



EUROPEAN CENTRAL BANK

BANKING SUPERVISION

SSM Supervisory Manual

European banking supervision:
functioning of the SSM and
supervisory approach

BANKENTOEZICHT

March 2018

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Use of the Supervisory Manual

The Supervisory Manual describes the organisational set-up of the Single Supervisory Mechanism (SSM) and defines the methodologies, processes and procedures for banking supervision in the euro area. It also explains how the SSM cooperates with other authorities in the wider institutional framework.

The Manual first describes how the SSM is organised and how it discharges its supervisory tasks and then details how supervision is conducted in practice.

It is not a legally binding document, does not establish new regulatory requirements and cannot, in any way, replace the legal requirements laid down in the relevant applicable EU law. It sets out the approach to be followed by the SSM in carrying out its supervisory tasks. The SSM is empowered to depart from the general policy established in this Manual if there are factors in specific cases that justify doing so and if sufficient rationale is provided. The divergent policy choice must also be compatible with the general principles of EU law, in particular equal treatment, proportionality and the legitimate expectations of supervised entities. This is consistent with established case-law of the Court of Justice of the European Union where internal guidance, such as this Manual, is defined as rules of practice from which EU institutions may depart in justified cases. For example, paragraph 209 of the judgement of the Court of Justice of the European Union of 28 June 2005 in Joined Cases C-189/02, C-202/02, C-205/02 to C-208/02 and C-213/02 stipulates: *“The Court has already held, in a judgment concerning internal measures adopted by the administration, that although those measures may not be regarded as rules of law which the administration is always bound to observe, they nevertheless form rules of practice from which the administration may not depart in an individual case without giving reasons that are compatible with the principle of equal treatment. Such measures therefore constitute a general act and the officials and other staff concerned may invoke their illegality in support of an action against the individual measures taken on the basis of the measures.”*

The ECB is publishing this Manual, drafted with the assistance of the national competent authorities (NCAs), as part of its transparency policy.

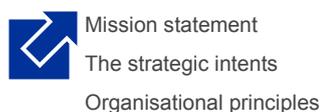
Introduction

The Single Supervisory Mechanism (SSM) was set up as the first pillar of the European banking union, alongside the Single Resolution Mechanism (SRM) and the Common Deposit Guarantee Scheme (DGS) now being discussed. The three pillars rest on the foundation of the single rulebook, which applies to all EU countries. European banking supervision aims to contribute to the safety and soundness of credit institutions and the stability of the financial system by ensuring that banking supervision across the euro area is of a high standard and is consistently applied to all banks.

While retaining ultimate responsibility, the European Central Bank (ECB) carries out its supervisory tasks within the SSM, comprising the ECB and national competent authorities (NCAs). This structure provides for strong and consistent supervision of all supervised entities across the euro area, while making the best use of the local and specific know-how of national supervisors.

On the basis of the tasks entrusted to the ECB by the European legislator, the SSM authorities have defined a mission statement for the SSM and determined its supervisory principles.

Mission statement



Within the SSM, composed of the ECB and NCAs, the ECB carries out its supervisory tasks. The ECB is responsible for the effective and consistent functioning of the SSM, with a view to carrying out intrusive and effective banking supervision, contributing to the safety and soundness of the banking system and the stability of the financial system.

In pursuing our objectives, we in the SSM attach utmost importance to credibility and accountability. In performing our tasks we are transparent while fully observing the applicable confidentiality requirements. We aim for effective communication with the citizens of Europe. We are committed to conducting our relations with European and national authorities in full accordance with the relevant law and with due regard to the principle of independence.

We develop a supervisory approach that meets the highest international standards. We will implement the EU policies on the prudential supervision of banks in a coherent and effective manner, based on a best practice framework for independent, forward-looking and risk-based supervision. We respect the principle of proportionality, the unity and integrity of the internal market and the public interest. We observe good governance and perform our tasks in a spirit of cooperation and teamwork.

The strategic intents of the Eurosystem and the Single Supervisory Mechanism

Acknowledged authority in monetary and financial matters

Building on its solid constitutional basis, its independence and its internal cohesion, the Eurosystem, the central banking system of the euro area, acts as the monetary authority of the euro area and as a leading financial authority, fully recognised inside and outside Europe. In pursuing its primary objective, the maintenance of price stability, the Eurosystem will undertake the necessary economic and monetary

analyses and adopt and implement appropriate policies. It will also properly and effectively respond to monetary and financial developments.

Financial stability and European financial integration

In the Eurosystem and within the Single Supervisory Mechanism (SSM), we aim to safeguard financial stability and promote European financial integration in cooperation with the established institutional structures. To this end, we will contribute to policies providing for a sound European and global architecture for financial stability.

Accountability, independence, credibility; closeness to the citizens of Europe

In the Eurosystem and within the SSM, we attach utmost importance to credibility and accountability and we will be transparent while fully observing the applicable confidentiality requirements. We aim for effective communication with the citizens of Europe. We are committed to conducting relations with European and national authorities in full accordance with the Treaty provisions and with due regard to the principle of independence. To this end, we will keep abreast of the transformations and developments affecting money and financial markets and will be sensitive to the public interest and market needs.

Shared identity, clarity of roles and responsibilities and good governance

In the Eurosystem and the SSM, we aim to strengthen our shared identities within a framework of clearly defined roles and responsibilities for all participants. To this end, both the Eurosystem and the SSM will build on the potential and deep involvement of all their members, as well as on their commitment and willingness to work towards agreement. Furthermore, the Eurosystem and the SSM are committed to good governance and to applying effective and efficient organisational structures and working methods.

Best practice in banking supervision; equal treatment and level playing field

We in the SSM will measure our supervisory framework against the highest international standards. We will combine the best of the national approaches to build a best practice framework for banking supervision across the participating Member States, benefiting from our view across all institutions. The SSM will ensure compliance with the single rulebook and with applicable supervisory principles and

practices, thereby ensuring a level playing field and the equal treatment of all supervised institutions.

Risk-based approach and proportionality; supervisory action

The SSM banking supervision will be agile and risk-based, involving judgement and forward-looking critical assessment. It will take into account both the probability of a failure of institutions or an institution and the impact that such a failure may have on financial stability. The supervisory practices of the SSM will follow the principle of proportionality, tailoring the intensity of supervision to the systemic importance and risk profile of the supervised banks. The SSM's approach fosters efficient and timely supervisory action and a thorough monitoring of a credit institution's response.

Organisational principles for the Eurosystem and the Single Supervisory Mechanism

For the Eurosystem, with due respect to the underlying principle of decentralisation:

Participation

All members of the Eurosystem and the Single Supervisory Mechanism (SSM) will contribute strategically and operationally to their goals.

Cooperation

All members of the Eurosystem and the SSM will perform all their functions in a spirit of cooperation and teamwork.

Transparency and accountability

All members of the Eurosystem and the SSM will act transparently and be fully responsible and accountable for the effectiveness of all their functions.

Distinguishing European and national activities

The European activities performed by national central banks and national competent authorities will be clearly identified and distinguished from those pertaining to national responsibilities.

Cohesion and unity

While respecting the legal status of their members, the Eurosystem will act as cohesive and unified entity and the SSM as a cohesive and coordinated entity. They will each work as a team and speak with one voice, aiming to be close to the citizens of Europe.

Exchange of resources

The members of the Eurosystem and the SSM will promote the exchange of personnel, know-how and experience.

Effectiveness and efficiency in decision-making

All decision-making and deliberative processes of both the Eurosystem and the SSM will pursue effectiveness and efficiency. Decision-making will focus on analysis and arguments as well as the expression of a variety of views.

Cost efficiency, measurement and methodology

The members of the Eurosystem and the SSM will manage all resources prudently and will promote effective and cost-efficient solutions in all their activities.

The Eurosystem and the SSM will develop control systems and performance indicators to measure the fulfilment of their functions and alignment with their objectives.

Comparable cost evaluation and cost-reporting methods will be further elaborated and utilised.

Exploit synergies and avoid duplications

Within both the Eurosystem and the SSM, while fully respecting the separation between monetary policy and supervisory tasks, potential synergies and economies of scale will be identified and exploited to the extent feasible.

Unnecessary duplication of work and resources and excessive and inefficient coordination will be avoided. To this end, organisational options that ensure effectiveness, efficiency and prompt action, taking advantage of the experience available through intensified use of existing resources will be energetically pursued.

The outsourcing of Eurosystem support functions and activities will be considered against the same criteria and will take security aspects into account.

1 Functioning of the Single Supervisory Mechanism

1.1 The organisation of the SSM

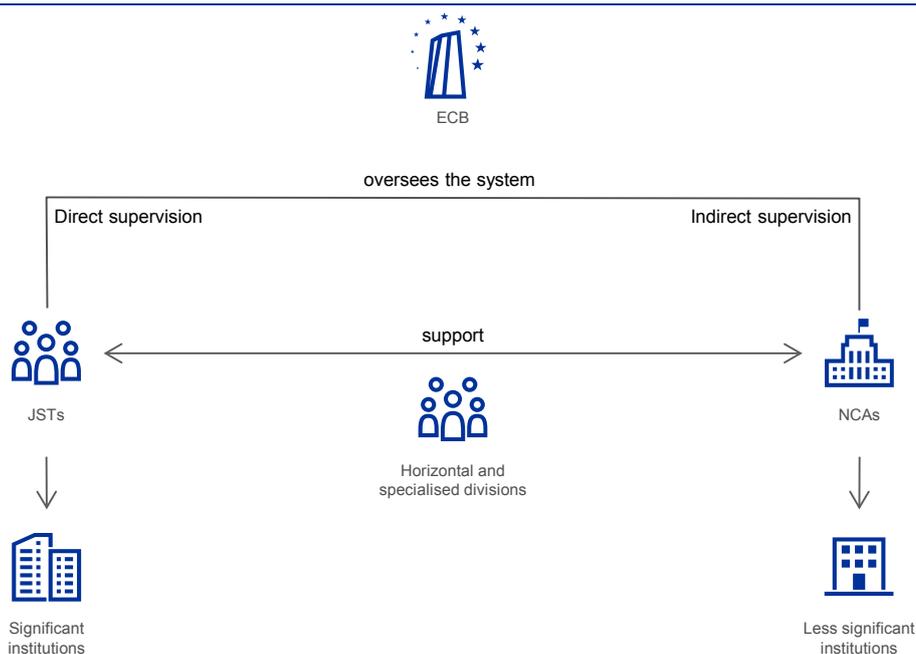
1.1.1 The distribution of tasks between the ECB and the NCAs



SSMR Articles 6, 14 and 15

The SSM is responsible for banking supervision in the participating Member States. To ensure efficient supervision, the respective supervisory roles and responsibilities of the ECB and the NCAs are allocated on the basis of the significance of the supervised entities. All entities under the SSM's supervision are subject to a common supervisory approach.

Figure 1
Distribution of tasks within the SSM



Source: ECB Banking Supervision.

Within the SSM, the ECB, assisted by the NCAs, directly supervises all institutions that are classified as significant (significant institutions or SIs). The [lists of significant and less significant institutions](#) are published on the ECB's banking supervision website and are updated on a regular basis. The NCAs conduct the direct supervision of less significant institutions (LSIs), subject to the oversight of the ECB. Under certain conditions, the ECB can also take over the direct supervision of LSIs.

The SSM is also involved in the supervision of cross-border institutions and groups, either as a home supervisor or a host supervisor in colleges of supervisors.

Moreover, as a banking supervisor, the SSM participates in the supplementary supervision of financial conglomerates.

Supervisory decisions in the SSM are prepared by the Supervisory Board, composed of ECB and NCA representatives, and adopted by the Governing Council under the non-objection procedure that is described later in this Manual (see Section 1.3.2).

1.1.2 Accountability



SSMR Articles 20 and 21

ECB Decision on public access to ECB documents in the possession of the national competent authorities (ECB/2015/16)

ECB Guideline laying down the principles of an ethics framework for the SSM (ECB/2015/12)

Accountability is essential for the transparency, legitimacy and independence of supervisory decisions. The ECB can be held accountable for the way it discharges its supervisory tasks. Decisions directly affecting individual institutions may be subject to an internal review procedure before the [Administrative Board of Review \(ABoR\)](#). They can be brought to the [Court of Justice](#) of the European Union. . By contrast, NCA decisions in respect of LSIs can be brought before national courts. The ECB is also accountable to European citizens through the European Parliament, and to some extent through national parliaments, and through the [EU Council for its supervisory activities](#). There are four main channels of political accountability for the ECB:

1. The Chair of the Supervisory Board attends regular *hearings and ad hoc exchanges of views* in the European Parliament and in the Eurogroup in the presence of representatives of all Member States participating in the SSM. National parliaments can also invite the Chair or another member of the Supervisory Board, along with a representative from the respective NCA.
2. The ECB provides the European Parliament's Committee on Economic and Monetary Affairs with the records of proceedings of all Supervisory Board meetings, including a comprehensive and meaningful account of the Supervisory Board's discussions and an annotated list of its decisions.
3. Members of the European Parliament and the Eurogroup can address written questions to the Chair of the Supervisory Board. Also, national parliaments can ask the ECB to respond to any observations or questions they might have.
4. The ECB submits a publicly available [annual report](#) to the European Parliament, the EU Council, the Eurogroup, the European Commission and the national parliaments of participating Member States on how it has carried out its supervisory tasks.

The accountability framework of the ECB is further articulated in the SSM Regulation, an [Interinstitutional Agreement](#) between the European Parliament and the ECB, and a [Memorandum of Understanding \(MoU\)](#) between the EU Council and the ECB.

In addition, every three years, the European Commission publishes a report on the application of the SSM Regulation, notably monitoring its potential impact on the smooth functioning of the internal market. The European Court of Auditors has the

power to examine the operational efficiency of the management of the ECB (see Section 1.4.5) and the International Monetary Fund (IMF) carries out regular reviews through the Financial Sector Assessment Programme (FSAP) (see [Section 1.4.6](#)).

1.2 Operating structure of the SSM

1.2.1 Organisation of ECB Banking Supervision

Separation principle



SSMR Article 25

ECB Decision on the implementation of separation between the monetary policy and supervision functions of the ECB (ECB/2014/39)

In response to the financial crisis, the EU Council and the European Parliament entrusted the ECB with supervisory tasks. The ECB acquired these tasks in addition to its monetary policy function. To prevent conflicts of interest between the ECB's monetary policy and supervisory tasks, the ECB has to ensure a separation so that each function is exercised in accordance with its applicable objectives.

The ECB has an independent [Supervisory Board](#), which proposes draft supervisory decisions to the [Governing Council](#). The Governing Council may adopt or object to the proposed decisions but cannot in principle modify them. Moreover, the Governing Council's deliberations on supervisory matters are kept strictly apart from those on other ECB functions, with separate agendas and meetings.

The separation principle also encompasses rules on information-sharing between the ECB's two functions. Confidential information must only be shared on a need-to-know basis, without compromising the objectives of either policy area. The [Executive Board](#) decides on access rights to confidential information.

Separation at the staff level is ensured by the establishment of four dedicated Directorates General in charge of microprudential supervision and a Directorate General Secretariat to the Supervisory Board (DGSSB), which report functionally to the Chair and Vice-Chair of the Supervisory Board.

Directorates General Microprudential Supervision

The four Directorates General (DGs) and the Directorate General Secretariat to the Supervisory Board perform the supervisory tasks conferred on the ECB in cooperation with the NCAs.

- DGs Microprudential Supervision I and II (DGs MS I and II) are responsible for the direct day-to-day supervision of significant institutions.
- DG Microprudential Supervision III (DG MS III) is responsible for the oversight of the supervision of less significant institutions performed by NCAs and for all common procedures pertaining to LSIs.

- DG Microprudential Supervision IV (DG MS IV) performs horizontal and specialised tasks in respect of all credit institutions under the SSM's supervision and provides expertise and support to DGs MS I and II, for example with regard to internal models and on-site inspections.
- Additionally, the Directorate General Secretariat to the Supervisory Board (DGSSB) is composed of the Decision-Making Division, which supports the activities of the Supervisory Board by assisting in meeting preparations and related legal issues and of three Divisions regarding Authorisations, Quality Assurance and Enforcement and Sanctions, which offer horizontal functions to the SSM.

The role of the DGSSB and the four DGs in the decision-making process is described below (see Section 1.3).

Shared services

In addition to the four DGs in charge of microprudential supervision and the DGSSB, the ECB's shared services provide support to both the monetary policy and the supervisory function.

These shared services cover the following areas: human resources, information systems, communications, budget and organisation, premises, internal audit, legal services and statistics. They allow the ECB to exploit operational synergies while respecting the required separation between monetary policy and banking supervision. The Directorate General Statistics, for example, regularly publishes a [comprehensive set of supervisory banking statistics](#) on the ECB's banking supervision website. The dataset is updated on a quarterly basis and includes information on banks designated as significant institutions, covering aspects such as banks' profitability, capital adequacy and the quality of their assets.

1.2.2 Joint Supervisory Teams



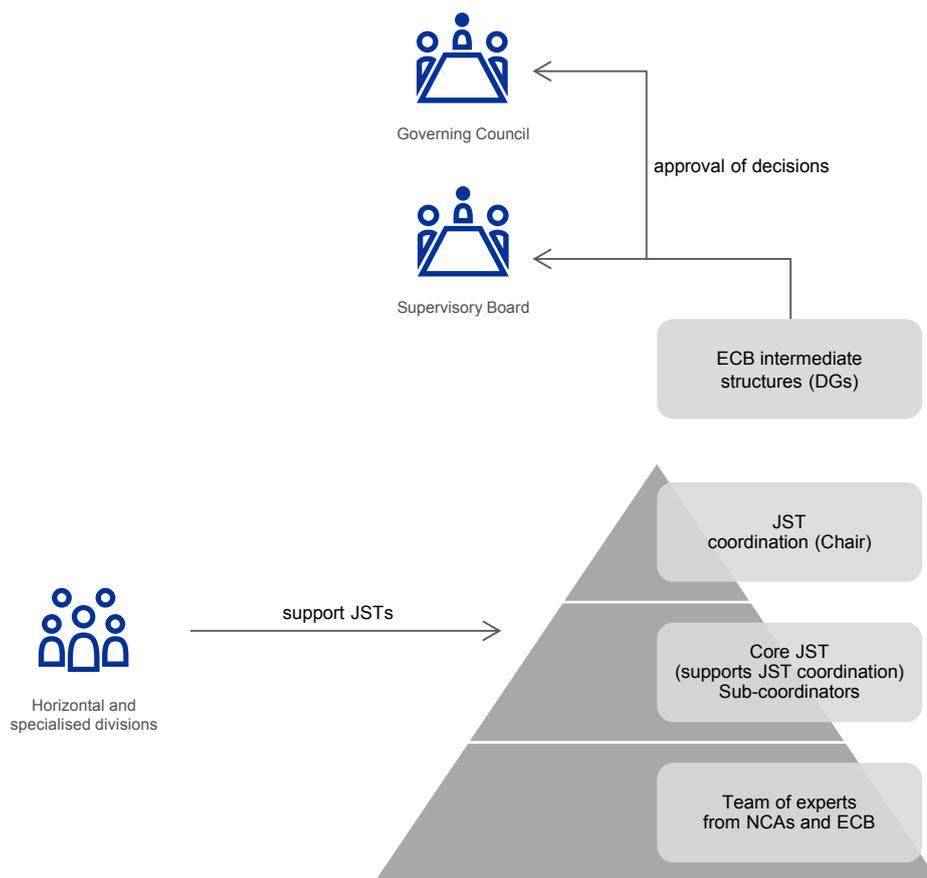
SSMFR Articles 3, 4, 5 and 6

The day-to-day supervision of significant institutions is conducted by Joint Supervisory Teams (JSTs) working in DGs MS I and II. As shown in [Figure 2](#), the JSTs comprise staff from both the ECB and the NCAs of the countries in which the significant institutions, including their banking subsidiaries or significant cross-border branches, are established. A JST is established for each SI at the highest level of consolidation. The size, overall composition and organisation of a JST varies depending on the nature, complexity, scale, business model and risk profile of the supervised entity.

The JST is responsible for drafting and organising the [Supervisory Examination Programme](#) and for conducting ongoing supervisory work at the consolidated, sub-consolidated and solo levels. These tasks encompass assessments of an institution's risk profile, business model and strategy, risk management systems, internal control systems and internal governance. Essential elements of this work are

the performance of the [Supervisory Review and Evaluation Process](#) and maintenance of a regular dialogue with the supervised institution. The JST members may also participate in [on-site inspections and internal model investigations](#).

Figure 2
Functioning of the Joint Supervisory Teams



Source: ECB Banking Supervision.

For certain tasks focusing on a specific theme or requiring particular technical expertise, the JSTs may require additional support from the horizontal and specialised expertise divisions of the ECB. Horizontal and specialised functions also give input to, and provide procedures for, the JSTs in order to develop a common understanding and a coordinated approach.

The JST coordinator and the sub-coordinators

Each JST is led by a coordinator at the ECB. NCA sub-coordinators support the JST coordinator in the day-to-day supervision of significant institutions, also reflecting the views of the relevant NCAs. For instance, they contribute to the preparation and revision of the Supervisory Examination Programme.

JST coordinators are appointed for a period of three to five years. JST coordinators and members are expected to rotate on a regular basis, bearing in mind that not all JST members can rotate at the same time.

Core JST

The JSTs of banks operating with a significant presence in more than one participating Member State establish a core JST. The core JST is chaired by the JST coordinator and is composed of the sub-coordinators of all the relevant national supervisors depending on the materiality of the local subsidiary or branch. The core JST is responsible for organising the allocation of tasks among JST members, preparing and revising the Supervisory Examination Programme, monitoring its implementation and reviewing the assessment.

1.2.3 Organisation of the oversight function



SSMR Articles 4, 6, 12 and 31
SSMFR Articles 43, 62, 67, 70,
96, 97, 98, 99 and 100

The NCAs are responsible for directly supervising LSIs. They plan and carry out their ongoing supervisory activities using their own resources and decision-making procedures. Additionally, NCAs perform supervision in areas that are not covered by the SSM Regulation.

The ECB (DG MS III) is responsible for the effective and consistent functioning of the SSM and ensures that the supervisory methodologies applied by the NCAs are of high quality. In that context, the ECB is entrusted with an oversight responsibility to ensure consistent supervision based on the application of high supervisory standards. DG MS III achieves these objectives (i) by considering the application to LSIs of the supervisory approaches developed by DG MS IV for SIs, in a proportional manner, and (ii) by developing joint supervisory standards for the supervision of LSIs.

When performing its oversight tasks, the ECB collaborates closely with the NCAs. Cooperation between the ECB and NCAs is essential to create a common supervisory culture across the SSM and to ensure a consistent functioning of the system. The ECB conducts oversight by issuing joint supervisory standards for NCAs supervision of LSIs, as well as by collecting and processing information from the NCAs and by performing thematic reviews. Such information gives an overview of NCAs' supervisory practices and decisions as well as of the LSIs and LSI sectors.

In this context, the ECB's oversight function encompasses the NCAs' supervision of LSIs in order to identify fragile institutions and ensure consistent, high supervisory standards across the SSM. For its oversight function, the ECB applies a proportional and risk-oriented approach. As a consequence, reporting requirements as well as DG MS III oversight activities may be increased for higher priority institutions where necessary. Accordingly, the ECB is involved in the crisis management of LSIs through its crisis oversight activities.

Occasionally, ECB staff provide expertise and support to NCAs, for example by participating in on-site inspections. To help foster a common supervisory culture, the ECB also promotes staff exchanges among NCAs.

1.2.4 Horizontal and specialised expertise functions

Horizontal and specialised divisions of DG MS IV support the supervision of both SIs and LSIs. The horizontal divisions interact closely with the JSTs by, for example, defining and implementing common methodologies and standards, and by offering support on methodological issues. These divisions ensure the development of a common understanding and a coordinated approach. They perform specialised tasks and analyses and provide expert support to the JSTs and NCAs.

1.2.5 Communication within the SSM

As described above, the SSM relies on close cooperation between the ECB and NCAs. Smooth cooperation and a continuous exchange of information between the ECB and the NCAs, and within the ECB, enable the SSM to function properly and achieve high-quality supervisory outcomes.

Cooperation between the ECB and the NCAs

The principle of cooperation in good faith applies to all supervisory activities. For the direct supervision of significant institutions, DGs MS I and II cooperate with the NCAs on a daily basis through the respective JSTs. For its oversight of the supervision of less significant institutions, DG MS III maintains close contact with the NCAs through a dedicated senior management network.

The NCAs also contribute to the work of horizontal and specialised divisions through various types of fora such as networks of experts.

Furthermore, the Supervisory Board may decide to establish working groups, composed of ECB and NCA representatives, to focus on specific horizontal topics and support the work of the horizontal divisions.

Information management

The ECB's information management policy promotes and supports the systematic, effective and efficient creation, use, management and retrieval of information. The policy allows information to be shared between the ECB and the NCAs on a need-to-know basis.

This policy is implemented through the ECB's information management system, which provides the technical basis for ensuring that all JSTs apply the common methodology and standards for banking supervision.

1.2.6 Staff allocation and financial resources

Staff allocation for the supervision of significant and less significant institutions

The supervisory practices of the SSM are risk-based and proportionate. The practices take into account both the degree of damage which the failure of a supervised entity could cause to financial stability and the possibility of such a failure occurring. They are also commensurate with the risk profile of the entity being supervised. These supervisory principles aim to ensure effective and thorough supervision, while at the same time facilitating efficient allocation of finite supervisory resources.

For the ECB's direct supervision, the Planning and Coordination of SEP Division, along with the relevant horizontal functions and NCAs, coordinates the allocation of SSM resources and expertise. The JSTs carry out the operational planning under ECB coordination. For each significant bank, they produce a Supervisory Examination Programme (SEP), which sets out the main supervisory tasks and activities for the following 12 months, their tentative schedules and objectives and the need for on-site inspections and internal model investigations. On-site inspections are planned and staffed in close cooperation with the NCAs, which provide most of the heads of mission and team members. The SEP is described in detail in Section 4.1.3.

For the direct supervision of less significant institutions, the NCAs plan and carry out their ongoing supervisory activities in line with the SSM's overall strategy, using their own resources and decision-making procedures.

NCAs are encouraged to participate in staff exchanges with the ECB and among themselves, of varying duration and at different levels of the organisation. The terms and conditions for such staff exchanges are determined in advance and on a case-by-case basis. Staff exchanges promote the multinational nature of JSTs and allow them some flexibility when they require extra support or specific expertise. ECB and NCA staff also follow a common training programme, which helps to increase consistency in supervisory practices and to promote a common supervisory culture.



SSMR Article 20

ECB Regulation on supervisory fees (ECB/2014/41)

ECB Decision on the methodology and procedures for the determination and collection of data regarding fee factors used to calculate annual supervisory fees (ECB/2015/7)

Financial resources

The ECB covers the costs of its supervisory tasks and responsibilities by levying an annual fee on all supervised banks in the euro area, without prejudice to the right of NCAs to levy fees in accordance with national law. The total amount of **annual supervisory fees** is published by 30 April each year in an ECB decision. The overall costs are then split into two categories:

- direct supervision: to be levied on significant institutions, which are directly supervised by the ECB;
- indirect supervision: to be levied on less significant institutions, which are directly supervised by the respective national supervisors.

The fee for a supervised entity is composed of a minimum component and a variable component. The minimum component is a fixed percentage of the total amount of annual fees within the aforementioned categories. The variable component is calculated on the basis of fee factors related to a bank's size and risk profile, including its risk-weighted assets. These fee factors are measured by the total value of assets and the total risk exposure respectively.

The expenditure incurred by the ECB for the conduct of supervisory tasks consists primarily of the direct expenses of ECB Banking Supervision and the shared services utilised for the supervisory function. This expenditure is separately identifiable within the ECB's budget.

The ECB's budgetary authority is vested in the Governing Council, which adopts the ECB's annual budget following a proposal of the Executive Board after consultation with the Chair and Vice-Chair of the Supervisory Board for matters related to banking supervision.

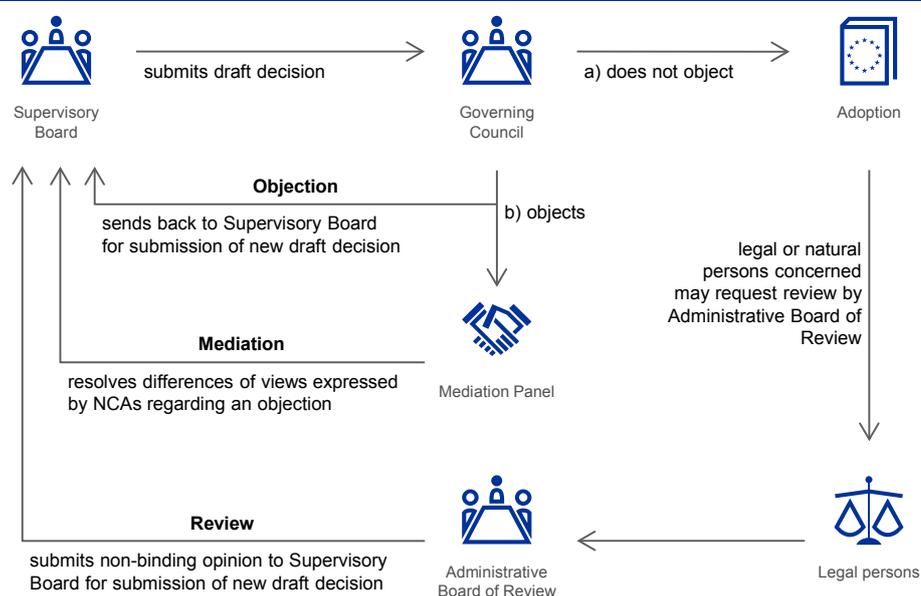
The ECB submits a report on the envisaged evolution of the structure and amount of the annual supervisory fees each year to the European Parliament, the EU Council, the European Commission and the Eurogroup.

1.3 Decision-making within the SSM

As a rule, decisions related to the performance of the ECB's supervisory tasks are adopted by the Governing Council under the **non-objection procedure**. Under this procedure, complete draft decisions are approved by the Supervisory Board and subsequently submitted to the Governing Council for final adoption. The complete draft decisions are deemed adopted if the Governing Council does not object within a maximum period of ten working days.

The non-objection procedure is not only applied for individual supervisory decisions but is also used for ECB legal acts concerning the performance of supervisory tasks, policy documents or other forms of communication committing the ECB externally in the exercise of its supervisory tasks.

Figure 3
Non-objection procedure



Source: ECB Banking Supervision.

The non-objection procedure is, however, not the only decision-making procedure in the ECB. Other decision-making procedures may apply and the delegation of decision-making powers for certain types of supervisory decisions has been put in place, e.g. for some decisions on the assessment of fit and proper requirements and amendments to significance decisions. Supervisory actions other than decisions are described in Section 1.3.4.

1.3.1 Decision-making



- SSMR Article 26
- SSMFR Parts VI and VII
- TFEU Article 283
- ECB Statute Article 11.6
- ECB Decision on the appointment of representatives of the ECB to the Supervisory Board (ECB/2014/4)
- Rules of Procedure of the Supervisory Board
- Code of Conduct for the members of the Supervisory Board
- Rules of Procedure of the ECB
- Rules of Procedure of the Mediation Panel

The following paragraphs describe the parties involved and their respective responsibilities in the decision-making process.

Governing Council

The Governing Council is the ultimate decision-making body in the exercise of the ECB's tasks, including supervisory tasks. As a rule, legal acts pertaining to banking supervision are adopted under the non-objection procedure. This procedure is established by the SSM Regulation giving due weight to the role of the Supervisory Board as the internal body of the ECB which is responsible for the planning and execution of supervisory tasks, including the approval of complete draft decisions. Under this procedure, the Governing Council cannot change complete draft decisions but can only approve or object to them.

Executive Board

The Executive Board is responsible for managing the current business of the ECB. The Vice-Chair of the Supervisory Board is a member of the Executive Board.

