



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Template for comments

Public consultation on the Guide to on-site inspections and internal models investigations

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General comments

This consultation is most welcome given the relevance of the inspections in many regards, including their critical role within banking supervision as well as their not negligible impact on the day-to-day business activity of the inspected legal entity. The outcome of such a consultation will be positive if the resulting final version will be

- a. regarded as capable of setting, fairly, 'the rules of the games' for all the main actors being involved
- b. transparent enough for allowing the inspected legal entities to know in advance, as much as possible, the steps of the processes and their timeline and the severity of the findings
- c. corporate-governance-wise enough to acknowledge the proper role to the Board of Directors throughout the inspection process
- 'd. reiterating the principle of proportionality also when setting the deadlines for the inspected legal entity to comment the inspections .report

Template for comments

Public consultation on the Guide to on-site inspections and internal models investigations

Please enter all your feedback in this list.

When entering your feedback, please make sure:

- that each comment only deals with a single issue;
- to indicate the relevant article/chapter/paragraph, where appropriate;
- to indicate whether your comment is a proposed amendment, clarification or deletion.

Deadline: 15 September 2017

ID	Chapter	Paragraph	Page	Type of comment	Detailed comment	Concise statement why your comment should be taken on board	Name of commenter	Personal data
1	Introduction	"This Guide is not, however, a legally binding document and cannot in any way replace the legal requirements laid down in the relevant applicable EU law."	p. 3	Clarification	When it reads " <i>This Guide is not, however, a legally binding document and cannot in any way replace the legal requirements laid down in the relevant applicable EU law.</i> ", what does it mean?	For instance, in the Italian legal framework, deadlines can be either prescriptive ("termine perentorio") or indicative ("termine ordinatorio"). For supervisory procedures the deadline is always indicative. In concrete, if a deadline for commenting the draft report is not met because the bank needs more time, what will happen ? Can the Bank, upon adequate motivation (as envisaged, for example, in the Italian framework), request additional time or not?	Moscon, Guido	Publish
2	1. General framework for inspections	Between Section 1.1.1 and Section 1.1.2	p. 4	Amendment	A subparagraph about the relevant ' <u>conceptual regulatory interdependencies</u> ' (e.g. IFRS9) which are significant to the on-site activity should be added.	We believe that with no reference at all to the regulatory toolkit which the on-site inspection/assessment teams will be expected to resort to, the outcome of the on-site activity would bear the risk of mutual inefficiencies (for the supervisor and the supervised entity) due to possible silo-like on-site execution.	Moscon, Guido	Publish
3	1. General framework for inspections	Section 1.1.4 - Role of the ECB inspections	p. 5	Clarification	When mentioning "high quality standards are applied in all inspections" what is meant precisely? Could you please elaborate a bit more on that? Does it have to do also with the transparency principle and the fair process vis a vis the Bank's bodies?	For example, in the Italian corporate governance framework the Board of Directors is responsible. Does 'high quality standards' mean that the Board's role will be respected, granting the Bank enough time to inform/involve the Board in the decisions to be made within the inspection process?	Moscon, Guido	Publish
4	1. General framework for inspections	Section 1.3 - Objective of inspections	p. 7	Amendment	" <i>Inspections must be [...] Forward-looking, looking beyond present or historical figures to anticipate possible future negative impacts.</i> " This statement should be amended by adding that also conditions having a positive impact in the future shall be considered in the assessment (e.g. finalization of projects after the reference date, etc.).	Considering also positive future impacts ensures a concise assessment of the risk profile in the inspected banks.	Graf-Mach, Monika	Don't publish

