

## Feedback on the input provided by the European Parliament as part of its “resolution on Banking Union – Annual Report 2016”

ECB Banking Supervision is grateful for the feedback provided by the European Parliament in its “resolution on Banking Union – Annual Report 2016”<sup>1</sup> (hereafter “the Resolution”) of 15 February 2017. In line with the practice established for the European Parliament’s resolution on the ECB’s Annual Report and, more recently, the 2015 annual resolution on the banking union, ECB Banking Supervision hereby reacts to the comments and suggestions provided by the European Parliament, underlining ECB Banking Supervision’s strong commitment to accountability.

### 1. The Supervisory Review and Evaluation Process (SREP) and supervisory requirements

#### 1.1 Pillar 2 guidance

The Resolution considers that Pillar 2 guidance should not be disclosed and suggests that the use of capital guidance should not lead to a demonstrable reduction in Pillar 2 requirements (paragraph 13).

The ECB agrees that any decision to disclose Pillar 2 guidance is the responsibility of the bank’s management. The ECB indicated to banks in its 2016 SREP decisions that – in line with the European Commission services’ position – Pillar 2 guidance is not MDA-relevant, and does not necessarily require communication like Pillar 2 requirements. This position has been confirmed by the proposed amendments to the Capital Requirements Directive recently published by the European Commission.

As regards the impact of the introduction of Pillar 2 guidance on capital requirements, the ECB has already publicly confirmed that overall Common Equity Tier 1 (CET1) demand (excluding systemic buffers, i.e. the G-SII, O-SII and systemic risk buffers) resulting from the SREP remained stable on average at 10.1% over the period 2015-16<sup>2</sup>. In a number of individual cases, the CET1 demand rose or fell to reflect changes in the risk profile of the institution concerned. The fall in the average MDA trigger from 10.2% to 8.3% was due to a shift in capital demand from the 2015 Pillar 2 requirements to the newly introduced Pillar 2 guidance, which is not MDA-relevant. For 2017, all other things being equal, capital demand (including Pillar 1, Pillar 2 requirements, the capital conservation buffer and Pillar 2 guidance) is expected to remain broadly stable.

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<sup>1</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2017-0041>

<sup>2</sup> This information is available on the ECB’s website:  
[https://www.bankingsupervision.europa.eu/ecb/pub/pdf/srep\\_methodology\\_booklet\\_2016.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/srep_methodology_booklet_2016.en.pdf)

## 1.2 Internal models

The Resolution calls on financial supervisors to allow new internal models only if they do not lead to unjustified significantly lower risk weights (paragraph 5).

Every new internal model that a significant institution<sup>3</sup> wants to apply needs to be approved by ECB Banking Supervision. Initial model approval follows a clear, dedicated process involving both off-site and on-site supervision. This ensures detailed and thorough analysis of the business of the supervised entity and full compliance of the internal model with all relevant regulatory requirements.

In addition, a multi-year targeted review of internal models (TRIM) has been launched in 2017 to check that banks have correctly and consistently implemented the Pillar 1 internal models they currently use to calculate their own funds requirements and that the corresponding risk-weighted assets (RWAs) are appropriate and justified. As part of the TRIM project, the ECB has also communicated its guidance on banks' implementation of the relevant EU law on internal models, in order to reduce non-risk-based – and thus unwarranted – variability in RWAs arising from the use of internal models.

## 1.3 Level 3 assets

The Resolution calls on the SSM to make Level 3 assets one of its supervisory priorities and organise, jointly with the EBA, a quantitative stress test on it (paragraph 14).

As discussed during the presentation of the ECB's Annual Report on supervisory activities on 23 March 2017, ECB Banking Supervision recognises and addresses the complexities involved in the valuation of Level 3 assets, including derivatives, and has adopted a supervisory approach that promotes thorough supervision and understanding of these products. More details regarding this issue were provided in a recent letter to a Member of the European Parliament.<sup>4</sup> When conducting an EBA stress test, the ECB applies the methodology and scenarios provided by the EBA. The current draft of the EBA methodology for the 2018 EU-wide stress test (dated 7 June 2017) contains explicit provisions that take into account the market liquidity and modelling uncertainty of Level 1, Level 2 and Level 3 assets.<sup>5</sup>

## 2. Single rulebook and reporting requirements for banks

### 2.1 Options and national discretion

The Resolution recalls that, when conducting work on the reduction of options and discretions, the ECB shall remain within the limits of its mandate (paragraph 11).