Supervisory Board

The Supervisory Board is responsible for the planning and execution of the ECB's supervisory tasks as set out in the SSM Regulation. The Supervisory Board's approval is required for all draft supervisory decisions with legally binding effect, prior to their submission to the Governing Council for final adoption under the non-objection procedure. [The Supervisory Board](#) is composed of the Chair, Vice-Chair, four ECB representatives, one representative of each NCA and one representative of each NCB if the NCA is not a central bank. However, for the purposes of voting, the representatives of the NCA and the NCB of any one Member State are considered as one member.

The Steering Committee supports the activities of the Supervisory Board and prepares the Board's meetings. It is composed of a smaller group of Supervisory Board members and has no decision-making powers.

Directorates General Microprudential Supervision I-IV

The JSTs in DGs MS I and II are the predominant originators of draft decisions addressed to supervised entities. They prepare draft decisions based on information obtained through ongoing supervision, including on-site inspections or internal model investigations. The Decision-Making Division, which is part of DGSSB, works in close cooperation with the JSTs in the preparation of supervisory decisions and their decision-making process, including the fulfilment of due process requirements.

DG MS III may also be the originator of draft decisions, mainly for common procedures related to LSIs and proposals for general instructions addressed to NCAs with regard to groups or categories of LSIs.

DG MS IV is directly involved in the decision-making process for on-site inspections, and the issuance of new regulations, policies or methodologies. DG MS IV is also indirectly involved through the provision of specialised support to the JSTs, notably with regard to the SREP decisions, e.g. by providing horizontal analyses on an ex ante basis.

Directorate General Secretariat to the Supervisory Board

The Directorate General Secretariat to the Supervisory Board (DGSSB) is composed of the Decision Making Division, as well as three divisions concerning respectively Authorisations, Quality Assurance and Enforcement and Sanctions that perform

horizontal functions. The Decision-Making Division, , supports and ensures efficient decision-making, guaranteeing the institutional quality of the decision-making process. The Decision-Making Division provides support to the Supervisory Board's activities. This includes the preparation and follow-up of meetings and written procedures, as well as the drafting and review of proposals and decisions. The Decision-Making Division assists all business areas in preparing documentation for the Supervisory Board and advises on the decision-making process. The Decision-Making Division liaises with the Secretariat of the Governing Council on all decision-making processes pertaining to the ECB's supervisory tasks and supports the preparation of the Governing Council meetings on supervisory matters.

National competent authorities

In addition to NCA participation in JSTs, the NCAs play an important role in the decision-making process in their own right. They may propose draft supervisory decisions. For [common procedures](#), the SSM Regulation explicitly provides that the ECB should take a decision on the basis of an NCA proposal. NCAs remain in charge of all supervisory tasks which were not transferred to the SSM, such as consumer protection or anti-money laundering.

Mediation Panel

If the Governing Council objects to a decision submitted under the non-objection procedure, an NCA which is concerned by the decision and has different views may submit a request to the Supervisory Board for mediation in order to resolve such differences, with a view to ensuring separation between monetary policy and supervisory tasks. The objection will be dealt with by the Mediation Panel which includes one member per participating Member State, chosen from among the members of the Governing Council and the Supervisory Board, and decides by simple majority, with each member having one vote.

1.3.2 Types of supervisory action



TFEU Articles 132, 139(2)(e) and 288(2)

SSMR Article 4 and Chapter III Section 2

SSMFR Title 2

A **supervisory decision** is a legal act adopted by the ECB in the exercise of the tasks and powers conferred on it by the SSM Regulation and is usually addressed to a credit institution. The decision grants rights and/or imposes obligations modifying the situation for the addressee. The decision may include ancillary provisions such as time limits, conditions, obligations or non-binding recommendations. While conditions make the effectiveness of the decision dependent on specific events, obligations are additional requirements which the addressee must fulfil, usually within a specified deadline. Unless adopted by means of delegation, a decision is approved in draft form by the Supervisory Board and subsequently submitted to the Governing Council for adoption under the non-objection procedure. However, if the decision adversely affects the addressee, the final ECB supervisory decision is

adopted after the addressee's hearing period has expired, taking due account of the points raised by the parties. The final supervisory decision has a legally binding effect on the addressee.

Apart from supervisory decisions, several other types of supervisory action can be taken, depending on the applicable legal framework, the intended effect of the action, the addressee(s) and proportionality.

An **operational act** does not form part of the formal decision-making process. It does not have a required legal form and comprises non-binding and non-enforceable supervisory expectations, statements and other acts.

In cases where the issue is of certain importance, the Supervisory Board might be asked to agree to a specific supervisory approach *ex ante* or might be informed *ex post*. Where necessary, following an operational act, the ECB may adopt a supervisory decision with identical or similar content.

Recommendations can be adopted to express non-binding supervisory expectations of the ECB, either to supervised entities or relevant third parties, or to the NCAs.

Recommendations to supervised entities are legal acts of general application, approved by the Governing Council under the non-objection procedure and published on the ECB's banking supervision website as well as in the Official Journal of the European Union. These recommendations are used as a tool to communicate the ECB's supervisory approach to the public.

Recommendations addressed to NCAs are non-binding and serve as an alternative to the binding guidelines, allowing NCAs more flexibility. Such recommendations may be specifically related to the supervision of less significant institutions, or may extend the scope of an existing recommendation addressed to significant institutions to less significant institutions too. They can be public or non-public. Examples of recommendations can be found on the [ECB's banking supervision website](#).

Instructions are another tool available to the ECB. First, the ECB can use this tool to instruct NCAs to make use of their powers under national law to the extent necessary to carry out the tasks conferred on the ECB by the SSM Regulation. The NCA informs the ECB about the actions taken. Second, the ECB may issue general instructions to NCAs regarding less significant institutions. These instructions refer to specific supervisory powers held by the NCA and relate to groups or categories of less significant institutions rather than any specific entity.

Decisions of general application can be used for binding procedural requirements which are applicable to all supervised entities, a subset thereof or NCAs. The main objective of these decisions is to clarify the ECB's expectations vis-à-vis supervised entities. Decisions of general application are adopted under the non-objection procedure if they determine the future, specific exercise of the ECB's supervisory tasks (see for example Decision (EU) 2015/530 in the sidebar). They are subsequently published on the ECB's banking supervision website and in the Official Journal of the European Union.



SSMR Article 9 and 6(5)



Decision (EU) 2015/530 on the methodology and procedures for the determination and collection of data regarding fee factors used to calculate annual supervisory fees (ECB/2015/7)



Guideline (EU) 2017/697 on the exercise of options and discretions available in Union law by competent authorities in relation to less significant institutions (ECB/2017/9)



Regulation (EU) 2016/445 on the exercise of options and discretions available in Union law (ECB/2016/4)

Guidelines are legal acts addressed to NCAs that are binding with regard to the results that need to be achieved, but allow for flexibility in terms of their execution. They are of particular importance for the ECB's indirect supervision of less significant institutions (see for example Guideline (EU) 2017/697 in the sidebar and others on the ECB's banking supervision website).

Regulations are of general application; they are binding in their entirety and directly applicable in euro area Member States. Regulations are published on the ECB's banking supervision website and in the Official Journal of the European Union. (See for example Regulation (EU) 2016/445 in the side bar). Moreover, the ECB may also adopt regulations to the extent necessary to organise or specify arrangements for the fulfilment of the tasks conferred to it by the SSM Regulation e.g. SSM Framework Regulation.

Guides/Guidances express the ECB's supervisory expectations. The ECB has published on its banking supervision website a number of guides/guidances to banks on topics such as options and discretions available in EU law, fit and proper assessments, leveraged transactions and the treatment of non-performing loans, etc.

1.3.3 Supervisory decisions: preparation and decision-making

Preparation of a draft decision



SSMR Article 22

A draft decision is prepared whenever a supervisory process needs to result in a decision. It can either be based on an application by a supervised entity or be initiated by a JST, NCA or ECB horizontal division.

Due process



SSMR Article 22 and 26
SSMFR Articles 31 and 33

Regulation No 1/1958 determining the languages to be used by the European Economic Community

Due process requirements include sufficient motivation of the draft decision, as well as the granting of the right to be heard (where necessary).

Motivation

ECB supervisory decisions need to be accompanied by a clear motivation, setting out the material facts, legal reasons and supervisory considerations underlying the decision.

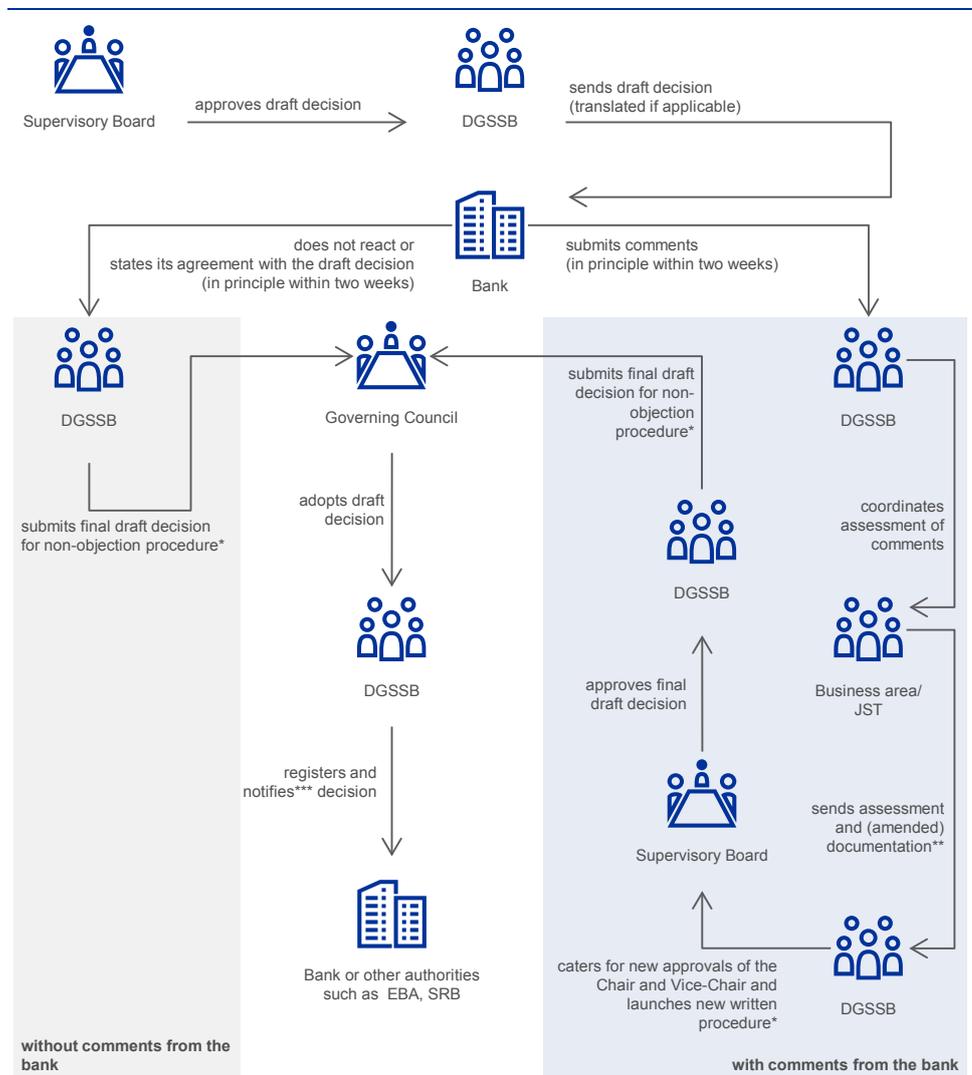
Hearing period

Addressees of ECB draft decisions that would adversely affect their rights are granted the opportunity to comment before decisions are adopted. The right to be

heard is a fundamental procedural right in the supervisory process. Besides enabling the addressee to react to the ECB's factual and legal analysis, this right ensures that the ECB's decision-making is based on a complete set of information. If the addressee submits comments within the hearing period, the draft supervisory decision is resubmitted to the Supervisory Board for approval.

The Decision-Making Division notifies the addressee of the draft decision together with a cover letter which sets out the procedure for the hearing. In principle, the addressee is granted two weeks but, under particular circumstances, this period can be shortened to a minimum of three working days.

Figure 4
Decision-making process



* The deadline for submitting comments/objections in a written procedure or non-objection procedure is five working days.
 ** Legal deadlines applicable in each specific case need to be kept in mind.
 *** Depending on the time of the President's signature, the decision is sent via email around two working days after GovC adoption.

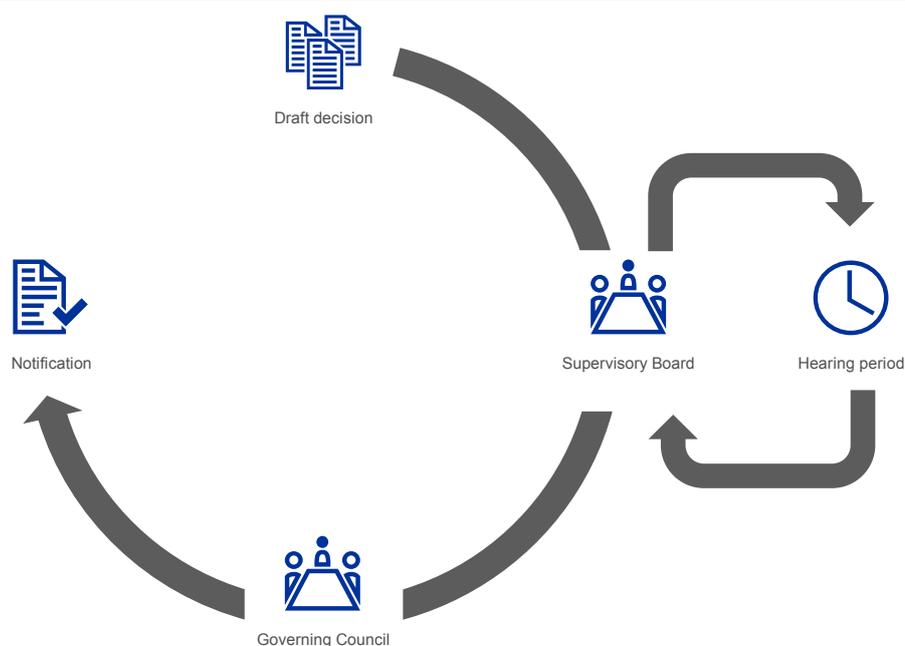
Source: ECB Banking Supervision.

The Decision-Making Division organises the hearing, which is usually conducted in writing only. In the case of an urgent decision which is necessary to prevent significant damage to the financial system, the ECB may adopt a supervisory decision which would adversely affect the rights of the addressee without giving it the opportunity to comment on the decision prior to its adoption. In this case, the hearing is postponed and a clear justification is provided in the decision as to why the postponement is necessary. The hearing is then organised as soon as possible after the adoption of the decision.

Adoption under the non-objection procedure

The four main steps of the non-objection procedure are shown in the figure below.

Figure 5
Simplified overview of the decision-making process



Source: ECB Banking Supervision.

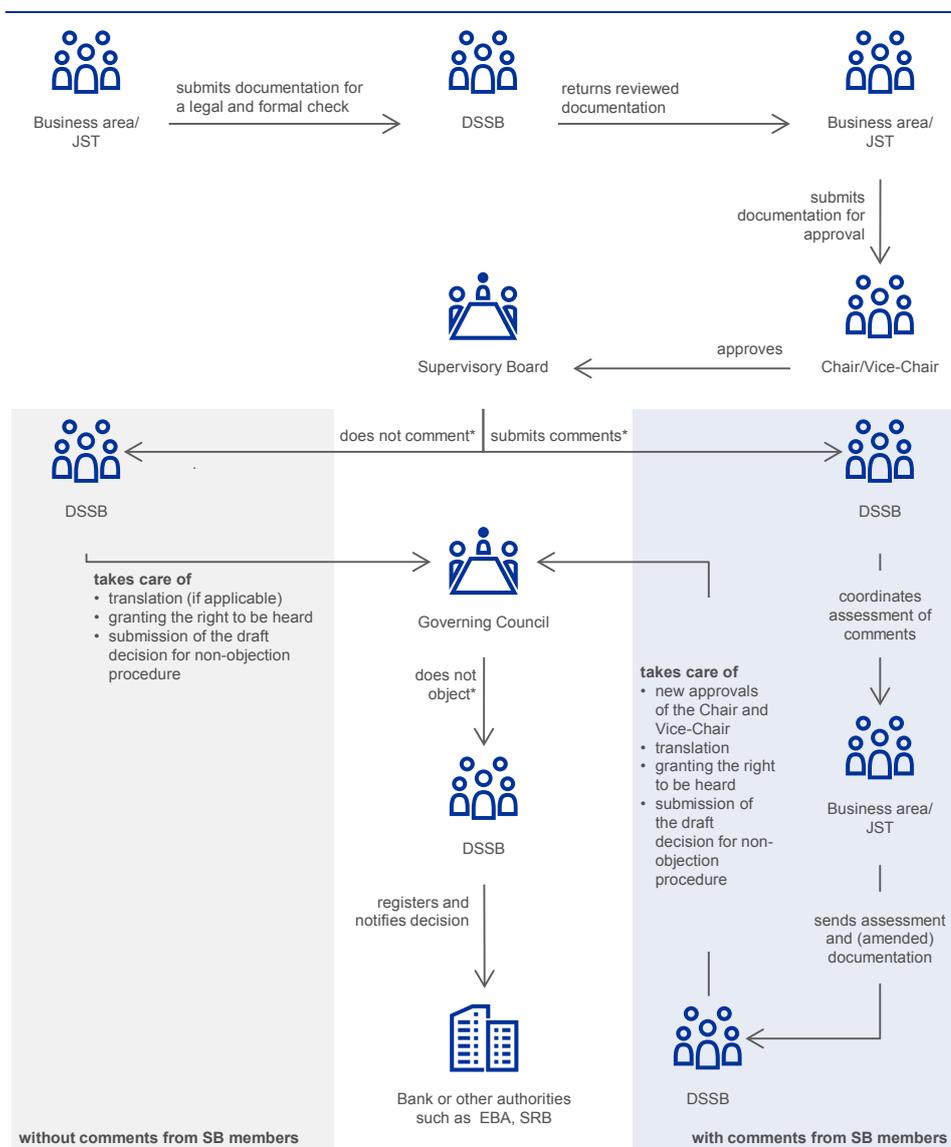
Approval by the Supervisory Board

Complete draft decisions need to be submitted to the Supervisory Board, which can approve, amend or reject them. The Supervisory Board may approve draft decisions through a written procedure or in a meeting. Most draft decisions are approved by written procedure. If three or more members of the Supervisory Board object to a vote by written procedure, the draft decision is discussed in a meeting of the Supervisory Board. The standard deadline for the Supervisory Board's written procedure is five working days.

If approval is requested by written procedure and comments are provided by the Supervisory Board members, the business area or JST prepares an assessment of comments and sends it to the Supervisory Board either for information or for a second approval process, likewise in a meeting or via written procedure.

Once the complete draft decision has been approved by the Supervisory Board, the Decision-Making Division will contact the Secretariat to the Governing Council regarding the submission to the Governing Council for the final adoption under the non-objection procedure.

Figure 6
Written procedure in the decision-making process



Source: ECB Banking Supervision.

Adoption by the Governing Council

The Governing Council is deemed to have adopted the complete draft decision unless it has objected to it within ten working days. In practice, the Governing Council regularly declares its non-objection before the ten working days have lapsed. An objection has to be motivated in writing. If the Governing Council objects, one of three procedures may be followed:

1. if an NCA which is concerned by the decision has different views regarding the objection, the NCA may request mediation;
2. if no request for mediation is submitted, the Supervisory Board may amend the draft decision in order to incorporate the comments of the Governing Council;
3. if the Supervisory Board does not submit a new draft decision, the objections are sent to the responsible business areas.

Emergency procedure

In urgent cases, the procedure described above is shortened to allow the Supervisory Board to take the necessary decisions in time.

The emergency procedure is usually triggered by a proposal originating from the JST and the management of the ECB and the NCA. To shorten the decision-making process, the deadlines for a written procedure may be adjusted or a Supervisory Board meeting can be organised at short notice. This meeting can be held by teleconference. If a quorum of 50% in the Supervisory Board for emergency situations is not met, the meeting will be closed and an extraordinary meeting will be held soon afterwards. The invitation letter to the extraordinary meeting should announce that the decisions will be taken without regard for the quorum. In emergency situations, the Supervisory Board may also request a shorter deadline for the non-objection procedure of the Governing Council, which may even convene immediately after a Supervisory Board meeting.

Adoption by means of delegation

The adoption of decisions under the non-objection procedure leads to a very high number of draft supervisory decisions being approved by the Supervisory Board and adopted by the Governing Council every year, with varying levels of complexity and impact on supervised entities. The delegation of decision-making powers with regard to the ECB's supervisory tasks therefore ensures a more proportionate and efficient decision-making process for banking supervision. The delegation framework enables clearly defined decision-making powers to be delegated to ECB heads of work units, subject to the adoption of a delegation decision by the Governing Council and the nomination of the relevant heads of work units by the Executive Board.

Delegation framework

The institutional framework enabling the adoption of supervisory decisions by means of delegation consists of:

1. a general framework decision, determining the internal organisation of the ECB's decision-making process;
2. delegation decisions, setting out the criteria for the exercise of delegated powers for specific types of supervisory decisions;
3. nomination decisions of the Executive Board nominating the ECB heads of work units entrusted with decision-making powers.

The general framework decision establishes that the delegation of clearly defined decision-making powers of the Governing Council may apply to legal instruments adopted in the performance of the ECB's supervisory tasks. The general framework decision, complementing the ECB's Rules of Procedure, sets out the scope of responsibilities attributed to the Executive Board and to ECB heads of work units, the procedural requirements for the adoption of delegated decisions, the recording and reporting requirements for delegated decisions, and the administrative review of delegated decisions.

The delegation decisions determining the criteria for the exercise of delegated powers are adopted by the Governing Council under the non-objection procedure; they only become effective once the nomination decision is adopted by the Executive Board. In this regard, the Executive Board, having consulted the Chair of the Supervisory Board, nominates one or more ECB heads of work units from among those involved in carrying out supervisory tasks that are organisationally separated from the ECB's other tasks, taking into account the importance of the delegation and the number of addressees. Two delegation decisions have already been adopted, regarding [fit and proper decisions](#) and [amendments to the significance](#) of supervised entities. Delegated decisions are taken on behalf and under the responsibility of the Governing Council.

Notification

Once the decision has been adopted, the addressee is notified of the decision by the Decision-Making Division, or by the NCA in the case of an authorisation to conduct banking activities.

Language regime

When communicating with NCAs, supervised entities, Member States and other EU institutions, the language regime to be used in the European Union applies. The following rules apply:



Regulation No 1/1958
determining the languages to
be used by the European
Economic Community

SSMFR Article 24

1. documents sent to the ECB may be drafted in any one of the official languages selected by the sender and the reply should be drafted in the same language;
2. documents sent by the ECB to a Member State or to a person subject to the jurisdiction of a Member State should be drafted in the language of such State.

For the SSM, English has been chosen as the operational working language to be used in internal communication between the ECB and the NCAs as well as within all ECB business areas.

Outgoing communications

Most significant institutions have agreed to use the English language for supervisory decisions and day-to-day communication. This agreement on the use of one language may be revoked.

If the addressees have agreed to the use of English, decisions addressed to one or more supervised entities are prepared by the ECB in English. If addressees have not chosen the English language, the authentic version of the supervisory decision is adopted in the language chosen by the addressee. In these cases, the responsibility for the translation lies with the ECB.

Incoming communications

Supervised entities that have not agreed to use the English language for day-to-day supervisory contact with the ECB may submit documents in any of the official languages of the EU. Responsibility for any translation that may be required is shared between the ECB and NCAs. In some cases, documents received in the language chosen by a supervised entity are summarised in English rather than translated in full.

The language regime applies to supervisory decisions and core supervisory documentation only. Where necessary, NCAs cooperate with the ECB in providing core documentation or explanatory memoranda in the English language.

1.3.4 Administrative review of decisions



SSMR Recital 64 and Articles 4, 24(1) and 24(10)

Decision on the establishment of an Administrative Board of Review (ECB/2014/16)

For internal administrative reviews of decisions taken by the ECB in the exercise of its supervisory powers, the ECB has an independent internal body, the Administrative Board of Review (ABoR). The composition of the ABoR is published on the ECB's banking supervision website. This subsection describes the main steps of the internal process, its possible outcomes and the ABoR's internal organisation, and concludes with the possibility of a judicial review of the decisions taken by the ECB.

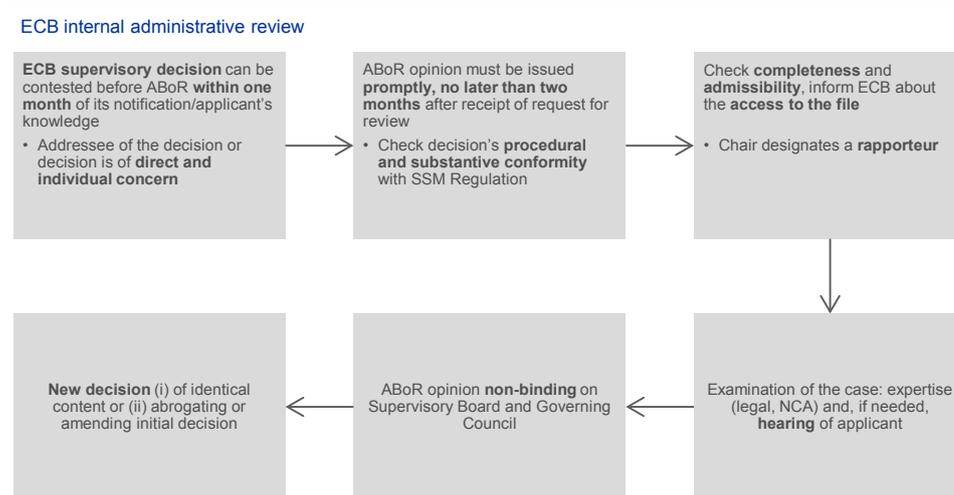
Internal review process

Request for review

Any natural or legal person may request a review of an ECB decision which is addressed to that person or is of direct and individual concern to them. Applicants must submit their request within one month of being notified of the adopted decision. Applicants may withdraw their request at any time. A request for review does not have a suspensory effect, unless otherwise decided by the Governing Council upon a proposal of the ABoR.

Figure 7

ABoR review process



Source: ECB Banking Supervision.

Applicants are entitled to have access to the ECB's file which does not, however, extend to confidential information and may be limited by the legitimate interest of legal and natural persons other than the applicant in the protection of their business secrets. The scope of the review by the ABoR is limited to the grounds set out in the application. Therefore, once the application has been submitted, the ABoR limits its assessment to the grounds provided and no new grounds for review may be filed.

Furthermore, the applicant may request to adduce witness or expert evidence in the form of a written statement. Permission will be granted by the ABoR if it is considered necessary.

Assessment of admissibility

Following the ABoR's assessment of the admissibility of the request, the Chair of the ABoR may give directions for the efficient conduct of the review, including directions to produce documents or provide information.

Hearing

Although it is not mandatory to hear the applicant, the ABoR may call for an oral hearing. The hearings are chaired by the ABoR's Chair or Vice-Chair and attended by the ABoR's members and Secretary, ECB representatives and the applicant's representatives. The applicant may use the language in which the review is conducted or English, with simultaneous interpreting provided by the ECB. The applicant may request permission to call a witness or expert to give oral evidence at the hearing.

Opinion

The ABoR must adopt an opinion on the contested decision within two months of receiving the request. The opinion must be submitted to the Supervisory Board without delay. The ABoR's opinion is not binding on the Supervisory Board or on the Governing Council.

New decision

Although the ABoR's opinion is not binding, the Supervisory Board must submit a new complete draft decision to the Governing Council after the review. This draft decision may:

- replace the contested decision with a decision of identical content;
- replace the contested decision with an amended decision;
- abrogate the contested decision.

In the first scenario, the new draft decision must be submitted to the Governing Council within ten working days of the receipt of the opinion. With regard to the second and third scenarios, the draft decision must be submitted to the Governing Council within 20 working days of the receipt of the opinion.

Review by the Court of Justice

The internal administrative review of supervisory decisions as described above is conducted without prejudice to the right to bring proceedings to the Court of Justice of the European Union. The deadline for bringing proceedings is two months after receipt of the final decision. The applicant may bring proceedings to the Court of Justice without first requesting an internal review. The applicant may also bring proceedings in parallel to or after the ABoR review, in the latter case on the basis of the new decision adopted by the Governing Council.

1.4 Cooperation with other institutions and authorities

1.4.1 The framework for cooperation

The ECB cooperates actively with other institutions, both in the context of policy development and in the context of day-to-day supervision. The ECB participates actively in various global and European fora, such as the European Banking Authority (EBA), the European Systemic Risk Board (ESRB), the Basel Committee on Banking Supervision (BCBS) and the Financial Stability Board (FSB).

The Supervisory Policies Division may, if necessary, provide additional support, along with the ECB's Legal Services, to JSTs in their work in colleges of supervisors, regarding the setting up and updating of cooperation agreements. Additionally, the Supervisory Policies Division establishes and coordinates cooperation with non-participating Member States and with countries outside the EU, for example by concluding Memoranda of Understanding.

1.4.2 Member States in close cooperation



SSMR Article 7

SSMFR Articles 118 and 119

ECB Decision on close cooperation with NCAs of participating Member States whose currency is not the euro (ECB/2014/5)

Non-euro area EU Member States may participate in the SSM if they wish to do so. Under the mechanism of close cooperation, the NCA of the non-euro area Member State abides by any instruction, guideline or request issued by the ECB. Like euro area NCAs, it is represented in the Supervisory Board, in JSTs and in other networks and working groups.

There are two differences compared with euro area Member States. First, Member States in close cooperation are not represented in the Governing Council. Nevertheless, they may inform the Governing Council should they disagree with a Supervisory Board draft decision. The Governing Council will take their argumentation into account and respond in writing within five working days. Second, a non-euro area Member State may opt out of the SSM and the ECB may suspend or terminate the close cooperation under certain conditions.

The procedure for entering into close cooperation with the SSM entails a request from the respective Member State, the assessment of the request by the ECB and, finally, an ECB decision establishing close cooperation with the respective Member State.

- Prior to its decision, the ECB conducts a legal review of the national legislation in the requesting Member State. This legal review should determine whether the NCA is able to comply with ECB instructions, requests and guidelines.
- The ECB may also conduct a comprehensive assessment of the credit institutions of the requesting Member State prior to its decision. The purpose of the exercise is to obtain a detailed assessment of the financial condition of the banking sector and of the groups and credit institutions that are likely to become significant in the joining Member State. To this end, the Member State provides

all information on the credit institutions established in that Member State that the ECB may require for the purpose of carrying out a comprehensive assessment of these entities.

An ECB decision establishing close cooperation is published in the Official Journal of the European Union and applies 14 days after its publication. The decision specifies the modalities for the transfer of the supervisory tasks to the ECB as well as the date of the start of the close cooperation.

1.4.3 Cooperation with banking supervisors outside the SSM

Colleges of supervisors for banking supervision



CRD Articles 51 and 112 to 116
SSMFR Articles 9 and 10

Commission Implementing
Regulation on joint decisions
(EU/710/2014)

Commission Delegated
Regulation on the functioning
of colleges of supervisors
(EU/2016/98)

Colleges of supervisors are vehicles for cooperation and coordination among the authorities involved in the supervision of the separate entities of cross-border banking groups and significant branches. Colleges provide a framework for the planning and performance of key supervisory tasks. The European Commission Delegated and Implementing Regulations and the EBA guidelines on colleges of supervisors provide the basic framework for the functioning of the colleges.

The ECB may have the following roles in colleges of supervisors for significant banking groups:

- Consolidating (home) supervisor for colleges that include supervisors from non-participating Member States or from third countries, i.e. outside the EU;
- Member (host supervisor) for colleges in which the home supervisor is from a non-participating Member State or from a third country.

The ECB as consolidating supervisor

If the ECB is the consolidating supervisor, the JST coordinator is the chair of the college. In addition to the basic framework for the functioning of colleges, the respective college establishes a written coordination and cooperation arrangement for the practical aspects of the functioning of the college and the interaction between college participants.

