollars and thus avoid recording a loss of 1 billion dollars in the financial statements for the third quarter" (Pantelić, Todorović, 2010, p. 171).

In July 2009, the Basel Committee adopted amendments to Basel II, and in 2010 a new document Basel III. What catches one's attention concerning these documents is the date of entry into force of a number of anti-crisis policies and measures. The member countries of the Basel Committee were obliged to adapt their national legislation by 1 January 2013. Then, Basel III came into force, and a number of requirements will be implemented gradually **by 2019**.

"From a set of different legislative solutions, one should note the initiative launched in the US which resulted in the adoption of the Dodd-Frank Act (fully knows as the Dodd-Frank Wall Street Reform And Consumer Protection Act) in mid-2010. The reason for this is that its adoption represented a kind of an incentive for regulatory action on the global level." (Radojičić, 2012, p. 217).

Banking lobby groups managed to prevent the idea of returning to the provisions of the Glass-Steagall Act which strictly separated commercial and investment banking in the period between 1933 and 1999. The fear of total financial chaos like that of the 1930s, which was deliberately fuelled by global banks, resulted in the fact that, among other things, US institutions and regulators took measures that mostly suited those who caused the financial crisis, while burdening the taxpayers and increasing the already high budget deficit. "Two separate presidential administrations undertook a series of measures to help the financial system, with little thought of the kind of financial system the country should have when it finally emerges from the crisis. These measures didn’t solve the structural problems of the banking system. Some of them have made matters worse. As a result, there is little assurance that the new system arising from the ashes of the old would serve the nation any better than the old one." (Stiglitz, 2013, p. 143).

CONCLUSION

Big banking scandals, as part of the set of big financial and corporate scandals, have most often occurred in the United States. Their appearance and growing tendency corresponded to the processes of deregulation and globalization, that is, the reincarnation of the neoliberal doctrine in the 1980s. Large banking affairs, corporate scandals and sudden bankruptcies were symptoms of deep disturbances and contradiction in the US financial and economic system. Large-scale scandals have cyclic character. In addition, what catches one's eye is the fact that each wave of scandals is followed by a collapse or other forms of serious disturbances on financial markets.

Anti-crisis policies and measures did not yield the desired results even during this 25-year period of deregulation and self-regulation, but also even after a partial shift towards legal regulation at the beginning of the new millennium. The return to partial legal regulation of some areas that were either deregulated or professionally regulated (standards, codes, guidelines, etc.) was necessary to protect the interests of shareholders and investors and the public interest. However, on that occasion, the US administration and the most important regulatory institutions did not want to change the fundamental parameters of neoliberal policies. Instead, they pushed to continue moving rapidly in the same direction.

The bubble of financial derivatives and many other financial "innovations" burst in September 2008 leading to the collapse of financial markets in the US and consequently to the collapse of the leading world stock markets around the world. The stock market crash, in conjunction with the decades of cumulative effect of other factors, resulted in the rerun of the 1930s Great Depression. In fact, there was a crisis in the real sector, production stagnated from quarter to quarter, unemployment reached alarming proportions, trading in shares and other securities was "frozen" as investors lost trust.

At the time of the outbreak of the Great Depression and on several later occasions, billions of dollars were poured into the banking sector to rescue the battered banking giants and other financial institutions. Instead of serious reforms, bank losses were socialized at the expense of taxpayers. The opportunity to make a radical shift towards a sustainable, socially responsible financial and economic system was missed. Protected by the "too big to fail" doctrine, banks continued to behave in the same way which had led to the crisis.

This is the reason why new large banking affairs and scandals that occurred month after month during 2012 and 2013, as well as last year (2015), were not a surprise. What is surprising is the new tendency in the crime repression policy of US supervisory authorities and institutions. Namely, current big banking scandals are settled, as a rule, by a plea bargain, i.e. by pleading guilty in exchange for a fine. The number of convicted persons is small compared to the scope and gravity of the crimes committed. Plea bargains and mild penal policy stimulate the management of global banks to continue with the current practice.

For a number of years, the Libor scandal to which the US banks contributed greatly, disavowed the relevance of the information from the financial markets around the world. The course and outcome of the scandal showed the inability of money and capital markets to detect and correct these serious anomalies in the formation of reference interest rates. In other words, for years, the reference interest rates were not the result of market trends but a secret collusion between ten global banks. In fact, these banks also played a major part in the big banking scandals.

The above stated points to the conclusion that it is imperative that global, regional and national institutions continue to implement measures and actions adopted after September 2008, by redesigning some of them, as they go along, in order to avoid repeating the financial crisis and enter 2020 with a stable, socially responsible and sustainable banking system.

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ЈАЧАЊЕ РЕГУЛАТОРНОГ ОКВИРА У ФУНКЦИЈИ ФИНАНСИЈСКЕ СТАБИЛНОСТИ И СПРЕЧАВАЊА ВЕЛИКИХ БАНКАРСКИХ СКАНДАЛА

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Резиме

У раду се разматрају улога и значај регулаторног и надзорног оквира за стабилност банкарског, односно финансијског система. Осим тога, нови велики банкарски скандали, учестали у последњих пет година, указују на то да глобалне, регионалне и националне регулаторне мере и активности које су уследиле после слома финансијских тржишта у Сједињеним Америчким Државама у септембру 2008. године нису у потпуности дале жељене резултате. То је делимично разумљиво, уколико се има у виду да је крајњи рок за спровођење неких дугорочних мера 2019. година (на пример, Базел III). С тим у вези, основни циљ рада је да укаже на потребу јачања регулаторног и надзорног оквира у функцији очувања финансијске стабилности и спречавања глобалних банкарских афера. У раду се прво разматра генеза великих банкарских скандала у новом миленијуму. Она није таксативна фактографија, већ треба да омогући препознавање најважнијих узрока растуће тенденције скандалозног понашања водећих светских банака и финансијских криза, мањих или већих размера, које их законито прате. Коначно, полазећи од претходних разматрања, на крају рада се излажу кључне до сада предузете мере на глобалном нивоу (у Сједињеним Америчким Државама и Европској унији), са закључком да се неке од њих морају редизајнирати како би се до 2020. године изградио свеобухватан и делотворан регулаторни и надзорни оквир. Оквир треба да обезбеди задовољавајућу финансијску стабилност и број банкарских скандала сведе на најмању могућу меру.