5	1. General framework for inspections	Section 1.4 - Independence of inspections	p. 7	Amendment	<p>The following paragraph should be redrafted as follows (amendment in bold and underlined):</p> <p><i>"The Head of Mission (HoM) and the inspection team act independently of, but in cooperation with, the JST. Once the supervisory decision to carry out an inspection has been adopted, its implementation is under the sole responsibility of the HoM, who is in charge of producing a report that includes the findings of the inspection team.</i></p> <p><u>As part of the preparatory phase, the HoM collects from JST any relevant document/correspondence regarding the inspected entity, coming from JST ongoing supervision activity, and pertinent to the scope of the inspection ."</u></p>	The proposed integrations aims at leveraging on the cooperation between the JST and the HoM to increase the efficiency and possibly the effectiveness of the on-site phase.	Moscon, Guido	Publish
6	1. General framework for inspections	Section 1.7 - Cooperation	p. 8	Amendment	<p>Regarding the cooperation between JST and the Inspection Team it would be preferable if relevant material which had already been submitted to the SSM during the ongoing supervision were handed over internally within SSM rather than being re-submitted by the inspected legal entity.</p>	An ECB internal pre-alignment regarding already submitted material would reduce the burden for the inspected legal entity and would provide the inspection team a transparent overview about the existing interaction between the supervisory authorities and the inspected legal entity regarding the inspection scope.	Grafl-Mach, Monika	Publish
7	2. Inspection process	Section 2.1 - Overview of the different steps of an inspection	p. 9	Amendment	<p>The figure 1 (steps of an inspection) should be re-drafted as follows (amendment in bold and underlined):</p> <p>"(...) 7) Closing meeting <u>based on draft recommendations letter (or any equivalent ECB request as per section 2.3.1)</u>; 8) <u>Inspected entity's draft action plan</u> <u>Final follow-up letter</u> <i>Inspected entity's final action plan</i> <i>Follow-up of the inspected entity's action plan."</i></p>	The amendments are based on the actual practice experienced so far with the SSM.	Moscon, Guido	Publish
8	2. Inspection process	Section 2.1 - Overview of the different steps of an inspection	p. 9	Amendment	<p>The figure 1 should explicitly display a 'step 9' where unless by a reasonable yet specified timeline (e.g. 6 months) since the receipt of the duly-filled-in Annex 2 from the supervised legal entity the SSM raises some claim, any actions described thereto are meant to be given and not disputable.</p>	It is a matter of certainty of the regulation that at some point in time the supervised legal entity should be entitled to have a clear and not questionable action plan ahead which requires to be implemented.	Moscon, Guido	Publish
9	2. Inspection process	Section 2.1 - Overview of the different steps of an inspection	p. 9	Amendment	<p>The figure 1 should explicitly display a 'step 10' which focuses on the remedial actions indicated in Annex 2 and their related findings as per in the Final Report. By the same token as per 'step 9' above, there should be stated that unless by a reasonable yet specified timeline (e.g. 6 months) since a given deadline is expired and its associated remedial action is finalized without any claim/objection from the SSM, that finding is meant to be closed and no longer disputable.</p>	In order to make the monitoring as effective as possible and to reduce operational risk, the supervised legal entity should be entitled to have certainty to know whether a given finding is open or closed.	Moscon, Guido	Publish
10	2. Inspection process	Section 2.2.1 - Preparatory phase	pp. 9-10	Amendment	<p>As far as the OSIs are concerned, the scope for the on-site activity should be described more extensively in the communication to the supervised entity (either in the notification letter or in the first request for information by the HoM).</p>	Several parts of the main provisions related to inspections in significant institutions make reference to the 'scope' which therefore represents by itself a relevant information that should be provided to the inspected entity also in accordance with Union rules and general principles on due process and transparency.	Moscon, Guido	Publish

