The financial crisis revealed that the microprudential (case-by-case) regulatory and supervisory approach alone was not sufficient to identify and, in the last instance, prevent or mitigate the impact of the materialisation of systemic risk on financial stability. It became clear, therefore, at both the international and the European level, that each jurisdiction should have an institutional and normative framework for macroprudential policy to safeguard, in a coordinated and effective manner, not only the stability of the financial system as a whole but also that of each of its component sectors (among which, the banking sector).

Competence in individual countries in the fields of financial stability, regulation and prudential supervision is often distributed between several authorities, each of which is responsible for a part or sector of the financial system. In Spain, macroprudential responsibility for the credit institution sector lies with the Banco de España,[1] while the National Securities Market Commission (CNMV) is responsible for investment firms and the Directorate General of Insurance and Pension Funds (DGSyFP), which is part of the Ministry of the Economy and Enterprise, for bodies within its supervisory remit.

As a result of the significant growth in interconnections between financial institutions and markets, and their increasing complexity, institutional cooperation mechanisms that facilitate the exchange of information and analysis are essential, allowing macroprudential policy measures to be used to comprehensively address possible sources of systemic risk. Financial globalisation has also meant that the supranational dimension of financial stability is becoming increasingly important.

In consequence, at the end of 2010, the European System Risk Board (ESRB)[2] was created as part of the European System of Financial Supervision. The ESRB's mission is to "contribute to the prevention or mitigation of systemic risks to financial stability", to ensure "a sustainable contribution of the financial sector to economic growth". The central banks and financial supervision authorities of all the EU countries are members of the ESRB (in the case of Spain, the Banco de España, CNMV and DGSyFP).

In one of its first measures, in 2011 the ESRB issued a Recommendation[3] urging all EU Member States to designate an authority responsible for macroprudential policy, with functions to identify, oversee and assess risks to financial stability and with the power to foment measures to address these risks. In the same vein, the International Monetary Fund (IMF), through its Financial Sector Assessment Program (FSAP), has actively expressed its backing for the creation of macroprudential authorities for the whole of the financial system.[4]

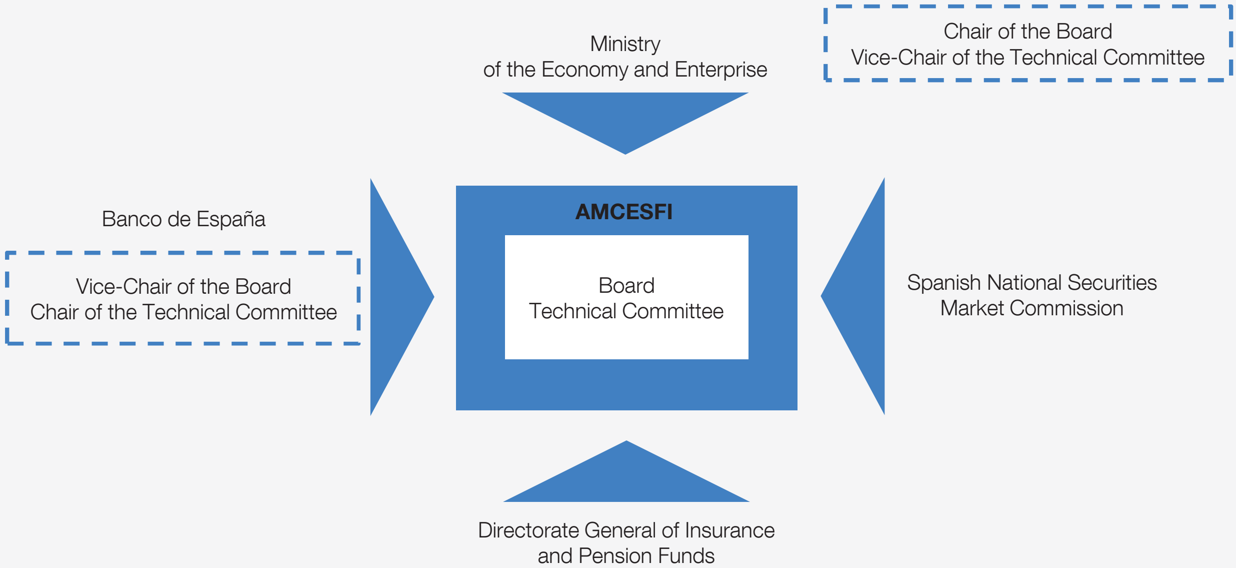
Against this backdrop, in recent years many European countries have established a national macroprudential authority.[5] In some cases, a broad mandate and new instruments have been given to an existing authority (notably the national central bank, as in the United Kingdom and Ireland). Various other countries have chosen to create a collegiate authority (a "systemic risk committee"), which under various forms of governance includes the central bank, banking, securities and insurance regulators and supervisors, and the ministry with competence for financial system legislation (as in Germany and France). The apparent need to strengthen macroprudential policies warrants the inclusion of government ministries in these authorities, as it has been found that a significant number of countries have taken into account political economy considerations when designing their financial stability governance structures.[6] Accordingly, the ultimate configuration of a macroprudential authority responds to individual countries' idiosyncratic specificities.[7]

In the case of Spain, the process of creation of a macroprudential authority was influenced by the existence, since 2006, of the Financial Stability Committee (CESFI).[8] The CESFI was created by means of a voluntary cooperation agreement between the Ministry of Economy, the Banco de España and the CNMV, to address matters of common interest in the field of financial stability and crisis prevention and management. But the CESFI lacked the legal status to grant it a formal mandate or properly defined functions or tasks.

