

TOWARD AN EVOLUTIONARY THEORY OF BANKING
REGULATION: THE UNITED STATES AND ITALY IN COMPARISON

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I. Introduction*

This work aims to show that the present banking regulations of two very different countries—the United States and Italy—can be viewed as two outcomes of the same evolutionary path. Let us start by quoting a leading American scholar of banking law:

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Much of the U.S. regulatory system has developed in response to financial crises and other historical and political events. No central architect was assigned to design the overall system or lay out a single set of principles.

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The U.S. banking system, as well as its regulation and regulatory objectives, has undergone many changes during the nation's history. The present regulatory system developed as the result of a series of experiments. When regulations were found inadequate, they were changed or discarded for a new regulatory structure. Regulations that were judged successful became the more permanent elements in the system.¹

It is possible to claim that the same is true for the Italian banking system. However, claiming that these regulatory systems followed the same evolutionary path does not imply that they are now identical. In fact, American and Italian banking regulations have always been and are still deeply different from each other.

Summing up the legislative evolution of each country and putting it into its historical economic context underlines two features of a common evolution. First, both systems seem to be two different answers to analogous problems. Second, a closer view reveals that these different answers are formally different but substantively equal.

In this survey of the regulatory evolution of both countries, this article analyzes banking legislation by comparing three periods: i) the birth of institutions serving as central banks, ii) legislation enacted in response to the Great Depression and iii) the normative dismantlement of the previous regulatory apparatus in the 1990s. The present survey of banking laws is attended by a historical and economic analysis, looking for common problems and normative solutions driving toward a convergent evolution of both systems.

¹ KENNETH SPONG, FED. RESERVE BANK OF KAN. CITY, *BANKING REGULATION: ITS PURPOSES, IMPLEMENTATION, AND EFFECTS* 5, 15 (5th ed. 2000).

II. A Brief Historical Comparison of Political and Economic Frames

In the second half of the nineteenth century, the United States and Italy were much more different than they are now. While the United States reached its independence at the end of the eighteenth century, Italy was then undergoing unification. The difference between independence and unification must be stressed here. The two words are far from synonymous.

Before 1776, there were no States in North America, but only colonies ruled by the British monarchy. With the Declaration of Independence began the American Revolution. Colonialists then began to enact constitutions and establish their own States. The States fought together against the British army, but they were merely allied; they were not yet formally united. In the 1780s, when the British army was defeated and true independence was obtained, the States' delegates created the Articles of Confederation and later the United States Constitution with no intention of unifying the States into a single unit, but rather intending to federate themselves into a single Nation. No unification took place. The United States of America remains a federation of independent States.² This circumstance has had an enormous impact on banking regulation in the United States.

Italy, on the other hand, was divided into different independent States beginning in the Middle Ages. Although in the nineteenth century borders changed between these States, most of Italy was still divided into several independent States, except for some parts ruled by foreign governments.³ In this context, the main problem was not to gain independence, but to make Italy a single Nation. Some federative solutions were initially proposed,⁴ but none of the Italian

² See generally ALEXIS DE TOCQUEVILLE, 1 DEMOCRACY IN AMERICA (Phillips Bradley ed., Alfred A. Knopf 1945) (1835); GORDON S. WOOD, THE CREATION OF THE AMERICAN REPUBLIC 1776-1787 (Univ. of N.C. Press 1969).

³ For the impact of this political situation on the evolution of the Italian banking system see generally Alessandro Polvi, *Financial Institutions in Nineteenth-Century Italy: The Rise of a Banking System*, 3 FIN. HIST. REV. 117 (1996).

⁴ Since Giuseppe Mazzini's appeal for a "federation of European nations" against a "holy alliance of sovereigns" in 1832, federative thought was re-proposed in the Italian political debate in both sovra (Mazzini) and intra (Cattaneo) national dimensions. In particular, Cattaneo's ideas inspired

sovereigns wanted to lose absolute power over his State. In this context, two solutions were possible: either a people's revolution throughout the States with the abolition of every monarchical regime and the creation of a single unified republic; or, alternatively, the conquest of all the other States by one of the sovereigns. The solution finally adopted was, more or less, the latter option. When the King of Sardinia began to attack his neighbors in the north of Italy, the citizens of some of the other central States replaced their sovereigns in favor of the King of Sardinia. At the same time, an expedition of voluntary troops reached Sicily and started to conquer the southern States. In 1861, the voluntary troops coming from the south met the King of Sardinia coming from the north in the middle of the country and gave him the sovereignty of what they had conquered. He became the first King of Italy, a single unified State.

In the second half of the nineteenth century, the United States and Italy had two very different economies. The United States' economy was modern⁵ and growing before the Civil War.⁶ The Italian economy before the unification of the country was stagnant and still more medieval than modern with respect to both finance and production.⁷ For instance, while the United States was experiencing its great boom in railroads and the first growth of the financial markets, Italy had no railroads at all (except for a few hundreds of kilometers built more for the noblemen's pleasure than for economic purposes) and a weak financial market.⁸ In fact, a prominent scholar of banking observes four peculiar features of the post-unitary Italian financial market: i) frequent financial crises in pre-unitary states, ii) the scarcity of a monetary field in the Italian economy (90% of legal tender was hard money), iii) the absence of lending institutions both for long and short terms and iv) strong elements of dualism and

Italian statesmen such as Ghilseri and Rosa after the unification process. *See generally* NORBERTO BOBBIO & ANTOLUIGI AIAZZI, *IL FEDERALISMO: DA CARLO CATTANEO VERSO GLI STATI UNITI D'EUROPA* (Loggia de' Lanzi 1996).

⁵ By "modern" we mean that the United States already had at that time a capitalistic and industrial framework.

⁶ DOUGLASS C. NORTH, *THE ECONOMIC GROWTH OF THE UNITED STATES 1790-1860* (Prentice Hall 1961).

⁷ *See generally* GIORGIO FUA', *LO SVILUPPO ECONOMICO IN ITALIA* (Franco Angeli 1969).

⁸ *See generally* Jon S. Cohen, *Financing Industrialization in Italy: 1894-1914*, 27 J. ECON. HIST. 363-82 (1967).

exposure to usury for a large layer of the population.⁹ Moreover, at this time, while in the United States steam engine textile machines were already quite common; in Italy fabrics were still handmade by artisans,¹⁰ except for silk production, which represented the “school for the Italian industrial take-off.”¹¹

In the 1860s and 1870s the United States and Italy were both heavily economically injured by recent wars, but both countries experienced a new economic growth in that period.¹² The United States experienced a period of fast economic development, especially in the northeastern part of the country, as it recovered from the Civil War damage.¹³ The Italian economy, perhaps due to the social enthusiasm produced by unification, for the first time in its history experienced the appearance of modern factories and the rise of the entrepreneurial class.¹⁴ However, while both countries were growing

⁹ Marco Onado, *La lunga rincorsa: la costruzione del sistema finanziario*, in *STORIA ECONOMICA D'ITALIA* 381, 384 (Pierluigi Ciocca & Gianni Toniolo eds., Laterza 2002).

¹⁰ See FRANCO BELLI, *LEGISLAZIONE BANCARIA ITALIANA (1861-2003)* 50-51 (G. Giappichelli 2004) (regarding Italy).

¹¹ See LUCIANO CAFAGNA, *DUALISMO E SVILUPPO NELLA STORIA D'ITALIA* 291 (Marsilio 1999).

¹² See generally Stefano Fenoaltea, *Peeking Backward: Regional Aspects of Industrial Growth in Post-Unification Italy*, 63 *J. ECON. HIST.* 1059 (2003) (discussing Italian economic growth and remarking that from 1871 to 1911, every region of Italy experienced a growth in total production). Furthermore, in particular, consider that in 1862 Rattazzi's government undertook a rail policy for the south of the country, thanks to a network of Italian entrepreneurs and a stream of French and English capital. In 1864, privatization of the industrial government started: the Italian government farmed out the mechanical plant of Pietrarsa (Naples) for the construction of railway assets. In the same year the shipyards of Leghorn and La Spezia became private. In 1865, a modern factory rose in Piombino (La Magona d'Italia sprouted from the initiative of an English businessman, Joseph Alfred Novello, to exploit the mineral resources of the contiguous Elba island).

¹³ See WALTER LICHT, *INDUSTRIALIZING AMERICA* 103-08 (1995) (describing industrial growth on the east coast of the United States in the years after the Civil War).

¹⁴ The unification of Italy caused a wave of commercial euphoria. A series of bank initiatives bloomed and a run to the exploitation of minerals took place, even though in 1864 many of the businessmen involved in this run saw the failure of their expectations. See generally GINO LUZZATTO,

at the end of the nineteenth-century, the United States had a fast growing economy and Italy had a slow growing economy.

With reference to banking systems, the United States and Italy shared a common frame and a common problem. The common frame was that both were privately owned systems filled with universal banks. The common problem was that both needed to establish an organized and uniform supervisory system on the banking sector¹⁵ (at the beginning especially for the issue of banknotes, monetary policy and the control of currency). In practice, in both Italy and the United States this problem could be said to have been definitely solved only at the beginning of the twentieth century.

III. The United States Banking System from the Second Half of the Nineteenth Century through the Beginning of the Twentieth Century

Commercial banking in the United States was poorly developed before the American Revolution because the British monarchy kept the colonies' finances under its control.¹⁶ After the Revolution the States played little role in banking supervision. Most banks issued banknotes the value of which was partially determined by gold and silver reserves, so the stability of the banknotes' value depended on the amount of the issuing bank's reserves and on the risk of its loans portfolio.