11	2. Inspection process	Section 2.2.1 - Preparatory phase	pp. 9-10	Clarification	<p>As far as the following paragraph is concerned,</p> <p><i>"In the initial step of the preparatory phase, the availability and readiness of all parties involved is confirmed. While for on-site inspections this is always a purely internal procedure, in internal model investigations it may also involve confirmation of the inspected legal entity's readiness to submit an application. The assessment of such readiness may involve initial meetings at the inspected legal entity's premises at an early stage. In such cases the inspected legal entity receives feedback about the ECB's views on whether or not it is ready to submit an official application."</i></p> <p>we assume this step is related to the formerly known as pre-application process, which as far as we were informed is currently being reviewed in order to be simplified and harmonized across institutions practices. We think that this initial step of the preparatory phase should be better clarified e.g in terms of timing (when the so called confirmation of inspected legal entity readiness will take place?), expected deliveries and official material to be submitted to the ECB by that time, expected level of management approval of the relevant documentation.</p>	<p>A material number of model changes applications will be filed in the future in order to comply with incoming new regulation requirements. It is therefore necessary to clear and transparent rules in place in order to allow the institutions for a proper planning and thus meet the supervisory expectations.</p> <p>These set of rules would even allow level playing field across Banks as currently different practices can be observed.</p>	Moscon, Guido	Publish
12	2. Inspection process	Section 2.2.1 - Preparatory phase	pp. 9-10	Amendment	<p>The scope of the on-site inspection should be clearly defined in the announcement letter. Up to now only a vague title (e.g. Business Model & Profitability) which was already communicated in the Supervisory Examination Program is included. It should be regulated that the inspected legal entity should be informed about the detailed inspection scope (area of inspection activity), the indicative timeline and in case of Banking Groups which Sub-Groups are potentially involved in the inspection scope.</p>	<p>The implementation of the proposed provision would ensure transparency and give the inspected entities the possibility to adequately prepare the inspection and to inform the right areas in the bank.</p>	Grafl-Mach, Monika	Don't publish
13	2. Inspection process	Section 2.2.1 - Preparatory phase - Notification of the commencement of an inspection	p. 10	Amendment	<p>The following paragraph should be redrafted as follows (amendment in bold and underlined):</p> <p><i>"Except under the special circumstances mentioned in Section 3.3.1, "Right to be informed of the start of the inspection", the ECB notifies the inspected legal entity of its decision to launch an inspection. This usually happens a few weeks, but in any case at least five working days, before the inspection is due to commence, i.e. five <u>working days</u> before the <u>kick-off meeting inspectors' arrival at the Bank premises</u>."</i></p>	<p>We believe the amendment is necessary as the kick-off meeting can not be fixed, of course, before the Bank knows of the inspection (and might take place also not in the first day of the inspectors arrival).</p> <p>The guideline uses "five working days" as also "five days". For sake of clarity, "five working days" should be used within the whole guideline.</p>	Moscon, Guido	Publish
14	2. Inspection process	Section 2.2.1 - Preparatory phase - Notification of the commencement of an inspection	p. 10	Amendment	<p>The involvement of subsidiaries in Group-wide inspections is not regulated in the guide at all. In case of Banking Groups, when submitting the first request of information, the inspection team shall also inform the inspected legal entity about the request to have an on-site phase in a subsidiary, part of the inspected banking Group.</p>	<p>For subsidiaries it is not initially clear in which of inspections the scope is extended by conducting also on-site visits in the subsidiary bank. If the intention to perform on-site visits in a subsidiary are announced in the first request of information, the information transparency would be ensured and the inspected legal entity can plan the adequately steps to meet supervisory expectations.</p>	Grafl-Mach, Monika	Don't publish