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<sup>3</sup> As defined by Article 6(4) of the SSM Regulation. Inspections are conducted in accordance with Article 12 of the same regulation.

<sup>4</sup> [https://www.bankingsupervision.europa.eu/ecb/pub/pdf/170322letter\\_zanni.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/170322letter_zanni.en.pdf)

<sup>5</sup> <https://www.eba.europa.eu/-/eba-issues-2018-eu-wide-stress-test-methodology-for-discussion>

Truly single supervision requires a truly single rulebook. Against this background, the ECB welcomes the fact that the Resolution stresses the crucial importance of working towards a deepening of the single rulebook. The ECB's work on national options and discretion was conducted with this goal in mind.

As the competent authority for prudential supervision of significant institutions, the ECB has harmonised the exercise of the options and discretion which are granted to the supervisor in the CRD package, in accordance with its legal mandate. The published instruments (i.e. the ECB Regulation<sup>6</sup> and the ECB Guide<sup>7</sup>) address only supervisory options and discretion. Other sources of regulatory divergence which are not within its remit remain (including those options and national discretions over which only national legislators have control) and represent an obstacle to truly single supervision. The ECB has expressed its view that the legislative review of the CRD package that is currently under way provides a good opportunity for the EU legislator to take steps towards further harmonisation.<sup>8</sup>

### **3. Stress tests**

#### **3.1 Review of stress test methodology**

The Resolution highlights the limitations of the current stress test methodology; welcomed, therefore, the EBA's and ECB's efforts to pursue improvements to the stress testing framework; believes, however, that more should be done to better reflect the possibility and reality of real crisis situations by, inter alia, better incorporating more dynamic elements in the methodology. It also calls on the ECB to publish the results of its stress test exercise to foster market confidence (paragraph 17).

We welcome the European Parliament's positive feedback regarding the efforts made by the EBA and the ECB to improve the stress-testing framework.

Incorporating dynamic second-round effects in banks' bottom-up projections would raise a number of conceptual and practical challenges. First, allowing banks to assume certain management actions during the horizon of the stress test (e.g. changes in the banks' balance sheet size and/or compositions) would imply that such actions have a feedback effect on system-wide aggregates. To be consistent, the aggregate effect of these actions should be in line with the macro-financial scenario as pre-specified for the stress test, which seems hardly feasible to guarantee. Second, ensuring a level playing field in the quality assurance of individual banks' dynamic projections is very demanding. Consequently, second-round effects are thoroughly investigated as part of the ECB's macroprudential extension of the stress

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<sup>6</sup> Regulation (EU) 2016/445 of the European Central Bank

<sup>7</sup> ECB Guide on options and discretions available in Union law:  
[https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ecb\\_guide\\_options\\_discretions.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ecb_guide_options_discretions.en.pdf)

<sup>8</sup> Introductory statement by Danièle Nouy before the European Parliament's ECON Committee on 22 March 2016:  
<https://www.bankingsupervision.europa.eu/press/speeches/date/2016/html/se160322.en.html>

tests, which uses the outcome of the microprudential stress tests as a starting point and adds several layers of second-round effects. These include financial contagion, liquidity stress and negative macro-financial feedback loops from possible bank deleveraging or interaction with other financial sectors. To improve the transparency of the macroprudential extension of the stress-testing exercise, the ECB recently published the methodology used.<sup>9</sup> However, given the complexity of the models used to analyse feedback loops and contagion effects and the uncertainty surrounding those models, such exercises are used to evaluate aggregate information and should be seen as useful input for macroprudential purposes rather than a basis for supervisory action at the level of individual banks.