In 1791, under Alexander Hamilton's favor and despite Thomas Jefferson's opposition, George Washington approved the charter of the Bank of the United States.¹⁷ It worked as a regular

L'ECONOMIA ITALIANA DAL 1861 AL 1894 (Einaudi 1968); *see also* Polsi, *supra* note 3, at 122-24.

¹⁵ In the second part of the nineteenth century in both the United States and Italy, a messy and large bank birth rate took place and alternated with crises in which a great number of banks failed. This happened because private banks carried out monetary functions and lending functions at the same time, invested in ventures without control or limits and were chartered without any kind of supervision. In such a world, financial panics and bank runs were commonplace. *See* SALVATORE LA FRANCESCA, *STORIA DEL SISTEMA BANCARIO ITALIANO 17-87* (Il Mulino 2004); *see also generally* SPONG, *supra* note 1.

¹⁶ For a description of the British influence on the economy of the American colonies before the Revolution *see* DAVIS R. DEWEY, *FINANCIAL HISTORY OF THE UNITED STATES* 1-32 (3d ed. 1915).

¹⁷ As written in a leading casebook:

commercial bank but also assumed some functions of a central bank. In particular, the Bank of the United States operated as the principal depository and fiscal agent for the United States Treasury Department, the country's main gold and silver depository, the only issuer of banknotes accepted in every State, the lender of last resort for state banks in financial distress and the master of monetary policy for the whole country (by increasing or decreasing the amount of its banknotes in circulation). Political opposition to the Bank of the United States never ceased in those years and, although the Bank

The difference between Jefferson and Hamilton was simple but fundamental. Jefferson feared concentrated power in any form; Hamilton feared the lack of it. Jefferson wanted a weak government that would leave the people to their own devices; Hamilton wanted a strong government that would lead the nation to prosperity. Hamilton won the battle (and ultimately the war). Washington signed into law the charter for the Bank of the United States.

In December 1791, with its public stock heavily oversubscribed, the Bank of the United States opened its doors in Philadelphia, then the nation's capital and largest city.

JONATHAN R. MACEY, GEOFFREY P. MILLER & RICHARD SCOTT CARNELL, *BANKING LAW AND REGULATION* 4 (3d ed. 2001). Jefferson was not alone in fighting against the Bank:

Hamilton's enthusiasm was not greeted with universal appreciation. First, it was contrary to the agrarian interests which had debilitated the Bank of North America. Second, many, including Attorney General Edmund Randolph and Secretary of State Thomas Jefferson, held the Bank to be an unconstitutional extension of federal power; even James Madison, co-author with Hamilton of the *Federalist*, denounced the bank as "condemned by the silence of the constitution."

....
Public opinion was so aroused against the Bank, that even when the Supreme Court upheld the institution's constitutionality and immunity from state taxation in *McCulloch v. Maryland*, 17 United States (4. Wheat.) 316 (1819), the state of Ohio, where anti-Bank feelings were particularly intense, continued to collect taxes against Bank branches in that state.

HOWELL E. JACKSON & EDWARD L. SYMONS JR., *REGULATION OF FINANCIAL INSTITUTIONS* 35-36 (1999).

carried out its functions very efficiently, proposed legislation to renew the Bank's charter was rejected in 1811.¹⁸

After the expiry of the Bank of the United States, especially during the war of 1812, problems arose in the United States banking system. Therefore, a second Bank of the United States was chartered in 1816.¹⁹ This Bank had the same powers of the former but, being bigger, it was better able to perform the proper role of a central bank. However, the second Bank of the United States had the same fate as the first. Andrew Jackson ascended to the Presidency in 1828 and led the movement to eliminate the Bank. In 1832, supported by state bankers, agrarians and states' rights politicians, Jackson vetoed the bill to renew the Bank's twenty-year charter.²⁰ The second Bank of the United States expired with its charter in 1836 and, "once again, the nation's banking structure was to be determined more by politics than by economic reasoning."²¹ After the second Bank of the United States' charter expired, the federal government took no interest in banking regulation and "left the Treasury to attend all federal banking functions until the national banking system was started nearly three decades later."²²

Before 1836, banks were chartered by specific legislative acts enacted by single States. This method made bank charters a matter of political negotiation, promoting corruption and bribery and hindering free competition.²³ Beginning in 1836 the number of banks increased rapidly.²⁴ The following three decades are commonly known as the "free banking era."²⁵ Under public opinion pressure

¹⁸ See, e.g., MURRAY N. ROTHBARD, *A HISTORY OF MONEY AND BANKING IN THE UNITED STATES* 71 (2002).

¹⁹ See DEWEY, *supra* note 16, at 150.

²⁰ In particular, an author regards the centralization of some functions in one main bank and the following conflicts of interests that arose between potential competitors, namely the state banks in the United States, as the fundamental reason for the success of political attacks on the first and the second Bank of the United States. See CHARLES GOODHART, *THE EVOLUTION OF CENTRAL BANKS* 37 (MIT Press 1988) (1985).

²¹ JACKSON & SYMONS, *supra* note 17, at 37.

²² SPONG, *supra* note 1, at 17.

²³ See JACKSON & SYMONS, *supra* note 17, at 37.

²⁴ "[S]tate banks grew in numbers from 329 in 1829 to 606 in 1834. State banknote circulation more than doubled during the 1830s." *Id.*

²⁵ See MACEY ET AL., *supra* note 17, at 9; see also generally Hugh Rockoff, *The Free Banking Era: A Reexamination*, 6 J. MONEY, CREDIT & BANKING

many States enacted “free banking acts,” which permitted a bank to incorporate without a special legislative act and to supervise banking activity. Some States, such as New York, proved to be effective regulators,²⁶ while other States were less clever.²⁷

Today, banking law scholars and historians are divided in judging the “free banking era.” Traditionalists look at it as “better characterized as a fiasco than a failure,” and “another example where ideology replaced economic soundness.”²⁸ On the other hand, revisionists believe “banking in this period was important in financing early United States development. Moreover, pre-Civil War bankers operated responsibly, given the difficulties in constructing a new banking system.”²⁹ However, the outbreak of the Civil War highlighted the free banking system’s defects (such as the practice of banknote over-issuance, multiple bank failures and phenomena such as “wildcat banking”³⁰), leading the federal government to be more active in banking supervision at the beginning of the 1860s. For example, the National Currency Act was enacted in 1863 and refined in 1864 by the National Bank Act. This legislation set the dual

141 (1974); Arthur J. Rolnick & Warren E. Weber, *New Evidence on the Free Banking Era*, 73 AM. ECON. REV. 1080 (1983).

²⁶ For an analysis of the New York Free Banking Act of 1838, see Edward L. Symons Jr., *The “Business of Banking” in Historical Perspective*, 51 GEO. WASH. L. REV. 676, 689-98 (1983).

²⁷ For examples of cases outside of New York see generally IFTEKHAR HASAN & GERALD P. DWYER JR., *Bank Runs in the Free Banking Period*, 26 J. MONEY, CREDIT & BANKING 271 (1994).

²⁸ JACKSON & SYMONS, *supra* note 17, at 38.

²⁹ SPONG, *supra* note 1, at 18.

³⁰ MACEY ET AL., *supra* note 17, at 9-10, stating that:

Wildcat banks located their offices inaccessibly—so far from civilization that the only noises to be heard were the cries of the wildcat and other forest denizens. The owner of a wildcat bank would issue a flood of bank notes backed by minimal species, calculating that few note holders would ever find their way out to the wilderness to redeem the obligations. Although wildcat banking could occur under the old system of special charters, it was easier to perpetrate in free banking states because the entrepreneur could obtain a charter without having to convince the state legislature of his financial probity. Not surprisingly, wildcat banks failed at a far higher rate than their domesticated urban cousins.

banking system and established the Office of the Comptroller of the Currency.³¹

The dual banking system meant that banks could be chartered as state banks or national banks. The Office of the Comptroller of the Currency was a supervisory agency instructed to control the incorporation and activity of every national bank. National banks could be chartered without a special legislative act, like in a free banking system, but they had to provide minimum capital and satisfy other requirements.³² National banks could issue notes backed by United States bonds deposited with the Comptroller and by reserves every one of the National banks had to hold against its deposits. These reserves could be in the form of vault cash or deposits in one of seventeen central reserve cities. Finally, National banks had limitations on the number of notes they could issue and were allowed to own real estate only if necessary for specific transactions or if acquired through foreclosure.³³ A chain of inter-banking deposits was constituted. Cash moved from the 22,491 provincial banks of the southwest to New York's 153 big banks,³⁴ accounting for a quarter of all deposits of the American system. Importantly, even though these banks were very large, they were common banks not able to create reserves for other banks as could a central institute.

In the beginning, only a few state banks re-chartered themselves as national banks. In fact, the legislation described above prescribed limitations and controls that made national banks safer but less economically attractive. In order to boost national banks' growth, in 1865 the United States Congress imposed a prohibitive 10% tax on state bank notes, thus increasing the number of national banks.³⁵

For the first years of the twentieth century, market segmentation and the growth of a new species of banking institutions took place.³⁶ The number of banks grew enormously from 1865 to

³¹ Edward L. Symons, Jr., *The United States Banking System*, 19 BROOK. J. INT'L L. 1, 8-9 (1993).

³² *Id.*

³³ *Id.* at 8.

³⁴ MARCELLO DE CECCO, *MONETA E IMPERO* 134 (Einaudi 1979) (1969) (referring to 1909 data).

³⁵ MACEY ET AL., *supra* note 17, at 11.