15	2. Inspection process	Section 2.2.1 - Preparatory phase - Notification of the commencement of an inspection	p. 10	Clarification	A notification about the OSI five working days prior to kick-off meeting is too tight. Notwithstanding the provision of the Art 145 (1) SSM-Regulation, 10 working days (two weeks) seem to be a reasonable term of notification.	Considering the necessity of processing information requests and providing documents already prior to the kick-off meeting, a five working days notification is very tight. Such comments to this provision have already been submitted during the SSM-Regulation phase, which shows the common concern regarding this provision.	Graf-Mach, Monika	Don't publish
16	2. Inspection process	Section 2.2.1 - Preparatory phase - First request for information	p. 10	Amendment	The following paragraph should be redrafted as follows (amendment in bold and underlined): "Once the notification letter has been sent and before the kick-off meeting is held, the HoM should inform the inspected legal entity of the identity of the team members who will participate in the inspection and send a first request for information to the inspected legal entity as soon as possible - <u>at least two weeks before the beginning of the on-site fieldwork phase</u> ."	The first request for information to the inspected legal entity has proved to be so far lengthy and articulated. In order for the inspected legal entity to deal with it properly and deliver it in due time, a precise and definite timeline is therefore recommended.	Moscon, Guido	Publish
17	2. Inspection process	Section 2.2.1 - Preparatory phase - First request for information	p. 10	Amendment	The following paragraph should be redrafted as follows (amendment in bold and underlined): "First request for information and large data requests (...) <u>The HoM should make large data requests as much as possible prior to the start of the on-site audit. The HoM will discuss such large requests with the inspected legal entity to ensure an adequate and timely delivery.</u> "	We we would appreciate if large data requests would be addressed prior to the start of the on-site visit. Large date requests are time-intensive and the scope is not always clear. A timely alignment helps the inspectors as also the inspected legal entity.	Reinhardt, Christine	Publish
18	2. Inspection process	Section 2.2.2 - Investigation phase - Kick-off meeting	p.11	Amendment	The following paragraph should be redrafted as follows (amendment in bold and underlined) to foster the consistency within the guideline: "A senior representative of the inspected legal entity should attend the kick-off meeting. This should be either the CEO or a member of the executive board. <u>CEO or executive board-level representatives of inspected legal entities will be present or represented at a sufficiently senior level .</u> "	The paragraph should be redrafted in accordance with p. 23, section 3.3.3 "Seniority of the inspected entities' representatives": "It is expected that the CEO or executive board-level representatives of inspected legal entities will be present or represented at a sufficiently senior level when making contact at the start of the investigations and at meetings dealing with the strategy or operational policy of the inspected legal entities. Their presence is expected, in particular, during the kick-off meeting, as well as at meetings at which the inspection team's findings and the JSTC's commendations are presented, i.e. during the exit and closing meetings." This composition allows the CEO more flexibility and should therefore prevail.	Reinhardt, Christine	Publish
19	2. Inspection process	Section 2.2.2 - Investigation phase - Execution of the work programme	pp. 11-12	Clarification	No mention is made to possible tasks, entrusted to: - Inspected Entity structures; - Internal Audit, and which may include sampling, recalculation, ad hoc analysis and audit tasks, audit reports, etc.	Given the relevant workload such tasks might imply, we believe they should be mentioned and regulated in this document.	Moscon, Guido	Publish

20	2. Inspection process	Section 2.2.2 - Investigation phase - Execution of the work programme	p. 12	Amendment	<p>The following paragraph should be redrafted as follows (amendment in bold and underlined):</p> <p><i>"Targeted Interviews: by meeting with relevant staff at the inspected legal entity, the inspection team collects information about inspected areas and compares the documented processes and organisational structures with the practices at the entity. The team may challenge the interviewees on these. <u>Significant</u> Interviews are attended by at least two inspectors."</i></p>	<p>As the significance of a meeting is a pure judgmental assessment (and in many case could not even be assessed beforehand) the indication has no practical use.</p> <p>The attendance of two inspectors is a guarantee for both the inspection team and the inspected entity. Furthermore it pairs with many Bank's internal procedures which provide for the presence of two employees at any meeting with the Supervisors/Regulators.</p>	Moscon, Guido	Publish
21	2. Inspection process	Section 2.2.2 - Investigation phase - Execution of the work programme	p. 12	Amendment	<p>The last paragraph of the section over the "Execution of the work programme" should be redrafted as follows (amendment in bold and underlined):</p> <p><i>"Over the course of the investigation phase, the inspection team has the possibility <u>will (when the HoM deems it appropriate or when asked by the senior management of the inspected legal entity)</u> to hold status meetings with the inspected legal entity at working level to discuss preliminary facts and findings before the exit meeting is held.... For this purpose, the team <u>may will</u> share draft documents..."</i></p>	<p>As currently drafted, the term 'possibility' sounds like 'discretionality' (by the HoM) over whether a status meeting can be held or not, which most likely is not the case. Therefore, in order to avoid such an interpretative misunderstanding, the proposed amendment would shift the meaning from a 'matter of discretion' to a 'matter of occurrence', by identifying the inspected legal entity as an example of concerned actor entitled to ask for a status meeting.</p> <p>So called "reading sessions" should become a mandatory process step as it significantly increases not only quality of audit results but also efficiency of process. Status meetings at working level to discuss preliminary facts and findings should be mandatory.</p>	Moscon, Guido	Publish
22	2. Inspection process	Section 2.2.3 - Reporting phase	pp. 12-13	Amendment	<p>Feasible and 'common-sense' involvement of the Supervised Entity throughout the reporting phase -> A set of practical and process-wise issues arise with regards to the whole section 2.2.3. Among them, it might be the case that an inspection report is 200-page long. What does the Guide envisage for the supervised entity to be given enough time to prepare the exit meeting as well as the due comments on the draft reports? What about the proper time for the top management and the Control Body to be duly involved?</p> <p><u>The possibility to call for an extra time should be explicitly envisaged.</u></p>	<p>In compliance with the <u>due process principle</u>, the inspected legal entity could need more time to adequately prepare for the exit meeting, involve the Board of Directors and provide written feedback.</p>	Moscon, Guido	Publish
23	2. Inspection process	Section 2.2.3 - Reporting phase	p. 13	Amendment	<p>The draft report should be sent a few days in advance to enable the inspected legal entity to adequately prepare for the meeting -> By and large, what does "a few days" mean? Can the supervised entity ask for 'additional' time to adequately prepare for the exit meeting? Moreover, since the Board of Directors is responsible and should be in the position to have a say. <u>In that case, the possibility to call for an extra time should be explicitly envisaged.</u></p>	<p>The same as before: in compliance with the <u>due process principle</u>, the inspected legal entity could need more time to adequately prepare for the exit meeting, involve the Board of Directors and provide written feedback.</p>	Moscon, Guido	Publish

