

Prudential supervision of credit institutions: conferring specific tasks on the European Central Bank (ECB)

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The Committee on Economic and Monetary Affairs adopted, within the framework of a special legislative procedure (consultation with Parliament), the report by Marianne THYSSEN (EPP, BE) on the proposal for a Council regulation conferring specific tasks on the European Central Bank (ECB) concerning policies relating to the prudential supervision of credit institutions.

The parliamentary committee proposed that the European Parliament amend the Commission proposal as follows:

Clearly defined tasks: Members specify that the Regulation entrusts the ECB with clearly defined tasks in relation to the prudential supervision of credit institutions and the stability of the financial system within the Union and in each Member State participating in the Union, with full regard to a duty of care.

Participating Member State means a Member State whose currency is the euro or a Member State whose currency is not the euro which chooses to participate in the Single Supervisory Mechanism (SSM) foreseen by the Regulation.

In fulfilling its tasks, the ECB shall respect the different types and size of credit institutions. It should also take care to ensure that the national competent authorities of all participating Member States shall be treated on an equal footing and to respect a fair balance between the rights of participating Member States.

Single Supervisory Mechanism (SSM): this is defined as a European system of financial supervision composed by the European Central Bank and national competent authorities of participating Member States. Within the SSM, the ECB and competent national authorities should cooperate faithfully and be obliged to exchange information.

Whilst always ensuring supervisory consistency within the SSM, the ECB shall request the national competent authorities to assist the ECB in the performance of the tasks conferred on it as well as the powers and obligations in relation to all credit institutions, in particular in relation to credit institutions:

- which have not received or sought direct or indirect financial support from the European Financial Stability Facility (EFSF), the European Stability Mechanism (ESM) or any other future European financial assistance facility; or
- which do not pose a systemic risk, as defined in EU law, individually or as part of a group of credit institutions, financial holding companies and mixed financial holding companies.

Draft supervisory decisions of the national competent authorities shall be deemed adopted by the ECB unless it rejects them within a deadline not exceeding 10 working days. The ECB shall monitor national competent authorities on an ongoing basis.

National competent authorities shall inform the ECB without delay where:

- there are serious concerns about the safety and/or soundness of any credit institution for which they are performing tasks on behalf of the ECB;
- the stability of the financial system is or is likely to be endangered by the situation of any credit institution for which they are performing tasks on behalf of the ECB.

Moreover, the ECB may at any time and under any circumstances assume the responsibilities of the national competent authorities and carry out all or specific supervisory tasks directly.

Participation in the SSM of Member States whose currency is not the euro (close cooperation): the ECB shall carry out its tasks in relation to credit institutions established in a participating Member State whose currency is not the euro.

A close cooperation between the ECB and the national competent authority of a Member State whose currency is not the euro choosing to participate shall be established, by a decision adopted by the ECB, where certain conditions are met. Where these conditions are no longer met, the ECB may decide to issue a warning to the national competent authority of the Member State concerned that the close cooperation will be suspended or terminated if no decisive corrective action is undertaken.

If no such corrective action is undertaken, the ECB may suspend or terminate the close cooperation with that Member State.

Board of Appeal: Members propose that the ECB establish an Administrative Board of Appeal (composed of five individuals) for the purposes of settling appeals against decisions by the ECB acting as a single supervisor under this Regulation.

Members of the Board of Appeal and two alternates shall be appointed by the ECB for a term of five years, which may be extended once, following a public call for expressions of interest published in the Official Journal of the European Union, and after consultation of the Banking Supervisory Board. They shall not be bound by any instructions. A decision by the ECB within the MSU by the Board of Appeal or, in cases where there is no right of appeal to the Board of Appeal, may be contested before the Court of Justice of the European Union in accordance with Article 263 of the Treaty of the Functioning of the European Union.

Accountability and reporting: Members make the following requests:

- at the request of the European Parliament, the Chair of the Supervisory Board shall participate in a hearing on the execution of its supervisory tasks, including the fees levied and the expenditure incurred, by the competent committees of the Parliament;
- upon request the Chair of the Banking Supervisory Board shall provide the Economic and Monetary Affairs Committee of the European Parliament in camera any confidential information concerning its tasks which are required for the exercise of the European Parliament's powers under the Treaty and under this regulation;

- at the request of a national parliament of a participating Member State, a representative of the Banking Supervisory Board, together with a representative of the competent national authority, shall appear before that parliament and answer questions about the performance of supervisory tasks.

Moreover, this Regulation is without prejudice to the right of the European Parliament:

- to set up a temporary Committee of Inquiry to investigate alleged contraventions or maladministration in the implementation of Union law pursuant to Article 226 TFEU;
- or to require the setting up of an independent inquiry into actions or failure to act of the ECB that have or may have led to a significant event in relation to financial stability, confidence or failure of a credit institution.

Reporting of Violations: the ECB shall ensure that effective mechanisms are put in place for reporting of breaches of this Regulation, including specific procedures for the receipt of reports of breaches and their follow-up.

Banking Supervisory Board: the amendments state that the Banking Supervisory Board shall include a Chairman or Chairwoman, appointed by the Governing Council after an open selection procedure on the basis of merit, skills and thorough knowledge of financial institutions and financial supervision and after approval by the European Parliament.

When exercising its tasks, the Banking Supervisory Board shall take account of all relevant facts and circumstances in the participating Member States and shall perform its duties in the interest of the Union as a whole. All members of the Banking Supervisory Board shall have equal voting rights.

By the 1 January 2014, the ECB shall carry out in full the supervisory tasks conferred on it by this Regulation.