³⁶ Regarding market segmentation, the main difference was between commercial banks and thrifts. *Id.* at 13. While the first were profit-making corporations owned by shareholders, the second originally were more

1914. During the same period, financial panics afflicted the United States economy on a regular basis.³⁷

The National Bank Act made the system a bit tidier by regulating a uniform national currency and appointing the Comptroller of the Currency to supervise national bank activity. After that, no other fundamental legislation was enacted for fifty years. However, in the same years, crises cyclically continued to afflict the system.³⁸

The United States economy was very different from today. A large part of the population was employed in agriculture and farmers did not like to resort to a bank system even in its simplest form: deposits.³⁹ These features of the American productive structure⁴⁰ and financial system spawned an economic cycle moving from New York to the South to finance seeding.⁴¹ In this period cash stagnated in the South, where the population preferred liquid assets to deposits. Only through money expenditure in the South could cash return to New York, sent by provincial banks several months later. These

charitable-oriented institutions organized in a mutual form (owned by depositors rather than shareholders). *Id.* In particular, two types of thrift institutions developed in the nineteenth century: savings banks (originally developed to help workers save part of their wages) and savings and loans (also called “building and loans,” because they were originally developed to help people buy homes). *Id.* at 15.

³⁷ The total number of banks was 1643 in 1865, 2696 in 1880, 5585 in 1890, 8100 in 1900, 19,304 in 1910 and 22,030 in 1914. *Id.* at 14. The unit banking system (wherein the National Bank Act, intending to suppress wildcat banking, required banks to have a fixed and permanent abode and restricted branching) profoundly affected the United States banking industry by decentralizing and multiplying the number of banks. *Id.* at 13-14. Financial panics afflicted the United States economy in 1873, 1884, 1890, 1893 and 1907. *Id.*

³⁸ A relevant role in solving these crises was also played at that time by clearinghouses. Gary Gorton, *Clearinghouses and the Origin of Central Banking in the United States*, 45 J. ECON. HIST. 277, 278 (1985).

³⁹ In this respect it seems very interesting to consider, for instance, the role played by banks in the second half of the nineteenth century regarding the expansion of railroads. See generally DAVID M. KOTZ, *BANK CONTROL OF LARGE CORPORATIONS IN THE UNITED STATES* (1980); DAVID A. SKEEL, *DEBT’S DOMINION—A HISTORY OF BANKRUPTCY LAW IN AMERICA* (2001).

⁴⁰ See ALLAN KULLIKOFF, *THE AGRARIAN ORIGINS OF AMERICAN CAPITALISM* 34-59 (University of Virginia Press 1994).

⁴¹ See KOTZ, *supra* note 39; SKEEL, *supra* note 39.

circumstances made the financial system poorly suited to face economic crises.

The most important cause of crises was “inelastic currency.” This occurred when the value of deposits largely overcame the banknotes in circulation and just a few banks could obtain enough money in case of financial panic.⁴² During the panic of October 1907 banks held just twelve dollars for each 100 dollars of deposits.⁴³

In general, a bank can face a bank run by drawing cash from other banks, but this method will inevitably fail if a bank run afflicts the banking system as a whole. Some measures are required to halt panic and avoid a wave of bank failures. One is a focused restriction of payment from other banks (i.e., banks remain open but they do not pay cash to depositors, they work through the use of accounting). This is the first solution adopted.⁴⁴ Another measure is the presence of a lender of last resort (i.e., an institute that gives trust to the system as a whole, as in the European tradition of central institutes).

It ultimately became clear that, to avoid cyclical crises, the system needed an authority enabled to soften crises by regulating the money supply and to work out financial panics by serving as the banks' lender of last resort. Despite this, powerful lobbies such as the agrarians, well represented in a Congress then controlled by the Democratic Party, were against a European-style central bank. The fear of power centralization stood up against the need of a central authority. Under these competing forces and needs, Congress enacted

⁴² MACEY ET AL., *supra* note 17, at 15-16, stating:

During the panic of 1907, for example, the stock market crashed, interest rates on unsecured loans to stockbrokers reached 150 percent, and banks nationwide refused to redeem bank notes or allow significant deposit withdrawals, much less make loans. Such financial chaos caused pain throughout the economy. It also stood in sharp contrast to the order and rationality that business, led by such financiers as J. Pierpont Morgan Sr., sought through consolidation. True, the redoubtable Morgan had played a crucial role in stemming the panic. But people increasingly questioned the wisdom of depending so heavily on the sagacity of private financiers.

⁴³ MILTON FRIEDMAN & ROSE FRIEDMAN, *FREE TO CHOOSE* 73 (1980) (describing the bank panic of 1907).

⁴⁴ See MILTON FRIEDMAN & ANNA JACOBSON SCHWARTZ, *A MONETARY HISTORY OF THE UNITED STATES, 1867-1960*, at 158-62 (5th prt. 1971) (outlining the measures banks use to prevent failure).

the Federal Reserve Act in 1913.⁴⁵ This law created a deliberately decentralized organization, but one that was able to coordinate a uniform supervision on the whole banking system as well as the monetary system.

The Federal Reserve System was ruled by a seven-member Board of Governors, headquartered in Washington D.C. and appointed by the President, but a Federal Reserve Bank was chartered in each of the twelve districts created within the System. The Federal Reserve was enabled to rediscount the notes of its member banks, thus solving the problem of “inelastic currency,” but also to hold the reserves of its member banks and to make open market purchases and sales of government securities.

National banks were required to join the Federal Reserve System, while membership was optional for state banks. Every bank that joined the system could buy shares in one of the twelve Federal Reserve Banks and, by doing this, received the power to vote in the election of six of its nine directors. The Board of Governors’ seven members and the twelve presidents of the district Federal Reserve Banks formed the Federal Reserve Open Market Committee. This Committee met every six weeks to determine monetary and interest rate policy.

IV. The Italian Banking System from the Second Half of the Nineteenth Century through the Beginning of the Twentieth Century

During the five years after 1861 (when Italy was politically unified), many basic laws were enacted. In 1861 the national debts of the former Italian States were unified and internal customs were abolished. In 1862 a uniform currency was established and a single tax system was created. In 1865 a new Civil Code and a new Commercial Code were enacted.

After the unification of the country, all the former Italian States’ central banks⁴⁶ survived in Italy.⁴⁷ Some of them⁴⁸ merged

⁴⁵ PAUL M. WARBURG, *THE FEDERAL RESERVE SYSTEM: ITS ORIGIN AND GROWTH* 105-36 (1930).

⁴⁶ Not all of them can be called a central bank in the modern sense of the word. In fact, many of the banks carried out both the monetary functions of a proper central bank and the lending functions of a private commercial bank.

into the *Banca Nazionale Sarda* (i.e. the Kingdom of Sardinia's central bank). All the others remained in operation. Between 1863 and 1866, while the Kingdom of Italy's capital moved from Turin to Florence, the creation of a central bank of Italy (*Banca d'Italia*) was proposed by the merger of *Banca Nazionale Sarda* and *Banca Nazionale Toscana* (i.e., one of the two Grand Duchy of Tuscany's central banks). The merger was purposed to solve problems tied to the structural lack of an Italian financial market, to back out of international competition and to unify the currency.⁴⁹ The Italian government and a large part of public opinion sustained the birth of a central institute, while a liberalist school widely comprised of academics dissented about the imposition of different rules for banks and any other kind of company. The whole project failed, however, except for the fact that *Banca Nazionale Sarda* changed its name to *Banca Nazionale del Regno d'Italia*⁵⁰ (after the establishment of some branches in areas traditionally dominated by the former central banks of the Papal State and the Kingdom of Naples).⁵¹ The reasons for this failure were, on the one hand, the opposition of pre-unitary states' central institutes and, on the other hand, misgivings about a possible political orientation of the new central institute. A prominent scholar read the lack of reform as a weakness in the Italian politicians' efforts to turn against the status quo.⁵² At the beginning, *Banca Nazionale del Regno d'Italia* was just a *primus inter pares*

⁴⁷ "Until 1926, but more particularly between 1860 and 1893, there was a regime of plurality and competition among the banks of issue. This arose from political unification in 1860, when the new kingdom inherited the banks of issue of the former states." Polsi, *supra* note 3, at 129.

⁴⁸ The merger included the *Banca di Parma* (the Duchy of Parma's central bank) and the *Banca delle Quattro Legazioni* (the Papal State's central bank for the Emilia Romagna and Marche regions). See BELLI, *supra* note 10, at 58, 65.

⁴⁹ Even if *lira* was the legal Italian currency in 1870, 144 other different currencies still survived in local economies. See generally Stefano Battilossi, *The History of Banking in Italy: The Debate from the Gershenkronian Mixed Bank to the Financial Road to Development*, in *THE EVOLUTION OF MODERN FINANCIAL INSTITUTIONS IN THE TWENTIETH CENTURY* 117 (Gerald D. Feldman ed. 1994).

⁵⁰ This name can be literally translated as the Kingdom of Italy's National Bank, which betrays this bank's aspiration to become the future central bank of Italy, as in practice it did.

⁵¹ See LA FRANCESCA, *supra* note 15, at 28.

⁵² See Onado, *supra* note 9, at 389-90.

with the other banks authorized to issue banknotes (i.e. the central banks of the former Italian States not merged into the *Banca Nazionale Sarda*).