24	2. Inspection process	Section 2.2.3 - Reporting phase	p. 13	Amendment	<p>The two following paragraphs should be redrafted as follows (amendment in bold and underlined):</p> <p><i>"The aim of the exit meeting is to discuss the report with the inspected legal entity. It is chaired by the HoM while representatives from the relevant division within DG MS IV, the NCAs and the JST are invited to attend. The draft report should be sent <u>a few days</u> in advance, <u>proportionately to the its size and the number and severity of findings, so</u> to enable the inspected legal entity to adequately prepare for the meeting. If the inspected legal entity is the subsidiary of a parent located in a participating Member State, the draft report can also be shared with the parent. In the case of inspections of groups with a parent located in a participating Member State, the draft report is sent to the parent.</i></p> <p><i>During the exit meeting, the HoM presents the outcome of the inspection which opens the opportunity for the inspected legal entity to provide written feedback within <u>two weeks a proportionate (to the size of the draft report and the number and severity of findings) deadline</u> of receiving the draft."</i></p>	As a matter of fact, it may be the case of a draft report being light and with a few findings as well as being 200-page long. Therefore the one-size-fits-all approach is not adequate to such a wide range of possibilities of what a draft report could actually consist of. Not to mention the fact that the Board of Directors should be involved in the reporting phase process. The principle of proportionality is commonly adopted in the regulation, in the ECB regulation and even mentioned in the Guide. We strongly believe that this part of the reporting phase is another place where this general principle should be applied as well. The supervised entity should be given a slot of time to deal with these steps of the process that is commensurate to the size of the final report and to the number and severity of the findings therein.	Moscon, Guido	Publish
25	2. Inspection process	Section 2.2.3 - Reporting phase	p. 13	Clarification	For each finding contained in the Final Report the related severity should be also expressed.	The rationale behind the fact that the findings are classified by the SSM according to their severity while are communicated 'un-weighted' to the supervised legal entity should be provided by the SSM. As a matter of fact, should the findings of a final report be accompanied with their relative weight, overall benefits outnumber any sort of cost. Just to mention a few: i) prioritization of focus, within a context of constrained resources; ii) more information disclosed to the supervised entities for a proper understanding of SSM methodology (see ECA Special Report on EBA and its changing context).	Moscon, Guido	Publish
26	2. Inspection process	Section 2.2.3 - Reporting phase	p. 14	Amendment	The Figure 2 (Steps of the reporting phase) should be integrated by adding a column where the timeline for each step is clearly indicated.	Unless the timeline of each step of the process is reported, the overall process would risk being perceived as not transparent enough and difficult for the inspected legal entity to be plugged into the current planning activity (with the related organizational implications).	Moscon, Guido	Publish
27	2. Inspection process	Section 2.2.3 - Reporting phase	p. 14	Amendment	Steps of the reporting phase -> Given that a) the Board of Directors bears responsibility in the reporting phase, b) the fair process implies enough time to adequately prepare; c) the final report is an official document signed by the HoM , d) the final report is most likely a thick document, the Figure 2 should be amended in order to explicitly mention Board of Directors among the actors.	Whitin the Italian legal framework the Board of Directors is responsible and has to be properly involved in the inspection process. As a matter of fact, the Bank of Italy presents its inspection reports directly to the Board.	Moscon, Guido	Publish