Concerning the request to the ECB to publish the results of its internal stress test exercise to foster market confidence, as explained in a letter to a Member of the European Parliament last year,<sup>10</sup> the decision on the appropriate level of disclosure for a stress-testing exercise depends on the objectives of the exercise itself. The objective of fostering transparency regarding the European banking system has been addressed very effectively in recent years by the EU-wide stress test exercises coordinated by the EBA. The decision on the sample of banks that should participate in those exercises was taken accordingly, whereby 70% coverage of banking assets in the Single Supervisory Mechanism and other jurisdictions was deemed appropriate to ensure the provision of market information and transparency regarding the condition of key credit institutions. The ECB participated in the EBA EU-wide stress test 2016 in line with this decision.

The ECB internal stress test conducted on institutions that were not participating in the EU-wide exercise had a different objective. In recent years the use of stress testing has been shifting from being a tool aimed at quickly restoring public confidence in the midst of a crisis towards a supervisory tool to be used in normal times, which is integrated into routine supervisory processes. Accordingly, the ECB internal stress test was exclusively a supervisory stress test to support the Supervisory Review and Evaluation Process (SREP), in line with the existing regulation. Hence, no disclosure of the results was foreseen. Furthermore, publishing the outcome of the ECB internal stress test in parallel with the results of the EU-wide stress test would not have been advisable, as it could have incurred the risk of misinterpretation in the light of the proportionality principle applied in the ECB internal stress test, for example in terms of the granularity of the information requested.

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<sup>9</sup> See ECB (2016), Macroprudential Bulletin, Issue 2, and Dees, S., Henry, J. and Martin, R. (eds.) (2017), STAMP€: Stress-Test Analytics for Macroprudential Purposes in the euro area, ECB, February.

<sup>10</sup> [https://www.bankingsupervision.europa.eu/ecb/pub/pdf/161123letter\\_viegas.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/161123letter_viegas.en.pdf)

## 4. Transparency and audits

### 4.1 Transparency

The Resolution encourages additional transparency on the supervisory manual (paragraph 11), the criteria that underlie the Pillar 2 guidance (paragraph 13), Joint Supervisory Standards, as well as the full set of supervisory practices, in particular in the SREP cycle; and asks the ECB to publish performance indicators and metrics in order to demonstrate supervisory effectiveness and enhance its external accountability (paragraph 15). The Resolution also calls on the ECB to hold public consultations when drafting quasi-legislative measures in order to enhance its accountability (paragraph 20).

From the very start of European banking supervision, the ECB has made significant efforts to clearly explain its actions and approach to all stakeholders, thus showing its commitment to transparency. As regards the **SREP process** in particular, the ECB has regularly held meetings with industry bodies and supervised institutions, and explained its activities and methodology to the European Parliament through hearings before the ECON Committee as well as replies to written questions submitted by individual Members of the European Parliament, which are made public.

The ECB has continuously stepped up its efforts in this field. It has published a document summarising the key features of the SREP methodology, which has been updated to reflect the latest developments.<sup>11</sup> A dedicated workshop with the ECON Committee was organised in January 2016. The ECB organised three full-day workshops on the SREP in 2016 for the CEOs and board members of all institutions under its supervision, as well as two full-day workshops on stress testing and the TRIM project. In December 2016 the aggregated outcomes of the SREP 2016 cycle were also published. Moreover, regular conference calls are held with banks and professional associations on all topics relevant to European banking supervision. The ECB has also taken steps to enhance the transparency of the supervisory requirements resulting from the SREP. In particular, supervisory dialogue with institutions prior to the adoption of SREP decisions is a standard practice, facilitating understanding of the outcome of the SREP and the measures arising from that assessment.

The purpose of the **Joint Supervisory Standards** is to develop consistent supervisory approaches as regards the supervision of less significant institutions by the NCAs in accordance with the SSM supervisory model. In particular cases Joint Standards can be applicable to the supervision of SIs and LSIs. The ECB decides on a case-by-case basis whether a joint standard can be made public or not, following an assessment that strikes a balance between transparency and the need to keep certain aspects of supervision confidential. This being said, the need to ensure transparency features prominently in the ECB's considerations.