NCA's of the participating Member States, in which the banking group has its parent company, subsidiaries or significant branches, participate in the colleges as observers. This means that the NCA's contribute to the college's tasks and activities and receive all information, but do not take part in decision-making procedures. To present a common stance at college meetings, the NCA's and the ECB discuss relevant topics within the JST in advance.

The ECB as host supervisor

If the consolidating supervisor is not in a participating Member State, the rules on participation in colleges depend on the significance of the supervised entities in the participating Member States:

- If the supervised entities in participating Member States are all significant institutions, the ECB participates in the college of supervisors as a member, while the NCAs are entitled to participate in the college as observers.
- If the supervised entities in participating Member States are both significant institutions and less significant institutions, the ECB and the NCAs participate in the college of supervisors as members. The NCAs of the participating Member States where the significant supervised entities are established are entitled to participate in the college of supervisors as observers.

In cases where all supervised entities in a given participating Member State are less significant institutions, the NCAs participate in the college of supervisors as members, while the ECB does not participate.

Bilateral cooperation with banking supervisors

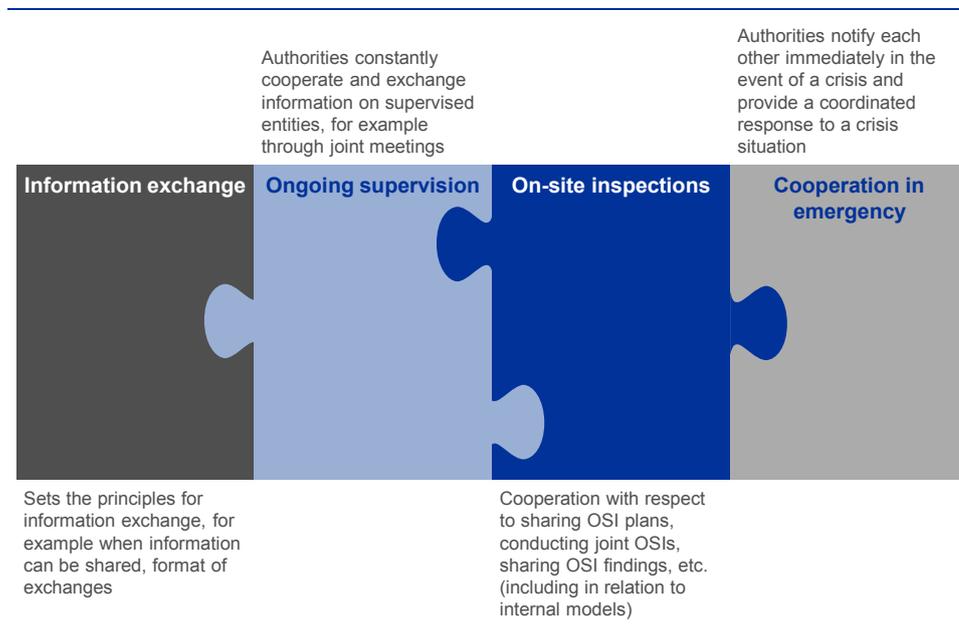


SSMR Articles 3, 8 and 152
CRD Articles 55 and 131

Bilateral cooperation between the ECB and a supervisor outside the EU requires specific arrangements. Such arrangements range from non-confidential ad hoc discussions to structural cooperation laid down in a Memorandum of Understanding (MoU). Some of these MoUs are bank-specific, while others are issue-specific and cover a wider range of supervised entities. Bank-specific arrangements can cover issues such as the exchange of confidential information, the possibility of carrying out on-site inspections and internal model approval. Issue-specific arrangements pertain to, for example, the exchange of information on global systemically important financial institutions.

Figure 8

Information exchange and cooperation based on MoUs



Source: ECB Banking Supervision.

The ECB and the NCAs of non-participating Member States conclude a MoU describing in general terms how they cooperate with one another in the performance of their supervisory tasks. The ECB concludes a MoU with the NCA of each non-participating Member State that is home to at least one global systemically important institution. The purpose of these MoUs is to clarify the information exchange procedures and, where relevant, the consultation mechanisms. They also set out procedures for cooperation in emergency situations.

For the exchange of confidential information and cooperation, the ECB also needs to enter into administrative arrangements with the supervisory authorities of third countries. Before such agreements are concluded, the ECB establishes that the third country regulatory framework provides for confidentiality requirements at least equivalent to the relevant EU provisions.

1.4.4

Cooperation with non-banking supervisory authorities



FiCoD Articles 6 to 17
SSMFR Article 18
RTS on supplementary supervision of risk concentration and intra-group transactions (EU/2015/2303)
ESA Joint Guidelines on coordination agreements for financial conglomerates (JC/GL/2014/01)

As is the case for banking supervisors, bilateral or multilateral MoUs among other supervisory authorities provide a general framework for cooperation. These cover the processes and procedures for sharing confidential information regarding, for instance, authorisation, on-site and off-site supervision and sanctions. The MoUs build on existing best practices and promote a culture of cooperation at all levels of the organisations. To facilitate contact among authorities, MoUs may provide for the setting up of dedicated committees to act as the main bodies for the exchange of information and the coordination of supervisory activities.

Supervision of financial conglomerates

Specific arrangements are in place for cooperation in the context of a financial conglomerate. Financial conglomerates are financial firms with at least one entity operating in the insurance sector and at least one in the banking or investment services sector. This is regardless of whether their operations are carried out directly by the firm itself or through specific subsidiaries.

Financial conglomerates entail cross-sector supervision, which, in turn, requires specific institutional arrangements. Within the EU, there is supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, subject to certain waivers. Supplementary supervision is defined as supervision that does not replace, but rather builds on, sectoral supervision and addresses those risks that stem from the cross-sectoral nature of financial activities and the complexity of group structures in a financial conglomerate.

Coordinator for supplementary supervision

The JSTs participate in the supplementary supervision of financial conglomerates in relation to their significant institutions. Where the SSM banking supervisor is appointed as the coordinator, the JST coordinator assumes the related tasks under Article 11 of the Financial Conglomerates Directive (FiCoD). As in the case of supervisory colleges for banking supervision, the NCAs may participate as observers if the credit institutions included in the financial conglomerate are significant, or as members if those credit institutions are less significant.

The coordinator is responsible for coordinating and carrying out the supplementary supervision of the regulated entities in a financial conglomerate. In cooperation with other relevant competent authorities, the coordinator ensures appropriate and regular stress testing of financial conglomerates, while avoiding duplication or substitution of the sectoral supervision.

The coordinator is appointed from among the competent authorities and, if necessary, specific coordination arrangements are adopted. In the case of a regulated entity, the coordinator is usually the authority responsible for the supervision of the parent company of the financial conglomerate. If the parent company is a mixed financial holding company, the coordinator is usually the authority responsible for the supervision of the regulated entity in the most important financial sector.

The authorities involved cooperate closely and share all information that is relevant for the exercise of their respective supervisory tasks. In the coordination agreement, the coordinator and the relevant authorities can agree to provide more in-depth information that would enhance the supplementary supervision of the regulated entities.

1.4.5 Interaction with European institutions

The SSM cooperates closely with other European institutions and bodies as part of a wider institutional framework.

European Commission



TFEU Articles 4, 107 and 108

CRD Article 53 ff.

SSMR Articles 19, 26, 32 and 37 and Recital 32

Commission Communication on state aid for banks in the context of the financial crisis (EU/2013/C 216/01)

The European Commission's objectives include restoring financial stability, ensuring lending to the real economy, and dealing with systemic risk of possible insolvency. If public resources are used, State aid rules must be complied with and the European Commission's Directorate-General Competition (DG Comp) must be notified. DG Comp has the exclusive mandate and power to ensure that State aid is compatible with the Treaty on the Functioning of the European Union (TFEU) and that the provision of State aid is approved in exchange for strict conditionality.

Within the European Commission, the Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) monitors the effectiveness of the reforms put forward following the outbreak of the financial crisis in order to secure financial stability and improve the supervision of financial markets. It also ensures that EU legislation is fully implemented and responds to emerging financial risks. In addition, it works to develop well-regulated, stable and globally competitive financial markets in the interest of businesses and consumers. Finally, it has brought forward initiatives to create an EU capital markets union to improve access to capital for businesses, especially small and medium-sized enterprises (SMEs), and thereby promote growth and job creation.

The ECB may provide input to DG FISMA when requested on regulatory issues which are related to the organisation and exercise of its supervisory tasks. The ECB also participates in public consultations organised by DG FISMA on issues that fall within the remit of its competence, through ECB Opinions and ECB or Eurosystem public contributions.

The European Commission (and within it DG FISMA) is mandated to publish every three years a report on the application of the SSM Regulation (the "SSMR Review"), with a special emphasis on monitoring the potential impact on the smooth functioning of the internal market. The Commission interacts with the ECB mainly to gather background information needed for its review activities. In line with the applicable legal restrictions on professional secrecy and exchange of information, the ECB shares with the Commission (i) information that concerns the ECB's internal supervisory and organisational procedures and (ii) information on supervisory activities in summarised and aggregated form.

Finally, a European Commission representative may be invited to attend the meetings of the ECB's Supervisory Board as an observer. This notably ensures a regular discussion of policy issues with the European Commission, which does not have access to confidential information relating to individual institutions.

European Systemic Risk Board

The European Systemic Risk Board (ESRB) is an independent EU body responsible for overseeing risks in the financial system within the EU as a whole. The ECB supports the ESRB's Secretariat and the ECB's President is the Chair of the ESRB's General Board.

The ECB is represented by the Vice-President of the ECB in the General Board of the ESRB and participates in the Advisory Technical Committee.

Close cooperation between the ECB and the ESRB, enabling the development of information flows, is mutually beneficial: this improves the ESRB's ability to effectively identify, analyse and monitor EU-wide systemic risks, while the SSM can take advantage of the ESRB's expertise, which covers the entire financial system, including other financial institutions, markets and products.

European Banking Authority

The European Banking Authority (EBA) is entrusted with developing draft technical standards, guidelines and recommendations in order to enhance convergence of supervisory practices and ensure consistency of supervisory outcomes within the European Union. As a banking supervisor, the ECB should carry out its tasks in compliance with the EBA's rules. ECB Banking Supervision is involved in the EBA's work and contributes significantly to supervisory convergence by integrating supervision across jurisdictions. The SSM is represented by the NCAs as voting members and the ECB as a non-voting member in the Board of Supervisors of the EBA and a member in other working structures. Notable areas of cooperation are described below.

- **Single Rule Book and European Supervisory Handbook:** The European Supervisory Handbook is applicable to any other supervisory authority within the European Economic Area (EEA). By implementing convergent supervisory standards and procedures, the SSM achieves a high degree of convergence of supervisory practices among the participating Member States.
- **Stress testing:** In cooperation with the ESRB, the EBA is responsible for the initiation and overall coordination of EU-wide assessments of the resilience of credit institutions and the development of common approaches and methodologies to that end. The ECB is in charge of carrying out the assessments within the participating Member States with the support of the NCAs.
- **Exchange of information:** The SSM takes part in the development of draft technical standards, guidelines and opinions and is also engaged in a reciprocal exchange of information with the EBA.
- **Peer review mechanism:** The ECB supports the EBA in the development of a coherent peer review methodology, with the aim of ensuring consistency across

the supervised credit institutions and compliance with the set supervisory guidelines.

- **Crisis management and other supervisory tasks:** The EBA is responsible for a number of specific crisis management tasks. If, for instance, an emergency situation is declared by the European Council, the EBA can issue recommendations to the SSM with the aim of coordinating European decisions and, in some cases, applying them directly to individual institutions. In addition, the EBA is mandated to act as a mediator in certain dispute cases between home and host authorities or in cases of breaches of EU law. Regarding ongoing supervision, the tasks include monitoring supervisory colleges through its direct participation.

European System of Financial Supervision

Apart from the EBA, the ECB cooperates with the other European Supervisory Authorities, EIOPA (European Insurance and Occupational Pensions Authority) and ESMA (European Securities and Markets Authority). In the case of a crisis affecting a financial conglomerate, a mixed financial holding company or other financial intermediaries with potential spillover effects to or from the banking sector, further cooperation arrangements between the SSM and other authorities of the European System of Financial Supervision ensure effective planning, decision-making and coordination with the relevant authorities at both European and national level.

Single Resolution Mechanism



SRMR Articles 7, 8 and 34

The Single Resolution Mechanism (SRM) centralises key competences and resources for managing the failure of any credit institution in the participating Member States. The SRM complements the SSM; it ensures that if a bank subject to SSM supervision faces serious difficulties, its resolution can be managed efficiently with minimal costs to taxpayers and the real economy.

Close cooperation and information exchange between the banking supervisory authorities and the competent resolution authorities are necessary to (i) provide the resolution authorities with institution-specific information required for resolution planning, (ii) increase the preparedness of all involved parties in normal times and (iii) enhance their ability to act in a timely and effective manner when a potential crisis situation occurs. In particular, the SSM is consulted by the SRB on the resolution plans and provides supervisory information, with a view to avoiding a duplication of tasks.



SSMR Articles 3, 4 and 33(3)
ESM Guideline on financial assistance for the direct recapitalisation of institutions

European Stability Mechanism

The European Stability Mechanism (ESM) is a stability support mechanism established by the euro area Member States, with the aim of providing financial assistance to ESM members experiencing or threatened by severe financing problems, if indispensable to safeguard the financial stability of the euro area as a whole and of its Member States. As part of its toolkit, the ESM may decide to grant financial assistance to directly recapitalise financial institutions, provided that the eligibility criteria are fulfilled and the SRM Regulation is fully applied, including its bail-in provisions. The functioning of the recapitalisation tool necessitates effective cooperation and the development of robust information flows between the SSM, the ESM and the national resolution authorities, in line with Article 4 of the SSM Regulation. If an ailing supervised entity that is directly supervised by the ECB needs to be recapitalised, ECB Banking Supervision will be responsible for compiling the necessary information. For entities that it does not directly supervise, the Board of Governors of the ESM requests the ECB to assume direct supervision of the institutions under the SSM Regulation.

The ESM support to an institution's recapitalisation is conditional upon DG Comp's approval of the respective institution's restructuring plan in line with State aid rules. ECB Banking Supervision, the NCAs and DG Comp therefore have to liaise closely with each other to ensure a smooth cooperation.

In some cases, the exercise of State aid control may overlap with the ECB's responsibilities. For example, the ECB might require from the respective entities adjustments which, for institutions benefiting from state aid, could be similar to conditions set out in their restructuring plans approved by DG Comp. In such cases, coordination between the ECB and DG Comp to ensure consistent action by the authorities is essential.

European Court of Auditors



Protocol (No 4) on the Statute of the ESCB and the ECB
Article 27

The European Court of Auditors (ECA) was established to audit the EU's finances. The starting point for its audit work is the EU's budget and policies, primarily in areas relating to growth and jobs, added value, public finances, the environment and climate action. The ECA audits the budget in terms of both revenue and spending.

In respect of the ECB and in view of its independence, the ECA's audit powers are limited to the examination of the operational efficiency of the management of the ECB. Within this remit, the ECA may submit observations, particularly in the form of special reports. Those reports may contain recommendations on the functioning of ECB Banking Supervision, with a view to increasing the operational efficiency of its management. The ECA may also issue opinions at the request of another EU institution.

1.4.6 Multilateral cooperation



TFEU Article 127(4)

ESCB Statute Article 25

Council Decision on the consultation of the ECB by national authorities regarding draft legislative provisions (98/415/EC)

The ECB participates in a number of European and international bodies, as well as groups of supervisors organised by multilateral organisations. Through this participation, which can take different forms, the ECB can influence international developments in the field of banking regulation. If both the ECB and NCAs participate, the Supervisory Policies Division strives to coordinate their positions when relevant. If the ECB is not a member, the ECB may be represented by those NCAs which are currently members, when feasible.

Basel Committee on Banking Supervision

The Basel Committee on Banking Supervision (BCBS) is the primary global standard-setter for the prudential regulation of credit institutions and provides a forum for cooperation on banking supervisory matters. Its mandate is to strengthen the regulation, supervision and practices of credit institutions worldwide with the purpose of enhancing financial stability. The ECB and several NCAs hold membership status in the BCBS and participate in the meetings of the Committee and of its substructures. The ECB is also a member of the BCBS's oversight body, the Group of Governors and Heads of Supervision. The EBA and the European Commission have observer status on the BCBS.

International Monetary Fund

The International Monetary Fund (IMF) under its Financial Sector Assessment Programme (FSAP) prepares Financial System Stability Assessments for its member countries. While national authorities take the lead in country exercises, the ECB is heavily involved in these surveillance exercises in euro area countries owing to its key responsibilities in the areas of microprudential and macroprudential banking supervision, which were conferred to it under the SSM Regulation. Within ECB Banking Supervision, the Supervisory Policies Division coordinates the input to the IMF and acts as main contact point.

The ECB involvement in national exercises ensures cross-country comparability and consistency of the banking sector component of the FSAPs. This involvement generates synergies with EU/euro area-wide banking stress tests and ensures that the key features of the microprudential and macroprudential banking framework resulting from the establishment of the SSM are accurately reflected in the documentation emerging from the different work streams. It also helps in identifying the areas that need further development in the SSM-wide framework, or at national level, so they are appropriately reflected in the IMF recommendations.

The SSM-wide dimension of banking supervision in Europe will be captured in IMF EU/euro area FSAPs, which are expected to take place regularly after the completion of the current one, as formally requested by the President of the Economic and Financial Committee in January 2017. The aim of these exercises will

be to take stock of past achievements and to assess the effectiveness of the architecture of financial oversight and crisis management in the EU/euro area.

In addition to FSAPs, the IMF holds annual Article IV consultations with euro area countries during which IMF staff visit the countries' authorities to assess the respective country's economic and financial situation as well as policy challenges. These consultations involve conference calls among IMF, ECB Banking Supervision and NCA staff to address SSM-related matters. IMF staff also visit the ECB twice a year in the context of the euro area Article IV consultation. The results of the EU/euro area FSAP mentioned above will inform the financial sector component of the euro area Article IV consultation.

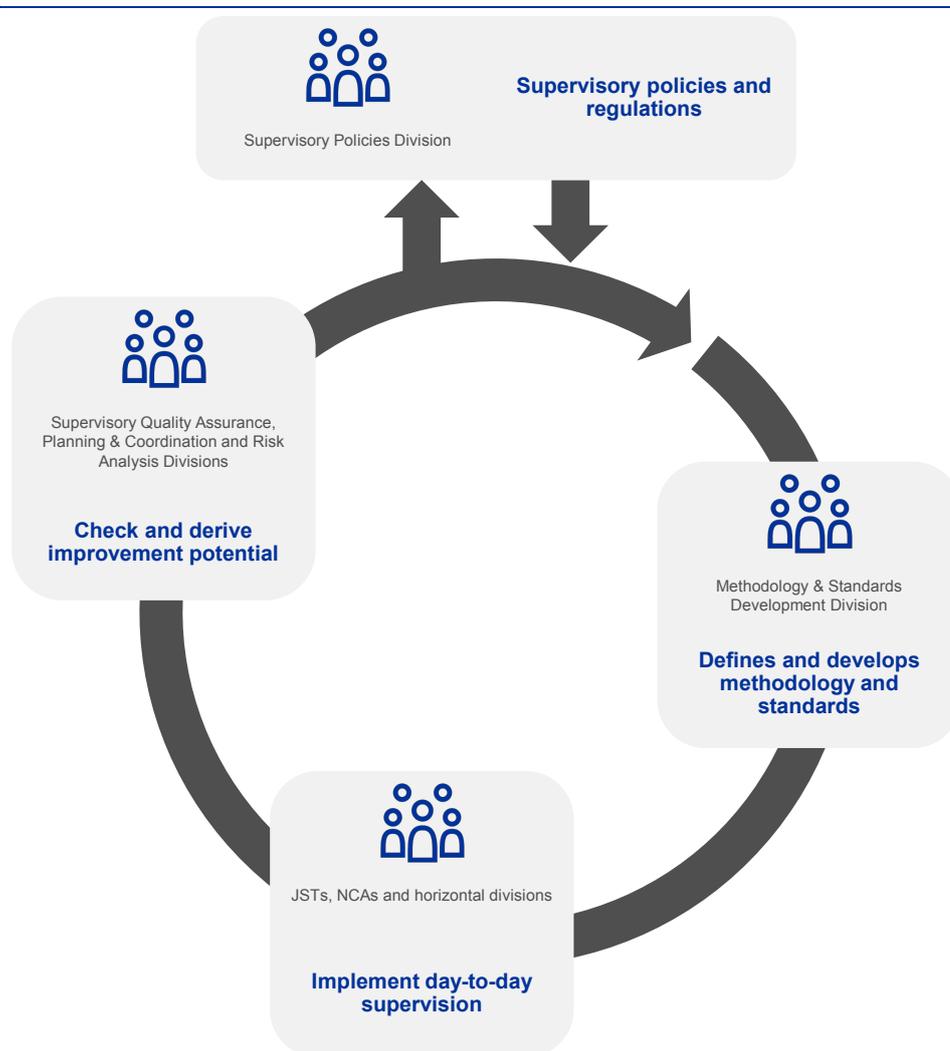
Financial Stability Board

The Financial Stability Board (FSB) is an international body that promotes international financial stability. It coordinates the action of its members (comprising central banks, ministries of finance and financial supervisory agencies of the world's main economies and financial centres, as well as global standard-setting bodies and international financial institutions) in the development of strong regulatory, supervisory and other financial sector policies. The FSB fosters a level playing field by encouraging coherent implementation of these policies by relevant authorities across sectors and jurisdictions. Following the FSB Plenary decision of 21 June 2016, ECB Banking Supervision is also represented at the Plenary, the single decision-making body of the FSB. In addition, it has been a member of the Standing Committee on Supervisory and Regulatory Cooperation (SRC) since 2015, and as of February 2017, has been participating as a supervisory authority in the Standing Committee on Standards Implementation (SCSI). Finally, the ECB regularly participates in meetings of the Regional Consultative Group of Europe as a standing invitee.

2 Supervisory cycle

The banking supervision process can be viewed as a cycle, as shown in **Figure 9**. The separate elements of the supervisory cycle are explained in this chapter. Regulation and supervisory policies (see Section 2.1) provide the foundation for supervisory activities and for the development of supervisory methodologies and standards (see Section 2.2).

Figure 9
The supervisory cycle



Source: ECB Banking Supervision.

The methodologies and standards underpin the day-to-day supervision that is carried out to the same high standards across all credit institutions (see Section 2.3). Through various channels, including the SSM's participation in international and European fora, the lessons learnt in the course of supervision and the performance

of quality assurance checks (see Section 2.4) feed back into the further development of methodologies, standards, policies and regulations.

The experience gained from the practical implementation of the methodologies and standards feeds into the planning of supervisory activities for the forthcoming cycle. This planning also incorporates the analysis of key risks and vulnerabilities and the setting of strategic supervisory priorities.

2.1 Contributing to regulations and supervisory policies



Basel Accords

CRR

CRD

BRRD

DGSD

The European banking regulatory framework is based on the Basel Accords and is harmonised through the single rulebook, which is applicable to all financial institutions in the Single Market. The single rulebook is the basis for banking union. It consists of a set of legislative texts that all financial institutions (including approximately 8,300 banks) in the EU must comply with. Among its most important components are the Capital Requirements Directive (CRD) and the Capital Requirements Regulation (CRR), the Deposit Guarantee Scheme Directive (DGSD) and the Bank Recovery and Resolution Directive (BRRD).

ECB Banking Supervision actively contributes to this regulatory framework in international and European fora and institutions, such as the [EBA](#), the [ESRB](#), the [BCBS](#) and the [FSB](#), where it is directly represented. This also calls for close cooperation with the NCAs and the European Commission (in coordination with the Directorate General International Relations and other relevant business areas of the ECB).

As shown in [Figure 9](#) the division responsible for policy coordination and development is the Supervisory Policies (SPO) Division, which deals with regulatory and supervisory policy issues. The SPO Division also centralises the interaction at the technical level between ECB Banking Supervision and the IMF for the purpose of IMF surveillance exercises (notably FSAPs and Article IV consultations).

In cooperation with the NCAs' equivalent functions, the SPO Division provides support to the JSTs and NCAs on the application of EU regulations.

To assist in the development of policy, the SPO Division facilitates the alignment of policy positions between the ECB and the NCAs, and where such alignment is not possible, the exchange of information on the various positions.

The SPO Division advises ECB senior management and the Supervisory Board, the Executive Board and the Governing Council on policy issues and prepares draft proposals to develop a common understanding and coordinated approach in relation to significant institutions.

Such advice may entail the preparation of specific reports, memoranda and/or proposals covering the following:

- important regulatory initiatives at the national, European and international levels;

- important decisions taken and/or difficulties encountered by European and international working groups;
- policy matters and regulatory and supervisory issues of general importance that, given their complexity or the different interests involved, cannot be addressed easily and might require changes of regulation;
- other obstacles or developments in policy work that may be of general relevance for banking supervision.

In addition to the participation in European and international fora, the SPO Division supports the JSTs' work, for example, by establishing and coordinating cooperation with non-participating Member States and with countries outside the EU, including by negotiating Memoranda of Understanding and other ad hoc cooperation arrangements that facilitate information exchange and on-site inspections.

2.2 Defining and developing methodologies and standards

Supervisory methodologies and standards of the highest quality are essential to achieve consistent and efficient supervisory outcomes. Within ECB Banking Supervision, the Methodology and Standards Development (MSD) Division regularly reviews and develops supervisory methodologies under Pillar 2. These supervisory methodologies and standards draw on best practices and are continuously improved. They also evolve as a result of work done by international standard-setting bodies (e.g. the BCBS) on harmonising financial sector regulations or by EU authorities (notably the EBA).

In areas not covered by the set of rules developed by the international standard-setting bodies, or if a need for developing a common understanding and a coordinated approach arises in the conduct of the day-to-day supervision, the ECB – to the extent covered by the supervisory tasks conferred on it – may issue its own regulations, guidelines and instructions on supervisory methodologies and common standards, subject to and in compliance with relevant EU law and subject to binding standards developed by the EBA. In doing so, the ECB also needs to consider developments in international and European regulations and the role of the EBA, so as to ensure harmonised supervisory practices and consistency of supervisory outcomes within the SSM over time.

The common set of methodologies and standards covers topics such as the Supervisory Review and Evaluation Process (SREP), which is covered later in this Manual (see Section 4.6).

For instance, for the purpose of performing the SREP, the SSM has developed a common methodology for the ongoing assessment of supervised entities' risks, their governance arrangements, and their capital and liquidity situation. The ECB applies the SSM SREP common methodology to all significant institutions, facilitating peer comparisons and large-scale transversal analyses. The methodology thus ensures a

level playing field across supervised institutions, while taking into account their specific features.

The SSM SREP is applied proportionately to significant institutions, ensuring that the highest and most consistent supervisory standards are upheld.

The development of methodologies is not the exclusive responsibility of the MSD Division. With regard to the issuance of authorisations, enforcement and sanctions, on-site inspections, internal models, joint standards and recommendations related to less significant institutions, as well as regulations, guidelines and general instructions adopted in accordance with Article 6(5)(a) of the SSM Regulation, the responsibility lies with the relevant ECB Banking Supervision business areas, as discussed below.

The Authorisation (AUT) Division develops the methodology for assessing authorisation applications, proposals for withdrawing authorisation, proposals for the acquisition of a qualifying holding in a credit institution and the fit and proper procedures, which are covered in Chapter 3 and Section 4.4 of this Manual. However, it should be noted that the AUT Division does not usually initiate any authorisation or withdrawal thereof. The responsibility for preparing a draft authorisation decision for licensing, for acquisitions of qualifying holdings and for most withdrawal cases lies with the NCAs, which liaise with the AUT Division, which then assesses the proposals and ensures that the relevant requirements have been met and the common procedures have been followed.

With regard to the fit and proper procedures described in Section 4.4, the AUT Division is responsible for their assessment. Thus, in the case of a new appointment to the management body of a significant institution, the AUT Division conducts a preliminary assessment with respect to the requirements of EU law, which is then sent to the respective JST coordinator. Together with the JST coordinator, a joint proposal is drafted which needs to be approved by the Supervisory Board and the Governing Council.

As regards ensuring the consistency of methodologies and processes related to the review of internal models for the calculation of minimum capital requirements (Pillar 1), including the application of existing model change policies in the single rulebook and possible extensions of internal models, a dedicated Internal Models (INM) Division has been established. The INM Division takes a leading role, alongside the MSD Division, in the development of supervisory standards and methodologies within the SSM with regard to model approval and ongoing supervision of internal models, as described in Section 4.7 of this Manual. In addition, it monitors the development of international standards related to internal models on international fora (e.g. the BCBS), in liaison with the SPO Division.

The Centralised On-site Inspections (COI) Division is responsible for developing and updating the on-site inspection methodology. In performing its tasks, the COI Division interacts with the JSTs, the other ECB horizontal divisions, the inspection teams, the Heads of Mission and the NCAs. In particular, for the maintenance of the on-site inspection methodology, it coordinates with the MSD Division and the NCAs.

2.3 Carrying out day-to-day supervision

The SSM policies, methodologies and standards underpin the day-to-day supervision that is carried out according to the same standards across all supervised institutions in the euro area based on the SREP (see Section 4.6 for more details).

The day-to-day supervision of significant institutions is conducted by the JSTs, which comprise staff from both NCAs and the ECB and are supported by the horizontal and specialised expertise divisions of DG MS IV and similar staff of the NCAs (e.g. internal model experts).

There are several tools for conducting supervisory activities. In the day-to-day supervision, the JST analyses the supervisory reporting, financial statements and internal documentation of supervised entities. The JSTs hold regular and ad hoc meetings with the supervised entities at various levels of staff seniority. They conduct ongoing risk analyses of approved risk models and analyse and assess the recovery plans of supervised entities.

All of the activities described above are reflected in the SREP conducted by the JSTs, which is described in more detail in Section 4.6.

2.4 Enhancing banking supervision

As described earlier in this chapter, the ECB continuously looks to identify potential improvements to feed back into the definition of methodologies, standards, policies and regulations. This improvement potential is identified through various channels, including European banking supervision's participation in international and European fora and the experience gained from the practical implementation of the methodologies and standards. Furthermore, improvement potential is determined through the regular process of identification and assessment of key risks and vulnerabilities (see Section 2.4.1), which are also incorporated into the strategic supervisory priorities (see Section 4.2 for further details). The interplay of microprudential and macroprudential supervision (see Section 2.4.2) and the performance of quality assurance checks (see Section 2.4.3) also play a role in the identification of further potential for improvement.

2.4.1 Risk identification and assessment

The regular process of identifying and assessing key risks and vulnerabilities mainly consists of four complementary components (see Section 4.2 for further details):

- (i) regular monitoring and analysis of existing and emerging risks;
- (ii) deep-dive analyses of the identified potential risks;
- (iii) regular or ad hoc stress tests;

(iv) impact analyses of existing or forthcoming regulatory initiatives.

After identifying existing and emerging risks, the logical second step is to assess them in order to confirm the outcome of the identification process and to find the appropriate supervisory response to mitigate them.

Risks – especially if they are relevant for all or a significant subset of supervised credit institutions – usually have a horizontal dimension. Indeed, it is often difficult to draw a clear line between the micro- and macroprudential perspectives which calls for close cooperation between the two functions.

2.4.2 Linking micro- and macroprudential supervision



SSMR Article 5

The ECB's micro- and macroprudential functions work closely together on the identification of the main risks by exchanging views on risks and vulnerabilities.

Macro factors are taken into account in microprudential supervision and micro factors are used as input for macroprudential supervision. Macro factors are taken into consideration in determining the supervisory priorities and in operational planning, in the SREP decision and in the oversight of less significant institutions. Conversely, macroprudential risk analysis benefits from information and signals from microprudential supervision. Microprudential supervision is able to signal emerging risks stemming from individual systemically important institutions at an early stage, as well as risks arising from changes in business practices or financial innovation.