28	2. Inspection process	Section 2.3.1 - Presentation of the requested remedial actions	p. 15	Clarification	IMIs: it's not clear if whenever a remedial action is ready to be implemented formal steps for supervisory approval/notifications should be undertaken (e.g. application, ex-ante communication).	Remedial actions developed in order to address previous IMI supervisory conditions or obligations cannot be considered a Bank initiative. Most of the time they strictly follow what was requested and included in the final recommendation report (with no flexible solutions being possible). It would be ideal in such cases to allow the institution to implement such remedial actions directly without going through a new communication process to improve the efficiency of the overall follow-up phase and optimize the resources.	Moscon, Guido	Publish
29	2. Inspection process	Section 2.3.1 - Presentation of the requested remedial actions	p. 16	Clarification	"In most cases an IMI will result in the second type of instrument, whereas an OSI will result in the first type". This paragraph is not clear. Clarification can be provided by stating examples for those "most cases", the other cases, respectively.	The lack of clarification on this provision leads to uncertainty of the stakeholders regarding the possible outcome of the inspection (binding/non-binding measures) as well as it disables proper timeline planning as regards to the right to be heard.	Grafl-Mach, Monika	Don't publish
30	2. Inspection process	Section 2.3.2 - The follow-up phase	p. 16	Amendment	The process of providing additional documents aiming to prove the completion of remedial actions is not defined in the provisions regarding the follow-up phase.	The clarification on this topic ensures a consistent approach for all inspections and all inspected entities, which is the intention of this guide.	Grafl-Mach, Monika	Don't publish
31	3. Applicable principles for inspections	Section 3.2 - Inspection team's practices	p. 18	Amendment	The two following paragraphs should be redrafted as follows (amendment in bold and underlined): <i>"The inspection team is to act in an ethical and professional manner in accordance with applicable laws, regulations and professional procedures. It is to take into account the operating constraints of the entity being inspected, insofar as this does not hamper the investigation process.</i> <u>The HoM and inspection team employees will ensure a professional and courteous attitude towards the inspected entity management and staff throughout the inspection ."</u>	For the sake of symmetry, we would report also for the inspection's team the reference to a courteous attitude as indicated in paragraph 3.3.2 with relation to the Bank's senior management and employees.	Moscon, Guido	Publish
32	3. Applicable principles for inspections	Section 3.3.1 - Rights of the inspected legal entities - Possibility to comment on the facts and findings	p. 20	Amendment	When it reads "findings", " preliminary findings " would be more appropriate and precise, given the stage of the process.	In our understanding, in the draft report findings are "preliminary" as the inspected legal entity has the opportunity to comment on the facts and (preliminary) findings.	Reinhardt, Christine	Publish
33	3. Applicable principles for inspections	Section 3.3.1 - Rights of the inspected legal entities - Possibility to comment on the facts and findings	p. 20	Amendment	2 weeks to submit written comments-> 1) Is any deadline extension envisaged? Based on what said above, we would strongly argue for that. 2) Moreover, should the Board of Directors have a say before written comments be submitted? Again we would require this possibility to be put on the Guide, along with a motivated request for a deadline extension.	Whitin the Italian legal framework the Board of Directors is responsible and has to be properly involved in the inspection process. Moreover, the Bank should be granted enough time to provide comments on the draft report. If 2 weeks are not enough to prepare comments on the draft report and discuss with the Board, the Bank will submit a motivated request for a deadline extension.	Moscon, Guido	Publish