In 1866 two royal decrees were enacted that provided important consequences for the Italian banking system. Just five years after its creation, the young Kingdom of Italy, heavily in debt and at the eve of a new war against the Austrian-Hungarian Empire, had big financial needs.⁵³ For this reason Royal Decree n. 2873/1866 was enacted.⁵⁴ This decree provided that *Banca Nazionale del Regno d'Italia* would lend 250 million *lire* to the Treasury; in exchange, the *corso forzoso* of its banknotes was established. *Corso forzoso* means that, since 1866, the banknotes issued by *Banca Nazionale del Regno d'Italia* could no more be converted to metallic money. In other words, this 250 million *lire* loan was a legal pretense by which the government hid an injection of non-convertible banknotes into the country.⁵⁵ Despite the financial consequences of this initiative on the Italian economy, by becoming the Treasury's first lender and by having the privilege to issue non-convertible banknotes, *Banca Nazionale del Regno d'Italia* gained a substantial supremacy over the other former central banks.

A few weeks after the passing of Royal Decree n. 2873/1866, another law was enacted that for the first time affected the supervision of the banking system. During that period, article 156 of the Commercial Code of 1865 required only government authorization to charter a corporation. There was no other formal requirement. Thus, banks could be chartered just like any other corporation. However, Royal Decree n. 2966/1866⁵⁶ formed an agency called *Sindacato governativo sulle società commerciali e sugli istituti di credito*. This *Sindacato* and its function had a very short life (it was abolished in 1869 under political pressure from the government, chambers of

⁵³ The Italian deficit was more than 720 million *lire* and the ratio revenue/effective expense collapsed. The financial policy adopted by La Marmora government foresaw a debasement of Italian *lira* and a strong national debt. Italy became a country at risk. Foreign markets closed to the Italian public debt, on the stock market of Genoa and Turin financial panic spread and a ponderous wave of conversion of banknotes into gold took place. To solve this problem and find the liquid assets needed to finance the war, *corso forzoso* was enacted.

⁵⁴ Royal Decree No. 2873 of May 1, 1866 (Italy).

⁵⁵ See LA FRANCESCA, *supra* note 15, at 32.

⁵⁶ Royal Decree No. 2966 of May 27, 1866 (Italy).

commerce and banks) but it was the first experiment in supervisory agency over the banking system: it required the drawing up and publication of every bank's financial conditions.

Between 1867 and 1873 the money in the market doubled: the *corso forzoso* monetized the Italian economy, modernizing the system of payments and bringing idle savings into circulation.⁵⁷ Between 1870 and 1873, Italy also experienced a small financial boom⁵⁸ followed by a crisis in 1874.⁵⁹ However, after this period, the national debt was considerably lower and the national budget was nearly balanced.⁶⁰ In 1874 an important law was enacted. Law n. 1920/1874⁶¹ created a consortium of six banks⁶² to which the government reserved the issuing of banknotes during the *corso*

⁵⁷ The *corso forzoso* was a shortcut to discourage keeping money like a treasure, on the one hand, and to avoid the speeding of it into circulation, on the other. This favored the accumulation of money in bank deposits and, consequently, the influx of savings in the economy. LA FRANCESCA, *supra* note 15, at 68.

⁵⁸ Between 1870 and 1873 the number of banks grew from 19 to 143 and their capitalization increased from 165 to 792 million *lire*. *Id.* at 57.

⁵⁹ Two events caused the too rosy expectations, which originated the crisis. First, the Suez Canal opened in 1869, connecting the Mediterranean Sea with the Indian Ocean. This event caused a rapid diffusion of steam engine ships in the Mediterranean Sea, with bad effects on the Italian shipyards which were then able to build only sailing ships. Second, the Germans were victorious against France in 1871, which led Italy to conquer Rome and to complete its unification. Until 1870, Rome and the Lazio region were what remained of the Papal State under French military protection, but when France entered into war with Germany, the Papal State had no army except for the Pope's personal Swiss guards. This made it easy for the young Kingdom of Italy to conquer those territories. In other words, the financial euphoria was followed by five years of financial distress for the Italian banking system.

⁶⁰ In 1974 the Minghetti government announced the balancing of the national budget. Actually, the national balance still presents a small deficit for the state's contribution to railroads. See GIORGIO BROSIO & CARLA MARCHESE, *IL POTERE DI SPENDERE: ECONOMICA E STORIA DELLA SPESA PUBBLICA DALL'UNIFICAZIONE AD OGGI* 53 (Il Mulino 1986).

⁶¹ Law No. 1920 of Apr. 30, 1874 (Italy).

⁶² They were *Banca Nazionale del Regno d'Italia*, *Banca Nazionale Toscana* and *Banca Toscana di Credito per le Industrie e il Commercio d'Italia* (the former Grand Duchy of Tuscany's central banks), *Banco di Napoli* and *Banco di Sicilia* (the former Kingdom of Naples' central banks), and *Banca Romana* (the former Papal State's central bank).

forzoso. This was the first time that the law set a definite separation between banks able to issue banknotes and all others.

The banking crisis began in 1874 and lasted until 1879. In 1881 Law n. 133/1881⁶³ abolished the *corso forzoso* and the consortium of banks established by Law n. 1920/1874. In 1882 a new Commercial Code was enacted in which the government authorization required to charter a corporation was repealed in favor of a validation system based on objective requirements that every corporation should meet. During this period, four different kinds of banks coexisted in Italy: *casse di risparmio* (savings banks that were halfway between corporations and religious organizations), *casse rurali* and *banche popolari* (two different kinds of mutual banks chartered as cooperatives) and, finally, normal banks chartered as corporations. All of them were universal banks and all of them could be involved in activities that were regulated by special laws such as agrarian lending or estate and construction lending.⁶⁴

At the beginning of the 1880s the Italian economy experienced an agricultural crisis.⁶⁵ The crisis was worsened by the commercial war against France (started when Italy became part of the anti-French military alliance set up by Germany and Austria); however, simultaneously a construction fever took place in Italy. The Italian banks, harmed by the agricultural crisis, started to invest deeply in construction companies and to speculate in estate businesses.⁶⁶ Those speculations involved a large number of Italian

⁶³ Law No. 133 of Apr. 7, 1881 (Italy).

⁶⁴ This market segmentation and growth of new species of banks is the same phenomenon experienced by the United States in that period. The main difference was commercial banks and thrifts (e.g., *casse rurali* and *banche popolari*). Italian commercial banks were profit-making corporations owned by shareholders while thrifts originally were more charitable-oriented institutions organized in a mutual form.

⁶⁵ An agricultural crisis started in Italy in 1876: a production stagnancy related to the contraction of cereal prices due to American competition. This crisis was widespread in European countries and its effects endured in the Italian economy until 1890. The Italian GDP in 1876 was similar to that in 1887 because of the development of the manufactured product industries. See generally Giovanni Federico, *Per una analisi dell'agricoltura nello sviluppo economico italiano: note sull'esportazione dei prodotti primari (1863-1913)*, 5 SOCIETÀ E STORIA 379 (1979).

⁶⁶ These years are commonly viewed as the first step of the Italian industrialization: the economy grew at the approximate rate of 8% per year and the total capitalization of corporations increased as follows: 1070 million *lire* in

banks, generating a financial bubble that started to explode in 1886 and a crisis that culminated in 1893 and 1894.⁶⁷ A leading Italian scholar lists the absence of a proper central institute among the causes of this financial crisis.⁶⁸ The presence of a *primus inter pares* was not enough to inhibit speculation and stop the bubble. The missed reform that did not take place after unification denied the presence of a “bank of the banks.”⁶⁹

The crisis forced Parliament to enact Law n. 449/1893,⁷⁰ which provided the charter of the *Banca d'Italia* via the merger of the *Banca Nazionale del Regno d'Italia* and the two former Grand Duchy of Tuscany's central banks. The *Banca d'Italia* was chartered as a corporation controlled by the State and remained in a plural system of banks authorized to issue banknotes, where this power was shared with the *Banco di Napoli* and the *Banco di Sicilia* (the two former Kingdom of Naples' central banks). However, the *Banca d'Italia* was not just a *primus inter pares*, as was the former *Banca Nazionale del Regno d'Italia*. In fact, the quota of banknotes that the *Banca d'Italia* could issue was more than double the quota of banknotes that the *Banco di Napoli* and *Banco di Sicilia* combined could issue. The two former Kingdom of Naples' central banks were also put in a subordinate position to the *Banca d'Italia* because Royal Decree n. 16/1895⁷¹ entrusted only the *Banca d'Italia* with the Kingdom's Treasury service. In other words, the *Banca d'Italia* chartered in 1893 had all the features necessary to develop into a proper central bank.

The *Banca d'Italia* was created in an emergency period caused by the crisis of 1893-1894 and the *Banca Romana*'s financial scandal. It had a heavy inheritance on its shoulders. In fact, the *Banca d'Italia* had to improve its financial condition, poorer after the

1878, 1342 million in 1881, 1685 million in 1885 and 1746 million in 1887. LA FRANCESCA, *supra* note 15, at 71.

⁶⁷ In these two years, the four most important Italian banks (*Banca Generale*, *Credito Mobiliare*, *Banca Tiberina* and *Banca di Sconto e Seta*) were helped by the *Banca Nazionale del Regno d'Italia*. Another important bank (*Banca di Roma*) was saved by the Vatican Treasury. Finally, the *Banca Romana*'s financial scandal took place. The crisis culminated between 1893 and 1894 when, in a few months, both the *Banca Generale* and the *Credito Mobiliare* collapsed. BELLI, *supra* note 10, at 89, 90.

⁶⁸ See BELLI, *supra* note 10, at 89, 90.

⁶⁹ See Onado, *supra* note 9, at 403.

⁷⁰ Law No. 449 of Aug. 10, 1893 (Italy).