Another area where the micro- and macroprudential perspectives complement each other is the conduct of micro- and macroprudential stress tests. Microprudential stress tests focus on a single institution and the results are used to inform its SREP assessment. For this reason, these stress tests put a strong emphasis on horizontally consistent treatment. Macroprudential stress tests complement such stress tests by also addressing network effects among credit institutions and feedback effects, for example negative effects of the stress scenario on lending and on the state of the economy (see Section 4.2.3).

Micro- and macroprudential tasks are coordinated through a sound governance structure (see Section 1.2.1), ensuring a complete overview of how risks are being mitigated in order to achieve complementarity and effectiveness of supervision in a holistic manner. This is also necessary to avoid overlap between micro- and macroprudential tools and possible double-counting of risks.

The ECB also cooperates closely with other European institutions and bodies, such as the European Supervisory Authorities, including the EBA, and the ESRB, to develop the EU supervisory, regulatory and resolution frameworks. The ECB also contributes to policy debates on regulation and supervision, both at the international level and at the European level.

For risk monitoring and impact studies requiring the access to certain information (see Section 1.2.1), the SSM Risk Analysis (RIA) Division also coordinates, in close

cooperation with DG/S, the corresponding data collections and the processes enabling the gathering, quality assurance and aggregation of this information.

2.4.3 Quality and planning control

The supervision of both significant and less significant institutions requires overall mechanisms to ensure that the supervisory approach remains consistent and of the highest quality across all supervised entities. This implies avoiding distortions between the two groups of institutions, while applying the supervisory approach and the principle of proportionality in a structured way.

Planning and coordination

With regard to significant institutions, the Planning and Coordination of SEP (PCS) Division checks regularly whether the tasks specified in the Supervisory Examination Programmes (SEPs) have been fulfilled by the JSTs and requests corrective action if necessary.

For the less significant institutions, supervisory planning is carried out by the NCAs and, when necessary, overseen by DG MS III.

Furthermore, the SEPs are designed and updated based on the findings made in previous periods. Findings are discussed with the parties involved, with a view to improving and further developing a common understanding and a coordinated approach to future activities.

Quality assurance

The Supervisory Quality Assurance (SQA) Division acts as part of the second line of defence in the ECB's internal control framework with regard to the tasks conferred on the ECB by the SSM Regulation.

The SQA Division covers the following:

- (i) DGs MS I and II's performance of direct supervision, and the NCAs' activities to the extent that they are involved in the supervision of significant institutions;
- (ii) DG MS III's oversight of NCAs' supervision of less significant institutions;
- (iii) DG MS IV, which is in charge of the horizontal functions;
- (iv) the Directorate General Secretariat to the Supervisory Board;
- (v) the contributions to ECB supervisory activities of other ECB units.

The objective of the SQA Division is to provide assurance primarily to the heads of ECB business areas and also to the Supervisory Board, the Governing Council and

the Executive Board of the ECB that the ECB's banking supervision is being performed consistently under the SSM Regulation and following the highest quality standards.

In order to achieve its objective, the SQA Division:

- assesses and promotes the soundness, timeliness and efficiency of the ECB's banking supervision under the SSM Regulation;
- assesses the impartiality of supervisory activities across the JSTs and in the supervision of both significant and less significant institutions;
- provides feedback on the proper use and the need for enhancement of the SSM's methodological framework;
- issues recommendations and standards to operating units, including horizontal functions, by providing feedback on their supervisory practices including the identification of supervisory best practices;
- identifies risks (including legal ones), deficiencies and weaknesses in the operation of the SSM's supervisory framework.

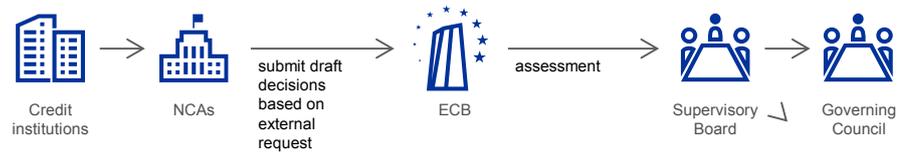
Quality assurance reviews are the main instrument used by the SQA Division and are performed in collaboration with the NCAs' quality assurance functions, where appropriate.

3 Conduct of SSM supervision exercised over all supervised institutions

The supervisory responsibilities of the ECB differ depending on whether a credit institution is a significant or a less significant entity. For some procedures however, referred to as **common procedures**, the ECB is competent regardless of the significance of the institution concerned. Those procedures are described in the first part of this chapter. The second part covers the procedures and criteria used to assess the significance of the institutions on both a regular and an ad hoc basis.

Figure 10
Common procedures

Authorisation and acquisitions of qualifying holdings

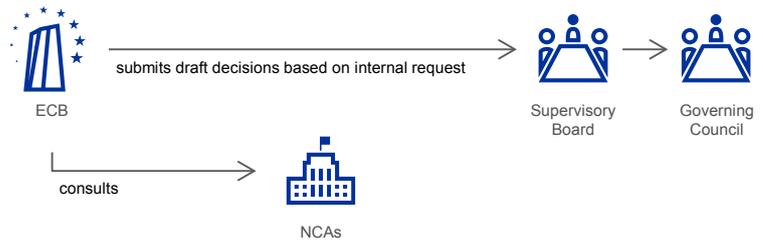


Withdrawal of authorisation

NCA initiative



ECB initiative



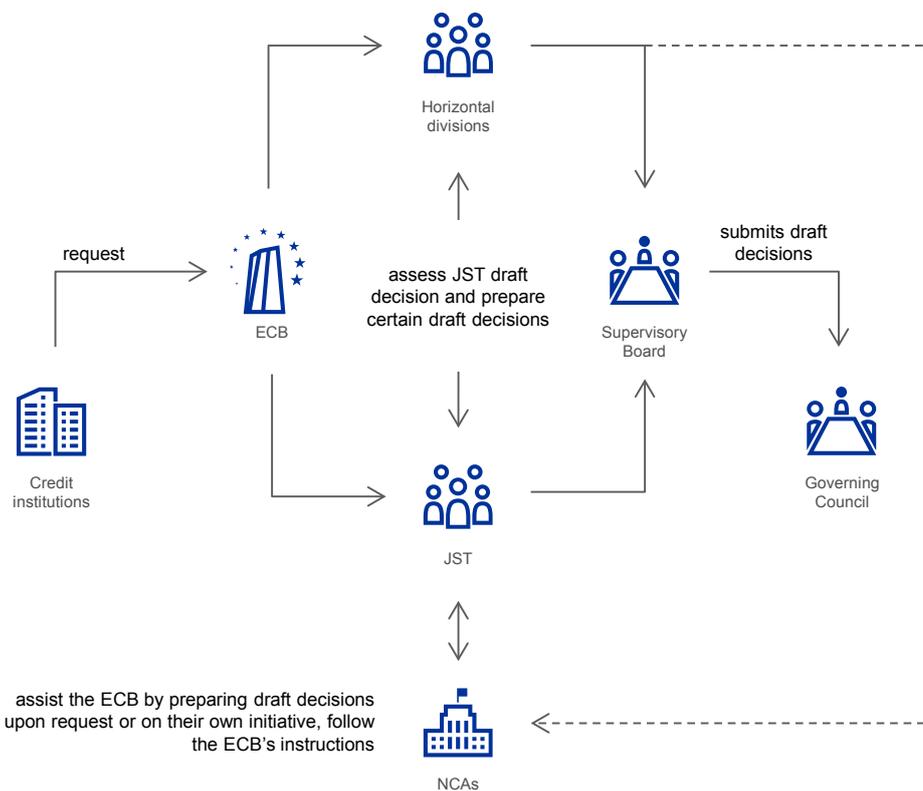
Source: ECB Banking Supervision.

3.1 Assessing requests for authorisations for proposed acquisitions of qualifying holdings in a credit institution and passporting

SSMR Articles 4(1) and 14(5) and (6)
 CRD Articles 18, 20 and 45
 SSMFR Article 79 and Part V

The common procedures ultimately decided upon by the ECB include the procedures in place for providing applicants with a (new or extended) banking licence (the terms "licence" and "authorisation" are used interchangeably) or for the withdrawal of licences. The remainder of the common procedures (see Section 3.1.2) cover the procedures for authorising proposed acquisitions or further increases of qualifying holdings in credit institutions. This section also describes the procedure whereby an institution that has been granted a banking authorisation in one Member State may make use of the right of establishment and the freedom to provide services within the Member States of the European Union ("passporting").

Figure 11
 Common procedures (general process for requests, notifications and applications)



Source: ECB Banking Supervision.

3.1.1 Granting, withdrawal and lapsing of authorisations

In order to take up the business of a credit institution in a participating Member State, institutions need to apply for a banking licence. An application for a banking licence has to be submitted to the NCA of the Member State where the institution is to be

established in accordance with the requirements set out in the relevant national legislation. This application is assessed to ensure that only those entities that fulfil the applicable national and EU legal requirements enter the market as credit institutions.

There are several circumstances under which institutions apply for banking licences. A credit institution that is already supervised may apply in order to extend its operations or to restructure its existing activities. Subject to national law provisions, non-licensed entities/persons intending to undertake banking business can also submit a request to be authorised to take up the business of a credit institution.

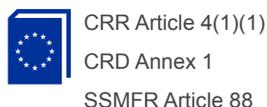
Scope

The procedure for authorisation to take up the business of a credit institution as entrusted to the ECB applies to all activities that are reserved to credit institutions and subject to authorisation. These include activities subject to mutual recognition under Annex 1 to the CRD as well as other regulated activities that require an authorisation from the supervisory authority under national law. This means that the SSM authorisation procedure also applies to situations where a credit institution as defined in Article 4(1)(1) of the CRR that already has a banking licence requires an extension of its authorisation to undertake a new regulated activity, if the need for such authorisation is provided for by national law. This applies regardless of whether it is a new activity under Annex 1 to the CRD, or a regulated activity that only requires an authorisation under a national law that underpins a prudential supervisory function.

The application is assessed by the NCA and the ECB. The NCA serves as point of contact for the applicant. It assesses the application on the basis of requirements stipulated in national law, with the involvement of the respective JST where applicable. The ECB assesses the application on the basis of EU law requirements. The NCA and the ECB assessment are closely interlinked. The joint assessment ensures that the entity applying meets the relevant requirements, in particular those on governance, the conduct of business, prudential requirements and the business model. Additionally, the assessment ensures that the applicable national requirements are fulfilled. Both the NCA and the ECB have the right to require the applicant to provide any additional information needed for the assessment. All information and data related to the application are shared between the ECB and the NCA.

If, during the NCA assessment, it is found that the requirements for authorisation as provided for in national law have not been met, the NCA rejects the application.

If the applicant complies with all requirements for authorisation as provided for in national law, after having shared its final assessment with the ECB, the NCA proposes that the ECB grant the authorisation. The proposed decision may include conditions, obligations and/or recommendations for the institution in question. The ECB may agree with or object to the NCA's draft decision. If the application is rejected by the ECB or if a positive decision is subject to conditions and/or



obligations not previously agreed with the applicant, the applicant is given the [right to be heard](#). The final decision by the ECB is to be taken within ten working days of the submission of the NCA's draft decision, but this period can be extended once by an additional period of ten working days.

An authorisation to take up the business of a credit institution may be withdrawn by the ECB either on its own initiative or based on a proposal from the NCA of the Member State where the institution is established. The applicable process as regards cooperation between the NCA and the ECB is largely the same as that for granting authorisations, albeit with certain deviations depending on whether the withdrawal has been requested by the supervised entity or initiated by the supervisor, whether the NCA or the ECB.

If the supervised entity has requested the withdrawal of its authorisation, for example because it no longer conducts any banking business, the NCA and the ECB assess whether the applicable preconditions for the withdrawal of authorisation according to national and EU law are fulfilled. In particular, clear and indisputable confirmation is required that the entity no longer holds any deposits or other repayable funds.

If the withdrawal of a credit institution's licence is initiated by the supervisor, for example because the institution no longer meets the prudential requirements or can no longer be relied on to fulfil its obligations towards its creditors, a full and detailed assessment is conducted. This is to substantiate the justification for the withdrawal of the licence, taking into consideration the supervisory history of the institution concerned as well as the relevant interests involved, for example, the risk for the depositors. In such cases, the resolution authorities may also be involved. If the withdrawal is initiated by the ECB, it consults the NCA in good time before taking the decision. Before the ECB adopts a withdrawal decision, the supervised entity is usually offered a hearing. If an [urgent decision](#) is deemed necessary, the ECB may take a decision without granting the entity the right to be heard beforehand.

Lapsing of authorisation occurs when the credit institution's authorisation ceases to exist. The authorisation can cease to exist as a result of specific national and legally defined triggers, which do not generally involve supervisory discretion or a decision by the competent authority. There are three typical situations in which an authorisation may lapse because national law provides for this:

- the credit institution does not make use of the authorisation for 12 months;
- the credit institution expressly renounces the authorisation;
- the credit institution has ceased to engage in business for more than six months.

Subject to national law, an effect similar to a lapsing of the authorisation may occur if the credit institution itself ceases to exist, for instance due to a merger with another company. In such cases, the authorisation ceases to exist at the same time as the institution does. In these cases, the same procedure applies as for the lapsing of authorisation.

Any authorisation, withdrawal of authorisation or lapsing of authorisation is notified by the ECB either directly to the entity involved (withdrawal or lapsing of authorisation) or to the NCA concerned (authorisation) and to the EBA. The [SSM list of supervised entities](#) is updated accordingly. Generally, the NCA involved takes the necessary steps to publish the decision as required pursuant to the relevant national law.

3.1.2 Qualifying holdings



SSMR Articles 4(c) and 15

SSMFR Articles 85-88

CRD Articles 3(1), 3(33), and 22-27

Guidelines for the prudential assessment of acquisitions and increases in holdings in the financial sector (CEBS/2008/214)

Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (JC/GL/2016/01)

Proposed acquisitions of qualifying holdings or proposed further increases of qualifying holdings in credit institutions that would result in the relevant thresholds being reached or exceeded need to be notified to the NCA of the participating Member State where the credit institution in which the qualifying holding will be acquired or increased is established. The NCA performs the initial assessment and prepares a draft proposal for the ECB. In cooperation with the NCA, the ECB performs its own assessment and decides on the proposed acquisition. The procedure acts as a “gatekeeper” to prevent credit institutions from being acquired by unsuitable buyers.

In particular, the assessment is intended to ensure that the proposed acquirer is of good reputation and has the necessary financial soundness, that any member of the management board who will direct the business of the target institution is at all times of sufficiently good repute and possesses sufficient knowledge, skills and experience to perform his/her duties, that the targeted institution will continue to meet its prudential requirements and that the transaction is not financed with money derived from criminal activities.

The formal assessment period is a maximum of 60 working days from the acknowledgement of a receipt of a complete notification. If additional information is requested from the proposed acquirer during the formal assessment period, the assessment period may be suspended for a period that cannot exceed 20 working days (for regulated acquirers) or in certain cases 30 working days (for unregulated acquirers and acquirers based in third countries).

If a proposed acquirer intends to acquire stakes in a credit institution that has subsidiary credit institutions in, or owns a qualifying holding in credit institutions established in, other participating Member States, the NCAs of all direct and indirect target institutions coordinate their assessments with the ECB so that all proposed acquisitions can be decided upon at the same time.

The criteria for the assessment are harmonised at the European level. The CRD sets out the five criteria against which proposed acquisitions are assessed, which have been transposed into national legislation:

Reputation of the proposed acquirer

The proposed acquirer must possess the necessary integrity and trustworthiness, proven for instance by the absence of criminal records or legal proceedings that would have a negative impact on the proposed acquirer's reputation. Another aspect is the acquirer's professional competence, i.e. its track record in managing and/or investing in the financial industry.

Reputation, knowledge, skills and experience of the proposed new members of the management body of the target institution

If the proposed acquirer intends to implement changes to the target institution's managing bodies, a fit and proper assessment of the new board members proposed must be carried out as part of the qualifying holding procedure.

Financial soundness of the proposed acquirer

The proposed acquirer must be able to finance the proposed acquisition and to maintain a sound financial structure for the foreseeable future. This includes identifying who will be responsible for supporting the target institution after the acquisition, for example by contributing to possible capital add-ons for the target institution.

Impact on the target institution

After the acquisition, the target institution should still be able to comply with prudential requirements. For example, its profitability should not be put under undue stress by financing part of the acquisition through excessive debt that needs to be repaid by the target institution itself. Also, the structure of the acquirer or of the group that the target institution will become a part of should not be so complex as to prevent the supervisor from effectively supervising the institutions involved.

Risk of links to money laundering or terrorist financing

The funds used for the acquisition must not be the proceeds of criminal activity or linked to terrorism. The assessment also looks at whether the acquisition could potentially increase the risks of money laundering or terrorist financing.

It is the task of national anti-money laundering and terrorist financing authorities to identify these risks. The ECB does not have investigative powers to uncover such deficiencies. Only when such breaches have been established by the relevant national authority can the ECB take these facts into consideration for the purposes of its own tasks.

To ensure that the five criteria above are fulfilled, the ECB may impose conditions or obligations on the proposed acquirer either based on a proposal from the NCA or of its own accord. However, any conditions or obligations imposed on proposed acquirers must relate to these five criteria and may not go beyond what is necessary to comply with the criteria. If the conditions or obligations are not agreed upon by the proposed acquirer or if they could adversely affect the proposed acquirer's rights, a hearing will be conducted to give the proposed acquirer the chance to comment. The same applies if the ECB intends to oppose the proposed acquisition.

3.1.3 Passporting



SSMR Recital 51 and Articles 4(2) and 17(1)

SSMFR Articles 11-17

CRD Articles 35–39

RTS on information that competent authorities of home and host Member States supply to one another (EU/524/2014)

ITS on information exchange between competent authorities of home and host Member States (EU/620/2014)

ITS on notifications relating to the exercise of the right of establishment and the freedom to provide services (EU/926/2014)

An institution that has been granted a banking authorisation in one Member State may make use of the right of establishment and the freedom to provide services within the Member States of the European Union (“passporting”). Passporting can be done through either the establishment of a branch in another Member State or by the provision of services in another Member State. Passporting is subject to notification of the competent authority of the relevant home Member State.

Passporting within the SSM

Any SI in a participating Member State wishing to establish a branch within another participating Member State has to notify its home NCA of its intention and provide information to it in accordance with the requirements of CRD. The home NCA immediately informs the ECB. The JST then assesses whether the requirements for establishing a branch are met. If so, it submits its assessment to the Supervisory Board, which takes note thereof. The DGSSB subsequently communicates the relevant branch passport information to the SI, and to the home and host NCAs prior to the expiry of the deadline. After notification, the SI may establish the branch and commence its activities. If the JST concludes that the requirements are not met, it prepares a decision under the non-objection procedure and the SI is granted the right to be heard.

If the institution wishing to establish a branch within another participating Member State is an LSI, it has to notify its home NCA of its intention in accordance with the requirements laid down in CRD. The NCA assesses whether the requirements for establishing a branch are met and takes a decision following the internal NCA's decision-making procedures. If this is not the case, the NCA notifies the applicant institution of the rejection. Where no decision to the contrary is taken by the NCA within the applicable deadline for the receipt of the notification letter, the branch may be established and can commence its activities. This information is made available by the home NCA to the NCA of the participating Member State where the branch will be established and to the ECB.

Any SI in a participating Member State wishing to exercise the freedom to provide services by carrying out activities within another participating Member State for the first time has to notify its home NCA in accordance with the requirements laid down

in CRD. The home NCA informs the ECB about the receipt of the notification and communicates the notification to the host NCA. If the institution wishing to exercise the freedom to provide services is an LSI, it has to notify its NCA in accordance with the requirements laid down in CRD. The notification is made available to the ECB.

Incoming passporting

If an institution from a non-participating Member State intends to establish a branch in a participating Member State, it has to notify its intention to its home NCA. That NCA assesses if the requirements for passporting are met. If the requirements for passporting are met, the home NCA notifies the host NCA. Upon receipt of this notification, the host NCA notifies the ECB, which then assesses the significance of the branch.

If the branch is deemed less significant, DG MS III informs the Supervisory Board by providing a note on the outcome of its assessment (the “taking note” procedure in the Supervisory Board). The supervision of the LSI branch will be conducted by the host NCA which, if necessary, indicates the conditions under which the branch may carry out its activity in the host Member State. The host NCA informs the home NCA and the applicant institution. If the branch is significant, DG MS III prepares a proposal for a decision under the non-objection procedure. The supervision of the SI’s branch will be conducted by the ECB which, if necessary, indicates the conditions under which the branch may carry out its activity in the host Member State. The DGSSB informs the home NCA, the host NCA and the applicant institution.

If an institution from a non-participating Member State intends to provide services in a participating Member State, it notifies its home NCA, which, in turn, notifies the host NCA. The host NCA informs the ECB upon receipt of this notification and informs the applicant institution about the conditions under which the freedom to provide services can be exercised, subject to national law and in the interests of the general good. The ECB carries out the tasks of the competent authority of the host Member State for institutions established in non-participating Member States which exercise the freedom to provide services in participating Member States.

Outgoing passporting

An SI wishing to establish a branch or exercise the freedom to provide services within a non-participating Member State has to notify the relevant NCA of its intention. Upon receipt of this notification, the NCA informs the ECB, which exercises the powers of the competent authority of the home Member State; in particular, the JST assesses whether the requirements for establishing a branch are met.

If the requirements are met, the JST informs the Supervisory Board of the outcome of its assessment (taking note procedure in the Supervisory Board). The DGSSB subsequently informs the host NCA within three months of the positive outcome of

the assessment, which then indicates to the applicant institution the conditions under which, in the interests of the general good, the activities of the branch can be carried out in the host Member State. If the JST concludes that the requirements are not met, it prepares a negative decision to be approved by the Supervisory Board and adopted by the Governing Council under the non-objection procedure. The right to be heard applies. Once the decision has been adopted, the DGSSB notifies the applicant institution of the negative decision and informs the home NCA.

Should an LSI wish to establish a branch within the territory of a non-participating Member State, it has to inform its home NCA of its intention. The home NCA informs the NCA of the non-participating Member State and, at the same time, makes the notification available to the ECB.

Should an SI wish to exercise the freedom to provide services within a non-participating Member State, the JST sends a notification to the host NCA of the non-participating Member State where services will be provided within one month. If an LSI wishes to exercise the freedom to provide services within a non-participating Member State, it has to inform the relevant home NCA of its intention, in which case the home NCA informs the NCA of the non-participating Member State and makes the notification available to the ECB.

Notifications of changes in branches and in the exercise of the freedom to provide services

In the event of changes in branches of SIs – such as the provision of additional services by a branch, the termination of services provided by the branch, the termination of the branch activity, personnel changes in the branch management or a change in the official name and address of the branch – the NCA of the participating Member State where the SI has its headquarters has to send a notification to the host NCA and the ECB.

Changes in the services provided by SIs under the freedom to provide services have to be notified to the ECB when they occur. Notification of the host NCA remains at the NCA level. No notification of the ECB is required in the case of changes in LSI branches and services provided under the freedom to provide services in non-participating Member-States; this procedure also remains at the NCA level.

3.2 Assessing the significance of institutions



The ECB's degree of responsibility for the supervision of a credit institution depends on its significance status, which is determined at the highest level of consolidation in the participating Member States. The ECB has processes in place to assess the significance of supervised institutions on the basis of the criteria laid down in the SSM Regulation and to identify any migration of a supervised institution from significant (SI) to less significant (LSI) and vice versa. If such a migration from one status to the other occurs, the supervisory responsibilities need to be properly

handed over from the ECB to NCAs or vice versa, safeguarding the continuous and effective supervision of the institution. Under the SSM Framework Regulation (SSMFR), the ECB is obliged to publish and maintain a list of supervised entities. The list is maintained by the DGSSB in cooperation with DGs MS I-IV.

Regular classification of institutions

The process of assessing the significance of all entities under European banking supervision is performed once a year. The assessment process focuses on the criteria laid down in the SSM Regulation (SSMR) and the SSMFR. The status of an institution changes from LSI to SI when any of the quantitative criteria as laid down in the SSMR and SSMFR are met.

The quantitative criteria encompass:

- (i) size in terms of total assets and the ratio of total assets over the GDP of the participating Member State of establishment;
- (ii) the number of participating Member States where a bank has subsidiaries (one of the inputs for the cross-border significance criterion);
- (iii) cross-border assets and cross-border liabilities (only if necessary for assessing cross-border activity).

In addition, various qualitative criteria may determine that a credit institution within the SSM area is classified as significant.

- (i) The transfer of supervision from the NCA to the ECB is mandatory when public financial assistance has been requested or received directly from the European Stability Mechanism (ESM) by the supervised institution.
- (ii) The NCA may propose that the ECB declares a supervised group to be significant to its domestic economy even if none of the quantitative thresholds are met. The ECB will then conduct its own assessment to determine whether or not it agrees with the NCA and whether it can take the decision confirming such significance following a comprehensive assessment.
- (iii) The ECB may reclassify an institution in the event of an exceptional and substantial change in circumstances that is relevant for determining significance on the basis of the size criterion or importance for the economy of the EU or any participating Member State. The ECB may decide to do so at the request of the NCA or based on the significance of the institution's cross-border activities. An institution may also exceed some of the quantitative thresholds and still be considered to be an LSI based on specific factual circumstances under the SSMFR.
- (iv) The SSMR allows the ECB, on its own initiative or at the request of the NCA, to take over supervisory responsibilities and decision-making powers from the

NCA for any individual LSI if deemed necessary to ensure the consistent application of high supervisory standards.

Ad hoc classification of institutions

As the significance criteria mentioned in the SSMR and SSMFR relate to events that may also occur on an ad hoc basis, a bank's significance status may sometimes need to be reclassified outside of the regular classification process, i.e. via an ad hoc classification. It is therefore imperative that as soon as any of the significance criteria are fulfilled, the responsible functions within the ECB be supplied with the relevant information so that a timely ad hoc significance assessment – and if necessary a decision – on the transfer of direct supervision can be made.

In addition, events and changes in conditions or in the structures of supervised entities, such as mergers, acquisitions, the establishment of new entities or the withdrawal of authorisations, can trigger an ad hoc reassessment of the significance status.

Implementation of decisions to transfer the supervision of an LSI to the ECB

Once the ECB has taken a decision to transfer supervision of an LSI to the ECB due to either regular or ad hoc classification, measures to implement this decision begin and the ECB becomes responsible for the direct supervision of this institution within the envisaged time frame.

In order for the ECB to take over the supervisory responsibilities, a new JST needs to be set up. After the decision is taken, the JST's composition and staffing need to be decided before preparations for the transfer of supervision can begin. This entails initiating the supervisory planning process together with DG MS IV's Planning and Coordination of SEP Division, as well as liaising and cooperating with NCAs and any other authorities or institutions that play a part in assessing or managing the credit institution's condition.

Transfer of supervisory responsibilities from the ECB to NCAs

The migration from SI to LSI status will not be triggered by a one-time failure to meet any of the significance criteria. Instead, the group or credit institution has to fall short of the relevant criteria in three consecutive calendar years in order to qualify for reclassification. The three-year criterion seeks to avoid rapid or repeated alternations of supervisory responsibilities between NCAs and the ECB. However, some exceptions to this criterion exist:

- (i) where the ECB has assumed direct supervision in order to ensure a consistent application of high supervisory standards;

- (ii) where direct public financial assistance from the ESM has been denied, fully returned or terminated;
- (iii) in the event of an exceptional and substantial change in circumstances that is relevant for determining significance on the basis of the size criterion.

In these circumstances, the ECB may at any time, after consultation with the respective NCAs, decide that direct supervision by the ECB is not or no longer necessary.

The ECB takes the decision on the restitution of supervision. Starting from the restitution date, the responsibility for key supervisory tasks reverts from the JSTs to the NCA(s) concerned and DG MS III assumes its indirect supervisory responsibilities. Depending on the transitional arrangements agreed upon, the ECB may remain competent for certain tasks in order to complete pending procedures.

4 Supervision of significant institutions

Banking supervision starts with the planning of the regular supervisory activities, which are laid down in the Supervisory Examination Programme (SEP). The SEP covers the tasks and activities related to ongoing supervision and on-site missions, in line with available resources. The identification and assessment of key risks and vulnerabilities affecting entities under European banking supervision constitutes an essential part of the ECB's role in banking supervision. It forms a basis for the definition of supervisory priorities and feeds into the everyday work of the JSTs.

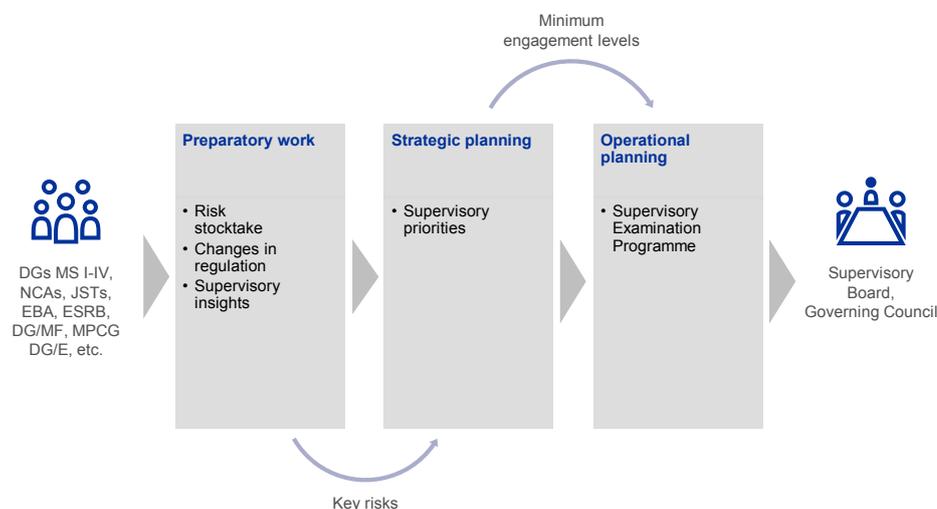
Ongoing supervision entails a number of activities that are conducted regularly or on an ad hoc basis and that are aimed at assessing the suitability of members of management bodies, checking compliance with prudential regulation, assessing the risk profile and performing the Supervisory Review and Evaluation Process (SREP). For significant institutions within the SSM, these tasks fall under the responsibility of the JSTs. In addition to ongoing supervision, it may be necessary to conduct in-depth reviews on certain topics by organising a dedicated on-site mission (e.g. an inspection or an internal model investigation). The on-site inspections are typically carried out by an inspection team, which – while organisationally independent – works in close cooperation with the respective JST.

The various supervisory activities typically result in supervisory measures addressed to the supervised institution. Supervisory activities and decisions are typically followed by a number of routine steps such as the monitoring of compliance and, if necessary, enforcement and sanctions.

4.1 Strategic and operational planning

Supervisory activities are planned in a two-step process: strategic planning and operational planning. Strategic planning encompasses defining the supervisory priorities for the following 12 to 18 months as well as an outlook for significant activities over the next three years. Setting minimum engagement levels for supervision is also part of strategic planning. The strategic plan outlines the nature, depth and frequency of activities to be included in the SEPs.

Figure 12
SSM annual planning process



Source: ECB Banking Supervision.

Operational planning comprises the creation of individual SEPs. The SEP sets out the main activities for the following 12 months, indicative schedules and objectives and any need for on-site inspections or internal model investigations. In order to ensure that JSTs have the necessary capacity to carry out annual supervisory tasks and activities, resource requirements are determined by evaluating the size, complexity and riskiness of institutions.

4.1.1 Defining supervisory priorities

As described above, strategic planning involves defining supervisory priorities. These priorities are defined annually by the Supervisory Board and set out focus areas for European banking supervision for the following 12 to 18 months as well as an outlook for significant activities over the next three years. The priorities build on an assessment of the key risks faced by institutions under European banking supervision and factor in relevant developments in the economic, regulatory and supervisory environment. More specifically, the identification of key risks takes into account the assessment of risks and vulnerabilities in the financial sector, as well as information issued by other European authorities, particularly the ESRB and the EBA. The JSTs' supervisory insights from ongoing supervision and NCA input are also taken on board.