34	3. Applicable principles for inspections	Section 3.3.1 - Rights of the inspected legal entities - Need to be informed of the inspection outcomes	p. 20	Amendment	<p>The following paragraph should be redrafted as follows (amendment in bold and underlined):</p> <p><i>"During the inspection, the senior management of the inspected legal entity may ask the HoM has the opportunity to have one or several interim meetings on the progress of the inspection or on any related topic. At these meetings, the inspected legal entity may communicate its observations concerning the inspection investigations in order to highlight any useful information. Before such a meeting takes place the inspected legal entity should communicate the goals topics for discussion, as well as <u>.if and where appropriate,</u> the rationale and goals topics of the meeting."</i></p>	The requirement to the inspected legal entity to have to communicate to the HoM the rationale and goals of the meeting is plausible whenever the information flow at a given interim meeting goes from the former to the latter (for instance the senior management would like to bring additional documentation and remarks about an inspected topic). Otherwise, most of the time the senior management of the inspected legal entity asks the HoM to have an interim meeting to be informed about the status of play and if major issues arise that need to be documented furtherly. In that circumstances the senior management is not in the position to communicate in advance the topics of the meeting.	Moscon, Guido	Publish
35	3. Applicable principles for inspections	Section 3.3.1 - Rights of the inspected legal entities - Need to be informed of the inspection outcomes	p. 20	Amendment	<p>In the paragraph regarding the possibility to comment on the facts and findings, it is necessary to state that the comments to the Draft Report and the HoM's response to the comments are attached to the Final Report.</p>	The current wording leaves room for interpretation. In terms of transparency it is necessary that the process of commenting the draft report is integrated in the final report.	Grafl-Mach, Monika	Don't publish
36	3. Applicable principles for inspections	Section 3.3.3 - Cooperation expected from the inspected legal entity's representatives during the inspection - Submission of information required	p. 22	Amendment	<p>The following paragraph should be redrafted as follows (amendment in bold and underlined):</p> <p><i>"The documents required by the inspection team should be provided in electronic format, but also on paper if required by the team.</i></p> <p><i>For the inspection team's convenience, a folder, broken down by topics and to which the team should be given access, may be created in the inspected legal entity's information system or alternatively in a secure shared drive for data exchange if necessary. <u>The documents will be provided in local language and, only when already available, in English. No translation effort can be requested to the inspected entity for the sole purpose of the inspection.</u>"</i></p>	The proposed integration is to clarify that no-extra translation burden will be put on the Bank due to the inspection's team needs. In general, in fact, the inspection team always includes at least a few native speakers of the local language.	Moscon, Guido	Publish
37	3. Applicable principles for inspections	Section 3.3.3 - Cooperation expected from the inspected legal entity's representatives during the inspection - Submission of information required	p. 22	Amendment	<p>The requirement of "providing any related information to the inspection team members by persons concerned, even without an explicit request" is very vague and does not support an efficient information exchange.</p>	The Guideline lays down the principle of proportionality of inspections, stating that the implementation of this principle shall also facilitate the effective allocation of resources. An obligation of persons concerned to report all possibly relevant information to the inspection team will overstrain them with information in need to be processed within the (often tight) timeline of the inspection. This may have a negative impact on following the actual focus of the inspection as well as it may require extra resources.	Grafl-Mach, Monika	Don't publish