⁷¹ Royal Decree No. 16 of Jan. 15, 1895 (Italy).

crisis than before, without any help from the Kingdom's finances. Moreover, although the *Banca d'Italia* in theory was born as an independent body, in practice the government (especially the Treasury) wanted to maintain deep control of its activity.⁷²

When Giacomo Grillo (the former *Banca Nazionale del Regno d'Italia*'s director) was appointed as *Banca d'Italia*'s first president, conflict started between the Treasury (which wanted the bank to be subordinate to its directives) and the bank (which wanted to maintain the independence always given to the *Banca Nazionale del Regno d'Italia*). Giacomo Grillo was soon replaced by Giuseppe Marchiori, a politician. This replacement eased the relations between the *Banca d'Italia* and the Treasury, but shifted the conflict into the Bank itself, between the president and the board of directors. When Giuseppe Marchiori died in 1900 he was replaced by Bonaldo Stringher. Stringher remained in charge until 1930, approving fundamental changes in the bank's statutes and leading the bank through its substantial transformation into a proper central bank (its legislative role as a central bank would be established only in 1926). These three decades show the rise of the *Banca d'Italia* as a main interlocutor of the government and the increase of Bonaldo Stringher's individual prestige. That period was also characterized by the rise and fall of the mixed bank. In fact, in those years Italian banks became dangerously involved in owning large parts of industrial companies' stocks, while some of the biggest industrial groups were dangerously involved in owning large parts of banks' stocks. The crisis was temporarily hidden by World War I and exploded again after its end.

In 1907 a second heavy financial crisis (after the *annus horribilis* 1893) took place. After a period of growth and strong industrialization,⁷³ due to the presence of mixed banks,⁷⁴ the Italian

⁷² See GOODHART, *supra* note 20, at 130-38.

⁷³ In 1896 the agricultural crisis came to an end and an international period of growth began. Traditionally, raised prices due to a high level of international trade are one of the principal causes of the enhanced rhythm of investment leading to the growth of electrical, automobile and chemical sectors. See, e.g., PAUL BAIROCH, *Le politiche commerciali in Europa dal 1815 al 1914*, in LE ECONOMIE INDUSTRIALI 99 (Valerio Castronovo ed., Einaudi 1992). Italy was still characterized by a broad rift between its real economy and a first comer's economy; the traditional sector of the first industrial revolution was totally acquired, while the "modern sector" enhanced their importance in the industrial system. See, e.g., GIANNI

economy suffered as part of the international recession.⁷⁵ The crisis of 1907 highlighted the Italian industrial take-off's frailty. The results were a rescue of the Italian system, both on the industrial and financial side. The role of the State as lender of last resort clearly emerged.⁷⁶ No laws were passed to avoid dangerous links between banking and industry, to encourage competition or to reform the stock exchange.

While the United States' normative system was already endowed with antitrust laws, Italy enacted some measures aimed not to restrain speculative phenomena, but to assign handling of these events to a particular credit institution. Mixed banks became market makers and also suppliers of liquidity assets in the event of problematic liquidation, all in the presence of warranties given by issuing banks. Once again the law safeguarded the status quo.

A market shaped around mixed banks' short-run stakes and the growth of the Italian stock exchange (as an element of progress and renewal of companies' ownership assets) was inhibited.⁷⁷ The structural fault of Italian capitalism broke out: the presence of several hurdles to property re-allocation and to access of control meant a

TONIOLO, *STORIA ECONOMICA DELL'ITALIA LIBERALE 1850-1918*, at 159 (Il Mulino 1988).

⁷⁴ At the end of the 1800s the Italian economy saw the birth of mixed banks. In 1894 the *Banca Commerciale Italiana* was founded as a consortium between some German and Swiss banks and the *Creditanstalt* of Vienna. In 1885 the *Credito Italiano* was established thanks to the role of French and German capital and soon became an important actor in economic and political Italian life. Ever since the beginning of the ascending phase of the cycle, that is from about 1897 onward, these mixed banks were engaged in a vast action of channelling money for the creation of the productive base, especially (but not exclusively) in some new capital intensive sectors. These two institutes gave a great impulse to industrialization: loans increased from 27,000 to 68,000 and important companies such as FIAT, Cirio, Terni and Ilva were founded.

⁷⁵ A financial crisis started in New York due to the fall of the price of copper. The effects of the crisis spread to Europe, leading to a wave of bank failures everywhere. In Italy, a consistent re-entry of foreign capital took place. See CHARLES P. KINDLEBERGER, *STORIA DELLE CRISI FINANZIARIE* 152 (Laterza ed. 1991).

⁷⁶ See, e.g., Luigi Einaudi, *Appunti*, in *ORIGINI E IDENTITA' DEL CREDITO SPECIALE* 54 (Carlo Pace & Giovanna Morelli eds., Franco Angeli 1984).

⁷⁷ See generally STEFANO BAIA CURIONI, *MODERNIZZAZIONE E MERCATO: LA BORSA DI MILANO NELLA "NUOVA ECONOMIA" DELL'ETA GIOLITTIANA (1888-1914)* (Egea 2000).

restraint in the growth of both the Italian industrial and financial markets. These hurdles explain the delay in industrial development and the “long run-up” of the financial system.⁷⁸

Bonaldo Stringher was a forerunner in observing the frailty of the Italian financial system, but reforms started only after World War I. A leading scholar asserted that *Banca d'Italia* “played an outstanding role not only as lender of last resort, but also as coordination center for agreeing and concerting the anticrisis measures, and the events of [1907] represent a very significant step forward as regards the maturing of the Italian central bank.”⁷⁹ At any rate, important reforms took place only after the crisis of 1920.

At the beginning of the 1920s banks and companies were braided in a complex and unnatural way, constantly involved in parallel takeovers by which each one attempted to gain control of others.⁸⁰ Those years ended with the *Banco di Roma*'s crack and the inflation blaze of 1924-1925. Those events came at the eve of three important laws. In fact, Royal Decree n. 812/1926,⁸¹ Royal Decree n. 1511/1926⁸² and Royal Decree n. 1830/1926⁸³ completed the evolution of the Italian banking system. In practice, these decrees set particular requirements (such as a minimum of capital, mandatory reserves and limits on the amount of single loans) that every bank should meet to receive authorization to carry out its activities. Most of all, the *Banca d'Italia* was declared the only institution authorized to issue money (thus obtaining control of monetary policy) and the supervisory body of the whole system. With these laws Italian banks

⁷⁸ See generally FABRIZIO BARCA, *IMPRESE IN CERCA DI PADRONE: PROPRIETÀ E CONTROLLO NEL CAPITALISMO ITALIANO* (Laterza 1994); Onado, *supra* note 9.

⁷⁹ Franco Bonelli, *The 1907 Financial Crisis in Italy: A Peculiar Case of the Lender of Last Resort in Action*, in *FINANCIAL CRISES: THEORY, HISTORY, AND POLICY* 51, 51 (Charles P. Kindleberger & Jean-Pierre Laffargue eds., Cambridge University Press 1982).

⁸⁰ See generally Michelangelo Vasta & Alberto Baccini, *Banks and Industry in Italy, 1911-36: New Evidence Using the Interlocking Directorates Technique*, 4 *FIN. HIST. REV.* 139 (1997) (providing an analysis of the links between banks and industry in Italy during this period).

⁸¹ Royal Decree-Law No. 812 of May 6, 1926 (Italy).

⁸² Royal Decree-Law No. 1511 of Sept. 7, 1926 (Italy).

⁸³ Royal Decree-Law No. 1830 of Nov. 6, 1926 (Italy).

finally became “special” in respect to other institutions (financial and non-financial) and the *Banca d'Italia* became a proper central bank.⁸⁴

V. *The Great Depression*

It is possible to observe a lot of similarities between the United States and the Italian banking systems. In the nineteenth century, both were characterized by private ownership and the presence of universal banks. In the same period in both countries, the issue of money was not well controlled and the system was plural (in other words, several uncoordinated institutions could issue bank-notes). Finally, in those decades both banking systems experienced market segmentation (in particular between commercial banks and thrifts) and messy growth in which temporary booms were usually followed by financial panics and crises.

At the beginning of the twentieth century, both United States and Italian legislation declared banks “special” with respect to other institutions by providing finicky requirements for their chartering and establishing authorities enabled and instructed to supervise the banking system. Despite the differences in their decision-making procedures and internal organizations (often determined more by political or ideological biases than by economic reasoning), the Federal Reserve System of the United States and the *Banca d'Italia* were created to do the same things and to serve the same purposes.

In 1929, despite increased regulation and after a period of economic growth in both countries, the United States’ market experienced the drastic stock market crash that began on October 24. The Great Depression followed this crash. Actually, the United States had been experiencing a recession for several months and

⁸⁴ The status of a central bank was ultimately defined by the new statute approved in 1928. Royal Decree No. 1404 of June 28, 1928 (Italy). That new statute provided that the *Banca d'Italia*’s shares were owned in majority by *casse di risparmio* (savings banks that were part between corporations and part religious organizations). Being *casse di risparmio* mostly controlled by the state, this new provision was the first sign of the *Banca d'Italia*’s lift from privately-owned to state-owned (which would ultimately take place in 1936). The new statute also provided a different governance structure. At the head of the *Banca d'Italia* was the *Governatore* (the first was Bonaldo Stringher) and, under him, the *Direzione Generale* (i.e., a board). Both the *Governatore* and the *Direzione generale* were elected by the *Consiglio Superiore*, but every appointment had to be ratified by the Italian government.