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<sup>11</sup> [https://www.bankingsupervision.europa.eu/ecb/pub/pdf/srep\\_methodology\\_booklet\\_2016.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/srep_methodology_booklet_2016.en.pdf)

Concerning the publication of **performance indicators**, the SSM publishes its yearly priorities as the focal point and the objective of supervisory activities, and in the '*ECB Annual Report on supervisory activities*', the ECB describes the measures taken to meet this objective, hence providing a number of performance indicators. Such indicators, published via the Annual Report, include, but are not limited to, the number of authorisation procedures, reported breaches of EU law, enforcement and sanctioning proceedings, the number of on-site inspections and internal model investigation performed broken down by risk category, ratio of non-performing loans in the euro area, number of taken SB decisions, approved headcount for core ECB Banking Supervision areas as well as fees levied by the ECB for conducting supervisory tasks.

Moreover, since December 2016, aggregate data on the balance sheet composition, profitability, capital adequacy, leverage, asset quality, funding, liquidity, data quality of supervised banks has been provided on the ECB's banking supervision website. These supervisory banking statistics are disclosed on a quarterly basis and include breakdowns according to geography and bank classification.

Nevertheless, the ECB welcomed the external perspective by ECA on increasing transparency by disclosing additional information about supervisory performance. As a result, the ECB has developed precise follow-up measures to this improvement opportunity. These are planned to be developed and implemented by end 2018 as recommended by ECA.

The planned measures will be based on an internal tool, the SSM Supervisory Dashboard, which allows to track and assess the most important aspects of its supervisory activities and to monitor the effectiveness with which supervisory priorities are translated into practice. The ECB will continue to develop and enrich a meaningful and comprehensive set of indicators, also taking into account what peer supervisors are publishing.

With regard to the recourse to **public consultations**, this instrument is used by the ECB to seek the views of interested EU citizens, market participants and other stakeholders on key supervisory regulations and policies. Direct engagement with the public allows the ECB to benefit from the insights of interested parties and stakeholders, thus improving the quality of policies and their implementation. It also promotes mutual trust. The ECB is required by the SSM Regulation to conduct a public consultation before adopting a regulation. Beyond that, the ECB conducts regular public consultations inviting feedback when adopting non-binding policy stances in the form of guidance addressed to banks or guides explaining the ECB's administrative practices.

Recent examples of public consultations conducted by ECB Banking Supervision include:

- the guidance for banks on non-performing loans;
- the guidance on leveraged transactions;
- the regulation on reporting of supervisory financial information;
- the guide on options and discretions and the relevant regulation for significant institutions;

- the guide to fit and proper assessments;
- the guide on materiality assessment;
- the documentation on the exercise of options and discretions by NCAs for less significant institutions;
- the guide on the approach for the recognition of institutional protection schemes for prudential purposes;
- the draft guide to on-site inspections and internal model investigations (on-going consultation).

The European Parliament has always been informed in advance prior to the launch of a public consultation on a regulation or a non-binding policy stance.

By 30 August 2017, a total of 120 replies to questions by Members of the European Parliament on supervisory matters had been published on the ECB's website, 33 of which were published in the first eight months of 2017 alone.

The ECB believes that these actions demonstrate its commitment to accountability and transparency.

#### **4.2 Audits by the European Court of Auditors (ECA)**

The Resolution calls on the ECB to fully cooperate with the ECA to enable it to exercise its mandate and thereby enhance accountability (paragraph 23).

As stated by the Vice-Chair of the ECB's Supervisory Board during the joint CONT-ECON meeting on 13 February 2017, the clearly defined limitation of the ECA's mandate with regard to the ECB, which is stipulated by Article 27.2 of the Statute of the ESCB, is aimed at safeguarding the ECB's independence. The SSM Regulation was necessarily, but also deliberately, made consistent with the provisions of primary Union law.

