



Nr.: 240/17-KH

Ljubljana, 13 September 2017

European Central Bank
Secretariat to the Supervisory Board
"Public consultation on the Guide to on-site inspections and internal models investigations"
60640 Frankfurt am Main
Germany

sent via email and followed by registered mail

Subject: BAS response to the draft ECB guide to on-site inspections and internal model investigations (the »Guide«)

Dear Sir/Madam,

The Bank Association of Slovenia ("BAS") welcomes the opportunity to comment on the above-referenced document during the public consultation which runs until 15 September 2017. The Bank Association of Slovenia and its members have carefully reviewed draft Guide and would like to present our comments which are attached hereto.

We sincerely hope that our views will help you identify the areas where we believe further improvement and clarification might be needed. In addition, we would be particularly grateful if you could positively respond to our suggestions for a) inclusion of additional indicative (instructional) deadlines on the supervisory / inspection team's side, b) consideration of the inclusion of additional requirements for the supervisor for acquiring external legal or expert advice and c) implementation of the proportionality principle in practice.

Yours sincerely,

Director

Stanislava Zadavec Capriolo, M.I.A.

Encl.: Comments of the Bank Association of Slovenia in the ECB public consultation template



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Template for comments

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

Institution/Company

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General comments

In general, we welcome the issue of the Guide and, in particular, the opportunity to comment. In our view, the document is prepared at a fairly "high level" and describes the on-site inspection procedures that we have already experienced in practice in sufficient detail. In our opinion, it provides useful reference for both parties, ie the inspection teams and supervised entities. Nevertheless, we would like to stress our general conclusion that the Guide sets the deadlines primarily on the side of the inspected legal entity but not on the side of the inspection team and JST (the supervisor). We suggest that, for the sake of general transparency and with the aim to increase transparency over the timeline of the entire inspection process, the supervisor (ECB) shall at least define the indicative deadlines at all stages of the inspection process. In addition, at least the indicative deadlines and instructional deadlines on the supervisory side also give the inspected legal entity, in addition to greater transparency of the supervisory process itself, the possibility for better management of its own resources, and in view of the respective activities of the inspection team in the inspected legal entity, the possibility for possible temporary adjustment of internal organization (eg organizing special Working groups for preparing required documents and meeting other requirements of the supervisor in the course of inspection), redefining priorities according to the duration and scope of the inspection, etc.

We suggest that the Guide also addresses the area of inspection team's requirements for obtaining external legal or expert opinions. Areas should at least broadly define (possibly in point 1.3 "Objective of inspections" on pages 6 and 7) and specify that the inspection team must primarily determine the actual situation and only exceptionally require external independent opinions at the expense of the inspected legal entity. In our opinion, the inspection team must also endeavor to avoid unnecessary costs which burden the supervised entity's operation.

Finally, we strongly welcome the intention to apply proportionality principle for inspections (as written under point 1.3 'Objectives of inspection' on page 6 and, and elaborated further in other parts of the document, for example in point 3.2 on page 18, where it is stated that the inspection team is to take into account "*the operating constraints of the entity being inspected (...)*"), but at the same time we regret to note that in practice this principle is not implemented consistently and would therefore welcome every step towards its actual implementation.

