

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

Mr <input type="checkbox"/> Ms <input checked="" type="checkbox"/>	First name Maria Manuela
	Surname Athayde Marques
Institution Portuguese Banking Association (APB)	
E-mail address apbancos@apb.pt	
Telephone number 351213510070	
<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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**TEMPLATE FOR COMMENTS**

Name	Portuguese Banking Association	Country	Portugal
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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
Notifications	12	Clarification	Both in paragraphs 1 and 2, it is not clear who is responsible for notifying the ECB: is it the NCA or the Entity?
Oral Hearing	24	Amendment	In regard to Article 24(2), third paragraph, we suggest this provision to establish that the notification of the oral hearing must state that the participant has the right to interpretation (translation) during the oral hearing, stating the term within which the participant must make a request for such purpose.
Language Regime	24	Clarification	The language between NCAs and the ECB will be mandatorily English.  However, the language between the NCA and the Entity is the native language.



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			<p>There will be cases, however, where there will be reports that will have to be prepared directly by the banks and that will have to be forwarded to the ECB through or by the NCA. In these cases, the reports will have to be sent in the language they were originally prepared by the bank (let's assume native), and the NCA will have to prepare a memo about it, or even fully translate that report into english. We would like to pose the following questions:</p> <p>1) Since NCAs will have to send a memo in english, or even fully translate the documents that will be sent by banks, it will be possible to have the same report prepared in 2 different languages and by 2 different entities:</p> <p>1.a) This might represent duplication of work, delays in the process and even mistakes in translation. How will the ECB cope with that situation, and assure the quality of the information / translation?</p> <p>1. b) Will the reporting deadlines given to the entities be affected by these situations?</p> <p>1.c) Although this is not predicted in the regulation, it would be very important to guarantee that the NCA will NOT be able to demand banks to report in duplicate, both in english and native language, in those cases where the information is meant to be sent to the ECB.</p> <p>2) It is predicted that banks can enter into an agreement of reporting to the NCA in English:</p> <p>2.a) In case an entity signs such an agreement, will that agreement be applicable ONLY to reports that will prepared (by the supervised entities) in order to be sent to the ECB?</p> <p>2.b) Or will this agreement be applicable to all future reports sent by the banks to the NCA?</p> <p>We emphasize that systems, reports, etc, of all countries are in their local language, and they might not even be available in English. Hence, reporting in english can be a huge (and "expensive")</p>
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			problem.
Significance	53	Clarification	The term and concept of significance needs further clarification. Is it related to the list of significant entities that will be under ECB's direct supervision? And, for example, is it possible for a non-significant entity established in a Member State of great dimension to be classified as significant for operating a large branch/subsidiary in another Member State of smaller dimension?
Criteria for determining significance	57	Clarification	Although we understand that the SSM is still taking its first steps, and therefore there is still indefiniteness in certain areas, we would like to ask for clarification on the criteria for determining significance. The article is not objective in this matter.
On-site inspections	143	Clarification	Regarding the occurrence of the on-site inspection referred to in Article 143, nothing is said about its timing.  a) Is it possible to clarify when will it occur?  b) Additionally, who will perform this inspection? Will it be carried out by the future JSTs, by mixed teams composed by NCA and ECB's staff, or by teams composed exclusively by the ECB's staff?
Report	148	Amendment	The article should provide for the report to be shared with the supervised entity to which it refers.
Supervisory decisions taken by NCAs	150	Clarification	This article predicts that the decisions taken by the NCAs until 4 Nov 2014 shall remain unaffected. However, 2014 is the first year of application of CRR-CRD 4, which means that all NCAs have decided upon the application of national discretions in their own Member States. Is it predictable that the ECB might change any decisions previously taken by the NCAs in order to obtain the maximum harmonization and assure the existence of a SRB? Or to change decisions on national discretions?



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Right of appeal	Part X	Amendment	We believe that the current Regulation should allow for an appeal of the ECB's decisions to the European Court of Justice. The effects of a decision by the ECB should be suspended until the judicial review has been concluded.
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