ECB Banking Supervision is committed to cooperating fully with the ECA within the existing legal framework, while paying due respect to the confidentiality of supervisory information. The ECB and the ECA are engaged in a very constructive dialogue on this issue.<sup>12</sup>

## **5. Resolution**

### **5.1 Interaction with the Single Resolution Board (SRB)**

The Resolution calls on the ECB to specify in the MoU the communication procedures between joint supervisory teams and internal resolution teams. It also recommends allowing a representative of the SRB to attend the Supervisory Board of the ECB, also as a permanent observer (paragraph 49).

<sup>12</sup> Council conclusions on the European Court of Auditors' Special Report No 29/2016: "Single Supervisory Mechanism – Good start but further improvements needed" – Council conclusions (21 February 2017) <http://data.consilium.europa.eu/doc/document/ST-6558-2017-INIT/en/pdf>

The ECB notes that the EU legislator has so far decided not to grant a representative of the SRB the status of permanent observer at meetings of the Supervisory Board. The MoU between the ECB and the SRB was therefore drafted in accordance with Article 30(4) of the SRM Regulation, which states that the ECB may invite the Chair or another representative of the SRB to attend as an observer for the purposes of the SRM Regulation. Granting the SRB the status of permanent observer would require a change to the relevant provisions of the SSM Regulation, which is not in the hands of the ECB, but that we would support.

On this basis, the ECB has interpreted Article 30(4) of the SRM Regulation in conjunction with the principle of close cooperation (as laid down in Article 30(2) of the same regulation), ensuring that the SRB is invited to attend the relevant discussions of the Supervisory Board (including full access to the corresponding meeting documentation). This has resulted in an SRB representative attending more than half of all Supervisory Board meetings since the beginning of 2016 (27 out of 47 meetings up to 30 June 2017). In addition, the SRB is granted prior access to the agendas of all Supervisory Board meetings and is thus aware of all issues discussed by the Supervisory Board. It also has access to all documentation concerning written procedures of the Supervisory Board which might affect the tasks and responsibilities of the SRB.

The ECB agrees that swift and effective cooperation between supervisory and resolution authorities is of the utmost importance to ensure a coordinated and quick reaction in the event of an institution experiencing financial deterioration. Recent cases of resolution/liquidation have demonstrated that the ECB and the SRB cooperate successfully in genuine crisis situations.<sup>13</sup> The ECB is therefore of the view that the current arrangements for SRB representatives attending Supervisory Board meetings fully comply with its duty to cooperate closely and provide the SRB with all information necessary for the performance of its tasks, as laid down in Article 30(2) of the SRM Regulation. Furthermore, close cooperation at the level of the Supervisory Board is complemented on an ongoing basis by interaction between the JSTs and the internal resolution teams, underpinned by a comprehensive and detailed exchange of information. This effectively ensures that the ECB and the SRB act in accordance with the duty of sincere cooperation enshrined in the Treaties.

## **6. Institutional and human resources issues**

### **6.1 Human resources and JSTs**

The Resolution calls on the ECB to amend the SSM Framework Regulation in order to formalise commitments by participating NCAs and to implement a risk-based methodology to determine the target

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<sup>13</sup> <https://www.bankingsupervision.europa.eu/press/pr/date/2017/html/ssm.pr170607.en.html> and <https://www.bankingsupervision.europa.eu/press/pr/date/2017/html/ssm.pr170623.en.html>

number of staff and the composition of skills for Joint Supervisory Teams. It takes the view that more involvement of ECB personnel and less reliance on staff from NCAs would improve the independence of supervision, together with the use of staff from the competent authority of one Member State to supervise an institution from another Member State. Furthermore, the Resolution calls on the ECB to promote a good working environment that fosters professional cohesion within it (paragraph 20).

Recommendations of a similar nature were made by the ECA in its special report on the SSM<sup>14</sup> and are currently being addressed by the ECB.

The ECB will continue to closely monitor NCAs' compliance with their commitment to contribute to the staffing of JSTs in both qualitative and quantitative terms and is currently working with NCAs to explore ways of ensuring that JSTs are adequately staffed at all times. The ECB is also looking at possible measures to ensure a stronger SSM-wide on-site presence, in particular by increasing the percentage of cross-border inspections (i.e. those led by the ECB or an NCA other than the home one).