The **supervisory priorities**, which are published on the ECB's banking supervision website, provide an essential tool for aligning the supervisory activities to be applied to supervised entities and for fostering a harmonised approach, thereby enhancing the supervisory efficiency. The supervisory priorities provide guidance to ensure the coherence and consistency of, in particular, the SEPs for the significant institutions.

In addition, the supervisory priorities help NCAs set their own priorities for the supervision of LSIs in a proportionate way.

4.1.2 Determining proportionate supervisory engagement: engagement level allocation and minimum engagement level activities



CRD Articles 97 and 99

Supervision needs to be both risk-based and proportionate to the type of the supervised entity concerned. The overall resources for European banking supervision therefore need to be allocated to the supervision of the different institutions in a way that takes into account these two objectives. This results in differing levels of supervisory engagement: a differentiated frequency and intensity of supervision for dissimilar institutions. There is a direct link between an institution's overall risk profile and the level of supervisory engagement.

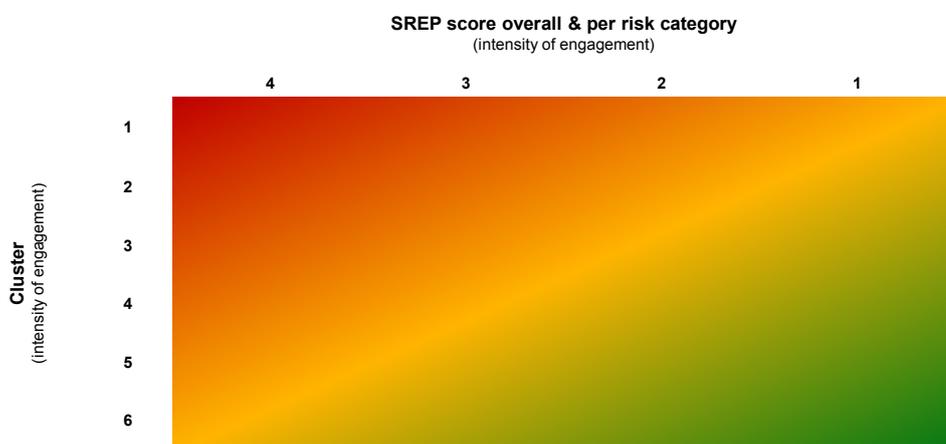
Two dimensions are taken into account when allocating SIs to a level of engagement.

On the one hand, both the institution's size and complexity are considered. These concepts, among others, are taken into account when assigning the supervised institutions to clusters, with "Cluster 1" covering the largest and most complex institutions.

On the other hand, the intrinsic riskiness of the institution is accounted for, as determined from the most recent overall risk assessment carried out by the JST. The outcome of this rating is a score between one and four for every supervised entity, with four being the most risky. The assessment process is described in detail in [Section 4.6](#).

For each SI, the overall engagement level is determined by taking into account its cluster and its overall SREP score, so that larger and riskier SIs have a more intense engagement level than smaller and less risky SIs, as illustrated in [Figure 13](#).

Figure 13
Determining the supervisory engagement level for significant institutions



Source: ECB Banking Supervision.

Each SI is assigned an overall engagement level, based on its overall SREP score and its cluster. For each SI, in addition to its overall engagement level, specific engagement levels are derived for each of the following eight risk categories:

- (i) business model risk;
- (ii) internal governance and risk management;
- (iii) credit risk;
- (iv) operational risk;
- (v) market risk;
- (vi) interest rate risk in the banking book (IRRBB);
- (vii) liquidity risk;
- (viii) capital adequacy.

Different engagement levels can be assigned to different risk categories at the same SI, depending on the respective SREP score, thereby ensuring a focused, risk-based approach. Depending on their respective engagement levels, for the overall risk category and eight specific risk categories, a set of core activities and a frequency (the minimum engagement level) is proposed in each case as a basis for the SEP of the SI.

Both the engagement levels assigned (based on risk and impact) and the list of minimum engagement level activities are annually reviewed and, if necessary, updated.

4.1.3 Creating the Supervisory Examination Programme

 CRD Articles 97, 98 and 99
Guidelines on common procedures and methodologies for the supervisory review and evaluation process (EBA/GL/2014/13)

The SEP for an SI covers ongoing activities performed off-site by the JSTs and on-site activities performed at the supervised entity's premises by on-site expert teams.

Each year the JST, in close cooperation with the Planning and Coordination of SEP Division, devises a SEP for each SI it supervises. The SEP activities draw upon the existing regulatory requirements, the SSM Supervisory Manual and the SSM's supervisory priorities.

In addition, JSTs are always in a position to perform ad hoc tasks that are not part of the SEP, as appropriate, especially to address rapidly changing risk developments at individual institutions or at the broader system level.

The SEP for ongoing activities comprises three components.

3. **Minimum engagement level (MEL) activities** are the risk-based minimum set of ongoing activities that JSTs are required to perform. The scope and frequency of these activities depend directly on the engagement level of the SI

(see Section 4.1.2). The MEL is composed of: (i) core activities that need to be performed on a regular basis (e.g. SREP); (ii) “deep dives”, i.e. analysis on topics selected by the JSTs to address specific concerns about the SI; and (iii) thematic reviews and analyses, which directly reflect focus areas of the supervisory priorities.

4. **Other regular SEP activities** are related to **organisational**, administrative or legal requirements and can be planned in advance. The scope and frequency of these activities are centrally determined.
5. **Additional SEP activities** are planned by the JSTs to complement MEL activities and to further adapt the SEP to the specificities of the supervised group or entity, taking into account the JST’s available resources (e.g. analysis of specific exposures or additional meetings).

The on-site activities covered by the SEP comprise:

1. **on-site inspections**: requested by the JSTs following a proportionate and risk-based approach;
2. **internal model investigations**: triggered by the supervised entities’ requests for model approvals or by the JSTs.

The SEPs are implemented according to defined schedules and the execution of the programmes is monitored.

At the beginning of each year, the JSTs share with the supervised entities a simplified SEP, i.e. a tentative high-level outline of the main planned supervisory activities (off-site and on-site) that require the institutions’ direct involvement.

Following unforeseen developments, amendments to the individual SEP are possible throughout the year.

On top of the SEP activities, JSTs need to perform other activities which cannot be planned for ex ante (**non-SEP activities**), such as fit and proper assessments, the management of crisis situations, and activities in relation to acquisitions and unexpected increases in risk.

4.2 Risk analyses to identify and assess key risks and vulnerabilities

The identification and assessment of key risks and vulnerabilities affecting supervised entities within the SSM constitutes an essential part of ECB Banking Supervision’s work. It forms a basis for the definition of supervisory priorities and feeds into the everyday work of the JSTs. The identification and regular monitoring of emerging and existing risks (see Section 4.2.1) is complemented by in-depth analyses or thematic reviews on selected topics (see Sections 4.2.2 and 4.5.3), stress-testing exercises (see Section 4.2.3) and impact analyses of existing or forthcoming regulatory initiatives (see Section 4.2.4).

4.2.1 Identification of emerging risks



SSMR Articles 3, 4 and 10

The assessment of the most relevant risks faced by supervised entities and in particular the early identification of new, emerging risks constitutes an important prerequisite for successfully conducting banking supervision. It is also a starting point for the regular strategic planning process in which the supervisory priorities are defined. Horizontal analyses for this purpose and an overall assessment of the key risks and vulnerabilities in the participating Member States are executed by the SSM Risk Analysis Division, which is responsible for:

1. identifying emerging risks and monitoring changes in the risk landscape of the SSM;
2. conducting horizontal in-depth risk analysis activities in various formats and at various frequencies covering all relevant risk categories and topics;
3. providing expertise and support to JSTs and other divisions for their supervisory activities (including the design and provision of monitoring and analytical tools, peer analyses on key risk areas and expert support in risk analyses).

The risk analyses within European banking supervision benefit from (i) direct access to JSTs as an important source of institution-specific information and (ii) analyses performed by other ECB business areas, for example macroprudential analyses as described in Section 2.4.1.

An annual comprehensive risk assessment exercise is performed in close coordination with a network of experts and equivalent horizontal functions within the NCAs. The outcome of this exercise and of other ongoing analytical work is regularly shared with the JSTs.

The results of the analyses of current risks and vulnerabilities are taken into account in the overall SSM strategic planning and feed into the overall SEP (see Section 4.1). They are complemented by in-depth analyses (see Section 4.2.2), stress-testing exercises (see Section 4.2.3), impact analyses of existing or forthcoming regulation (see Section 4.2.4) and selected thematic analyses (see Section 4.5.3).

4.2.2 In-depth analyses

On selected topics of a horizontal nature, in particular on the key risks established in the risk identification process, the SSM Risk Analysis Division carries out in-depth analyses, which can entail ad hoc data collection. These in-depth analyses usually result in horizontal reports and institution-specific tools, for example peer benchmarking exercises, which support JSTs in their ongoing supervisory work.

4.2.3 Stress testing



SSMR Article 4(1)(f)

CRD Article 100

EBA Regulation Recital 43 and Articles 21, 22 and 32

Stress tests are a key tool for measuring one risk or a combination of risks under given stress scenarios. Within ECB Banking Supervision, the SSM Risk Analysis Division is responsible for horizontal tasks involving microprudential supervisory stress tests. For SIs this includes, in particular, conducting the annual supervisory stress tests prescribed by the CRD to facilitate the SREP and coordinating the participation of entities under European banking supervision in the EU-wide stress-testing exercises initiated and coordinated by the EBA.

These tasks include, inter alia, the design of the stress-test methodology and templates, the design and implementation of the quality assurance strategy for challenging institutions' stress-test projections, as well as supervising the development of the corresponding models and IT infrastructure. These tasks are undertaken, where appropriate, in collaboration with other divisions of the ECB, the EBA and/or NCAs.

Microprudential stress tests are often complemented by macroprudential extensions that capture feedback effects or network effects. Feedback effects can occur, for example, through adverse changes in the state of the environment triggered by a stress scenario with a negative impact on lending. Network effects are propagated in such a scenario, for example, through lending or funding links between institutions. Both feedback and network effects are often addressed by top-down models designed for macroprudential and financial stability analyses. They complement the more microprudential bottom-up stress tests, in which banks commonly use their own models and the focus is on reflecting risks with high sensitivity and ensuring the comparability of the outcome across institutions. The latter aspect is especially important since the results typically serve as input into the SREP.

In addition to contributing to system-wide stress-test exercises, the SSM Risk Analysis Division also provides sensitivity analyses and other quantitative assessments to be considered in the supervisory decision-making.

4.2.4 Quantitative impact studies

The identification and monitoring of supervised institutions' risks for European banking supervision also entails the assessment of the compliance of SSM institutions with existing micro- and macroprudential measures and forthcoming regulatory initiatives.

Under that remit, the SSM Risk Analysis Division contributes, on the one hand, to recurring monitoring exercises to determine the status of compliance of supervised institutions with existing and forthcoming micro- and macroprudential requirements and conducts, on the other hand, selected quantitative impact studies on supervisory and regulatory initiatives.

Typical examples of the contribution of the SSM Risk Analysis Division are the development of recurring reports on the risk profile of supervised institutions and the conduct of ad hoc impact analyses on supervisory policy issues.

4.3 Collecting supervisory data

Off-site and on-site supervisory activities require the acquisition, processing and analysis of relevant information. The coordination of supervisory actions between the ECB and the NCAs and communication with reporting entities are based on the availability and exchange of information, including data. Having established supervisors' needs, and having set up a corresponding process to collect data from the supervised entities, NCAs and the ECB conduct data quality assessment to ensure that the received data meet certain minimum standards.

Establishing supervisory reporting needs

In order to fulfil ongoing supervisory tasks, JSTs need to have all relevant information regarding a supervised entity readily available in a timely manner.

Regulatory reporting comprises standardised prudential information on the financial and prudential situation of supervised entities and includes a large amount of periodic regulatory data and reports. In addition to regular reporting, there are **complementary data collections** to meet specific data needs.

The SSM Risk Analysis Division and the Methodology and Standards Development Division, in close cooperation with the JSTs, play a key role in identifying supervisory reporting needs and coordinating the processes necessary to allow the transposition of such needs into legal acts.

The SSMR states that "In order to carry out its tasks effectively, the ECB should be able to require all necessary information and to conduct investigations and on-site inspections, where appropriate in cooperation with national competent authorities".

The ECB may require the legal or natural persons to provide all information that is necessary in order to carry out the tasks conferred on it by the SSMR, including information to be provided at recurring intervals and in specified formats for supervisory and related statistical purposes. If the ECB obtains information directly from the legal or natural persons, it makes it available to the NCAs concerned. The SSMFR provides that the ECB may require supervised entities to report additional supervisory information whenever such information is necessary to carry out its supervisory tasks, specifying the categories of information that should be reported as well as the processes, formats, frequencies and time limits for the provision of the information concerned.



CRR Articles 6, 24, 99, 100, 101, 394, 415 and 430
SSMR Article 10 and Recital 47
SSMFR Articles 139, 140 and 141
ITS on supervisory reporting (EU/680/2014)
ECB Regulation on reporting of supervisory financial information (ECB/2015/13)
ITS on standards for templates, definitions and IT solutions for EBA reporting (EU/2016/2070)
ECB Decision on the provision to the ECB of supervisory data reported to NCAs by supervised entities (ECB/2014/29)
ECB Decision on the reporting of funding plans of credit institutions by NCAs to the ECB (ECB/2017/21)

A distinction is made between:

- (i) regular reporting that is based on an EU regulation/EBA guidelines or an ECB regulation/decision; and
- (ii) ad hoc reporting (or complementary data collection) that is based on supervisory decisions.

Regular reporting



EBA Guidelines on funding plans (EU/2014/04)

ITS on standards for templates, definitions and IT solutions for EBA reporting (EU/2016/2070)

The Commission Implementing Regulation that provides for **Implementing Technical Standards (ITS)** with regard to supervisory reporting of institutions contains detailed reporting requirements concerning own funds and financial information, including COREP, FINREP, the LCR, the NSFR, large exposures and the leverage ratio. The ITS on supervisory reporting stipulate the scope, format, frequency, submission dates and explicit definitions applicable to the different reporting requirements. They specify how to transpose the statutory requirements laid down in the CRR into data ready for analyses. Therefore, different templates have been designed, which institutions are obliged to fill in and submit to the respective NCA. The ITS are the largest set of reporting requirements used at EU level for the supervisory assessment of credit institutions and investment firms. Additional reporting requirements are included in the EBA Guidelines on funding plans and the EBA ITS on benchmarking portfolios.

The **ECB Regulation on reporting of supervisory financial information** extends the ITS reporting requirements to ensure consistency and enhance comparability among the supervised entities established in the participating Member States. In particular, it extends the harmonised regular reporting of financial information to the consolidated reports of institutions under national accounting frameworks, as well as to solo reports, for example for stand-alone supervised entities.

The SSM Risk Analysis Division is in charge of supervisory reporting issues concerning the definition of supervisory needs and their transposition into legal acts, while DG/S's Banking Supervision Data Division is in charge of the operationalisation of the process for collecting, gathering and disseminating the corresponding data.

Ad hoc or complementary data collections

In addition to the regular supervisory reporting data, the ECB collects complementary data to meet specific needs.

For instance, an ad hoc data collection called the **Short Term Exercise (STE)** has been developed specifically to supplement the data available to European banking supervision for the SREP and is tailored to Pillar 2 purposes. The STE data collection is requested for SIs at the highest level of consolidation, as well as for certain subsidiaries of SIs identified by the JSTs on the basis of Article 10 of the

SSMR, and is communicated to institutions via an ECB decision. The needs to be covered by the STE are reviewed every year before the start of the SSM SREP.

The STE data collection is specified in accordance with the proportionality principle. The number of data points to be reported depends on the complexity of the institution. As a consequence, smaller entities have fewer data points to report in several templates for STE data collection. Additionally, data quality reports are usually produced twice for each production cycle, once soon after the submission date, for an initial overview, and then again as a wrap-up report, usually six to eight weeks after the defined submission date, by which time it is considered that the aggregated data collected are close to being final. Supervisors gain access to STE data five to ten working days after each submission, which allows time for data processing and validation. Resubmitted data and updated indicators are refreshed once a week thereafter or more often if requested.

Furthermore, the ECB collects **additional data** not covered in the above-mentioned data collections. These include, for instance, data on remuneration and on high-NPL institutions. In addition, specific **individual reporting requirements** may be imposed on institutions on a case-by-case basis. The Methodology and Standards Development Division and the SSM Risk Analysis Division of DG MS IV are involved in the design and implementation of the reporting needs and format, in collaboration with DG/S's Banking Supervision Data Division. The basic principle governing the additional data collections is their alignment with existing and up-to-date reporting standards laid down by the ITS on supervisory reporting, which provide a strong harmonised basis. The ECB takes full advantage of these standards and makes extensive use of them. For one, the ECB always checks whether the data needed are already available in ITS-format or in any type of other EU-wide agreed format, thereby relieving the reporting burden for supervised institutions and avoiding double reporting.

Over the medium to long term, the ECB aims to propose appropriate amendments to the ITS on supervisory reporting in order to reduce the complementary data collection.

Processing supervisory data

Regulatory reporting data, based in particular on the ITS on supervisory reporting or the ECB Regulation on reporting of supervisory financial information, are channelled from the reporting institution to the ECB through NCAs, which collect the data from the supervised entities located in their jurisdictions. DG/S's Banking Supervision Data Division is responsible for the collection of data from NCAs. Data based on the ITS on supervisory reporting, including the extended FINREP, are uploaded by the NCAs to the Supervisory Banking data system (SUBA) in XBRL format. Following the successful receipt and uploading of a file into SUBA (i.e. the file complies with EBA and ECB filing rules), the system starts to assess the data by automatically executing a comprehensive set of validation checks.



EBA Guideline on funding plans (EBA/GL/2014/04)

ITS on supervisory reporting

ITS on reporting benchmarking

ITS on reporting (EU 680/2014)

ITS on reporting benchmarking (EU 2017/180)

These validation checks are twofold. First, XBRL validation rules largely check consistency and accuracy within a given module. They are [published on a regular basis by the EBA](#). Second, the ECB applies completeness checks that flag any templates missing from or unexpectedly included in a reported module. When a correction is received, the regular data transmission and data quality control processes as described above are repeated. Besides those two cases, the ECB also runs additional checks within its data quality assessment framework.

Regulatory reporting data are disseminated externally and internally. In compliance with the EBA decision on reporting by competent authorities to the EBA, the ITS data at the highest level of consolidation are, for a sample of institutions that is published by the EBA on its website, sent to the EBA immediately upon receipt (external dissemination). A sequential approach is in place to avoid double submission by NCAs to both the ECB and EBA and to ensure full alignment between the NCAs', the ECB's and the EBA's databases.

ITS data received in SUBA are made available internally to the SSM in various formats and tools (internal dissemination). Each night, all modules received in SUBA during the day for SIs and [high-priority LSIs](#) are transformed into Excel tables and uploaded into the SSM information management system. This process enables supervisors to access these data the day after the ECB receives them. Furthermore, all risk indicators for SIs are promptly updated whenever at least one module affecting the calculations is received in SUBA.

Data quality assessment

The availability of adequate and high-quality data is pivotal for both the supervised institutions and the supervisor. Data quality and firm-wide risk aggregation capabilities are essential preconditions for sound, risk-based decision-making and therefore for proper risk governance. The NCAs are responsible for the first data quality assessment. In addition to a set of harmonised validation checks (e.g. EBA XBRL validation rules for ITS data) to be performed at national level, the NCAs can apply additional methods to improve the quality of the data submitted. The ECB is in charge of the second assessment of the data, with additional checks, some of which can only be performed on the full data set, such as peer group analyses, plausibility checks and comparisons across countries. The NCAs follow up with institutions on errors and plausibility issues arising from the second assessment.

The data quality assessment at the ECB is performed on the basis of a defined set of dimensions.

- **Accuracy:** the closeness of the reported value to the underlying supervisory concept. In the supervisory statistics environment, accuracy is interpreted as the absence of mistakes and exact correspondence of the reported values with the underlying concept for each data point.

- **Reliability:** the closeness of revised values of a specific data point to the initial value released. This dimension is based on the definition of significant resubmissions and assessed by resubmission studies.
- **Completeness:** the availability of the required information. Completeness checks are carried out to detect missing information.
- **Consistency:** the satisfaction of logical relations between different subsets of the data (i.e. across templates), their correspondence with the master data associated with the institution and their correspondence with other published data.
- **Plausibility:** checks aim to detect outliers in the reported data. This is accomplished by reviewing the time series of the variable concerned in order to assess whether values deviate significantly from the usual pattern or whether values are particularly high (or low) compared with peer institutions.
- **Punctuality:** the lag in time between the required submission date and the actual submission of the data by the NCA to the ECB.

On the basis of these dimensions, DG/S prepares various dashboards and reports, including a quarterly data quality report for each SI on ITS data. DG/S shares the data quality reports with the NCAs and informs them of the developments. The JST is the addressee of the reports, which are used to monitor data quality. If the report shows significant data quality issues and, after a proportionate analysis, the JST detects violations of regulatory requirements, the JST takes supervisory action. Such action may take the form of an operational act addressed to the supervised entity or arrangements to meet the institution's management. Alternatively, the JST could propose the use of [supervisory powers](#) to the Supervisory Board and the Governing Council. In addition, the results are also likely to be fed into the risk assessment of the supervised entity concerned for further analysis.

4.4 Assessing the suitability of members of management bodies (fit and proper assessment)

4.4.1 Objectives

The management body of an institution must be suitable in order to carry out its responsibilities and be composed in such a way that it contributes to the effective management of the institution and balanced decision-making. This will have an impact not only on the safety and soundness of the institution itself, but also on the wider banking sector, as it will reinforce the trust of the public at large in those who manage the financial sector of the euro area.

The supervised entities have the primary responsibility for selecting and nominating individuals for their management body who comply with the requirements for fitness

and propriety (“suitability”). They must carry out their own due diligence and assessment of the members of the management body, not only prior to the appointment but also on an ongoing basis (e.g. in the case of a significant change in the responsibilities of a member of the management body). In doing so, the supervised entities must ensure that they have the fully transparent cooperation of the individuals concerned.

4.4.2 Scope

The ECB is responsible for taking decisions on the suitability of all members of the management body, both in their management function (executives) and supervisory function (non-executives), of all institutions under the direct supervision of the ECB (SIs), whether credit institutions or (mixed) financial holding companies, and in the case of licensing or qualifying holdings also of LSIs. Responsibility for regular appointments in LSIs (i.e. outside the context of licensing or qualifying holdings) lies with the NCAs.

The responsibility of the ECB is to act as a gatekeeper. It has the task of ensuring that significant supervised entities comply with the requirements to have in place robust governance arrangements, including the fit and proper requirements for the persons responsible for the management of institutions. The ECB also has direct competence for exercising the supervisory powers granted under national law and not explicitly mentioned in EU law regarding the approval of the appointment of key function holders in SIs under the conditions and within the limits defined in national law.

4.4.3 Legal framework



CRR
CRD Articles 88, 91 and 121
SSMR Articles 4, 6 and 9

For the purposes of carrying out its supervisory tasks, the ECB will apply all relevant EU law and, where this law is composed of Directives, the national legislation transposing those Directives. Suitability requirements are succinctly covered by the CRD. The Directive covers the fit and proper standards in substance without, however, providing any details on the different criteria and remains silent on the type of supervisory procedure to be followed (e.g. the choice between ex ante supervisory approval of an appointment or ex post notification of an appointment to the supervisor).

Consequently, when taking fit and proper decisions within the SSM, the ECB will apply the substantive fit and proper requirements laid down in the binding national law which implements the CRD. Given that the fit and proper requirements in the CRD are to be considered as minimum harmonisation, this transposition has been dealt with in different ways in the 19 euro area countries. Some countries have also gone beyond the requirements of the CRD.

Besides national law, the ECB also complies with the EBA Guidelines on suitability and the EBA Guidelines on Internal Governance. These Guidelines leave some room

for the NCAs and the ECB to add further details to the requirements. The definitions and concepts contained in these Guidelines are taken into account by the ECB in its fit and proper assessments.

The regulatory requirements need to be applied in practice by the competent authorities when assessing the suitability of members of the institution's management body. To ensure consistency in the application of the legal requirements, some clarification on the interpretation of those requirements is needed, alongside the development of common supervisory practices and processes.

To that end, the ECB – together with the NCAs – has developed policies regarding fit and proper criteria, and supervisory practices and processes, which explain in further detail how the SSM applies, on a case-by-case basis, the CRD and the EBA Guidelines. These policies are adopted without prejudice to national law and in compliance with the EBA Guidelines. In the absence of contradictory binding national law, they should be adhered to by the ECB and the NCAs. The NCAs have agreed, to the extent possible, to interpret and develop national law in line with these policies.

The ECB policies and supervisory practices mentioned above are explained in greater detail in the ECB Guide to fit and proper assessments, which is available on the [ECB's banking supervision website](#).

4.4.4 Assessment criteria

The fitness and propriety of members of the management body is assessed against five criteria: (i) experience; (ii) reputation; (iii) conflicts of interest and independence of mind; (iv) time commitment; and (v) collective suitability.

The principle of proportionality applies throughout the whole fit and proper process, meaning that the application of the suitability criteria should be commensurate with the size of the entity and the nature, scale and complexity of its activities, as well as the particular role to be filled. The application of the proportionality principle to the suitability criteria cannot lead to a lowering of the suitability standards, but can result in a differentiated approach to the assessment procedure or the application of suitability criteria (e.g. in terms of the level or areas of knowledge, skills and experience, or in terms of the time commitment required of members of the management body in its management function and members of the management body in its supervisory function). Therefore, in all cases the assessment will come down to an individual analysis and supervisory judgement.

Experience

Members of the management body must have sufficient knowledge, skills and experience to fulfil their functions. The term “experience”, used hereafter in a broad sense, covers both practical, professional experience gained in previous occupations

and theoretical experience (knowledge and skills) gained through education and training.

All members of the management body are expected to possess, as a minimum, basic theoretical banking experience that allows them to understand the institution's activities and main risks. The level and nature of the experience required of a member of the management body in its management function may differ from that required of a member of the management body in its supervisory function, in particular if these functions are performed by separate bodies. Additional experience might be deemed necessary based on relevant factors, e.g. the function applied for, the nature, size and complexity of the entity, or other factors that need to be taken into account in the specific case.

Reputation

Members of the management body must at all times be of sufficiently good repute to ensure the sound and prudent management of the supervised entity. Since a person can either have a good or a bad reputation, the principle of proportionality cannot apply to the reputation requirement or to the assessment of the reputation requirement, which should be conducted for all institutions in an equal manner.

An appointee will be considered to be of good repute if there is no evidence to suggest otherwise and no reason to have reasonable doubt about his or her good repute. If the personal or business conduct of an appointee gives rise to any doubt about his or her ability to ensure the sound and prudent management of the credit institution, the supervised entity and/or the appointee should inform the competent authority, who will assess the materiality of the circumstances.

Pending – as well as concluded – criminal or administrative proceedings may have an impact on the reputation of the appointee and the supervised entity, even if the appointee is (being) appointed in a state other than the one in which the relevant events occurred. Pending proceedings may also have an impact on the ability of the member to commit sufficient time to his or her functions and also need to be assessed on this basis.

Conflicts of interest

Members of management bodies should be able to make sound, objective and independent decisions (i.e. act with independence of mind). Independence of mind can be affected by conflicts of interest.

The supervised entity should have governance policies in place for identifying, disclosing, mitigating, managing and preventing conflicts of interest, whether actual, potential (i.e. reasonably foreseeable) or perceived (i.e. by the public). There is a conflict of interest if the attainment of the interests of a member may adversely affect the interests of the supervised entity.

Having a conflict of interest does not necessarily mean that an appointee cannot be considered suitable. This will only be the case if the conflict of interest poses a material risk and if it is not possible to prevent, adequately mitigate or manage the conflict of interest under the written policies of the supervised entity.

If national substantive law, in addition, includes specific formal independence criteria for certain members of the management body (“independent directors”), these criteria also need to be observed.

Time commitment

All members of the management body must be able to commit sufficient time to performing their functions in the institution. The time a director can dedicate to his or her functions can be affected by several factors, such as the number of directorships held (quantitative assessment). In addition, an assessment of qualitative aspects will need to be conducted.

The number of directorships which may be held by a member of the management body of an SI under the CRD is limited to one executive directorship with two non-executive directorships, or four non-executive directorships. However, there are two exceptions to this rule.

Qualitative factors that determine the amount of time a director can dedicate to his/her function, such as: (i) the size and the circumstances of the entities where the directorships are held and the nature, scale and complexity of their activities; (ii) the place or country where the entities are based; and (iii) other professional or personal commitments and circumstances (e.g. a court case in which the appointee is involved). While assessing whether the appointee will be able to commit sufficient time to performing his/her functions, the supervised entity should also take into account the need for ongoing learning and development, as well as the need for a buffer for unexpected circumstances. Unexpected circumstances not only include crisis situations related to the institution, but also circumstances that could unexpectedly affect time commitment (e.g. court cases).

Collective suitability

The supervised entity has the primary responsibility for identifying gaps in the collective suitability through the self-assessment of its management body, for example based on a suitability matrix. The supervised entity should report and discuss these to/with its JST, as the supervision of the collective suitability of the management body is a matter of ongoing governance supervision. How an appointee will fit into the collective suitability is one of the criteria to assess at the time of his or her initial fit and proper assessment.

Assessment process

The ECB only takes decisions on appointments in significant credit institutions, except where appointments are part of licensing or qualifying holding procedures (these are common procedures for both SIs and LSIs).

Appointments are declared by the credit institutions (or exceptionally by the appointee) to the relevant NCA, using national notification forms. The NCA then informs the ECB. Together they collect the necessary information, carry out the assessment and present a detailed proposal for a decision.

A formal ECB decision is taken after every fit and proper assessment within the deadline provided for by national law, if applicable. An appointee is either considered fit and proper or not. However, the ECB has the power to include recommendations, conditions or obligations in positive decisions. Where concerns cannot be adequately addressed by means of these tools, a negative decision will need to be taken. The ECB has the power to remove at any time members from the management body of a significant supervised entity who do not fulfil the suitability requirements.

The supervised entity (or exceptionally the appointee) is notified of the decision taken by the ECB. The supervised entity and the appointee also have to comply with any other requirements under national law, such as being registered in a national register, if applicable.

The appointee or the supervised entity has the option to request a review by the Administrative Board of Review or to challenge the decision directly before the Court of Justice of the European Union.

4.5 Conducting ongoing supervision

Ongoing supervision of SIs is conducted by the JSTs and supported by the ECB's and NCAs' horizontal divisions. Ongoing supervision entails regular and ad hoc measures and comprises implementing the SEP (see Section 4.1) and performing the SREP (see Section 4.6). In addition, the JSTs ensure coordination with on-site inspection teams and liaise with national supervisors.

The JSTs gather information on the institution on an ongoing basis and maintain a continuous supervisory dialogue.

4.5.1 Gathering information



SSMR Articles 10 and 11

As part of its ongoing assessment of an institution's risk profile, the JST uses a wide range of information sources of a quantitative and qualitative nature. The JSTs function as a single point of entry for all communication with supervised entities and other supervisory authorities within the SSM. The JST coordinator takes care of the distribution of the information to all the parties involved. All the information is stored in the central SSM database or information management system.

For legal and technical reasons there are, however, exceptions to the single point of entry policy. For the gathering of most quantitative information, specific procedural regulations are in place. In the case of regular reporting, for example COREP and FINREP, existing reporting platforms and procedures are used (see Section 4.3).

In general, the ECB may require the submission of documents and obtain written or oral explanations of such information from supervised entities. Examples are internal data and management reports, such as risk reports, internal audit reports, strategies or business and capital plans. The ECB may also use additional data gathered in the course of its supervisory activities as well as information from external providers in order to monitor specific topics and risks.

4.5.2 Maintaining a continuous supervisory dialogue



CRD Articles 10, 97, 104 and 105

Guidelines on common procedures and methodologies for the supervisory review and evaluation process (EBA/GL/2014/13)

In their day-to-day supervision, the JSTs hold regular and ad hoc meetings with the supervised entities at various levels of seniority. Maintaining this continuous supervisory dialogue is critical for the early identification of risks and the timeliness of corrective supervisory measures. Furthermore, the supervisory dialogue fosters a common understanding between supervised entities and supervisors on the key elements and main drivers of the outcome of supervisory procedures, such as the SREP and supervisory stress tests.