“Black Thursday” was just the peak of the American economy’s proclivity to speculate, whereof early symptoms could be detected in the bubble of Florida’s building trade.⁸⁵ The bubble might have been addressed by the Federal Reserve at the beginning of 1929, but the central institute did not undertake this responsibility. The choice was between a conscious immediate collapse and a later harder spontaneous crash. The first option would identify the Federal Reserve as guilty, while the second was a market failure and responsibility thus spread across more subjects. The Federal Reserve decided to let the market follow its course.⁸⁶

Bank runs did not hit the system until October 1930, though the financial crisis was dramatic. A wave of failures spread from the South and Midwest to New York; the crisis became tragic with the closure of the Bank of United States.⁸⁷ The consequences were disastrous. Bank runs started impetuously and 352 banks failed in December alone. In the absence of a Federal Reserve System, a drastic measure against bank runs would have been taken in the shape of a restriction of payments for several weeks, to avoid the drainage of cash from healthy banks and stop the wave of failures. This did not happen because of the banks’ trust in the Federal Reserve System. The system, through open market operations, could recover cash for bank customers’ claims. Federal interventions were weak, however, and a new wave of failures took place in 1931, 1932 and 1933. People lost confidence in banks and failures started to accelerate. In 1933 the banking collapse was so widespread that President Roosevelt ordered all banks to stay closed for a week. It was decided that banks could open again only after state and federal inspectors had examined their financial conditions and issued new licenses, but many banks never reopened (in 1921 there were about 30,000 banks in operation; in 1933 the crisis left the United States with less than 14,500 banks).⁸⁸ The Federal Reserve System raised funds to avoid the recourse of payment limitations and it remained

⁸⁵ See generally JOHN KENNETH GALBRAITH, *THE GREAT CRASH 1929* (50th anniversary ed. 1979).

⁸⁶ See *id.* at 51-67.

⁸⁷ The Bank of the United States had been the biggest commercial bank failure in American financial history until 1930. Even had it been just an ordinary bank, people in and out of the United States thought of it as a federal bank because of its name. Its failure happened accidentally; the bank was healthy.

⁸⁸ See SPONG, *supra* note 1, at 22-23.

involved in the dramatic banking vacation. In retrospect, President Hoover's severe judgement on the Reserve board can be read as too weak to be a handhold in the United States' moment of crisis. Although specific responsibility could be assigned to the Federal Reserve,⁸⁹ the Federal Reserve nevertheless was strengthened as a result of the crisis because of the need for a neutral institution that would be able to correct market failures such as the 1929 stock crash.

The Great Depression in the United States had widespread effects throughout the world. The Great Depression's effects arrived in Italy later than in other countries, but the impact was not less severe. In those years, unemployment in Italy reached rates between 15% and 20% of the total active population and industrial production rates contracted at a pace estimated between 5.3% and 9.2% per year.⁹⁰ Italy faced the depression of 1929-1933 while a crisis for the stabilization of the *lira* was continuing. The Italian economy was suffering in the process of accumulation. The lack of capital and a weak financial market became serious in this period. A leading Italian scholar⁹¹ observed that the Italian financial capital was cobbled by incurable organic weakness and Italy thus decided to entrust the economy directly to the state.

Some scholars have written that the Great Depression changed the relationship between state and market everywhere.⁹² However, if the private ownership of companies was never in doubt in the United States, in Italy during this time the Fascist regime (which rose to power in 1922), after a decade which had been relatively free-market-oriented, started to become protectionist and autocratic.⁹³ During the Great Depression, the economies of both countries began to diverge because the Fascist regime started to take initiatives that led to the Italian banking market being totally state-owned.⁹⁴ However, in spite of the different political orientations

⁸⁹ See generally GALBRAITH, *supra* note 84; FRIEDMAN & FRIEDMAN, *supra* note 43.

⁹⁰ See BELL, *supra* note 10, at 144.

⁹¹ See PIETRO GRIFONE, *IL CAPITALE FINANZIARIO IN ITALIA: LA POLITICA ECONOMICA DEL FASCISMO* 103-10 (Einaudi 1971).

⁹² See BELL, *supra* note 10, at 142.

⁹³ See Giangiacomo Nardozzi, *Il "miracolo economico," in STORIA ECONOMICA D'ITALIA*, *supra* note 9, at 211, 217.

⁹⁴ In those years the *Istituto per la ricostruzione industriale* (IRI) chaired by Alberto Beneduce (a prestigious economist and Mussolini's economic advisor) was established and precisely instructed to become a state holding. See Decree-Law No. 5 of Jan. 23, 1933 (Italy).

about company ownership, the banking regulations enacted in the United States and Italy in response to the Great Depression shared some important features. Indeed, during this period both countries enacted laws that long remained the centrepieces of national banking policies.

In 1933, the United States Congress enacted a Banking Act that deeply reformed American regulation in this field. In response to the bank activities that brought on the Depression, the Banking Act of 1933 made several changes of particular historical significance. Two of these are the most revolutionary. The first concerns the separation of commercial banking from investment banking and the adoption of several prohibitions related to securities underwriting and dealing (these provisions became known as the Glass-Steagall Act).⁹⁵ The second concerns the creation of a system of federal insurance for deposits to prevent future bank runs by assuring depositors that their savings will remain safe even if their banks fail.⁹⁶

The Italian framework is much more complicated, but the centrepiece of the reforms created to deal with the problems that emerged from the Depression can be found in the Banking Law of 1936-38. The first effect of the crisis on many banks during the Depression was to give the Fascist regime the opportunity to take initiatives that ultimately led to the complete nationalisation of credit institutions. This process started a few years before the Banking Law

⁹⁵ Banking Act of 1933 (Glass-Steagall Act, 1933), Pub. L. No. 73-66, 48 Stat. 162. Section 16 of the Glass-Steagall Act restricted commercial national banks from engaging in most investment banking. Banking Act of 1933, § 16, 48 Stat. 162, 184-85. Section 20 prohibited any member bank from affiliating in specific ways with an investment bank. Banking Act of 1933, § 20, 48 Stat. 162, 188-89. Section 21 restricted investment banks from engaging in any commercial banking. Banking Act of 1933, § 21, 48 Stat. 162, 189. Finally, section 32 prohibited investment bank directors, officers, employees or principals from serving in those capacities at a commercial member bank of the Federal Reserve System. Banking Act of 1933, § 32, 48 Stat. 162, 191.

⁹⁶ Another critical change introduced by the Banking Act of 1933 allowed national banks to branch beyond their home cities. In addition, the Banking Act posed limitations on the payment of deposit interest and empowered the Federal Reserve Board to regulate interest rates on savings accounts. Finally, legislative provisions provided the first regulations on bank-holding companies by requiring multibank holding companies to obtain authorisation from the Federal Reserve Board before they could acquire voting stock in subsidiary banks.

with the creation of the IMI (*Istituto mobiliare Italiano*) and the IRI (*Istituto per la ricostruzione industriale*).⁹⁷ The state managers in charge of the IMI and the IRI are also the architects of the Banking Law of 1936-38. In this circumstance, it is possible to find the reasons this regulation kept its utility and effectiveness for over fifty years. Indeed, the state managers mentioned before (led by Alberto Beneduce⁹⁸ and Donato Menichella⁹⁹) did not belong to the anti-capitalistic and anti-liberalist circles then ruling the Fascist party. On the contrary, they were high level experts who grew up and were educated in the liberal atmosphere of the nineteenth and the twentieth centuries, which always had a lukewarm attitude towards Fascism.¹⁰⁰ Like the Banking Act of 1933 in the United States, the Italian Banking Law of 1936-38 brought changes of historical importance to Italy. Again, two in particular are usually regarded as the most revolutionary. The first concerns the separation of commercial banking from investment banking.¹⁰¹ The second concerns the classification of banks into categories by the common element of state ownership (articles 25-27 of the Banking Law).¹⁰²

⁹⁷ The IRI and the IMI (*Istituto mobiliare Italiano*) were totally owned by the State. IMI was created in 1931 to avoid the failure of the main important Italian banks, and IRI (1933) became the owner of a large part of the Italian industrial system that was originally owned jointly by the failed banks. In fact, from 1940 to 1990, IRI was the main Italian industrial group. See, e.g., Antonio Nicita & Riccardo Vannini, *Path Dependency and Corporate Governance in Italy: The Political Origins of Debt Financing*, CORP. OWNERSHIP & CONTROL, Summer 2007, at 92.

⁹⁸ Alberto Beneduce was a well-known Italian scholar and politician in the early years of the twentieth century. Beneduce was the main promoter and organizer of the IRI in 1933 and he served as its president until 1939.

⁹⁹ Donato Menichella was an important name in the Italian economic and political scene for the first part of the twentieth century. Beginning in 1934 he was the general director of the IRI before he was nominated as governor of the Italian central bank in 1948.

¹⁰⁰ See BELLI, *supra* note 10, at 149.

¹⁰¹ *Id.* at 183.

¹⁰² Other critical changes introduced by the Banking Law of 1936-38 [Law No. 141 of Mar. 7, 1938 (Italy) and Law No. 636 of Apr. 7, 1938 (Italy)] concern the redefinition of the credit institutions' functions and the creation of the *Ispettorato per la difesa del risparmio e l'esercizio del credito* (IDREC), a supervisory body chaired by the governor of the *Banca d'Italia* (articles 1-24 of the Banking Law). Moreover, the Banking Law regulated the process of chartering and branching of the banks (articles 28-40 of the Banking Law). Finally, several provisions introduced controls and tools

It is important to stress the reasons behind the Banking Law of 1936-38. On one hand, Italy never had an entrepreneurial class disposed to tolerate risks tied to financial activities just to maximize expected profits. Rather, firms were interested in acquiring control over banking activities solely to obtain a chartered financial canal.¹⁰³ On the other hand, during the 1920s, Italy's financial market was ruled by the speculation of a concentrated economic power, so public property could be a means to place savings in the "right hands."¹⁰⁴

It seems possible to claim that the United States and Italy at least partially followed the same evolutionary route in developing their banking legislations in response to the Great Depression.