As regards a risk-based methodology to determine the targeted number of staff, the ECB is currently developing an approach that will satisfy both the requirement expressed by the ECA and the need to manage staff efficiently, including an element of managerial discretion.

As far as increased involvement of ECB personnel is concerned, it is important to remember that the SSM is a system composed of the ECB and the NCAs. It is based on cooperation in good faith between the ECB and the NCAs, which is one of its strengths. Under the SSM Regulation, NCAs are responsible for assisting the ECB and shall follow instructions given by the ECB when performing supervisory tasks within the framework of the SSM. This allocation of tasks has been practised since the inception of the SSM.

In March the Supervisory Board adopted a range of measures aiming at strengthening the efficiency of the overall set-up for on-site inspections and internal model investigations with a view to increasing quality, speed and accountability. The ECB is also working on the issue of the resources committed by NCAs to on-site work, e.g. incentives and commitments for NCAs to participate in mixed teams for cross-border inspections).

For European banking supervision to succeed, it is paramount that colleagues from the ECB and NCAs grow together as a team, cooperating at the level of JSTs and horizontal functions. In this spirit, the ECB, together with the NCAs, has launched several initiatives aimed at fostering a common SSM culture. As far as horizontal activities are concerned, networks involving the ECB and NCAs play a prominent role in facilitating mutual understanding and the development of common methodologies. Since the SSM's inception in 2014, horizontal teams have also dedicated a substantial part of their time to training JST and

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<sup>14</sup> <http://www.eca.europa.eu/en/Pages/DocItem.aspx?did=39744>

NCA colleagues on newly defined common methodologies and processes. An SSM training curriculum has been developed too. In 2016, NCAs and the ECB hosted 34 system-wide training courses as part of this curriculum with the aim of ensuring a consistent approach to supervision and developing greater expertise within the SSM, as well as fostering a common supervisory culture. The curriculum has been further expanded in 2017, building on this successful start. The ECB also organised a series of one-day JST workshops at the ECB and in other euro area locations in 2016. Those workshops, which have continued in 2017, are dynamic and interactive opportunities for supervisors to share best practices as a way of making internal cooperation more effective and efficient. They also provide an opportunity for JST members from across the euro area to exchange views.

Other initiatives aimed at promoting a common SSM culture include (i) the launch of a new online series introducing colleagues from the European supervision community and (ii) preparations for an SSM-wide staff conference scheduled to take place in 2018.

## **6.2 Separation**

The Resolution calls on the ECB to perform a risk analysis on possible conflicts of interest and to envisage separate reporting lines where specific supervisory resources are concerned. The resolution believes that, while the separation of monetary policy and supervision is a central principle, it should not preclude cost savings enabled by the sharing of services, provided such services are non-critical in terms of policymaking and proper guarantees are established (paragraph 20).

ECB Banking Supervision's institutional set-up ensures that the ECB's supervisory tasks are carried out independently of other ECB tasks. A non-objection decision-making procedure is in place, which serves this purpose: the Supervisory Board proposes complete draft decisions to the ECB's Governing Council, and these are deemed approved unless the Governing Council objects within ten days. This results in the Supervisory Board playing a key role in supervisory decisions and ensures that the Governing Council can focus on the ECB's central banking tasks – notably monetary policy. Moreover, there is full organisational separation, and exchanges of confidential information between policy functions are tightly restricted.

At the same time, this institutional set-up allows the ECB to reap the benefits of synergies between banking supervisory functions and central bank functions. In particular:

- the supervisory function can draw on the ECB's extensive expertise on macroeconomic and financial stability issues;
- aggregated data can be shared between policy functions on a need-to-know basis and fed into each other's work;
- support services which do not create conflicts of policy interest are shared, thereby reducing costs.

Moreover, in emergency situations confidential information can be shared between policy functions where relevant for the exercise of their respective tasks. This increases the speed and efficiency of the ECB's reactions in such situations.

This institutional set-up works very well.