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		'1.3 'Objective of inspections'	6.7		We suggest that the Guide also addresses the area of inspection team's requirements for obtaining external legal or expert opinions. The Guide should at least broadly define and specify that the inspection team must primarily determine the actual situation and only exceptionally require external independent opinions at the expense of the inspected legal entity.	In our opinion, the inspection team must also endeavor to avoid unnecessary costs which burden the inspected legal entity's operations.	ZBS	Publish
2		2.2.1, last paragraph on p. 10	10		In the "First request for information" section, which stipulates that the inspected legal entity may be asked to provide the required documentation/information before the kick-off meeting, we propose to add that this requirement is valid, provided that the inspected legal entity received the request at least 10 working days before the kick-off meeting.	Request to provide information before the kick-off meeting is legitimate and probably helpful in terms of efficiency of the inspection. Nevertheless, one should take into account that such request might be quite demanding (or even impossible to be carried out) for the inspected legal entity. Consequently, we propose a 10-day time period in which the inspected institution should/could prepare the relevant information before the initial meeting with the inspection team.	ZBS	Publish
3		2.2.2, 'Kick-off meeting', paragraph 5	11		We believe that a tentative schedule regarding the length of the investigation should be communicated. Consequently, the wording of this paragraph should be changed in a way that the word "may" is replaced with word "should" and therefore reads as follows: "A tentative schedule regarding the length of the investigations <i>should</i> also be communicated."	As explained in our comment.	ZBS	Publish
4		2.2.3, 'Reporting phase', paragraph 4 on p.13	13		We suggest that the term "a few days in advance" in the sentence "The draft report should be sent a few days in advance to enable the inspected legal entity to adequately prepare for the meeting." is changed in a way that it becomes more exact, eg by replacing the words "a few days" with "at least 10 business days or 14 calendar days" (or similar) so that the sentence would read: "The draft report should be sent <i>at least 10 business days or 14 calendar days</i> in advance to enable the inspected legal entity to adequately prepare for the meeting."	The rationale for our proposal lies in the fact that draft reports can also be quite extensive and it is necessary to give the inspected legal entity sufficient time to examine the findings and opinions of the inspectors and to prepare any additional questions or comments and to collect additional supporting documentation to back up its arguments at the exit meeting (the deadline for sending written comments to the draft report is otherwise set out in point 3.3.1, page 20, and is 14 days after the "exit meeting").	ZBS	Publish
5		Figure 2 (Steps of the reporting phase)	14		We propose that at least indicative, instructional deadlines for the inspection team be determined for the individual phases / steps of the reporting phase, for example: Step 3) = what is the deadline for drafting and sending out the draft report after completion of the on-site inspection; Step 6) = in what time after receipt of the inspected legal entity's comments on the draft report should be prepared finalised report; Step 8) = In what time should the inspected legal entity receive a draft follow-up letter with recommendations or decisions (anticipated corrective actions); Step 9) = in what time after receipt of the draft follow-up letter / draft decision the closing meeting led by the JSTC coordinator is held.	Please see our general comment.	ZBS	Publish
6		2.3.1, paragraph 3 on p. 14	14		We suggest that at this activity = issuing the final letter of the ECB with the required corrective measures ("final follow-up document from the ECB") at least an indicative, instructional deadline for the activity that is in the domain of the JST/ECB is set. Furthermore, in our opinion, it would make sense to provide the inspected legal entity with the possibility of giving written comments on the draft follow-up letter which includes recommendations.	Please see our general comment.	ZBS	Publish
7		2.3.2, 'Follow-up of the inspected legal entity's action plan', paragraph 2	16		We propose that at least an indicative, instructional deadline for the ECB's finding that the requirements from the letter with the requirements for corrective measures have been met by the inspected legal entity, eg: - after the expiration of a specified period of time (eg 3 or 6 months?) after completing the last reporting by the bank on the fulfillment of the last requirement (= the final fulfillment of the action plan prepared by the inspected legal entity in response to the request for corrective measures) and/or - with issuance of a declaratory letter / decision by the ECB that the required corrective measures have been carried out and the process of the respective review has been completed because all the requirements have been complied with/executed.	Rationale: Such behavior has been used and is still used by the Bank of Slovenia in its role of the banking supervisor, who communicated with the relevant decision of the Governing Board or supervisory letters to the supervised bank (usually on the basis of additional reporting requirement or subsequently performed on-site control) that the regulatory requirements were fulfilled. Consequently the control procedure in question is completed and further specific reporting on the issue is no longer necessary.	ZBS	Publish

8	3.3.1, 'Possibility to comment on the facts and findings', paragraph 2	20	We suggest that at least an indicative, instructional deadline for the completion of the draft report after receiving the comments of the inspected legal entity on the received first draft and after completed exit Meeting. Possible text of the relevant sentence would read as follows: "After the exit meeting the HoM finalizes the draft report <i>within 14 days</i> , taking the feedback received from the inspected legal entity into account if necessary. ".	Please see our general comment.	ZBS	Publish
9	3.2	18-20	With reference to provisions of 2nd paragraph of point 3.3.2 which stipulate that the inspected legal entity's staff should strive to ensure a professional and courteous attitude towards the inspection team, we propose to consider inclusion of a similar provision into introductory part of point 3.2 (Inspection team's practices) of the Guide in order to ensure similar behaviour of the inspection team on reciprocal basis. Possible wording might read: "The HoM and other members of the inspection team should strive to ensure a professional and courteous attitude towards the inspected legal entity's staff."	As explained in our comment.	ZBS	Publish
10	3.3.1, paragraph 1	21	We believe that it would be helpful to specify that the institution which is the subject of the inspection can make comments on the content and timing of the recommendations / corrective measures. We propose that the following text is added (red letters) in the penultimate sentence of this paragraph: "The inspected legal entity can discuss the draft follow-up letter during the closing meeting, chaired by the JSTC and attended by the HoM, and can submit written feedback concerning the proposed remedial actions and the timeline for their implementation."	As explained in our comment.	ZBS	Publish
11	3.3.3, 'Submission of information required', paragraph 1 on p. 22	22	In the "Submission of information required" section we believe that a request might be added that, in the case of surrendering original documents, the inspection team will be required to keep a separate record of such received documents (either in electronic form or in writing).	In order to keep track of documentation flow we believe that handling of the original documents should be recorded.	ZBS	Publish
12	3.3.3, 'Availability of the inspected entity's staff', paragraph 1 on p. 22	22	In the last sentence of the first paragraph of the section "Availability of the inspected entity's staff" the word "reasonable" could be added before the word "speed", so this sentence would read: "They should cooperate in good faith and with <i>reasonable speed and competence</i> on requests for interviews and information."	Proposal is self explanatory.	ZBS	Publish