Both countries, although characterized by large differences in their economic structure, had two features in common: i) a temporary break of the accumulation process due to the crisis of 1929-33, and ii) a privately owned bank structure that was destroyed by the crisis for speculative games and for the lack of legislation able to prevent a pathological situation.

The solution to this problem was similar in the two countries. Indeed, both the United States and the Italian reforms instituted separation between commercial and investment banking. Conversely, while the establishment of a federal system of deposit insurance as an initiative aimed to correct a market failure is completely in line with a free-trade oriented economy, nationalization of the credit system is by definition an initiative in explicit contrast with the principles of economic liberalism. In Italy, this politically driven shift towards a state-controlled economy was destined to bring significant consequences, which were not always negative,¹⁰⁵ and to shape the industrial and financial structure of the country for decade.

aimed at prudential and regulatory supervision (articles 31-33 and 35 of the Banking Law).

¹⁰³ See generally Onado, *supra* note 9.

¹⁰⁴ See STORIA DEL CAPITALISMO ITALIANO 9 (Fabrizio Barca ed., Donzelli 1997).

¹⁰⁵ The problem of Italian capitalism lies neither in the absence of capital nor in the scarcity of capitalists. Italy could be a mine of entrepreneurial ability and faculty of saving; its weaknesses and strengths lie elsewhere. In particular, Italian capitalism had been able to combine capitalism with assets and to select and renew its political and economic managerial class. The role of the State in the Italian economy was one of temporary alternate, allowing the completion of many crucial investments in periods of slump (e.g., the Great Depression of the 1930s) or in periods of rapid growth (e.g., the completion of investments valued as crucial for the growth of the

VI. *The Second Half of the Twentieth Century*

The legislation enacted in response to the Great Depression remained substantially unchanged for more than fifty years both in the United States and Italy. The only relevant exceptions occurred in the United States with the passing of the Bank Holding Company Act in 1956 and the Merger Acts of 1960 and 1966.

The Bank Holding Company Act is particularly interesting because it was implemented in response to the banks' practice of bypassing the Glass-Steagall Act by forming bank holding companies in order to own both banking and non-banking businesses. Among other things, this Act generally prohibited a bank holding company from engaging in most non-banking activities or acquiring the voting securities of certain companies that are not banks. Moreover, it extended the Federal Reserve regulation and supervision to

Italian economy). Analyzing Italian economic policy concerning the role of the state and, in particular, the function of Beneduce's IRI, De Cecco stresses that this policy was extraordinarily careful of the Italian structural condition. Italy in fact was a big power simply because of its wide population and its geopolitical position. This was why Italy was sentenced to accelerate its growth, endowing itself with an economic structure able to preserve its geopolitical condition without the presence of either a strong entrepreneurial bourgeoisie or firms and savings. This all happened in a post-war period, in the temporary absence of an entrepreneurial class. Some scholars have noted that this virtuous role of the State (as a guide for the Italian economy) was gradually replaced by a policy of mere support without any reorganization of the governance structure. It concerns an economic and industrial policy of broad support to public firms, as suggested by Saraceno, assigning to a company owned by the State "improper burdens," or the successive policy of "national champions." Barca and Trento assign to this inefficiency in the relation between property and management the slump of the state-owned firm and the successive impossibility of a rescue in a contest previously dominated by great inflation (during the 1970s and 1980s) and restraint to the public balance (during the 1990s). *See generally* Fabrizio Barca & Sandro Trento, *La parabola delle partecipazioni statali: una missione tradita*, in *STORIA DEL CAPITALISMO ITALIANO*, *supra* note 103, at 186; LEANDRO CONTE & GIAN DOMENICO PILUSO, *IL FINANZIAMENTO ALL'IMPRESA PUBBLICA* (University of Siena 2006); MARCELLO DE CECCO, *Splendore e crisi del sistema Beneduce: note sulla struttura finanziaria e industriale dell'Italia dagli anni venti agli anni sessanta*, in *STORIA DEL CAPITALISMO ITALIANO*, *supra* note 103, at 389.

companies that owned or controlled two or more banks. In a certain sense, the Bank Holding Company Act could be considered the first attempt to soften the separation between investment banking and commercial banking.¹⁰⁶

In the last two decades of the twentieth century, especially in the 1990s, both the United States and Italy experienced a revolutionary period for their banking regulatory frameworks. Another interesting coincidence is that the legislation enacted in that period in both countries shares the same practical effect: the dismantlement or, at least, the deep modification of every element of the banking structure established respectively in 1933¹⁰⁷ and between 1936 and 1938.¹⁰⁸

In the United States, the revolutionary process¹⁰⁹ was mainly realized and concluded with the approval of the Gramm-Leach-Bliley Act in 1999.¹¹⁰ At that time, after almost seventy years of experience with the Glass-Steagall Act, there was broad consensus that its provisions were too wide. The United States Congress believed that it was possible to impose less strict restrictions on the affiliation of commercial and investment banks and at the same time avoid the abuses that led to the crisis of 1929 and the Great Depression. The aim of the changes was to help United States financial institutions remain competitive with foreign institutions that did not face similar restrictions.¹¹¹

¹⁰⁶ Thomas E. Wilson, *Separation Between Banking and Commerce Under the Bank Holding Company Act—A Statutory Objective Under Attack*, 33 CATH. U. L. REV. 163, 174 (1983).

¹⁰⁷ For the United States, a similar statement can be found in MACEY ET AL., *supra* note 17, at 29.

¹⁰⁸ See Leonardo Giani, *Ownership and Control of Italian Banks: A Short Inquiry Into the Roots of the Current Context*, CORP. OWNERSHIP & CONTROL, Fall 2008, at 93, 94-95 (2008).

¹⁰⁹ For information about the rationale for the use of the adjective “revolutionary” in this context see generally David A. Skeel, Jr., *The Market Revolution in Bank and Insurance Firm Governance: Its Logic and Limits*, 77 WASH U. L.Q. 433 (1999).

¹¹⁰ See generally Lissa L. Broome & Jerry W. Markham, *Banking and Insurance: Before and After the Gramm-Leach-Bliley Act*, 25 J. CORP. L. 723 (2000) (discussing the history, enactment and effects of the Gramm-Leach-Bliley Act).

¹¹¹ For a comparative analysis regarding the competitive forces which triggered, inter alia, the adoption of the Gramm-Leach-Bliley Act see generally Heidi Mandanis Schooner & Michael Taylor, *Convergence and*

The structure designed by the Gramm-Leach-Bliley Act is based on the idea of “functional regulation.”¹¹² Functional regulation implies that every financial institution should be supervised by the most knowledgeable regulator. This means that the Securities and Exchange Commission is charged with the supervision of financial holding companies engaged in securities activities. Similarly, state insurance regulatory bodies serve as the functional regulators of insurance companies. The Federal Reserve Board overarches as supervisor of financial holding companies and is not allowed to engage in supervisory regulation of the already regulated entities.

The most important changes introduced by the Gramm-Leach-Bliley Act are: first, the elimination of the Glass-Steagall Act restrictions on the affiliations between commercial and investment banks; second, the repeal of Glass-Steagall Act Section 32, which prohibited commercial banks and investment banks from having overlapping officers, directors and employees and third, the amendment of the Bank Holding Company Act of 1956 to provide for the creation of financial holding companies. This last change needs some explanation. A financial holding company is a bank holding company that may hold the shares of any company engaged in any of the activities allowed by the Federal Reserve Board. The Federal Reserve Board determines the allowed activities by establishing whether they are financial in nature, incidental to financial activities or complementary to a financial activity (without posing substantial risks to the safety or soundness of the financial system). Finally, the Gramm-Leach-Bliley Act imposed broad new consumer protections concerning financial privacy.

In Italy, the dismantlement of the system designed by the Banking Law of 1936-38 has been realized on two fronts. First, the system has been completely and deeply reformed by the approval of Legislative Decree n. 385/1993 (*Testo Unico delle leggi in materia bancaria e creditizia*—TUB).¹¹³ Second, the state ownership of banks was slowly repealed through a process of privatization started with the so called “Legge Amato” of 1990 and Legislative Decree n. 153/1999.¹¹⁴ The biggest innovation brought by the TUB was the

Competition: The Case of Bank Regulation in Britain and the United States, 20 MICH. J. INT’L L. 595 (1999) (presenting a comprehensive history of banking regulation in the United States with a focus on competition).

¹¹² See Broome & Markham, *supra* note 109, at 776.

¹¹³ Legislative Decree No. 385 of Sept. 1, 1993 (Italy).

¹¹⁴ Legislative Decree No. 153 of May 17, 1999 (Italy).

reintroduction of the universal bank (article 10) and the consequent repeal of the separation between commercial and investment banking. It also set specific provisions about bank ownership to limit the shares of banks that can be owned by industrial companies without completely prohibiting these participations (articles 19-24). In addition, the TUB designed the supervisory system for the banking sector and charged the *Banca d'Italia* with its fulfilment. Indeed, the *Banca d'Italia* is charged with the following tasks: supervision of the financial and organizational situations of banks and banking groups, prudential control and validation of internal models for risk measurement and safeguarding of intermediaries' sound and prudent management (articles 51-69). Moreover, the TUB provides a specific and detailed discipline for banking groups (articles 60-64). Finally, in 1996 Legislative Decree 659/1996¹¹⁵ introduced a new section in the TUB (articles 96-96 quarter) providing for a system of deposit insurance.