### **6.3 The division of labour between the ECB and the EBA**

The Resolution draws attention to the division of responsibilities between the ECB and the EBA and stresses that the ECB should not become the de facto standard-setter for non-SSM banks (paragraph 26).

EU law has conferred on the ECB the tasks of a banking supervisor within the SSM framework. It should be highlighted that the SSM is responsible only for credit institutions as defined in the CRR. For all other entities, such as broker-dealers, the national authorities remain competent.

The EBA, on the other hand, has been entrusted with a regulatory function, being tasked with supporting the development of the single rulebook and fostering the convergence of supervisory practices across the whole of the EU. The technical standards issued by the EBA are approved by the European Commission and, of course, valid also for the ECB.

The ECB fully supports the EBA's efforts to develop a single rulebook, as having the same rules to address the same risks is an essential premise of single supervision. At the same time, competent authorities need to address existing risks in their banking sectors, including in those areas where the EBA has not yet established harmonised rules and supervisory practices. The ECB draws on the supervisory experience it has gained across the JSTs and horizontal functions and cooperates, like other non SSM EU national competent authorities, with the EBA to enhance convergence of supervisory practices across the whole of the European Union. Where common standards are agreed by the EBA, the ECB adjusts its approach as necessary.

One example of the close and effective cooperation between the SSM and the EBA is the recent work on implementing the new IFRS 9 accounting standard. Another is the work on options and discretions.

### **6.4 Anti-money laundering (AML) competences**

The Resolution stresses that the SSM should have monitoring powers concerning anti-money laundering (AML) activities of national banking supervisors (paragraph 36).

AML and countering the financing of terrorism (CFT) activities are not solely a matter of supervision. Indeed, in most domestic legislation, AML/CFT is closely related to criminal law. Moreover, the assignment of national competences for AML/CFT is not harmonised across the EU. As a result, AML and banking supervision are not institutionally aligned – i.e. there are some Member States where neither the NCA nor the NCB is responsible for AML. Consequently, ECB Banking Supervision has not been

tasked with preventing the financial system from being used to launder money or finance terrorism, which remains the responsibility of the national authorities. In our view, ECB Banking Supervision would not be the appropriate European institution to “monitor the AML activities of national supervisors”. A dedicated European AML authority might better serve the purpose of ensuring enhanced cooperation and coordination on such issues.

Nevertheless, from a prudential supervisory perspective, ECB Banking Supervision is aware that banks’ compliance with legal requirements can also be an indicator of the quality of their internal control, risk management and governance arrangements, and that weaknesses in these areas may have consequences for their reputation and solvency. To this end, ECB Banking Supervision has identified conduct risk, of which non-compliance with anti-money laundering and taxation laws are constituent elements, as one of the key risks for the euro area banking system. ECB Banking Supervision therefore takes evidence of money laundering into account when taking supervisory measures relating to corresponding risk or governance issues. Evidence of money laundering is also of relevance for fit and proper assessment of persons responsible for the management of banks.

## **6.5 Delegation of decision-making**

The Resolution calls on the ECB to specify tasks and legal framework for the delegation of decision-making (paragraph 19).

The ECB shares the view that delegating the power to adopt supervisory decisions constitutes a needed step towards further streamlining its decision-making processes and improving efficiency. But it also acknowledges that delegation could be made more complete if it were addressed in the SSM Regulation, thereby supporting the legal certainty of the framework for delegation. In the current legal context, the ECB has built on its supervisory experience to identify ways of potentially delegating defined decision-making powers under the current legal framework. A legal regime for delegating decision-making powers with regard to certain types of standardised supervisory tasks, including provisions to maintain the role of the Governing Council, has therefore been adopted and entered into force in June 2017.<sup>15</sup> The first two areas where it is being applied are the assessment of fit and proper requirements and the amendment of the significance of supervised entities.

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<sup>15</sup> Decision (EU) 2017/933 of the European Central Bank:  
[https://www.bankingsupervision.europa.eu/ecb/legal/pdf/celex\\_32017d0040\\_en\\_txt.pdf](https://www.bankingsupervision.europa.eu/ecb/legal/pdf/celex_32017d0040_en_txt.pdf)