In view of the international backdrop, at the end of 2018 the CESFI served as a discussion platform for the project to create the national macroprudential authority, as per the ESRB Recommendation, and for a draft legislative proposal to endow the sectoral supervisory authorities with macroprudential instruments in addition to those provided for in European legislation.

1 In addition, the European Central Bank also has competences in matters of macroprudential policy over all the euro area countries' credit institutions, by virtue of the tasks conferred on it when the Single Supervisory Mechanism was established in 2014.
2 Regulation (EU) No 1092/2010 of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.
3 ESRB Recommendation of 22 December 2011 on the macro-prudential mandate of national authorities (ESRB/2011/3).
4 See, for the case of Spain, the IMF document "Spain: Financial Sector Assessment Program-Technical Note-Systemic Risk Oversight Framework and Macroprudential Policy" of 13 November 2017.
5 See the ESRB document "List of national macroprudential authorities and national designated authorities in EU Member States". Italy is currently the only EU Member State that has not yet created a national macroprudential authority.
6 "New Financial Stability Governance Structures and Central Banks" by R.M. Edge and J.N. Liang, Hutchins Center Working Paper #50 (February 2019).
7 For a summary of the institutional reforms worldwide, see "Financial supervisory architecture: what has changed after the crisis?" by D. Calvo, J.C. Crisanto, S. Hohl and O. Pascual Gutiérrez, Financial Stability Institute, FSI Insights on policy implementation No 8 (April 2018).
8 See D. Vegara's article "Funciones y objetivos del Comité de Estabilidad Financiera (CESFI)", Financial Stability Review No 11, Banco de España, November 2006.

Diagram A
INSTITUTIONAL MEMBERSHIP OF THE SPANISH MACROPRUDENTIAL AUTHORITY (AMCESFI)



SOURCE: Banco de España.

Following a public hearing at the end of 2018, in early March 2019 the Spanish Council of Ministers approved Royal Decree 102/2019 creating the new macroprudential authority (AMCESFI).[9] It is organised as a collegiate body attached to the Ministry of the Economy and Enterprise and is made up of representatives from the Ministry, the Banco de España, the CNMV and the DGSyFP (see Diagram A).

The purpose of the AMCESFI is to "contribute to the stability of the financial system overall, by identifying, preventing and mitigating circumstances or actions that may produce systemic risk". To that end, it will regularly monitor and analyse systemic risk factors. Its powers will include issuing warnings and recommendations on any matter that may affect financial stability, and also opinions on proposed macroprudential measures notified in advance to the AMCESFI by the sectoral supervisory authorities (the Banco de España, CNMV and DGSyFP).

The AMCESFI Board has seven members, four of whom represent the independent supervisory bodies. The Board Chair is the Minister for the Economy and Enterprise and the Vice-Chair the Governor of the Banco de España. Below the Board there is a Financial Stability Technical Committee with nine members, six of whom are from the independent supervisory bodies. The Committee Chair is the Deputy Governor of the Banco de España and the Vice-Chair the General Secretary for the Treasury and International Financing. The Committee is tasked with preparing the matters to be submitted to the Board, with the Banco de España acting as secretary.

For purposes of transparency and accountability, the AMCESFI should publish the opinions, warnings and recommendations it issues (unless their dissemination is inadvisable as it poses a potential threat to financial stability) and should present an annual report to the Economy and Enterprise Parliamentary Committee of the Congress of Deputies.

In parallel, the Spanish government approved Royal Decree Law 22/2018 on macroprudential tools,[10] which extended the range of instruments available to the sectoral authorities to be applied to institutions within their regulatory remit. In particular, the Banco de España was authorised to establish for reasons of systemic risk: (i) a countercyclical capital buffer applicable to sector-specific exposures; (ii) limits on credit institutions' concentration on a certain economic sector; and (iii) conditions on lending and other operations by credit institutions. These last macroprudential tools based on borrowers' ability to pay (borrower-based instruments) have been introduced in other European countries' national legislation and are being actively employed to prevent cyclical easing of credit standards by banks, aiming to actively manage the credit risk incurred in their business.

9 Royal Decree 102/2019 of 1 March 2019 creating the AMCESFI, establishing its legal regime and implementing certain aspects on macroprudential tools.

10 Royal Decree Law 22/2018 of 14 December 2018 establishing macroprudential tools, which was validated by the Congress of Deputies on 22 January 2019.

In the case of the banking sector, these instruments are in addition to those already available since 2016 through the European Capital Requirements Regulation and Directive (CRR/CRD IV), implementing in the European Union the macroprudential instruments included in the Basel III global regulatory framework: (i) the countercyclical capital buffer (CCyB); and (ii) capital buffers set for global and other systemically important institutions, as well as (iii) the systemic risk buffer (although this instrument is not included in the Basel III framework). In addition, the Banco de España has been designated the competent authority to apply Article 458 of Regulation (EU) No 575/2013 of 26 June 2013,definitively enshrining competence that to date was only temporary.

Similarly, both the CNMV and the DGSyFP may set limits and conditions on the activities of institutions within their supervisory remit, which will facilitate coordinated action. Moreover, the CNMV has been strengthened, being granted the power to temporarily increase the percentage investment in liquid assets required of investment fund and venture capital management companies. In turn, the DGSyFP will be able to set conditions on operations involving transfer of risks and insurance portfolios. These instruments, which in some cases represent an international innovation, will foreseeably be added to in coming years, in keeping with global advances in macroprudential policies beyond banking.

With the creation of the AMCESFI and implementation of a raft of macroprudential instruments in addition to those already available under European legislation, Spain has secured an institutional and regulatory framework comparable to that of other EU Member States and is now, therefore, better placed to address potential future systemic financial crises in a more effective and more coordinated manner.