38	3. Applicable principles for inspections	Section 3.3.3 - Cooperation expected from the inspected legal entity's representatives during the inspection - Availability of the inspected entity's staff	p. 22	Amendment	<p>The following paragraph should be redrafted as follows (amendment in bold and underlined):</p> <p><i>"The inspected legal entities are expected to provide the required documents and files as soon as possible, when available immediately, or otherwise within a reasonable timeframe <u>—as requested by the HoM.</u> The HoM should assess the challenges faced by the inspected legal entity with due consideration for the <u>potential disruption to the inspected entity activity, the time constraints of the inspection and <u>select/prioritise the information requests.</u>"</u></i></p>	<p>As the text says "reasonable timeframe"the indication "as requested by the HoM" looks unnecessary.</p> <p>We believe it is worth mentioning the potential disruption the inspectors request might pose to the ordinary Bank's activity, which should also be a Regulator/Supervisor concern.</p> <p>As for the selection of the request we think that the HoM should use its experience both for prioritising as well as selecting (and in case dropping) team members request on the basis of a comprehensive cost/benefit analysis (which includes a consideration of the inspected entity interests).</p>	Moscon, Guido	Publish
39	3. Applicable principles for inspections	Section 3.3.3 - Cooperation expected from the inspected legal entity's representatives during the inspection - Appointment of a point of contact	p. 23	Amendment	<p>As far as the Appointment of a point of contact, the following paragraph should be redrafted as follows (amendment in bold and underlined):</p> <p><i>"The HoM may request a <u>A</u> point of contact with enough seniority within the inspected legal entity's organisation <u>may be designated by the inspected legal entity itself or requested by the HoM so</u> to ensure that the inspection team's requests are handled correctly and in good time and that the right people are <u>contacted directly by - put in contact with</u> the team. The point of contact <u>may will</u> facilitate exchanges between the inspection team and the inspected legal entity."</i></p>	<p>With the benefit of hindsight since the outset of SSM supervisory activity in November 2014, we strongly believe that the value-added of having a point of contact within an inspected significant institution to handle the inspection team's on-site activity should be common acknowledgement. Moreover it is not clear the rationale behind the phrasing "the point of contact may facilitate" rather than "will/does facilitate". As a result, the designation of a point of contact should not be limited only to the remit of the HoM but also within the rights of the inspected legal entity (this is rightly the section of the Guide) in order for the latter to make the massive operational work stemming from the on-site activity as much streamlined as possible with respect to the day-to-day business activity. We believe the reference to "direct contact" unnecessary.</p>	Moscon, Guido	Publish
40	3. Applicable principles for inspections	Section 3.3.3 - Cooperation expected from the inspected legal entity's representatives during the inspection - Appointment of a point of contact	p. 23	Amendment	<p>As far as the Appointment of a point of contact, the following paragraph should be redrafted as follows (amendment in bold and underlined):</p> <p><i>"However, whenever the HoM deems it necessary, <u>any</u> team <u>member</u> should have the possibility to contact any other staff of the inspected legal entity directly and hold a meeting without the contact person being present <u>,but</u> <u>always respecting the internal rules of the inspected legal entity (e.g. presence of at least two employees at the meeting).</u>"</i></p>	<p>The proposed change is to align with the above mentioned need to have at least two inspectors participating to any meeting.</p> <p>In Italy the executive decree no. 231 of 8 June 2001 "Discipline of the administrative liability of legal persons, of companies and of associations even without a legal status, pursuant to Article 11 of Law no. 300 of 29 September 2000" is in force since June 2000. Based on that the Bank has defined specific rules and procedures, periodically monitored by the 231 Supervision Body, enforcing Bank's staff to avoid one - to - one meetings with members of Public Administration.</p> <p>Furthermore, in this case, nevertheless, the contact person should be informed about the meeting and the wish of the inspectors to hold it without the contact person.</p>	Moscon, Guido	Publish

41	3. Applicable principles for inspections	Section 3.3.3 - Cooperation expected from the inspected legal entity's representatives during the inspection - Language used during the inspection	p. 23	Clarification	Concerning the language used during the inspection it should be clearly mentioned that documents (e.g. documentation, process descriptions) in local language do not have to be translated into English. We propose to add the following phrase: " <i>The documents will be provided in local language and, only when already available, in English.</i> "	Translations of requested documents would put an extra burden on the inspected legal entity and is not (adequately) manageable considering the strict timeframe of on-site inspections.	Grafi-Mach, Monika	Don't publish
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