As part of the annual process of creating a SEP, every JST prepares an annual schedule of key meetings for each supervised entity. The schedule can be updated throughout the year. Moreover, ad hoc meetings can be held at the request of the supervisor or the respective supervised entity. Despite this, meetings between the NCAs and the institutions' local management on non-SSM supervisory tasks can be held without JST involvement, but with the JST being informed.

Regular meetings are held both with the group's management and with the management of significant subsidiaries. Typically, there is at least one meeting per year with the Chief Executive Officer (CEO), Chief Risk Officer and Chief Financial Officer, along with the Chair of the Supervisory Board of the supervised entity and the Head of Internal Audit at the group level and for relevant subsidiaries. In addition, meetings with the heads of main business lines and compliance and support functions may be held, supplemented with thematic meetings at a technical level.

As a key element of the supervisory dialogue, the JST coordinator typically organises a meeting with the management body of the institution, to present the conclusions of the SREP and the rationale behind the draft SREP decision. This allows the institution to understand how it has been assessed and which areas are in need of improvement.

Occasionally, the ECB also organises additional meetings with the industry, such as CEO workshops on dedicated topics.

4.5.3 Performing SSM thematic reviews



CRD Article 99
SSMR Articles 4, 6(1), 9(1) and 10

The ECB performs thematic reviews on topics that typically affect groups of institutions from several jurisdictions operating with different business models of differing size and complexity (e.g. the [Thematic review on governance and risk appetite](#)). The sample of institutions for a thematic review is chosen so as to allow for sound horizontal analysis and benchmarking, with the purpose of capturing valuable insights into the risk patterns observed across the participating Member States. The thematic reviews aim at achieving in-depth knowledge of the selected topics by focusing on fact-finding. Depending on the topic and findings, the outcomes of thematic reviews may be used for developing SSM guidance, contributing to the identification and/or promotion of best practices, or even resulting in institution-specific qualitative and/or quantitative measures. For institutions included in the sample for a thematic review, the outcomes of the analysis are taken into account in the annual SREP.

The topics for the thematic reviews are set by the Supervisory Board, which approves the supervisory priorities for the coming year, thereby identifying the topics to be assessed in depth. The identification of potential topics for a thematic review is coordinated by the Planning and Coordination of SEP Division in liaison with other SSM stakeholders, such as DGs, JSTs or other ECB business areas, NCA horizontal divisions and international bodies (e.g. the EBA and the BCBS).

The JSTs communicate the observed findings or areas for improvement through dedicated follow-up letters or supervisory decisions. Depending on the severity of any deficiencies detected, an action plan or specific remedial actions may be requested. Aggregated outcomes of thematic reviews may also be communicated to the industry by issuing SSM expectations.

4.5.4 Periodic regulatory review processes



CRD
EBA Guidelines

The periodic regulatory reviews describe supervisory duties deriving from the CRR, the CRD and the BRRD. These include, for instance, the regular assessment of the institutions' recovery plans and [remuneration policies](#), compliance assessments of Pillar 3 disclosures, or dividend distribution policies.

For instance, each JST is responsible for gathering information on the remuneration policy and practices of the supervised institution and for performing a meaningful analysis to assess compliance with the relevant CRD requirements. The assessment is used as an input into the SREP decisions (see Section 4.7).

Related to the application of sound remuneration policies, and in response to applications submitted by the supervised institutions, the JSTs are responsible for assessing requests for prior approval of the exclusion of staff members from the presumption of having a material impact on an institution's risk profile (referred to as "identified staff"), or requests to increase the ratio between the variable and fixed remuneration components. In the former case, an ECB decision based on a proposal from the Supervisory Board will be issued by the Governing Council (following the

ECB's decision-making process). In the latter case, if it is foreseen that the capital base would remain sound, in general no specific decision is needed by the competent authority.

Another example is the responsibility of the JST for assessing the compliance of the supervised institution with the Pillar 3 disclosure requirements stemming from the CRD, the CRR, EBA Guidelines and national law. In this context, the JST assesses not only publicly disclosed documents, but also internal arrangements and practices governing disclosure-related decisions and activities. The conclusions of this assessment may also feed into the SREP decision.

4.6 Carrying out the SREP

4.6.1 The SREP framework



CRD Articles 97, 98, 104, 105 and 110

SSMR Articles 4 and 16

Commission Implementing Regulation on joint decisions (EU/710/2014)

Commission Delegated Regulation on the functioning of colleges of supervisors (EU/2016/98)

ITS on the functioning of colleges of supervisors (EU/2016/99)

Guidelines on common procedures and methodologies for the supervisory review and evaluation process (EBA/GL/2014/13)

EBA opinion on Pillar 1, Pillar 2 and combined buffers

EBA clarification on the use of EU-wide stress-test results in the SREP process

Guidance to banks on non-performing loans

Under the [SREP](#), as defined in the CRD, the JSTs are required to review, at least annually, the arrangements, strategies, processes and mechanisms implemented by the institutions they supervise. The horizontal functions are responsible for developing the applicable methodology, for performing horizontal analyses and for coordinating the process. The SREP assessment is continuously carried out. It forms the basis for a decision on the adequacy of the levels of capital and liquidity and for additional supervisory measures to be adopted at least on an annual basis and updated whenever necessary.

The SSM SREP process and methodology stem from the EBA SREP Guidelines and are updated in line with them, also reflecting new regulations. Moreover, in order to keep up with evolving practices, the SSM SREP draws on leading practices within the SSM and as recommended by international bodies, thereby ensuring continuous improvement.

Ongoing, forward-looking and proportionate assessments

Proportionality is integral to the manner in which the SREP is carried out: the frequency, scope and depth of the SREP reflect the level of supervisory engagement that is deemed necessary for an institution (formalised in its SEP; see Section 4.1.3) depending on its risk profile.

The SREP results in supervisory actions, including measures related to capital and/or liquidity or other types of supervisory measures. The SSM SREP methodology for SIs follows the EBA SREP Guidelines and draws on best practices within the SSM as well as recommendations issued by other international bodies. The SREP involves experienced supervisors from the ECB and NCAs, with 26 national authorities from 19 Member States contributing. It benefits from a common integrated IT system and a secured information flow between all supervisors. The full

benefit of both NCA and ECB expertise is assured. For example, the assessment and control of data quality is done at NCA as well as ECB level.

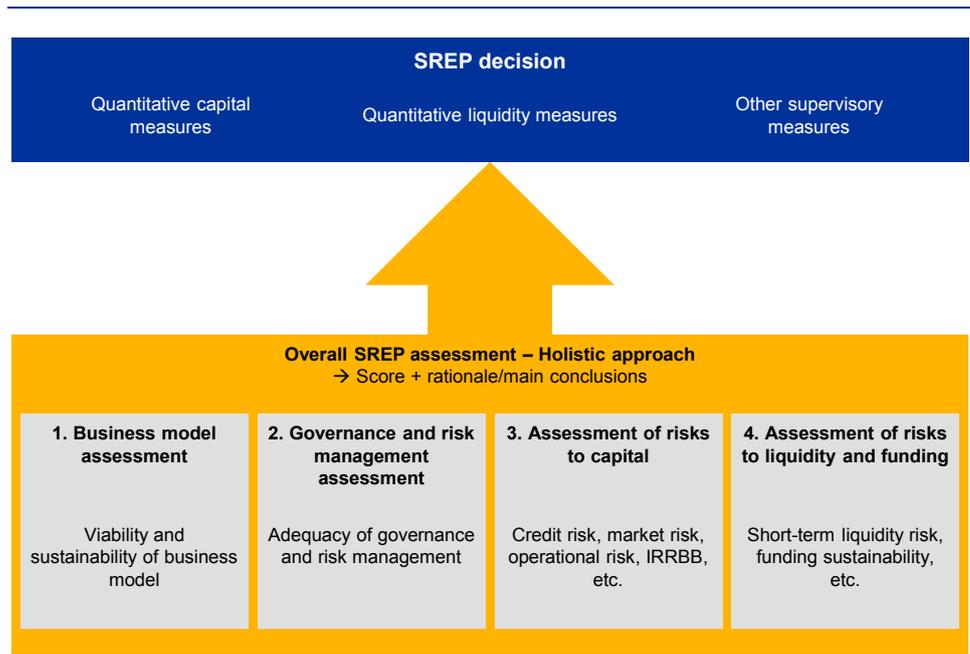
The SREP is managed as a key project and is coordinated by DG MS IV, which follows a common timeline and makes full use of ECB and NCA expertise – especially in the development of methodology – through the expert network, thematic workshops and dedicated Q&A sessions organised by DG MS IV. In addition, the consistency of assessments is ensured through several horizontal analyses conducted by dedicated horizontal functions in DG MS IV throughout the SREP.

Throughout the year, the JSTs conduct the SREP following the SSM SREP methodology and the SEP. The analysis and outcomes of the assessments, any prudential actions taken, the measures imposed and their results are recorded in a supervisory IT system to allow for traceability and accountability.

Holistic approach

The SREP assessment aims at capturing an overall picture of an institution’s risk profile as adequately as possible, taking into account risks and their mitigants. The institution’s risk profile is necessarily multi-faceted and many risk factors are inter-related. This is taken into account when deciding on potential supervisory actions that could be taken in response. This is why the four key elements (see **Figure 14** below) of the SSM SREP need to be looked at together when drawing up the overall SREP assessment and preparing the SREP decision.

Figure 14
SREP overview



Source: ECB Banking Supervision.

The four key elements of the SSM SREP are:

- (i) a business model and profitability assessment (Element 1), which looks at the nature of an institution's business model and how this might adversely affect its ability to generate profits and growth;
- (ii) an internal governance and risk management assessment (Element 2), which focuses on the internal organisation of an institution and the way it conducts and manages its business and risks;
- (iii) a risk-by-risk assessment of the risks to capital (credit risk, market risk, operational risk and interest rate risk in the banking book) under normal and stressed conditions (Element 3); these assessments feed into a preliminary determination of the capital required to cover the risks and an assessment of capital adequacy;
- (iv) a risk-by-risk assessment of the risks to liquidity and funding (short and long-term) under normal and stressed conditions (Element 4); these assessments feed into a preliminary determination of the liquidity requirement to cover the risks and an assessment of liquidity adequacy.

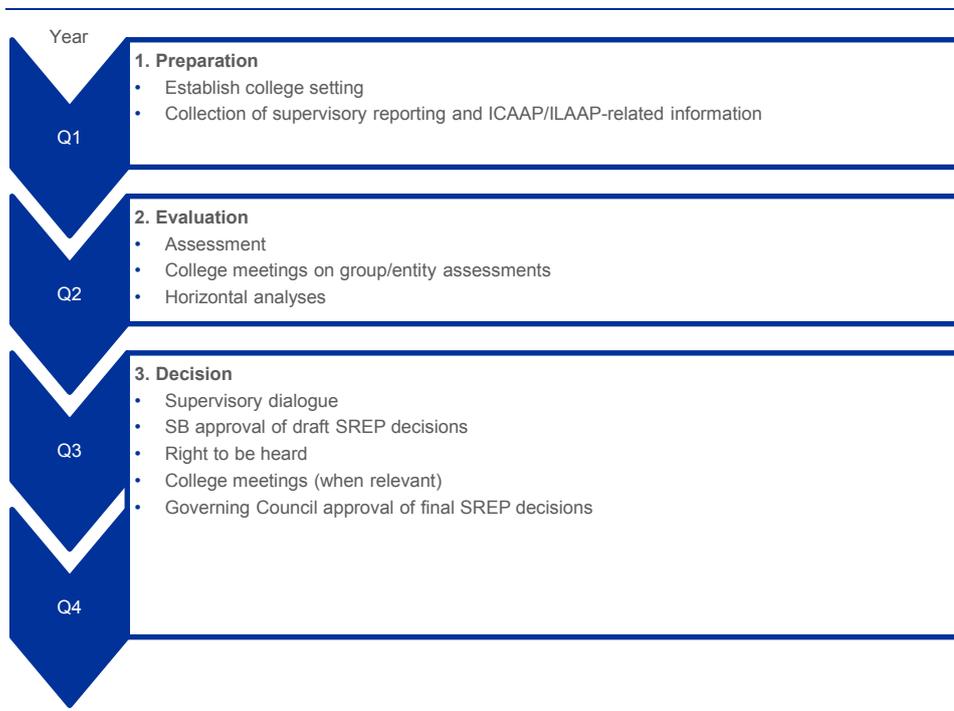
Each JST is responsible for carrying out the SREP for the entities it supervises, with the aim of gaining an up-to-date view of the entities' viability through the detailed steps of the process. The steps of the SREP are described in the SSM SREP common timeline made available to the JSTs each year before the start of the assessment phase, once it has been approved by the Supervisory Board (see [Figure 15](#)).

The breakdown of the main phases of the process may differ depending on whether the significant group has non-SSM subsidiaries or significant branches. If so, a college of supervisors needs to be established (see Section 1.4.3). This enhanced cooperation among authorities at both the EU and global levels is key to strengthening the supervision of cross-border banking groups. Colleges are permanent, but flexible, coordination structures that bring together regulatory authorities involved in the supervision of a banking group. In practice, colleges are a mechanism for the exchange of information between home and host authorities, which allows for the planning and performance of key supervisory tasks in a coordinated and joint manner, including aspects of ongoing supervision. Additionally, colleges facilitate the preparation and handling of emergency situations. One of the fundamental tasks for supervisory authorities as members of colleges is to reach decisions on the risk-based capital adequacy of cross-border groups and their EEA subsidiaries.

The SREP calendar and the overall process described below assume that the ECB acts as consolidating supervisor (i.e. home supervisor). Where the ECB acts as host supervisor, different timelines and processes might need to be followed.

Figure 15

Simplified SREP calendar leading to the SREP decision



Source: ECB Banking Supervision.

Three-phase approach

The assessment of the SREP elements of risks to capital and liquidity is characterised by a three-phase approach to both risk levels and risk controls. The assessment of the SREP element “business model and profitability” only focuses on risk levels, whereas the assessment of the SREP element “internal governance and risk management” can only take into account risk controls.

The three-phase approach consists of:

- (i) **Phase 1:** information and data gathering, using regulatory reports as the main sources, but also for example information collected during thematic reviews, deep dives and meetings with the institution’s management (see Section 4.5.3);
- (ii) **Phase 2:** production of an automated preliminary anchoring score for the risk level and a formal compliance check of risk control;
- (iii) **Phase 3:** constrained supervisory judgement, which is based on additional factors and which takes into account institutions’ specificities and complexity.

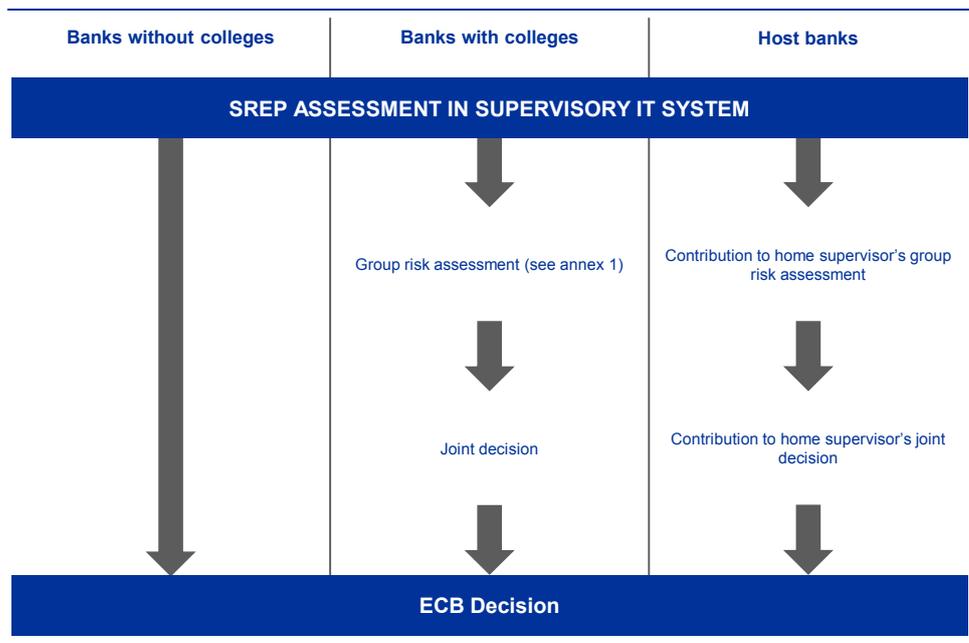
The JSTs prepare the group risk assessment reports and the group liquidity risk assessment reports on the basis of all available information in accordance with to the SSM SREP calendar, but also taking into account any relevant information from after the reference date. In the case of colleges, the JSTs have to also take into account the individual contributions of host supervisors as laid down in the CRD.



JSTs prepare preliminary views on capital, liquidity and qualitative measures. In line with the EBA Guidelines on early intervention measures, they should consider the need for early intervention measures if their institutions are not performing well and thus have a high risk profile.

Figure 16

Link between the SREP process and the decisions



Source: ECB Banking Supervision.

Note: For host banks, the ECB decision implements the part of the group joint decision that applies to the SSM entity

4.6.2

Overall SREP assessment and decision



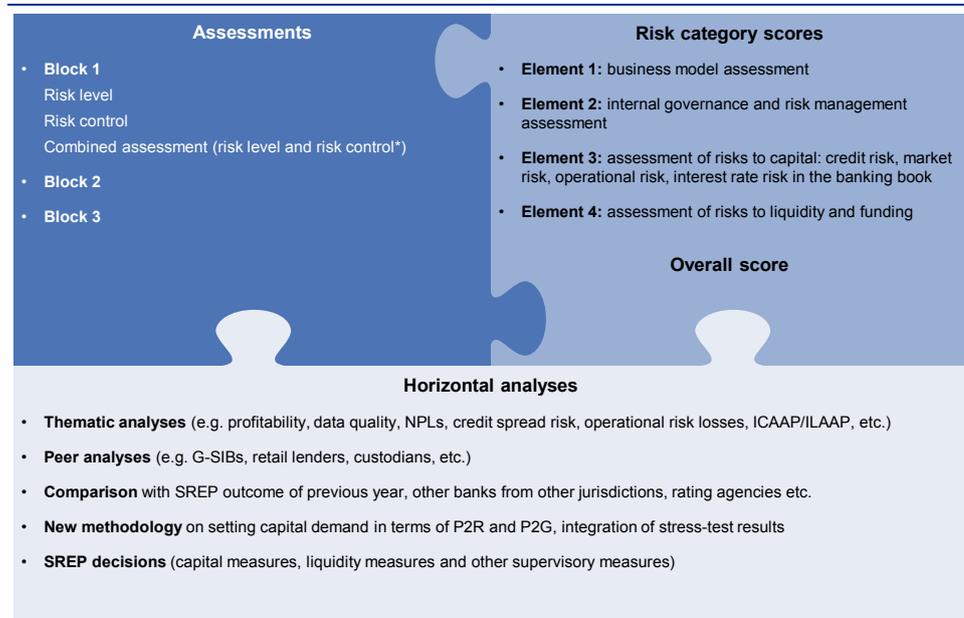
The overall SREP assessment is the basis for the JST's decision on the most appropriate supervisory measures to address an institution's weaknesses. Under normal circumstances, the timeline follows the SREP calendar. It is, however, also possible that the findings from, for instance, ongoing monitoring or any other supervisory activity (e.g. thematic reviews) need to be captured in the SREP assessment, feeding into the SREP decision. In such a case, the JST should update its SREP assessment as soon as possible and propose the adoption of a new SREP decision.

Assessments are available at the consolidated, sub-consolidated or solo levels for the entire group, taking into due consideration the group's and the subsidiaries' perspectives. These assessments are used as an input for the SREP decisions.

The SREP assessment results are checked in two steps. As a first control, the risk assessment results are regularly discussed and challenged within the core or whole JST. Possible modifications and supporting justifications are recorded in the supervisory IT system. As a second control, the ECB's intermediate structures receive regular updates on the assessment results and may also challenge the

outcome. In the context of the annual SREP cycle, the MSD Division prepares several horizontal analyses as a support tool for peer comparison and decision-making (see Figure 17).

Figure 17
SREP horizontal analyses: multi-dimensional analyses



* When relevant.

Source: ECB Banking Supervision.

The ongoing SREP assessment might reveal the need for immediate supervisory measures to counteract deficiencies at a credit institution. Such findings are summarised in interim reports and communicated to the ECB's intermediate structures in a timely manner. Depending on their nature, they are either sent to the credit institution as an operational act or adopted by the Supervisory Board/Governing Council as supervisory decisions, such as an updated SREP decision or decisions imposing sanctions or enforcement measures (for the latter, JSTs work in liaison with the Enforcement and Sanctions Division). The results of this procedure also feed into the continuous SREP assessment.

In the final phases of the SREP cycle, the JST organises an informal dialogue on the SREP assessment with the management body of the supervised parent institution and the relevant subsidiaries.

The JSTs then have to prepare a SREP decision. In the case of supervisory colleges, the JSTs also have to take into account the individual contributions of host supervisors and reach agreement with them in accordance with the legal requirements.

The draft SREP decisions are then submitted to the Supervisory Board for approval, taking legal and quality checks into account. After approval, the draft SREP decisions are submitted to the supervised entities for an opportunity to comment, and the two-week right-to-be-heard period starts, as stated in the SSMFR (see

Section 1.2.6). The draft decisions are notified to the supervised entities in their original language, if applicable. Compliance with the language regime and coordination of the language versions are ensured.

Once the right-to-be-heard period is over and the comments submitted by the supervised entities have been assessed, the draft decisions are submitted a second time to the Supervisory Board, in a revised text if necessary. The JSTs of significant supervised groups with colleges send the final SREP decisions approved by the Supervisory Board to the college members in order to obtain the agreement of the host supervisor representative vested with the authority to endorse/approve the SREP decisions.

The final SREP decision, as adopted by the Governing Council following the non-objection procedure, is then notified to the relevant SI and to the college members in the relevant language. After the adoption of a decision, the addressee can apply for a review by the ABoR and also has the option to challenge the decision directly before the Court of Justice of the European Union (see Section 1.3.4).

SREP decisions may include:

Own funds requirements

- a total SREP capital requirement (TSCR) composed of minimum own funds requirements (8%, at least 56.25% in the form of Common Equity Tier 1 (CET1) and additional own funds requirements (P2R, CET1 only));
- combined buffer requirements (CET1 only).

Institution-specific quantitative liquidity requirements

Other qualitative supervisory measures

- Any additional measures stemming from the SSMR or other applicable law, which may include the restriction or limitation of business, a requirement to reduce risks, restrictions on dividend distribution, or other remedial supervisory measures;
- follow-up of on-site inspections.

Another outcome may be early intervention measures imposed on the institution. For further information on early intervention measures, see Section 4.9.

As part of the SREP decision, [Pillar 2 Guidance \(P2G\)](#) is communicated as a recommendation. [P2G](#) is expressed as a CET1 ratio add-on, stemming from the [EBA information update on the 2016 EU-wide stress test](#), which is set above the level of binding capital requirements.



SSMR Articles 16, 22 and 24

The JSTs also facilitate dialogue with the industry in addition to ongoing dialogue with the supervised entities through the SEP. Thus, the institutions have the necessary clarity on the methodology and risk assessment and the necessary context to inform their capital planning.

At the end of the SREP cycle, aggregate results are published on the ECB's banking supervision website.

4.6.3 ECB acting as host supervisor

If the ECB is the host supervisor, the JST follows the timeline and templates provided by and agreed with the home supervisor. The consolidating supervisor chairs the college meetings and keeps all college members informed about the organisation of the meetings, the main issues to be discussed and the activities to be considered.

At a minimum, the JST needs to prepare the risk assessment and liquidity risk assessment reports on the supervised credit institution based on all available information. It then has to submit these assessments to the home supervisor. On the basis of these draft reports, the JST forms preliminary views on capital quantification, liquidity quantification and qualitative measures, which are then discussed in the college meetings.

The JST then receives the final group risk assessment report and group liquidity risk assessment report from the home supervisor. On the basis of these final reports, the JST prepares the SSM contribution to the joint decisions, which is submitted to the home supervisor. After the assessment by the home supervisor, the draft joint decision is then shared with the JST.

Once the legal and quality checks have been performed, the JST then has to submit the draft joint decision and the draft ECB implementing decision to the Supervisory Board for approval. After approval, the draft ECB implementing decision is notified to the supervised credit institution and the hearing period begins. The draft decisions are notified to the supervised entity in its language, if applicable. The JST then has to assess the comments made and agree on the assessment of the comments and on the amendments to the draft joint decision with the home supervisor. For this purpose, it participates in the college meetings held by the home supervisor.

Once agreed, the JST sends the final joint decision to the Supervisory Board for approval and thereafter to the Governing Council for adoption under the non-objection procedure. Once adopted, the ECB notifies the final ECB implementing decision to the credit institution and notifies the ECB's agreement on the joint decision to the home supervisor. The home supervisor notifies the joint decision to the parent institution.

4.7 Ongoing monitoring of internal models



CRD Article 101
SSMR Article 16

The objective of ongoing model monitoring is to verify a credit institution's compliance with the regulatory requirements concerning internal models used for the calculation of minimum capital requirements pursuant to the CRR. These requirements include requirements concerning the risk sensitivity of the model, the validation of the model, the management of model risk, adaptations of the model, processes surrounding the model as well as benchmarking of the model. The ECB should assess on a regular basis whether the credit institution uses well-developed and up-to-date internal model techniques. The information gained from ongoing model monitoring is incorporated into the ongoing assessment of the institution and is a key element in the SREP decision.

Ongoing model monitoring helps to fulfil the requirements of Article 101 of the CRD, which requires that competent authorities review institutions' compliance with the requirements concerning internal models on a regular basis, and at least every three years. This requirement is fulfilled by a combination of:

- ongoing model monitoring, based primarily on off-site reviews, including dedicated meetings with the supervised entity; and
- internal model investigations, which mostly amount to an on-site inspection.

When issues are identified in an ongoing model monitoring review, a further internal model investigation is probably required in order to collect sufficient evidence to justify the imposition of supervisory measures (set out in Article 16 of the SSM Regulation). As a final recourse, powers of enforcement and sanction may be exercised in the cases contemplated by the relevant legislation.

Ongoing model monitoring assessments have to be performed at least at the highest level of consolidation of the group within the SSM. In cases where the home supervisor of a group entity with an approved model is outside the European Union, dialogue with the home supervisor is promoted in order to improve ongoing monitoring of the model.

Ongoing model monitoring is a permanent legal requirement (as per Article 101 of the CRD). In general, no triggers need to be activated to justify the ongoing monitoring reviews.

Ongoing model monitoring has many components; the assessments can be performed at a frequency that is appropriate for each component.

At a minimum, ongoing model monitoring should include on an annual basis:

- an assessment of the credit institution's compliance with the legal requirements, supervisory conditions, limitations, obligations (e.g. remedial actions) imposed in ECB decisions on model approvals, as well as the institution's compliance with implementation plans and any other supervisory measures pertaining to the model which have been imposed on the institution;

- where appropriate, an analysis of back-testing results and time-series analysis for institutions authorised to use internal models for the calculation of own funds requirements for market risk (Articles 368(1)(f) and 369 of the CRR);
- an analysis of credit institutions' model validations;
- where appropriate, an assessment of the outcomes of the annual benchmarking process (Article 78 of the CRD);
- an assessment of non-material model changes and extensions;
- where appropriate, an assessment of other internal reports of the institution on the internal model.

At least one on-site visit or supervisory meeting per institution per year is included among the ongoing monitoring activities. The agenda for this meeting could comprise, inter alia, a review of the evidence of the continuing appropriateness of the existing internal models in the light of the institution's recent business strategy, plans for future model changes and other ongoing projects in the institution that are relevant for the internal modelling of the different risk categories.

4.8 Assessing ad hoc requests, notifications and applications

This section describes the processes through which certain permissions can be granted to credit institutions by a supervisory authority upon their request. The credit institutions have to submit all of the relevant information. The requests have to meet the supervisory requirements set out in the relevant legislation (i.e. EU laws or their national transposition).

4.8.1 Capital instruments

Issuance of CET1 instruments

Supervised entities can classify capital instruments as Common Equity Tier 1 (CET1) instruments only after permission is granted by the competent authority. Upon the request of a significant institution, an individual ECB supervisory decision is adopted either (conditionally) granting or denying the permission.

After the submission of all relevant documentation by the significant institution, the JST checks the compliance of the submitted information with the relevant regulation. If all relevant information has been received, the JST sends confirmation to the significant institution that the documentation submitted is complete. If necessary, additional information is requested. Next, the JST assesses if the relevant regulations are complied with and establishes whether the capital instrument is listed in the EBA's public list of CET1 instruments. If the instrument is not in the EBA's



CRR Article 26(3) and Articles 27-29

RTS for own funds requirements for institutions (EU/241/2014)

public list, before proposing any decision to the Supervisory Board, the JST informs the SPO Division, which may consult the EBA in this regard.

Upon a proposal by the JST, a decision is adopted.

Inclusion of interim and year-end profits in CET1 capital



CRR Article 26(2)

RTS on own funds requirements for institutions (EU/241/2014)

ECB Decision on conditions under which credit institutions are permitted to include interim or year-end profits in CET1 capital (ECB/2015/4)

The ECB can grant permission to include interim or year-end profits in CET1 capital before the supervised entity has taken a formal decision confirming the final profit or loss. To that end, the supervised entity submits a formal application using the relevant template, providing the information listed in the annex of the ECB Decision on conditions under which credit institutions are permitted to include interim or year-end profits in CET1 capital. The JST assesses compliance with the ECB Decision. If this decision can be applied, the JST sends a notification to the institution to confirm its application.

If the conditions for applying the ECB Decision are not met, or if the institution submits an application for a case not covered by the ECB Decision, the JST will individually assess the request for permission to include interim or year-end profits in CET1 capital following the standard decision-making procedure.

Reduction of own funds instruments



CRR Articles 77 and 78

RTS on own funds requirements for institutions (EU/241/2014) Articles 27-32

The ECB can authorise a reduction of own funds upon the request of a supervised entity. The JST first establishes that all of the relevant documentation has been submitted by the institution, as listed in Commission Delegated Regulation (EU) No 241/2014. The JST will waive the submission of parts of these documents if the information necessary to assess the request for authorisation is already available to it. A positive or negative decision on the request for authorisation to reduce own funds is taken by the ECB and notified to the institution.

After receiving the first supervisory reporting once the permission has been granted, the JST checks that the amount of eligible own funds for which the authorisation was granted has been fully deducted from the relevant category of own funds reported (under COREP).

