

PUBLIC CONSULTATION  
DRAFT ECB SSM FRAMEWORK REGULATION  
**TEMPLATE FOR COMMENTS**

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| <input type="checkbox"/>  | Please tick here if you do not wish your personal data to be published. |

Please separate your comments per issue, citing the relevant article of the draft Framework Regulation where appropriate and indicating whether you are proposing an amendment, clarification or a deletion. If you require more space for your comments, please copy page 2.

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| Name | ABBL | Country | Luxembourg |
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**COMMENTS ON THE DRAFT ECB SSM FRAMEWORK REGULATION**

| Issue   | Article | Comment       | Concise statement why your comment should be taken on board  |
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| Consolidated supervision for less significant banks | 8       | Clarification | <p>Article 8 confirms that the relevant NCA is the consolidated supervisor of less significant banking groups, while the NCAs responsible for supervising the groups' subsidiaries play the role of host supervisors.</p> <p>The conduct of consolidated supervision for less significant banks, as set out in article 17(2) of the SSM Regulation, raises however the following issues, which should be clarified:</p> <ol style="list-style-type: none"> <li>1. Does the allocation of responsibilities between the consolidating NCA and the host NCAs follow the rules of the CRR / CRD IV?</li> <li>2. Is the ECB empowered to settle potential disagreements between the consolidating NCA and a host</li> </ol> |

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|  |    |           | <p>NCA?</p> <p>3. Will the existing colleges of supervisors be maintained in their current format?</p>   |
| Criteria for determining significance on the basis of importance for the economy of the Union or of any participating Member State | 57 | Deletion  | <p>Article 57 enumerates additional criteria for assessing the significance of a supervised entity for the economy of the Union or of a participating Member State. These criteria are applied in conjunction with article 56 (national economic importance threshold of 20% of the national GDP) and with article 58 (determining significance from the economy of a participating Member State at the request of an NCA).</p> <p>The reading of article 6(4) of the SSM regulation makes it clear, in our view, that the sole criteria for assessing the importance for the economy of the Union or any participating Member State is the threshold of 20% of the national GDP. Indeed, we understand that point (ii) of the second sub-paragraph of article 6(4) (importance for the economy of the Union or any participating member state) refers exclusively to point (ii) of the third sub-paragraph of article 6(4) (threshold of 20% of the national GDP).</p> <p>In this respect, we suggest deleting article 57, which seems to go beyond the boundaries of the SSM Regulation.</p> |
| Criteria for determining significance on the basis of cross-border   | 59 | Amendment | <p>The threshold of 10% of cross-border assets or liabilities seems too low. We believe that a threshold of 50 % would better reflect the significance of a bank's cross-border activity.</p>  |

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| Factors to be considered by ECB before taking over the direct supervision of less significant banks to ensure consistent application of high supervisory standards | 67  | Amendment | <p>Article 67.2 lists the 6 factors that the ECB must consider, when deciding to supervise directly less significant entities in order to ensure consistent application of high supervisory standards. While criteria (d) (the NCA did not follow ECB instructions), (e) (the NCA did not comply with relevant union law) and (f) (the entity has requested indirect financial assistance), make sense, we do not see the rationale for considering the 3 first criteria (a), (b) and (c). Such criteria are indeed not connected with the quality of the supervision, but rather with the significance or the interconnectedness of the supervised entity or group of entities.</p> <p>Given that criteria (a), (b) and (c) go beyond the principle of high supervisory standards as expressed in article 6(5)(b) of the SSM Regulation, we suggest deleting them.</p> |
| Authorization procedure: ECB should inform NCA in case of objections   | 77  | Amendment | <p>Where the ECB has objections that conditions of relevant Union law are not satisfied, it can give the applicant bank the opportunity to comment in writing and to participate to a meeting. We welcome this application of the “right to be heard” principle. For the sake of a smooth cooperation between the ECB and the NCAs, we suggest that the NCA, who has submitted a positive draft decision, be kept informed of the ECB’s objections.</p>   |
| Reporting at recurring intervals   | 141 | Amendment | <p>According to article 141 and to article 10 of the SSM Regulation, the ECB may require reporting at recurring intervals and in specified formats for supervisory and statistical purposes. We understand that such reporting will be added to the harmonized prudential reporting COREP / FINREP elaborated by the EBA. In this respect, we believe that safeguards are necessary to avoid uncoordinated approaches with the EBA, and we suggest that any demand of recurring reporting be subject to:</p> <p>1.a public consultation,</p>  |

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|  |  |                   | 2. a cost/benefit analysis<br>3. taking into account the existing reporting elaborated by the EBA. |
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