

### **Annex 3:**

## **RECITALS AND QUOTES FROM THE SSM REGULATION AND FRAMEWORK REGULATION**

### **Relevant articles in the SSM Regulation<sup>27</sup>**

#### **Recitals**

(15) Specific supervisory tasks which are crucial to ensure a coherent and effective implementation of the Union's policy relating to the prudential supervision of credit institutions should be conferred on the ECB, while other tasks should remain with national authorities. The ECB's tasks should include measures taken in pursuance of macroprudential stability, subject to specific arrangements reflecting the role of national authorities.

(24) Additional capital buffers, including a capital conservation buffer, a countercyclical capital buffer to ensure that credit institutions accumulate, during periods of economic growth, a sufficient capital base to absorb losses in stressed periods, global and other systemic institution buffers, and other measures aimed at addressing systemic or macroprudential risk, are key prudential tools. In order to ensure full coordination, where national competent authorities or national designated authorities impose such measures, the ECB should be duly notified. Moreover, where necessary the ECB should be able to apply higher requirements and more stringent measures, subject to close coordination with national authorities. The provisions in this Regulation on measures aimed at addressing systemic or macroprudential risk are without prejudice to any coordination procedures provided for in other acts of Union law. National competent authorities or national designated authorities and the ECB shall act in respect of any coordination procedure provided for in such acts after having followed the procedures provided for in this Regulation.

#### **Articles**

##### **Article 5 'Macro-prudential tasks and tools'**

1. Whenever appropriate or deemed required, and without prejudice to paragraph 2 of this Article, the national competent authorities or national designated authorities of the participating Member States shall apply requirements for capital buffers to be held by credit institutions at the relevant level in accordance with relevant Union law in addition to own funds requirements referred to in point (d) of Article 4(1) of this Regulation, including countercyclical buffer rates, and any other measures aimed at addressing systemic or macro-prudential risks provided for, and subject to the procedures set out, in the Regulation (EU) No 575/2013 and Directive 2013/36/EU in the cases specifically set out in relevant Union law. Ten working days prior to taking such a decision, the concerned authority shall duly notify its intention to the ECB. Where the ECB objects, it shall state its reasons in writing within five working days. The concerned authority shall duly consider the ECB's reasons prior to proceeding with the decision as appropriate.

2. The ECB may, if deemed necessary, instead of the national competent authorities or national designated authorities of the participating Member State, apply higher requirements for capital buffers than applied by the national competent authorities or national designated authorities of participating Member States to be held by credit institutions at the relevant level in accordance with relevant Union law in addition to own funds requirements referred to in point (d) of Article 4(1) of this Regulation, including countercyclical buffer rates, subject to the conditions set out in paragraphs 4 and 5 of this Article, and apply more stringent measures aimed at addressing systemic or macro-prudential risks at the level of credit institutions subject to the procedures set out in the Regulation (EU) No 575/2013 and Directive 2013/36/EU in the cases specifically set out in relevant Union law.

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<sup>27</sup> COUNCIL REGULATION (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

3. Any national competent authority or a national designated authority may propose to the ECB to act under paragraph 2, in order to address the specific situation of the financial system and the economy in its Member State.

4. Where the ECB intends to act in accordance with paragraph 2, it shall cooperate closely with the national designated authorities in the Member States concerned. It shall in particular notify its intention to the concerned national competent authorities or national designated authorities ten working days prior to taking such a decision. Where any of the concerned authorities objects, it shall state its reasons in writing within five working days. The ECB shall duly consider those reasons prior to proceeding with the decision as appropriate.

5. When carrying out the tasks referred to in paragraph 2, the ECB shall take into account the specific situation of the financial system, economic situation and the economic cycle in individual Member States or parts thereof.

#### **Article 9 ‘Supervisory and investigatory powers’**

1. For the exclusive purpose of carrying out the tasks conferred on it by Articles 4(1), 4(2) and 5(2), the ECB shall be considered, as appropriate, the competent authority or the designated authority in the participating Member States as established by the relevant Union law. For the same exclusive purpose, the ECB shall have all the powers and obligations set out in this Regulation. It shall also have all the powers and obligations, which competent and designated authorities shall have under the relevant Union law, unless otherwise provided for by this Regulation. In particular, the ECB shall have the powers listed in Sections 1 and 2 of this Chapter.

To the extent necessary to carry out the tasks conferred on it by this Regulation, the ECB may require, by way of instructions, those national authorities to make use of their powers, under and in accordance with the conditions set out in national law, where this Regulation does not confer such powers on the ECB. Those national authorities shall fully inform the ECB about the exercise of those powers.

2. The ECB shall exercise the powers referred to in paragraph 1 of this Article in accordance with the acts referred to in the first subparagraph of Article 4(3). In the exercise of their respective supervisory and investigatory powers, the ECB and national competent authorities shall cooperate closely.

3. By derogation from paragraph 1 of this Article, with regard to credit institutions established in participating Member States whose currency is not the euro, the ECB shall exercise its powers in accordance with Article 7.