Ex post assessment of AT1 and T2 instruments



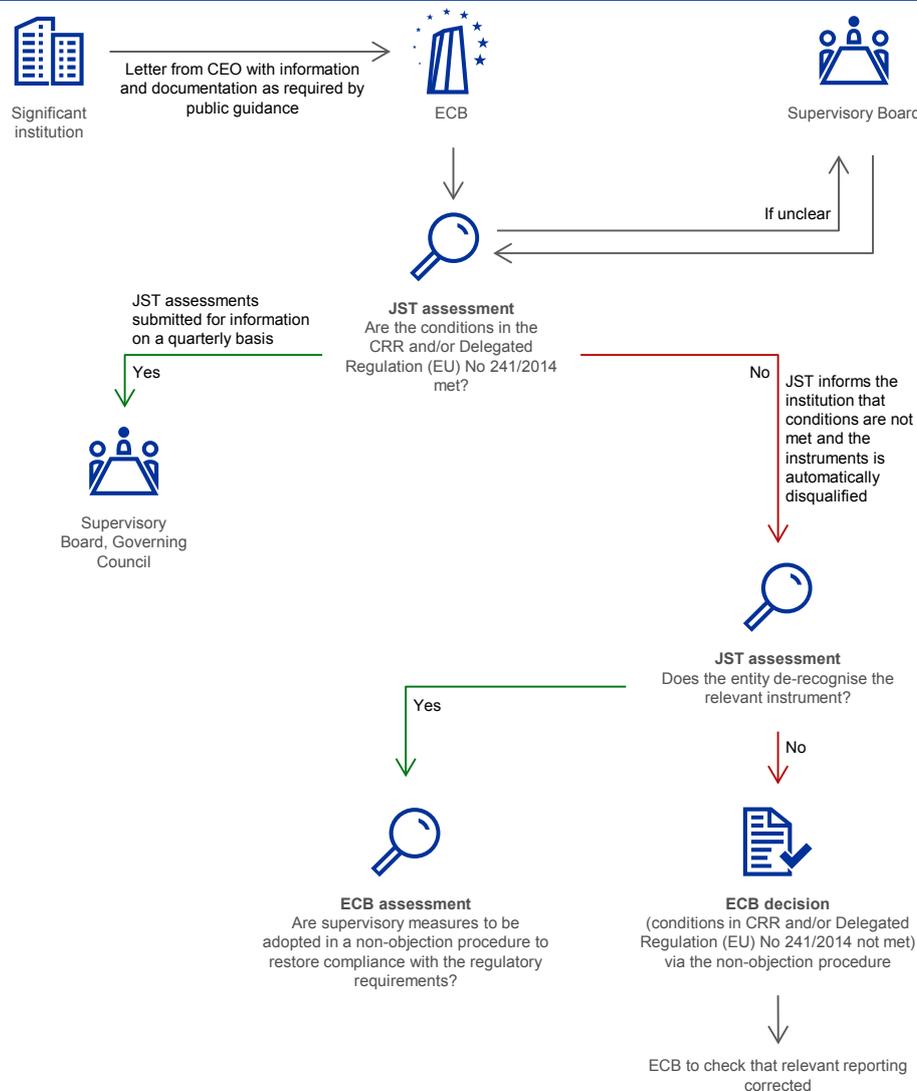
CRR Recital 75 and Articles 52-55, 63 and 65

RTS on own funds requirements for institutions (EU/241/2014)

The CRR does not provide for a mandatory pre-approval for Additional Tier 1 (AT1) and Tier 2 (T2) instruments. This is, however, without prejudice to any requirements in respect of the recognition of AT1 or T2 instruments under applicable national law. If national law requires pre-approval, the ECB has the competence to grant such pre-approval to the supervised entities. The ECB has conducted an ex post review of AT1 and T2 instruments, the details of which are included in the [Public Guidance on](#)

the review of the qualification of capital instruments as Additional Tier 1 and Tier 2 instruments.

Figure 18
Decision-making in the ex post assessment of AT1 and T2 instruments



Source: ECB Banking Supervision.

As soon as a capital instrument is included in an entity's AT1 or T2 capital on an individual, sub-consolidated or consolidated basis, the significant institution is expected to send a letter to the ECB. The letter should contain all relevant information, including a self-assessment against the relevant conditions in the CRR and Commission Delegated Regulation (EU) No 241/2014, and should be accompanied by supporting documentation. Within six months of the receipt of all of the relevant information, the JST assesses whether a capital instrument included in an entity's AT1 or T2 capital complies with the regulation and, where the instrument is issued on the market, submits that assessment and relevant documentation for

peer review by the EBA. The JST may request any other information considered relevant for the purpose of the ex post assessment of the AT1 or T2 instrument.

As shown in **Figure 18**, if the conditions are met, the JST includes some relevant data about the instrument in a list to be submitted to the Supervisory Board and to the Governing Council for information on a quarterly basis. If the conditions are not satisfied, the JST informs the institution thereof, and the instruments will be automatically disqualified, with no need to issue a supervisory decision. If the bank does not wish to change the COREP, an ECB decision will be needed. If, after a supervisory dialogue, the institution fails to heed the disqualification, the JST prepares a draft decision that stipulates possible consequences of further non-compliance.

Should the assessment by the JST be inconclusive as to whether the conditions in the CRR and the Delegated Regulation are met, the matter, including the EBA's opinion, is presented to the Supervisory Board for discussion, after which a supervisory decision may need to be taken.

4.8.2 Capital and liquidity waivers



CRR Articles 7 and 8
ECB Regulation on the exercise of options and discretions available in Union law (ECB/2016/4)
ECB Regulation on the exercise of options and discretions available in Union law (ECB/2016/4)

The ECB has the power to waive compliance with the prudential requirements laid down in Parts Two to Five and Part Eight of the CRR. The ECB also has the power to waive compliance with the liquidity requirements laid down in Part Six of the CRR for an institution and all or some of its subsidiaries and supervise them as a single liquidity sub-group if the regulatory conditions are met. Upon the request of the supervised entity, an individual ECB supervisory decision will be adopted either granting or denying the waiver.

The supervised entity has to submit a formal waiver application form and all supporting documentation, as specified in the [ECB Guide on options and discretions available in Union law](#). First, the JST checks if the waiver application refers to the relevant legislation and includes all relevant information and supporting documents as set out in the ECB Guide. If all relevant information is received, the JST sends confirmation to the supervised entity that the documentation submitted is sufficient. If necessary, additional information is requested.

The JST then assesses if the relevant criteria, as laid down in the CRR and specified in the (non-binding) ECB Guide, are met. In complex cases, ECB horizontal and specialised expertise functions provide support. The final decision may set additional conditions on the approval of the waiver.

4.8.3 Intragroup financial support



BRRD Articles 19, 20 and 22-25

EBA draft RTS on the conditions for group financial support (EBA/RTS/2015/08)

EBA Guidelines on conditions for group financial support (EBA/GL/2015/17)

Before entering into a proposed intragroup financial support agreement, a significant institution must apply for the ECB's authorisation. The ECB will authorise or prohibit the proposed agreement depending on its consistency with the conditions set out in the BRRD, as further specified in the EBA Regulatory Technical Standards (RTS) and the EBA Guidelines.

Before providing support under a group financial support agreement, the management body of a group entity that intends to provide financial support must notify the ECB and the EBA with a reasoned decision and details of the proposed financial support, including a copy of the relevant agreement. The JST assesses the compliance with the aforementioned regulations. In particular, the JST assesses whether the provision of financial support has the objective of preserving or restoring the financial stability of the group. The JST forwards the application to the competent authorities of each non-SSM subsidiary that proposes to be a party to the agreement with a view to reaching a joint decision. The JST also informs the Single Resolution Board (SRB) by forwarding the group financial agreements that have been authorised and any changes thereto, so that the effects on the resolvability of the group can be assessed.

The final decision is then adopted.

4.8.4 Monitoring of risk transfer for securitisations



CRR Articles 243, 244, 245 and 248

CRD Article 98(3)

EBA Guidelines on significant credit risk transfer (EBA/GL/2014/05)

EBA Guidelines on implicit support for securitisation transactions (EBA/GL/2016/08)

The CRR sets out the conditions under which a significant risk transfer (SRT) by an originator institution is recognised. The EBA Guidelines on significant credit risk transfer provide further details on the recognition process.

Originator institutions that have initiated or are considering initiating the process of structuring a securitisation transaction for which they intend either:

- to recognise SRT in accordance with Articles 243(2) or 244(2) of the CRR; or
- to apply for a permission in accordance with Articles 243(4) or 244(4) of the CRR;

should notify the ECB of their intentions at least three months in advance of the expected closing date of the transaction, in accordance with the [ECB Public Guidance on the recognition of significant credit risk transfer](#). Originator institutions should also provide the final version of the documentation no later than 15 days after the closing date of the transaction.

Based on the documentation provided by the institution, the JST will assess the transaction and the credit risk that has been transferred to third parties. The JST may also ask the institution to provide any other information necessary to perform its assessment of the transaction, e.g. the specific features of an individual transaction.

As the conditions for SRT have to be met on a continuous basis over the life of the securitisation transaction, the ECB also continuously reviews the securitisation transactions to which originator institutions apply an SRT for the determination of their capital requirements. In cases where originator institutions rely on the quantitative tests set out in Article 243(2) or 244(2) of the CRR to demonstrate an SRT, the ECB has to adopt an individual decision only when the securitisation no longer meets the conditions for the SRT. In cases where originator institutions apply for approval under Article 243(4) or 244(4) of the CRR, an SRT will not be recognised until the ECB adopts an individual decision.

Article 248(1) of the CRR establishes a general prohibition of implicit support to securitisations, which applies to originator institutions which have made use of Article 245(1) and (2) of the CRR or have sold instruments from their trading book with the effect that they are no longer required to hold own funds for the risks of those instruments, and to sponsor institutions.

The EBA Guidelines on implicit support for securitisation transactions detail the transactions which go beyond the contractual obligations of a sponsor institution or an originator institution. Such transactions have to be notified to the ECB by significant institutions, in accordance with the [ECB Public Guidance on information on transactions which go beyond the contractual obligations of a sponsor institution or an originator institution under Article 248\(1\) of Regulation \(EU\) No 575/2013](#).

Based on the notifications received from SIs:

- if the institution declares that there is implicit support, the JST checks that the institution at a minimum holds own funds against the securitised exposures as if they had not been securitised (Article 248(3) of the CRR);
- if the institution declares that there is no implicit support, the JST checks the institution's assessment and, in case of disagreement, prepares a draft supervisory decision.

Finally, if the institution has provided implicit support on more than one occasion, the ECB could also impose additional measures as prescribed in Article 97(3) of the CRD, such as the prohibition of significant risk transfer in the future.

4.8.5 Other formal permission requests and notifications



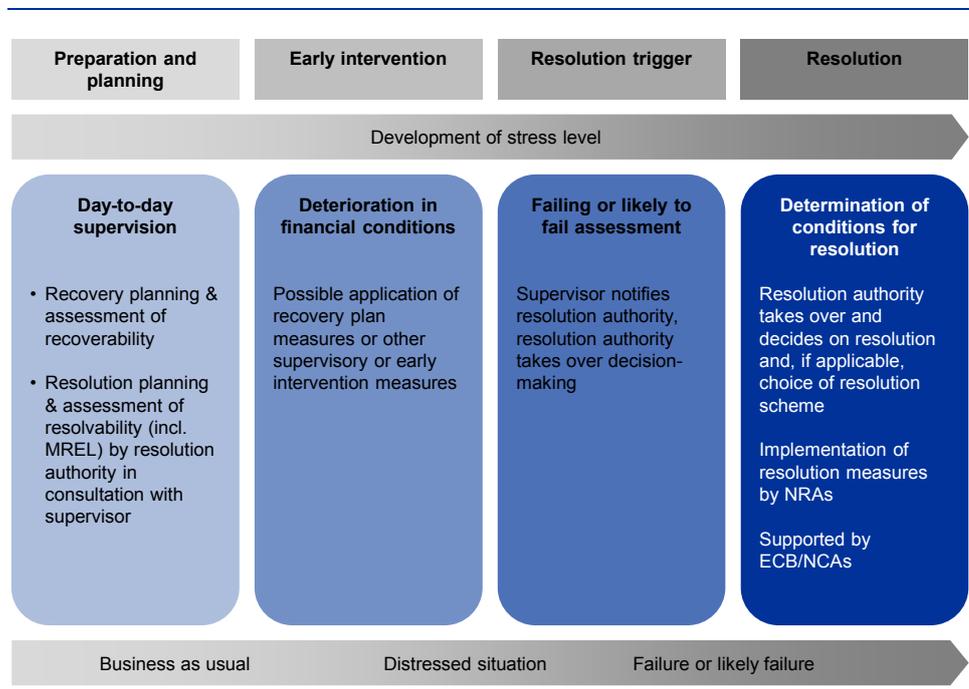
Besides the formal permission requests and notifications mentioned above, the CRR and CRD provide for various cases where an application or notification by the credit institution requires a decision or reaction by the ECB. Furthermore, formal permission requests and notifications may be set out only in national law. These require a decision or reaction by the ECB whenever they come within the scope of the ECB's tasks and underpin a supervisory function under EU law. Generally, the JSTs are responsible for the execution of the whole process.

Upon the request of a significant institution, the JST assesses if the permission request refers to the relevant legislation and includes all relevant information and documents. If necessary, additional information is requested from the institution. The JST then assesses if the relevant criteria, as laid down in the CRR, SSMR, SSMFR and national law, are met. In complex cases, ECB horizontal and specialised expertise functions provide support. The final decision may set conditions and/or obligations in relation to the approval of the permission request.

4.9 Preventing and managing crisis situations

The ECB crisis prevention and management framework initiates both timely and effective responses and allows for adequate flows of information prior to and during times of crisis. Moreover, the framework enables opportune decision-making in crisis situations and during the potential resolution of banking groups. The crisis management framework covers several phases depending on the specific situation of the credit institution. The scope of the framework ranges from ensuring robust crisis preparedness in the ongoing supervision to involvement in decisions on the failure of banks. The role of the ECB in LSI crisis management is described in Section 5.4.

Figure 19
Crisis prevention and management framework



Source: ECB Banking Supervision.

4.9.1 JSTs' responsibilities

The JSTs, in close cooperation with the Crisis Management (CRM) Division, are responsible for crisis prevention and management across different phases. The degree of involvement of the CRM Division depends on the situation of the credit institution.

Throughout the process, the CRM Division provides expert support to the JSTs and shares its expertise on, among other things, the processes established in the applicable legal framework, the assessment and operationalisation of recovery plans and the consultation on resolution-related topics. The following sections describe the different stages in preventing and managing crisis situations.

4.9.2 Preparing recovery and resolution

Recovery planning

During normal operations, one of the ECB's tasks conducted by the JSTs within the crisis management framework is ensuring that the significant institutions prepare, and update at least annually, detailed recovery plans for analysis and review, especially of the credibility and feasibility of the available recovery options. In the context of recovery planning, the ECB has the right to require a supervised entity to submit a revised recovery plan within a short time frame of up to three months if it establishes material deficiencies in, or impediments to, the implementation of the plan. If the revised plan does not address the material deficiencies or impediments, the ECB can require the institution to make specific changes to the recovery plan. If such changes to the plan do not adequately remedy these deficiencies or impediments, the ECB can ask the institution to identify changes that it could make to its business in order to increase its ability to recover from a crisis situation.

As part of the ongoing supervision, the JST continuously monitors the status of the supervised entity, bearing in mind the principle of proportionality, checking if the institution's financial situation substantially worsens when moving from a normal to a crisis situation. The CRM Division provides expert support to the JSTs in the assessment of recovery plans and in follow-up actions, e.g. by drafting guidance on horizontal topics, ensuring consistent feedback to institutions and conducting benchmarking analyses.

Resolution-related consultations

The JSTs, in cooperation with the CRM Division, have a consultative role as regards resolution plans and resolvability assessments conducted by the SRB. The ECB is formally consulted by the SRB on draft resolution plans and the JSTs also provide their assistance in terms of supplying relevant information for resolution plans and resolvability assessments conducted by the SRB. Some informal interactions



SSMR Articles 3-5, 9, 13, 16, 18 and 30

BRRD Articles 5-9, 10-18, 27-30 and 32

CRD Articles 74 and 104

EBA Guidelines on triggers for use of early intervention measures (EBA/GL/2015/03)

EBA Guidelines on the conditions for group financial support (EBA/GL/2015/17)

MoU between the SRB and the ECB in respect of cooperation and exchange



BRRD Article 15

between the ECB and the SRB also take place, such as in the context of resolution colleges, of which the ECB is also a member. In addition, the JSTs' assessment is the basis for the ECB's reply to the consultation by the SRB on the proposed ex ante contributions that significant institutions should pay yearly into the Single Resolution Fund (SRF).

4.9.3 Identification of a deterioration in financial conditions

Deterioration in financial conditions

When a deterioration in financial conditions is identified, the JST responds by determining the appropriate supervisory action and stepping up the supervisory activity for the institution (e.g. it conducts further specific analyses, mandates on-site inspections, increases the number of requests for information and data, etc.). In particular, when the JST sees the financial situation of a supervised entity deteriorating materially either in a short period of time or gradually with a clear trend, cooperation and information exchange between the JST and the CRM Division intensify. NCAs are involved through the JST.

Subject to the applicable laws and inter-institutional arrangements, such as the MoU between the ECB and the SRB, the CRM Division in cooperation with the JST informs the SRB of the material deterioration in the financial conditions of the respective supervised entity/group and exchanges views and knowledge with the SRM.

A specific liquidity monitoring template can be used in order to gather a minimum set of liquidity information relevant for crisis situations. The template is tested with institutions once a year and shared with the SRB.

Need for early intervention

If the JST sees that the financial situation continues to deteriorate and early intervention has to be considered, cooperation and information exchange between the JST and the CRM Division intensify. Cooperation with the SRB is escalated in accordance with the MoU. The JST, in close cooperation with the CRM Division, provides the Internal Resolution Team (IRT) with all available information specified by the IRT as necessary in order to update the resolution plan and prepare for the possible resolution of the institution. In the case of a supervised entity with a presence in non-euro area Member States or in third countries, interactions with supervisory colleges or other similar arrangements are ensured.



BRRD Article 27
SRMR Articles 13 and 20

Failing or likely to fail determination

When the JST considers that an institution is failing or likely to fail, the JST and the CRM Division propose the establishment of an institution-specific Crisis Management Team, which serves as a coordination forum. The team is convened by the Chair and Vice-Chair of the Supervisory Board of the ECB.

If the ECB considers it necessary to determine that an institution is failing or likely to fail, it also consults the SRB in advance.

A high-level monitoring group is set up for monitoring and identifying potential liquidity and solvency-related difficulties arising for several significant institutions and less significant institutions at the same time in the context of a systemic crisis.

Coordination with host authorities is ensured through interactions with the supervisory college or other similar arrangements. The failing or likely to fail determination is notified to the SRB and, without undue delay, to the relevant host competent and resolution authorities, competent ministries, central banks and deposit guarantee scheme(s), in accordance with the legal framework.

Resolution

The main decision-makers in a resolution are the resolution authorities, i.e. the SRB and the national resolution authorities (NRAs). Within this context, the ECB (i.e. the JSTs and the CRM Division) mostly plays an advisory role. Once it has been determined that an institution is failing or likely to fail, the Crisis Management Team coordinates within the SSM the provision of advice to the SRB/NRAs in the resolution stage and the taking of the necessary follow-up actions, e.g. the authorisation of a bridge bank and the withdrawal of the residual institution's licence, where necessary. The JST can provide additional advice on the potential business model implications of the various resolution options. The CRM Division coordinates the interaction with the SRB and the NRAs.

4.10 Supervisory powers, enforcement measures and sanctions



SSMFR Article 124

For the purpose of carrying out the tasks conferred on it by the SSM Regulation, the ECB may decide to take one or more of the following actions in order to address issues:

1. use supervisory powers;
2. directly impose enforcement measures on supervised entities or require the national competent authorities to use their national enforcement powers;
3. impose administrative penalties or request that the NCAs open sanctioning proceedings.

4.10.1 Supervisory powers



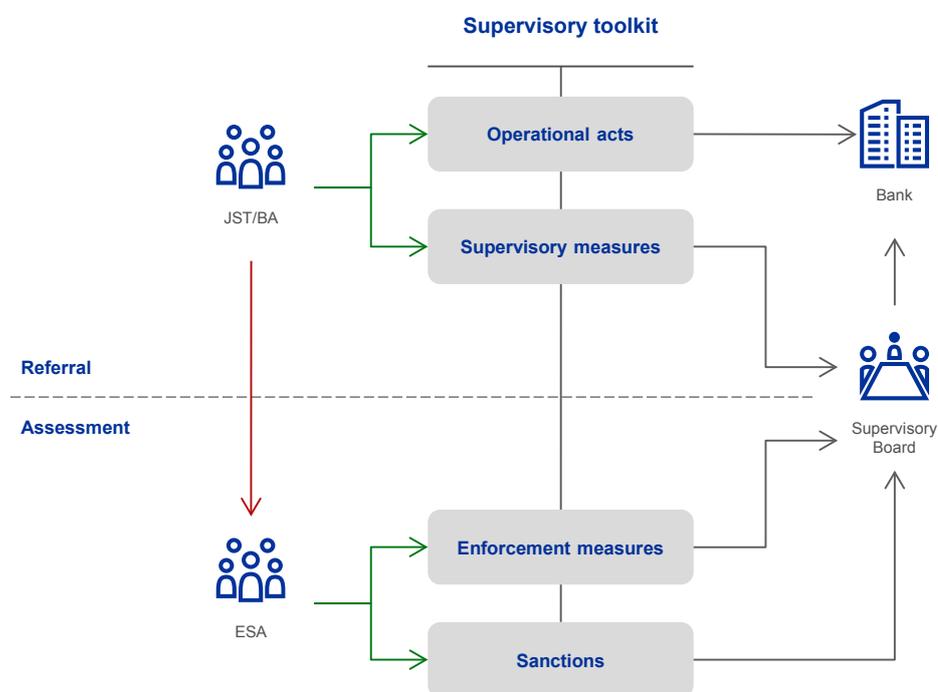
SSMR Articles 9(1) and 16
CRD Article 64

The ECB, without prejudice to the other powers conferred on it, is empowered to require significant institutions, financial holding companies or mixed financial holding companies in participating Member States and significant branches of institutions from non-participating Member States to take the necessary measures at an early stage if: (i) a breach of supervisory provisions has occurred; (ii) the ECB has evidence that such a breach will occur within the next 12 months; or (iii) the arrangements, strategies, governance, culture, processes and mechanisms implemented by the institution and the own funds and liquidity held by it do not ensure a sound management and coverage of its risks.

The supervisory measures aim to address any relevant issues arising with regard to the supervised entity. The JSTs identify and propose the appropriate supervisory measures for adoption following the decision-making process. They evaluate the possible measures with respect to their effectiveness (taking into account the degree of awareness, capability and reliability of the corporate bodies and other relevant staff involved), intrusiveness and proportionality, and choose the measure which is most appropriate to ensure within a reasonable time frame the safety and soundness of the supervised entity.

Figure 20

Allocation of tasks between the ESA Division and the JSTs/business areas



Source: ECB Banking Supervision.

The SSM Regulation sets out a non-exhaustive list of the possible supervisory measures which can be taken by the JSTs. The ECB may also take other measures

by using powers available in national legislation and in other directly applicable EU law, in particular EU Regulations.

In cases where the facts qualify also for the exercise of enforcement and/or sanctioning powers, the respective processes can run in parallel. In exceptional circumstances, such as a possible crisis situation, the CRM Division is informed immediately and involved in the process.

Monitoring of supervisory actions



SSMR Articles 9(1) and 16

The JSTs are responsible for the timely assessment of the compliance of a supervised entity with the supervisory measures, recommendations, requirements, decisions or other actions (e.g. operational acts) imposed by the ECB and need to react in a timely manner in the case of non-compliance with those measures.

The monitoring takes place, for instance, after on-site inspections, follow-up letters, ECB decisions and ECB recommendations, thereby including both formal measures and day-to-day supervisory actions implementing the JSTs' supervisory expectations. Monitoring such supervisory actions ensures that the supervised entity establishes compliance with the regulatory framework and supervisory measures taken, thus mitigating the risk of failure of the institution.

If a supervised entity does not comply with such measures, additional actions are considered. The available actions that can be taken are diverse and range from informal communication with the supervised entity or the use of additional supervisory powers to enforcement measures or sanctions.

4.10.2 Enforcement measures



SSMR Article 9

SSMFR Articles 25-35 and Article 129

Council Regulation concerning the powers of the ECB to impose sanctions (EC/2532/98)

Enforcement measures are measures taken by a competent authority with a view to compelling the supervised entity/person concerned to comply with a regulation, a national law implementing a directive, or a decision, thus ensuring compliance with regulatory or supervisory requirements. Enforcement measures differ from those supervisory powers that aim to ensure that institutions take the necessary measures at an early stage to address relevant problems related to the prudential requirements set out by relevant EU law.

Enforcement measures can be adopted by the ECB and imposed on significant institutions in cases of ongoing failure to comply with an obligation under relevant EU law, including ECB supervisory decisions or regulations, and on less significant institutions where the relevant ECB regulations or decisions impose obligations on LSIs vis-à-vis the ECB. The Enforcement and Sanctions (ESA) Division is responsible for enforcement measures and therefore prepares the corresponding complete draft decisions for adoption (see Section 1.3).

Enforcement measures directly available to the ECB

Periodic penalty payments

Among the powers granted to the ECB by the SSM Regulation, the imposition of periodic penalty payments can be considered as an enforcement measure. Periodic penalty payments are not intended to punish or deter the entity/person concerned. They are applied when the infringement is still ongoing, with a view to compelling the entity/person concerned to comply with the obligation which is being breached.

In the case of a breach of an ECB regulation or decision, periodic penalty payments can be imposed on significant institutions and on less significant institutions where the relevant ECB regulations or decisions impose obligations on LSIs vis-à-vis the ECB. Such periodic penalty payments have to be effective and proportionate. The upper limit on periodic penalty payments is 5% of the average daily turnover per day of infringement for a maximum period of six months.

As the adoption by the ECB of decisions imposing periodic penalty payments, and of decisions combining a supervisory request with the imposition of periodic penalty payments, follows the standard procedure applicable for the adoption by the ECB of supervisory measures, the supervised entity will be granted the right to be heard.

Other tools directly available to the ECB

Under the applicable legal framework, for the exclusive purpose of carrying out its tasks, the ECB has all the powers and obligations which NCAs have under the relevant EU law. In particular, in the event of ongoing breaches of relevant EU law, the ECB may also adopt directly those measures that are available to NCAs under the relevant EU law that are considered as enforcement measures in the national legislation implementing relevant directives. The CRD is one of the main sources of enforcement measures under relevant EU law. For example, depending on the implementation of the CRD, cease-and-desist orders could be included in this category.

Enforcement measures indirectly available to the ECB

To the extent necessary to carry out its tasks, the ECB may also require NCAs, by way of instructions, to make use of their enforcement powers granted by national laws other than those implementing relevant EU directives under and in accordance with the conditions set out in national law, where the SSM Regulation does not confer such powers on the ECB.

4.10.3 Sanctions



SSMR Articles 9 and 18
SSMFR Articles 120-137
Council Regulation concerning
the powers of the ECB to
impose sanctions (EC/2532/98)

A sanction is a measure to punish a supervised entity for not adhering to prudential requirements. It is also a deterrence measure, as the threat of (pecuniary) punishment and the actual use of this instrument may encourage supervised entities and their managers not to commit breaches of prudential requirements in the future. The ECB is given the power to impose administrative penalties by Article 18 of the SSM Regulation.

Allocation of sanctioning powers between the ECB and NCAs

The ECB can impose pecuniary penalties on significant institutions that breach directly applicable EU law, including ECB decisions or regulations. The ECB can also sanction less significant institutions for breaches of ECB regulations or decisions imposing on those entities obligations vis-à-vis the ECB.

As regards significant institutions, in the event of breaches of national law implementing EU directives, breaches committed by natural persons, or when a non-pecuniary penalty has to be imposed, the ECB may request that the relevant NCA open the appropriate proceedings. The NCA conducts these proceedings and decides on the resulting penalties in accordance with applicable national law.

Independent Investigating Unit

In order to ensure compliance with prudential rules and decisions based on these rules, the ECB has established an independent Investigating Unit (IU) within the ESA Division.

The IU is responsible for investigating alleged breaches of directly applicable EU law, including ECB supervisory decisions or regulations, committed by significant institutions.

The IU is responsible for carrying out formal investigations, for granting the SIs the right to be heard and, in cases where it considers that an administrative penalty should be imposed, for preparing a proposal to the Supervisory Board for a complete draft decision.

In cases where sanctioning actions have to be taken at a national level (i.e. breaches of national law implementing EU directives, breaches committed by natural persons, or when a non-pecuniary penalty has to be imposed), the IU prepares a proposal for a complete draft ECB decision requesting that the relevant NCA open proceedings.

Investigation

When a suspected breach is referred to the IU, it is entitled to initiate an investigation. For this purpose, the IU may exercise the powers granted to the ECB

by the SSM Regulation, e.g. to request documents, examine books and records, request explanations and hold interviews and on-site inspections. The IU can also request information internally and from the NCAs, as well as requiring the NCAs, by way of instructions, to make use of their investigatory powers under national law.

On the basis of the available evidence, the IU assesses whether there is reasonable suspicion of possible breaches. Should the IU come to the conclusion that no breach has been committed or the evidence is inconclusive, it closes the case.

Hearings

Once it has completed its investigation, the IU may initiate sanctioning proceedings by addressing a statement of objections to the significant institution concerned. The significant institution has the opportunity to comment on the facts, the objections raised by the IU and the amount of the penalty envisaged. The IU may also invite the significant institution to an oral hearing.

Sanctions adopted by the ECB

The ECB can impose pecuniary penalties of up to twice the amount of the profits gained or losses avoided because of the breach, or up to 10% of the significant institution's total annual turnover in the preceding business year.

When determining the appropriate amount of the sanctions, the ECB is guided by the principle of proportionality. The ECB assesses the severity of the infringement and also any aggravating and mitigating circumstances of the case (e.g. duration of the breach, degree of responsibility, level of cooperation, remedial actions adopted by the significant institution, previous breaches committed). The penalties imposed must be effective, proportionate and dissuasive.

Publication

Administrative penalties imposed by the ECB are published on the ECB's banking supervision website. However, the publication may be anonymised or delayed: (i) where the publication of personal data is found to be disproportionate; (ii) when the publication may jeopardise the stability of financial markets or an ongoing criminal investigation; and (iii) where the publication could cause disproportionate damage to the institutions and/or individuals involved.

4.10.4 Breach reporting mechanism



SSMR Article 23
SSMFR Articles 36-38

The ECB has developed a breach reporting (i.e. "whistle-blowing") mechanism that allows anyone who, in good faith, has reason to suspect that a breach of relevant EU law has been committed by a supervised entity or a competent authority to report it

to the ECB. The report is treated as a protected report, i.e. all personal data concerning both the person who makes the report and the person who is allegedly responsible for a breach are protected in compliance with the applicable confidentiality and data protection standards enshrined in Regulation (EC) No 45/2001. The identity of a person who has made a protected report is not revealed without first obtaining the person's explicit consent, unless its disclosure is required by a court order in the context of further investigations or subsequent judicial proceedings.

Submission of a breach report

Different entry points exist within the SSM for a whistle-blower to send a report:

1. There is an ECB reporting channel implemented via a web form on the ECB's banking supervision website that directly forwards the report to the ESA Division.
In addition to this dedicated channel, alleged breaches can also be reported to the ECB by other means (e.g. letters).
2. NCAs also have in place mechanisms to receive reports of alleged breaches from whistle-blowers.

The ECB is responsible for the reports relating to significant institutions in respect of alleged breaches of relevant EU law or national law implementing EU directives related to the supervisory tasks conferred on the ECB. The ECB is also responsible for the reports relating to less significant institutions in respect of alleged breaches of ECB regulations or decisions where they impose on those institutions obligations vis-à-vis the ECB.

NCAs are responsible for the reports concerning alleged breaches committed by less significant institutions, other than breaches of ECB regulations or decisions imposing on those institutions obligations vis-à-vis the ECB.

The ECB and the NCAs reciprocally forward the reports received according to their competences. Such forwarding is done without disclosing the identity of the person who made the report, unless that person gives explicit consent. The ECB also exchanges information with NCAs on the outcome of the follow-up to the reports forwarded to the NCAs or received from the NCAs.

Assessment of the breach report and follow-up actions

In order for it to be further assessed, the breach report has to (i) relate to an NCA, the ECB or a supervised entity and (ii) refer to an alleged breach of relevant EU law or national law implementing EU directives.

The ESA Division assesses the reports falling within the competence of the ECB and, where relevant, forwards the information contained in such reports to the relevant JSTs or other relevant ECB business areas for follow-up actions.

4.10.5 Criminal offences



SSMFR Article 136
ECB Decision on disclosure of confidential information in the context of criminal investigations (ECB/2016/19)

Where the ECB, in carrying out its tasks under the SSM Regulation, has reason to suspect that a criminal offence may have been committed, it has to request that the relevant NCA refer the matter to the appropriate authorities for investigation and possible criminal prosecution.