The process of privatization in Italy was preceded by a process of regulatory liberalization aimed at cutting entry barriers having legal origins, implemented to comply with the European Directives enacted in the banking field.¹¹⁶ Later, the *Legge Amato* really started privatization by authorizing the state-owned banks to charter private corporations (called "società conferitarie") to which they could transfer their banking activities. At the same time, according to the *Legge Amato*, the state-owned banks could charter a *fondazione bancaria* (also called "ente conferente"). The *fondazione bancaria* is a particular type of foundation regulated by Legislative Decree n. 153/1999 to promote the process of privatization. The aim of these institutions was to own all the shares of società conferitarie so that they could be gradually sold. To pursue this aim, article 25 of Legislative Decree n. 153/1999 stated that every *fondazione bancaria* should sell all of its shares by December 31, 2005 (or at least

¹¹⁵ Legislative Decree No. 659 of Dec. 4, 1996 (Italy).

¹¹⁶ The elimination of entry barriers was needed because, under the system designed by the Banking Law of 1936-38, any new branch opening should be specifically authorized by the *Banca d'Italia* and this authorization was granted only as a planned territorial distribution of branches. This circumstance obviously prevented any form of competition. The mentioned elimination of entry barriers was pursued with the *Banca d'Italia*'s "piano sportelli" of 1982 and with the accomplishment of the first EEC Banking Directive of 1985. See MARCELLO CLARICH & ANDREA PISANESCHI, LE FONDAZIONI BANCARIE 36 (Il Mulino 2001).

decrease its participation to a control level or lower) and that at this date an administrative committee would be established to dispossess any *fondazioni bancarie* not complying with this provision. Another intent of Legislative Decree n. 153/1999 was that, after the shares' dismissal, *fondazioni bancarie* would continue to exist as mere non-profit organizations.

The majority of *fondazioni bancarie* complied with the provisions, while a few of them continued to control their *società conferitarie*. For a moment, the corporate forces pervading the Italian system seemed to be jeopardizing the process of privatization. Indeed, Law n. 262/2005¹¹⁷ (approved on December 28, 2005) changed article 25 of Legislative Decree n. 153/1999 by stating that *fondazioni bancarie* were no longer compelled to sell their shares, but that they could not vote for more than 30% of the shares owned in their *società conferitarie*. In practice, this would have allowed the non-complying *fondazioni bancarie* to keep their banks out of the market. A subsequent law approved on December 1, 2006¹¹⁸ repealed Law n. 262/2005.

For a long period (beginning with their institution), *fondazioni bancarie* had control of the biggest part of the Italian credit system,¹¹⁹ but recently foreign banks have surpassed *fondazioni bancarie* in the number of participating shares owned.¹²⁰ Currently, very few *fondazioni bancarie* have control of the banks, and the Italian banking system could be considered totally privatized.¹²¹

Again, the United States and Italy followed the same evolutionary route: both countries repealed the separation between investment and commercial banking in the same years (in Italy with the TUB of 1993 and in the U.S. with the Gramm-Leach-Bliley Act of 1999). Moreover, in the same years Italy turned to a completely privatized framework (with the passing of Legge Amato of 1990 and Legislative Decree n. 153 of 1999) and filled the gap between its practices and those of the U.S. by setting up a deposit insurance system.

¹¹⁷ Law No. 262 of Dec. 28, 2005 (Italy).

¹¹⁸ Legislative Decree No. 303 of Dec. 29, 2006 (Italy).

¹¹⁹ See FRANCESCO TRIVIERI, *PROPRIETÀ E CONTROLLO DELLE BANCHE ITALIANE* 55-56 (Rubbettino 2005).

¹²⁰ Giuseppe Turani, *I padroni d'Italia*, LA REPUBBLICA: AFFARI E FINANZA, Mar. 27, 2006, at 2.

¹²¹ See Giani, *supra* note 107, at 95-96.

VII. *Summary and Conclusions*

In the second part of the nineteenth century, the United States and Italy had very different economies, but both were free market economies in which banks and companies were privately owned. The unification of Italy made it easier to establish a central bank and create a national banking system; however, in both the United States and Italy the political fear of centralization hindered this process on several occasions. Nevertheless, despite their differences, both systems evolved in the same way until the rise of Fascism in Italy.

The Great Depression could be ascribed to, among other causes, dreadful management by the Federal Reserve (i.e., inertia in the fulfilment of its duties) in the United States and to a lack of regulation in Italy (i.e., the fields of securities, antitrust and financial markets were not regulated). Nevertheless, in both countries the institutions charged with monetary function and banking system supervision were strengthened after that period. Consequently, state involvement in the economy increased.

In Italy, beginning with the rise of Fascism in 1922, the political attitude towards the economy became protectionist and state-oriented. The separation of investment and commercial banks was established and, compatibly with the above mentioned attitude, the Italian banking system and a large part of the economy were nationalized. In the United States, the response to the 1929 crisis was characterized by a strict separation between banking and commerce, a strict separation between investment and commercial banks, and the creation of a deposit insurance system. The free trade orientation, however, was never doubted.

After World War II, political forces started to become less determinant of banking regulation characteristics. Italy became a free market economy again, experiencing a big industrial boom. In Italy the rift between short and long term credit had two different effects. On the one hand, the imposition of banking specialization prevented the development of strict relations between banks and firms. Indeed, in contrast with Anglo-Saxon countries, in Italy financial intermediaries never developed the role of institutional investors.¹²² On the other hand, because the industrial boom in Italy was driven by small firms usually financed by short term credit, the need to soften

¹²² See MAGDA BIANCO & PAOLA CASAVOLA, *Corporate governance in Italia: Alcuni fatti e problemi aperti*, RIVISTA DELLE SOCIETÀ 426 (1996).

the aforementioned rift was never perceived. Moreover, some obstacles hindered the Italian route towards a completely developed free market economy. First, the state bureaucratic apparatus created during the Fascist period still had control of the whole banking system and it was difficult to dismantle. Second, the industrial boom was driven by a multitude of small firms established, owned and managed by families who feared losing control of their firms. This prevented the families from listing their companies on the stock exchange, and left the Italian stock market underdeveloped.¹²³

During the same time period, the United States became the world's leader in capitalism. Economic forces wielded stronger pressure on political forces to remove restrictions to the banks' ability to grow. Consequently, the principle of separation between investment and commercial banks was relaxed by enacting the Banking Holding Company Act of 1956 and, in the 1960s, the Bank Merger Acts, which were enacted as a response to the needs of the United States productive structure.

At the end of the 1970s, the internationalization of commerce started a process that led to the phenomenon known today as the globalization of the economy. The United States' revolutionary period began with the deregulation of the banking system and culminated with the Gramm-Leach-Bliley Act of 1999, which relaxed the principle of the separation between banking and commerce. This made United States banks better able to compete in a global market. At the same time, Italian capitalism evolved as the European Community drove the process of integration. While the basic Italian pattern is still characterized by many small to medium sized firms owned by families, in the 1980s and 1990s some privately owned companies reached a very large scale. In addition, governments alternated in those years, starting a process that has led large companies and banks that were formerly state owned to become privately owned or to go public. Following this evolution of the Italian economy, starting in the 1990s several laws and reforms were enacted. This process has bridged a lot of legislative gaps, allowing the formation of a more developed capitalism and making Italian firms better able to compete in a global market.

Much more legislative work is probably needed in the banking field and only the future will tell us what new provisions

¹²³ See PIERLUIGI CIOCCA, RENATO FILOSA & GUIDO REY, *Integrazione e sviluppo dell'economia italiana nell'ultimo ventennio: un riesame critico*, CONTRIBUTI ALLA RICERCA ECONOMICA 57-135 (1973).

will have to be adopted. However, it seems possible to claim that United States and Italian banking regulations have followed the same evolutionary route until now. In the beginning, the limited interdependence of domestic economies and the restricted scale of international commerce allowed a deep influence by political forces, an influence that is still identifiable in some of the basic characteristics of both of the banking systems taken into consideration here. At the end of World War II, the growing internationalization of commerce led to the globalization of economies throughout the world. Since then, all domestic economies have become increasingly similar, and market forces have started to prevail over political forces in designing banking regulations. This fact, despite some persisting differences, is making United States and Italian banking regulations more and more substantially convergent in their aims (if not yet formally convergent in their appearance).

An evolutionary correlation between finance and regulation has been explicitly acknowledged in the past. For instance, on the eve of the establishment of the European System of Central Banks, the Annual Report issued in April 1992 by the Committee of Governors of Central Banks of the Member States of the EEC stated that the provisions of the ESCB Statutes “have been drafted with due regard to the evolutionary nature of financial markets and will allow the System to respond flexibly to changing market conditions.”¹²⁴ Nowadays, market conditions are deeply changing due to the financial crisis that started in 2007. Consequently, banking regulations all over the world can be expected to need evolutionary developments. This consideration also applies to the U.S. and Italy.

¹²⁴ COMMITTEE OF GOVERNORS OF THE CENTRAL BANKS OF THE MEMBER STATES OF THE EUROPEAN ECONOMIC COMMUNITY, ANN. REP.: JULY 1990-DEC. 1991, at 52 (1992), *available at* www.ecb.int/pub/pdf/annrep/ar1991en.pdf.