

PUBLIC CONSULTATION
DRAFT ECB SSM FRAMEWORK REGULATION
TEMPLATE FOR COMMENTS

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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	Banco Santander	Country	Spain
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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
Agreement on the use of the English language with significant supervised entities.	24	Clarification	More clarity would be welcomed with respect to the scope of the agreement to communicate in English for significant institutions. Especially with respect third parties documents (contracts, judicial resolution, etc.). While we do not see a problem with our internal documentation (internal policies and protocols), providing “official” translations of the third parties documentation could prove to be costly, while providing an unofficial translation and/or summary could entail legal responsibilities. Thus, we think it would be advisable to define ex-ante the type of documentation that would be affected by the agreement. We think that when documentation related with the day to day activities (minutes, contracts, etc) has to be provided under the supervisory process, it should be provided in the language of the country unless otherwise expressly requested.

			<p>Moreover, it would be appropriate for the agreement be understood on a best effort basis principle. In some situations, it might be more convenient and efficient for both the supervisor and the entity to communicate in the language of the country of residence, provided effective SSM supervision is not undermined.</p>
General principles for the conduct of supervisory procedures by the ECB	25t38	Clarification	<p>We are concerned by the fact that the SSM must ensure compliance with 18 different prudential national regimes, although harmonized. We think the SSM will be instrumental in achieving a level playing field within the euro area banks but the existence of national discretions could block such process. We consider advisable that the SSM develops a medium term strategy to foster further regulatory convergence making use of the tools at its disposal: cooperating with the EBA to issue guidelines, Pillar 2 decisions, enhancing disclosure on national discretions, ...</p> <p>We have the same concern with the accounting rules, still divergent, where the SSM has no competence.</p>
Procedures relating to the SSM's micro-prudential and macro-prudential tasks	89 to 95	Clarification	<p>We think that more clarity is necessary with respect to the point of entry in each circumstance for a significant institution.</p> <p>Should a significant institution contact the coordinator of the Joint Supervisory Team (JST) for all the matters related to consolidated supervision or can it go through the local sub-coordinator of the country where the parent is located if not otherwise requested? We think that it may be worth exploring the possibility that the local sub-coordinator of the country where the parent is located becomes the contact point for consolidated supervision on day- to-day basis.</p> <p>Could a significant institution be approached at the parent and subsidiary level for matters at the consolidated level? Could a significant institution be approached also at both levels for matters at the individual level? We consider that it would be better to have a single point of contact for all the requests at consolidated level and individual level respectively to avoid duplicating and</p>

			<p>uncoordinated requests.</p> <p>We understand that the supervision at the consolidated level will be performed by the ECB and that the supervision at individual level will be performed by the local teams. How does it work for the parent given the special role of this legal unit within the group? As we have said above we consider that the sub-coordinator of the country where the parent is located has to play a special role within the JST. Besides being responsible for the individual supervision of the parent, we think that it should play a special role in the consolidated supervision.</p>
Macro prudential tools	Part VIII	Clarification	<p>With respect to the powers of the SSM of imposing stringent macro prudential measures, we think that a cautious approach is advisable given these measures are still to be tested. For the first time, institutions will face “dynamic requirements” which result in higher uncertainty. To the extent possible, the approach should be such that institutions could anticipate the dynamics of these requirements and adjust their behaviour. The major success of macro-prudential measures is that you never need to apply them because they work through the expectations channel.</p>
Report on supervisory history and risk profile	148	Clarification	<p>With respect to the supervisory report with the history and risk profile of the institution that the local supervisor has to submit to the SSM by 4th of August, we think that consistency should be ensured between this report and the comprehensive assessment.</p> <p>Besides, it is not clear whether the institutions will have access to the contents (template and/or data) of this report. We find it convenient, especially if it contains any information that has not already been gathered in the first phases of the Comprehensive Assessment (RAS, AQR)</p>



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Continuity of existing procedures	149	Choose one option	We welcome the decision to give continuity to the decisions made by local supervisors by the 4 th of November. The transition should be as smooth as possible to avoid bottle necks and unnecessary uncertainty.
Continuity of existing arrangements	152	Clarification	We think is a good idea the decision to subrogate into the bilateral agreements with third country authorities, but we wonder whether third country authorities would passively accept to remain under the same agreements with the SSM as counterparties or could it be possible they ask for further reassurance? It is extremely important for Euro area global banks that the SSM establishes fluent relationships with third country authorities based on mutual trust and previous relationships built by local supervisors.
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