4.11 Assessing the eligibility of and monitoring institutional protection schemes



SSMR Articles 6(1) and 6(5)(c)
CRR Article 113(7)
ECB Guideline on the principles for the coordination of the assessment and the monitoring of IPS for SIs and LSIs (ECB/2016/37)
ECB Guide on the approach for the recognition of IPS for prudential purposes
ECB Opinion on the oversight of payment schemes (CON/2016/38)

An institutional protection scheme (IPS) is defined in the CRR as a contractual or statutory liability arrangement which protects its member institutions and, in particular, ensures that they have the liquidity and solvency needed to avoid bankruptcy where necessary. The competent authorities may, in accordance with the conditions laid down in the CRR, waive selected prudential requirements or allow certain derogations for IPS member institutions as specified by the [ECB Guide on the approach for the recognition of institutional protection schemes for prudential purposes](#). The CRR provides that the competent authority can grant permission to credit institutions to apply a 0% risk weight to exposures to other counterparties which are members of the same IPS, with the exception of exposures giving rise to CET1, AT1 and T2 items. This is the key provision in relation to the eligibility of an IPS for prudential purposes. Common criteria for NCAs' assessment of IPS eligibility are further specified in the above-mentioned ECB Guide.

In some cases, both SIs and LSIs subject to ECB and NCA banking supervision respectively are members of the same IPS. In the case of a request from a new IPS composed of SIs and LSIs, the ECB and the relevant NCA need to assess jointly whether the IPS is eligible for preferential treatment under the CRR, and accordingly whether related permissions and waivers could be granted by the relevant competent authority to individual members of the IPS. The ECB and the relevant NCA responsible for the direct supervision of the IPS member institutions should coordinate their monitoring activities in order to ensure that the criteria for the IPS eligibility assessment and the related granting of waivers are being applied in a consistent manner across the SSM. This process is further laid down in the above-mentioned ECB Guide.

5 Supervision of less significant institutions

The European Union's policy regarding the prudential supervision of institutions should be implemented in a coherent and effective manner so that the single rulebook for financial services is applied adequately to all institutions in all Member States concerned and the institutions are subject to supervision of the highest quality, unfettered by non-prudential considerations. In this context, the ECB is responsible for the effective and consistent functioning of the SSM and exercises oversight over the functioning of the system based on the responsibilities and procedures set out in the SSM Regulation for the ECB and NCAs regarding significant institutions (SIs) and less significant institutions (LSIs).

While NCAs are responsible for the direct supervision of LSIs, close collaboration between the ECB and NCAs is of utmost importance in order for the ECB to exercise its oversight task. In this regard, the ECB works together with NCAs, based on the allocation of responsibilities set forth in the SSM Regulation.

The ECB is entrusted with an oversight responsibility to ensure that the supervisory activities carried out by NCAs are in line with high supervisory standards, also with a view to fostering consistency of supervisory outcomes within the SSM. The general responsibility for the oversight of the system therefore covers the oversight of supervisory practices and standards applied by NCAs (see [Section 5.1](#)) as well as the oversight of LSIs (see [Section 5.2](#)).

As for the former, the ECB conducts general oversight by collecting and processing information from the NCAs regarding their practices and decisions, as well as information on the financial condition of the institutions they supervise, in line with the procedures set out in the SSM Regulation and the SSM Framework Regulation.

As for the latter, the ECB exercises its oversight responsibility with due regard for the principle of proportionality. Therefore, oversight activities are performed with due consideration of the risk profile of the LSIs and the possible spill over effect of shortcomings evidenced by NCAs on the overall stability of the system (see [Section 5.3](#)). This translates into minimum involvement in the case of small, well-run and/or low-impact LSIs. The involvement of the ECB becomes more intensive as the riskiness and/or potential systemic impact of LSIs increase(s).

In particular, interaction between the ECB and NCAs may intensify when (i) LSIs are risky and/or have a high potential impact on financial stability, (ii) LSIs are approaching any of the significance criteria which would bring them under the direct supervision of the ECB, and (iii) LSIs are in a crisis situation, also in view of the ECB's competence to adopt decisions in the context of common procedures.

The oversight of the functioning of the supervisory system is carried out by DG MS III.

5.1 Oversight of NCA supervisory practices



SSMR Article 6

SSMFR Part VII

SSMFR Articles 19-21, 31(1), 43(4), 52, 99-100, 103 and 135

SRMR Articles 30(2), 30(7) and 34(1)

DG MS III promotes a common supervisory culture across the SSM in order to ensure its consistent functioning. Cooperation between the ECB and NCAs is a key element of this activity. For this purpose, DG MS III maintains institutional relations with NCAs and encourages staff exchanges between NCAs and the ECB, and across NCAs. These relations take the form of multilateral fora in which all NCAs participate, bilateral visits, and contacts at both management and technical levels.

With respect to the multilateral fora, senior management contacts are supported via the organisation of a high-level network and conferences, aimed at assisting the Supervisory Board in the fulfilment of its tasks related to LSI supervision. As for relations at expert level, they allow the discussion of specific technical topics in workshops and working groups.

With regard to bilateral contacts, the ECB promotes such contacts on an ongoing basis both at senior management and expert level, with the aim of addressing country-specific issues, for example through country visits, meetings at the ECB and teleconferences.

Other forms of bilateral contacts include joint supervisory activities and staff exchanges. In order to further promote a consistent application of high supervisory standards and also to strengthen its oversight of the system, DG MS III coordinates exchanges of staff between the ECB and NCAs or between NCAs, and can also collaborate with NCAs in the context of on-site inspections (see Sections 5.2 and 5.4), in line with the SSM Regulation. DG MS III identifies the areas of interest based on requests from NCAs and takes appropriate ad hoc initiatives. NCAs also take initiatives and make proposals for SSM cooperation regarding LSI supervision.

These instruments contribute to promoting a common supervisory culture. They also enable the ECB to gain knowledge of supervisory practices and individual (groups of) LSIs and LSI sectors that serves as input to the promotion of consistent high supervisory standards. Moreover, they allow the coordination and support of NCAs' activities in cases where a country is facing challenges in its LSI banking sector and/or in its supervision, as part of targeted cooperation initiatives.

5.2 Development of standards for LSI supervision



SSMR Articles 3(4), 4(3) and 6

DG MS III assesses NCAs' supervisory practices in order to identify best practices in close collaboration with NCAs. This can be done in the form of stock-taking exercises or thematic reviews. In this context, it is necessary to take into account the characteristics of the banking sector, and if appropriate the legal framework, in the different countries. Drawing on the best supervisory practices identified, DG MS III and NCAs may develop joint supervisory standards for the supervision of LSIs. In some cases, these joint supervisory standards are applicable to both SIs and LSIs, thus requiring cooperation with other business areas within ECB banking supervision.

When developing joint supervisory standards for the supervision of LSIs, DG MS III takes into account the EU single rulebook consisting, inter alia, of the CRR, the CRD and EBA technical standards and guidelines, and assesses whether a common interpretation and approach should be developed with regard to LSIs. In particular, joint supervisory standards are developed taking into consideration, on the one hand, the interest in fostering a consistent approach to the supervision of SIs and LSIs, and, on the other hand, the need to consider specificities of LSIs. When developing joint supervisory standards, it should be borne in mind that they should be applied in compliance with national law. The use of these standards remains without prejudice to the application of relevant EU and national law.

The joint supervisory standards may, where appropriate and taking into account proportionality, be used as reference for the adoption of ECB legal acts, pursuant to the SSM Regulation which allows the ECB to adopt legal acts addressed to NCAs, under which the NCA performs supervisory tasks and adopts supervisory decisions in relation to LSIs.

DG MS III subsequently monitors how the joint supervisory standards are implemented by NCAs and collects feedback from NCAs on their implementation of the joint standards. On this basis, DG MS III reports to the NCAs and the Supervisory Board. Moreover, DG MS III can propose follow-up actions, such as the revision of the joint supervisory standards or the adoption of a (binding) ECB legal act if one has not yet been issued.

Migration and taking-over of direct supervision



SSMR Articles 6(4)(7) and 6(5)(b)

SSMFR Articles 67-69

SSMFR Part IV

A change in LSI status from less significant to significant may occur in two instances: (i) a significance assessment; or (ii) the taking-over of direct supervision by the ECB (see Section 3.2). First, in cases where the ECB, following either the regular assessment of institutions' significance or an ad hoc assessment, finds that an LSI fulfils any of the quantitative or qualitative criteria, as established in the SSM Regulation and the SSM Framework Regulation, the ECB decides that the institution is to be considered significant.

Second, the decision to take over direct supervision may also become necessary to ensure the consistent application of high supervisory standards. Therefore, the ECB in accordance with the SSM Regulation may at any time, on its own initiative or upon the request of an NCA, decide to directly supervise one or more LSIs to ensure consistent application of high supervisory standards. The SSM Framework Regulation contains a non-exhaustive list of factors which the ECB needs to take into account before taking the decision to take over direct supervision.

As a general rule, when an LSI has been classified as a significant supervised entity and the ECB decides to directly supervise the LSI as laid down in the SSM Regulation, a new JST is set up for this institution. The ECB determines a date as of which the institution will be directly supervised by the ECB and follows the procedure set forth in the SSM Framework Regulation.

5.3 Providing analytical and methodological support



SSMFR Parts IV and VII

SSMFR Article 96

SSMR Article 6

ECB Regulation on reporting of supervisory financial information (ECB/2015/13)

DG MS III, in collaboration with NCAs, develops methodologies aimed at tailoring the SREP approach developed for SIs to the needs and specificities of LSIs. It also conducts LSI-focused analysis as an input to sectoral monitoring and risk identification.

Managing the list of LSIs

DG MS III is responsible for maintaining and updating the list of LSIs, which is published on the [ECB's banking supervision website](#). On a yearly basis, DG MS III invites NCAs to perform the regular assessment of significance of entities supervised by them in a coordinated, documented and systematic manner in order to either declare or confirm them as less significant or decide about a possible change to their status. DG MS III also coordinates ad hoc revisions to keep the list of LSIs up to date based on changes in conditions or to reclassify an institution based on particular, specific and exceptional circumstances, e.g. a merger of credit institutions, notified by NCAs.

Assigning a priority rank to LSIs

In order to conduct effective oversight and tailor the involvement of the ECB, LSIs are classified into categories, based on their intrinsic riskiness and impact, i.e. the threat they pose to financial stability. The objective is to determine a priority order of individual LSIs to be used in allocating supervisory resources within the SSM, both in the NCAs and the ECB. The priority rank of each LSI is calculated at least annually in a joint process between DG MS III and NCAs. The NCAs are fully involved in the classification process and in the dialogue with DG MS III and they contribute to defining the common methodology used to classify LSIs. The level of intensity of indirect supervision of LSIs by DG MS III depends on the supervised institutions' priority rank.

SSM SREP for LSIs

NCAs hold the responsibility for conducting a SREP exercise on LSIs, including the assignment of scores, the assessment of the LSIs' ICAAPs and ILAAPs and the adoption of final SREP decisions. Nonetheless, in order to foster a common understanding and a coordinated approach within the SSM based on the highest standards, it is important for NCAs to apply a consistent SREP methodology. In this respect, the SREP methodology developed for SIs is used as a reference and is developed for LSIs, taking into account the proportionality principle and LSIs' specific characteristics. In particular, the methodology includes different degrees of simplification, depending on the priority rank of the LSI as determined in the

prioritisation assessment, which adequately reflect the principle of proportionality and LSI specificities.

Identifying system-level risks and vulnerabilities

On the basis of supervisory reporting, as well as other data collections and statistical databases available to ECB Banking Supervision, DG MS III performs analyses and develops a system to identify risks and vulnerabilities related to LSIs. Using supervisory data, DG MS III identifies LSIs or groups of LSIs that are experiencing an increased level of risk. It regularly assesses the current risk situation on the basis of quantitative assessments, drawn from sets of indicators, reports and statistical models.

These data serve various purposes and the analyses also take into account information from other activities conducted within DG MS III, e.g. sectoral oversight. The analyses by DG MS III also serve as a contribution to relevant policy topics and to the macroprudential work carried out by DG MS IV and DG/MF.

5.4 Oversight of LSIs and LSI sectors



SSMR Articles 6, 12(1) and 31(2)

SSMFR Articles 96-98

ECB Guideline on the principles for the coordination of the assessment and the monitoring of IPS of SIs and LSIs (ECB/2016/37)

ECB Guideline on the approach for the recognition of IPS (ECB/2016/38)

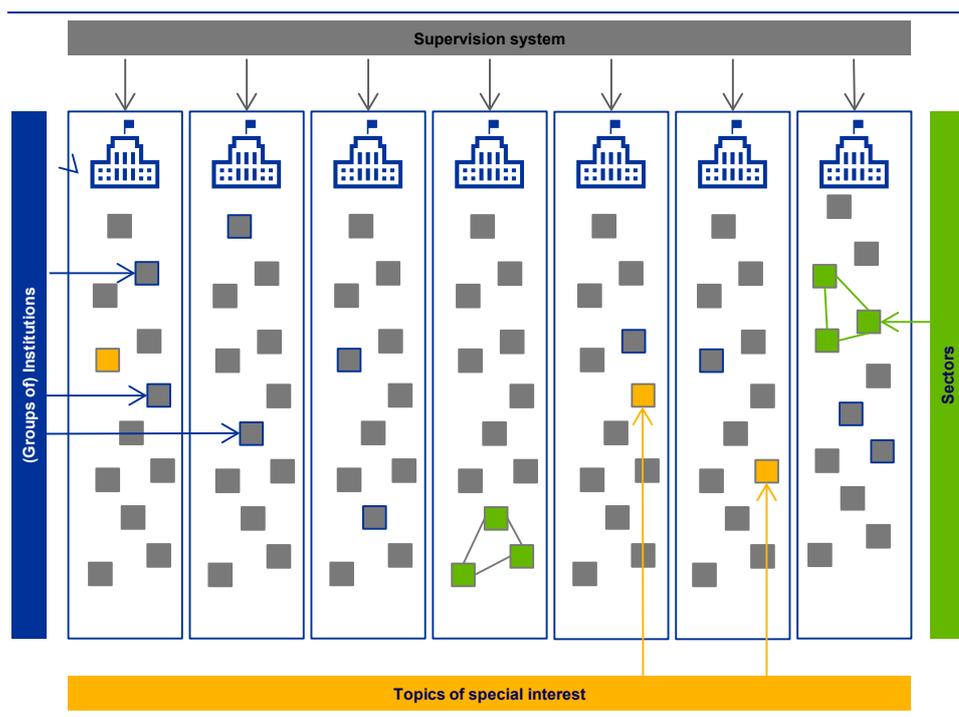
Without prejudice to the responsibility of NCAs for directly supervising LSIs, DG MS III conducts risk-based oversight relating to the supervision of LSIs by NCAs and of LSI sectors so that it can form a well-grounded and timely view of the functioning of the SSM supervisory system. It also provides views on individual supervisory cases, via notifications of financial deterioration, as well as common procedures, in a timely and efficient manner. In this regard, DG MS III collaborates closely with the NCAs and relies on the information from NCAs when conducting its oversight activities. In this way, DG MS III contributes to meeting the shared objective of achieving consistent supervisory outcomes and the stability of the banking sector in participating Member States. DG MS III also performs thematic reviews to identify and promote high supervisory standards. Activities are mainly performed off-site, but the ECB can join on-site inspections in particular cases.

The intensity of institution-specific and sectoral oversight follows a risk-based approach consistent with the proportionality principle. This approach relies on a prioritisation methodology that ranks LSIs and LSI sectors according to their riskiness and systemic impact, and thus determines the allocation of oversight resources. Oversight activities take the form of regular assessments that are conducted in close coordination with the NCAs in order to fully exploit synergies. Furthermore, for high-priority LSIs the ECB assesses NCAs' material supervisory procedures, as well as material draft decisions.

DG MS III conducts oversight of LSIs in three dimensions in close collaboration with the NCAs: institution-specific oversight, sectoral oversight and thematic reviews (see **Figure 21**).

For LSIs in a crisis situation, without prejudice to NCAs' responsibility for crisis management, there can be closer cooperation between DG MS III and NCAs. This follows a specific decision to ensure that the NCAs take the necessary action in a timely manner and that an SSM-wide overview of the possible repercussions on other institutions can be obtained.

Figure 21
Three dimensions of LSI oversight



Source: ECB Banking Supervision.

Performing oversight of LSIs

To be able to perform its oversight of LSIs effectively, the ECB assesses information on individual LSIs received from NCAs and other sources, focusing on the high-priority ones as well as on LSIs experiencing financial deterioration. The ECB's oversight of LSIs is conducted in close collaboration with the NCAs and aims to ensure that all material risks within the LSIs are addressed in a prudent manner by the NCAs. DG MS III's oversight of LSIs also offers a channel to provide input on the effectiveness of prudential supervision and its outcomes within the SSM, thereby also contributing to the development of common standards or joint supervisory standards. DG MS III adds value to national supervisory assessments by bringing in an SSM-wide view.

Close collaboration with the NCAs, which remain responsible for the direct supervision of LSIs while the ECB exercises its oversight function, ensures that synergies are fully exploited.

Performing oversight of LSI sectors

Many LSIs are not classified as high-priority. While this implies a lower level of risk for and/or a lower impact on the domestic financial system, a large number of LSIs are organised in sectors. Together, they can pose a risk to and have an impact on the domestic financial system. The aim of sectoral oversight is to capture contagion effects and assess whether the sense of support or burden imparted by the sectoral arrangement, as well as any supervisory arrangements thought to be beneficial, are borne out in practice. Sectoral oversight is performed on an ongoing basis.

Sectoral oversight takes into account banks that are closely connected without being a group, possibly requiring the supervisor to take a systemic view of the risks relating to LSIs. This close connection might exist owing to shared central services, mutual support agreements or other forms of collaboration. Once the relevant sectors have been identified, it is important to define the scope of the information that is required to obtain a good understanding of these sectors, especially regarding a sector's risk situation. Such information could include inter-institutional arrangements that create groupings of banks with mutual support or burden structures.

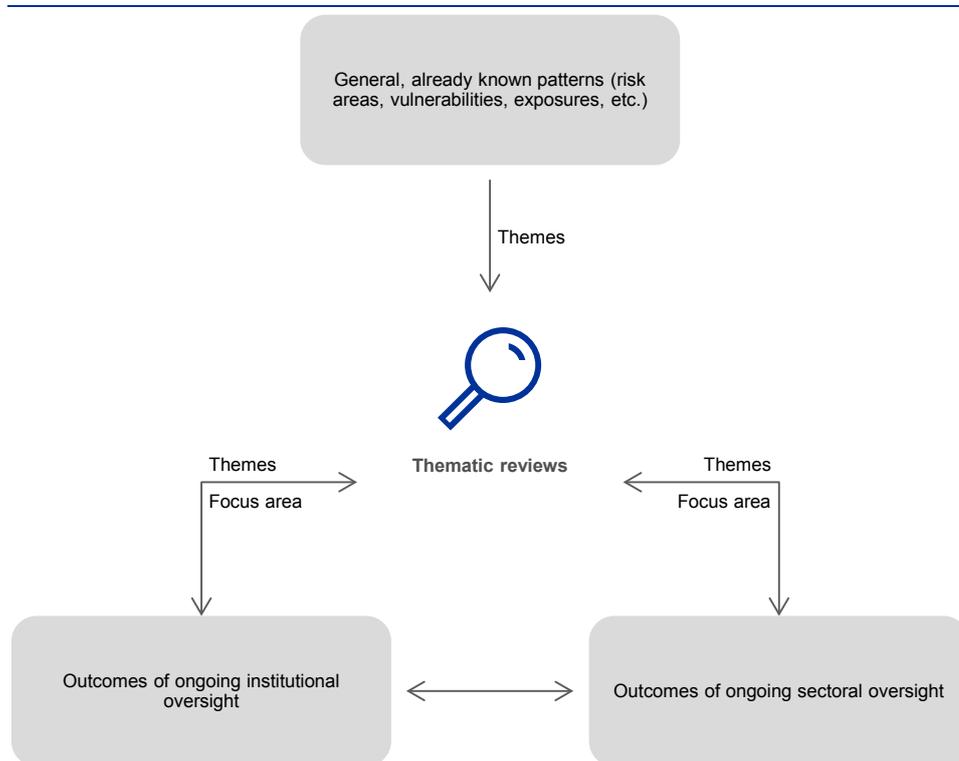
DG MS III adds value to national supervisory analyses by bringing an SSM-wide view, by providing NCAs with cross-border benchmarks and by identifying sectoral and systemic risks.

For certain supervised entities that are strongly interconnected without forming a group (e.g. through IPS; see Section 4.11), the oversight relating to LSI sectors is an important element aiming to ensure an effective and consistent functioning of the supervisory system.

Performing thematic reviews for LSIs

Complementing the regular work on institutions and sectors, thematic reviews are conducted as targeted projects focused on certain risks or topics of special interest affecting all or a sample of banks, potentially in several jurisdictions. This cross-country dimension permits a greater degree of benchmarking across the SSM. Such thematic reviews are also referred to as “deep dives”. They can be performed off-site or on-site in particular circumstances. Thematic reviews are planned and conducted in close coordination with the NCAs. Synergies with sectoral oversight are exploited in carrying out these reviews.

Figure 22
Thematic reviews for LSIs



Source: ECB Banking Supervision.

Assessment of NCA notifications

The notification of material NCA supervisory procedures and decisions is designed to enable the ECB to exercise oversight over the functioning of the supervisory system, to ensure the consistent application of the supervisory framework and to foster high standards of supervision at an early stage of material supervisory procedures and material draft decisions. It also serves as information for LSI institutional and sectoral oversight (see above).

The ECB's oversight follows a risk-based approach consistent with the proportionality principle and therefore relies on a prioritisation methodology that ranks LSIs according to their riskiness and systemic impact into high-priority LSIs and non-high-priority LSIs.

The ECB plays an advisory role in relation to draft material decisions in order to promote consistent and high-quality supervision, and may advise an NCA to further assess specific aspects of a material NCA supervisory procedure. To be able to do this, DG MS III receives ex ante notifications from NCAs on material procedures and material draft decisions for all high-priority LSIs. For other LSIs, NCAs can notify the ECB on their own initiative. The ECB may request that an NCA further assess specific aspects of a notified material supervisory procedure and may provide its views to an NCA on a notified material draft decision.

DG MS III receives reports on NCAs' supervisory planning, their supervisory priorities and the supervisory measures that they have taken and on how they perform their supervisory tasks with regard to all LSIs, irrespective of the priority rank assigned to them. The prioritisation is nevertheless taken into account when determining the extent of the information required. These reports, together with ad hoc requests for information sent to NCAs and country visits, enable the ECB to assess whether high-quality supervisory standards are applied in a consistent way and to check whether comparable situations lead to comparable outcomes across the SSM. On the basis of the information received, DG MS III reports to the NCAs and the Supervisory Board on NCA supervisory activities relating to LSIs, with an emphasis on the progress made towards the consistent application of high supervisory standards.

In addition, NCAs are subject to other specific notification requirements, e.g. when the financial condition of an LSI deteriorates rapidly and significantly, when administrative penalties are imposed on an LSI, when an ad hoc assessment of the potential significance of an LSI is performed by an NCA or when ad hoc changes are made to the list of LSIs.

These notification requirements concern all LSIs, irrespective of their priority ranking. While notifications concerning the rapid and significant deterioration of an LSI as well as the assessment of the potential significance of an LSI have to be submitted on an ad hoc basis, the notification of administrative penalties imposed on LSIs has to be made on an annual basis. The information provided assists the ECB in performing its oversight task.

Role of the ECB in LSI crisis management

The responsibility for the organisation and implementation of crisis management activities related to LSIs lies with the NCAs and other relevant authorities at the national level.

In view of the allocation of tasks within the SSM, the management of crisis situations involving an LSI requires enhanced information exchange and coordination between the NCA concerned, in its capacity as direct supervisor of LSIs, and the ECB, as the competent authority for taking decisions on common procedures, also taking into account its oversight function. Therefore, while the NCA is responsible for taking supervisory decisions and actions related to the LSI in crisis, the need for intensified cooperation arises close to the point of non-viability of the LSI when the critical situation of the LSI calls for close coordination between the ECB and the NCA with regard to the need to consider liquidation or resolution of the bank, the responsibility for the withdrawal of the authorisation, the assessment of acquisitions or increases in qualifying holdings, and the granting of new authorisations (e.g. for a bridge institution).

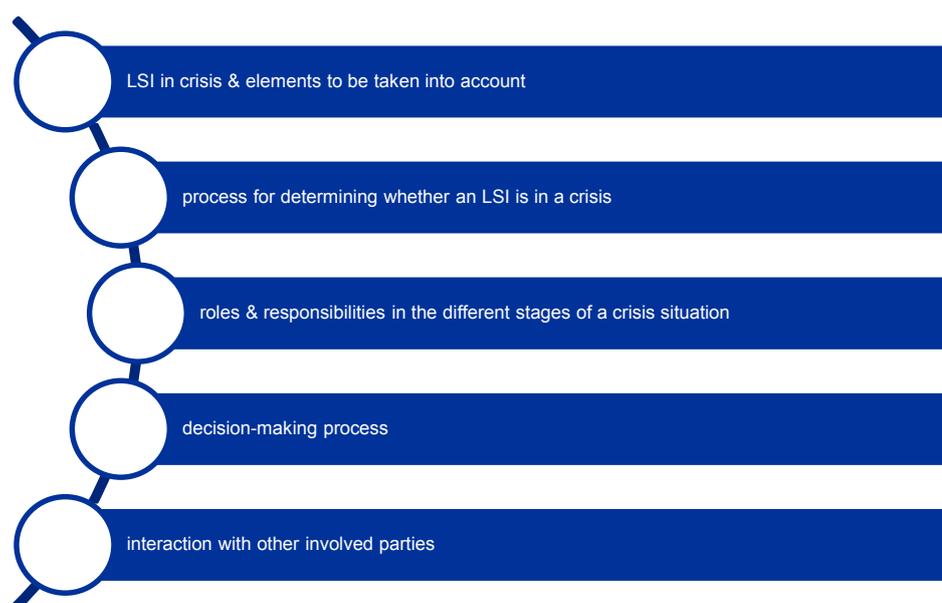
Cooperation between NCAs and the ECB in the area of crisis management aims to assist the respective tasks of the NCA and the ECB, and ensures that the required

information is available in the event that urgent decisions need to be taken within short time frames.

The information exchanged and the cooperation between the ECB and an NCA are proportionate to the risks posed by an LSI, and take into account private solutions already identified by the NCA, which could also include solutions identified in the context of an IPS, cooperative mutual solidarity agreement or other kind of voluntary fund.

The SSM authorities (i.e. the ECB and the NCAs) and the SRM authorities (i.e. the SRB and the NRAs) cooperate and share all of the information needed for the performance of their respective roles (i.e. as authorities responsible for the supervision of LSIs and the ECB as competent authority for common procedures) in accordance with the SSM Regulation and SRM Regulation. With regard to common procedures triggered by LSI crisis management, the ECB also cooperates with the responsible resolution authorities (see Section 1.4.5 and Section 3).

Figure 23
ECB/NCA crisis management cooperation framework for LSIs



Source: ECB Banking Supervision.

Participating in on-site inspections

The NCAs are responsible for conducting on-site inspections at the LSIs in accordance with EU law (and, where relevant, the national implementation of such law) and applicable national laws, EBA standards and methodology, as well as the standards and processes followed in the SSM.

In order to further promote a consistent application of high supervisory standards and to intensify its LSI oversight, DG MS III collaborates with NCAs in the context of

on-site inspections in line with the SSM Regulation. The ECB may contribute, on a case-by-case basis, to on-site inspections at LSIs by joining the NCA on-site inspections, proposing the involvement of members from more than one NCA in the supervisory team or, under certain exceptional circumstances, conducting its own examinations.

Participation in on-site inspections gives the ECB a more complete view of a specific institution, topic or risks related to LSIs and allows the ECB to enrich its comparative assessment. It fosters the ECB's understanding of the conduct of NCA supervision, promotes the exchange of staff among NCAs and creates a network of LSI supervisors. By participating in on-site inspections at LSIs, the ECB develops its cooperation with the NCAs concerned and ensures that the on-site inspections are conducted following the highest standards and with the most suitable resources.

Glossary

Banking union

One of the building blocks for completing Economic and Monetary Union, which consists of an integrated financial framework with a single supervisory mechanism, a single bank resolution mechanism, and a single rulebook, including harmonised deposit guarantee schemes, which may evolve into a common European deposit guarantee scheme.

CRR/CRD (CRD)

Capital Requirements Regulation and Directive: [Regulation \(EU\) No 575/2013 on prudential requirements for credit institutions and investment firms](#) (CRR) and [Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms](#) (CRD). They are often jointly referred to as CRD.

ECB supervisory decision

A legal act adopted by the ECB in the exercise of the tasks and powers conferred on it by the SSM Regulation. It is addressed to one or more supervised entities or supervised groups or one or more other persons and is not a legal act of general application.

Enforcement and sanctioning powers

Powers available to the ECB aimed respectively at: (i) compelling a supervised entity or person to comply with the prudential requirements, i.e. enforcement; and (ii) punishing a supervised entity for the lack of compliance with the prudential requirements through a pecuniary sanction.

European Banking Authority (EBA)

The EBA is an independent EU authority established on 1 January 2011 to ensure effective and consistent prudential regulation and supervision across the EU banking sector. Its main task is to contribute to the creation of the European single rulebook for banking, the objective of which is to provide a single set of harmonised prudential rules throughout the EU. The EBA also plays an important role in promoting convergence of supervisory practices across the EU and is mandated to assess risks and vulnerabilities in the EU banking sector.

Failing or likely to fail

One of the three cumulative conditions determining whether resolution authorities should take resolution actions for a credit institution. Article 32(4) of the Bank Recovery and Resolution Directive (BRRD) defines when a credit institution is to be deemed failing or likely to fail (a determination to be made by a supervisory or resolution authority).

Internal Capital Adequacy Assessment Process (ICAAP)

The strategies and processes which banks are required to establish to assess and maintain on an ongoing basis the amounts, types and distribution of internal capital

that they consider adequate to cover the nature and level of the risks to which they are or might be exposed. The competent authorities review the ICAAP as part of the SREP.

Internal Liquidity Adequacy Assessment Process (ILAAP)

The strategies, policies, processes and systems which banks are required to establish for the management and monitoring of liquidity risk and funding positions. The competent authorities review the ILAAP as part of the SREP.

Internal model

Any risk measurement and management approach applied in the calculation of own funds requirements that is proprietary to a credit institution and requires prior permission by the competent authority in accordance with Part Three of the CRR.

Joint Supervisory Team (JST)

A team of supervisors composed of ECB and NCA staff in charge of the supervision of a significant supervised entity or a significant supervised group.

National competent authority (NCA)

A public authority or body officially recognised by national law, which is empowered by national law to supervise institutions as part of the supervisory system in operation in the Member State concerned.

Non-objection procedure

Standard decision-making process established by the SSM Regulation for the ECB's supervisory activities. The Supervisory Board takes draft decisions, which are submitted for adoption to the Governing Council. Decisions are deemed to be adopted unless the Governing Council objects within a defined period of time, not exceeding ten working days.

Passporting procedures

Procedures concerning the freedom of establishment and the freedom to provide services in other Member States by any credit institution authorised and supervised by the competent authorities of another Member State, provided that such activities are covered by the authorisation (as regulated by Articles 33 to 46 of the CRD).

Qualifying holding

A holding in a credit institution, which represents 10% or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of that credit institution.

Significance

The criterion that determines the allocation of supervisory responsibilities to the ECB or the NCAs within the Single Supervisory Mechanism. The level of significance of credit institutions is based on criteria set out in the SSM Regulation and specified in the SSM Framework Regulation.

Single Resolution Mechanism (SRM)

A mechanism, which became fully operational on 1 January 2016, establishing uniform rules and a uniform procedure for the resolution of credit institutions

established in the banking union. It is backed by a Single Resolution Board, which is the European resolution authority for the banking union, working in close cooperation with the national resolution authorities of participating Member States. For the purposes of resolution, the SRM has at its disposal a Single Resolution Fund.

Single rulebook

The single rulebook in banking aims to provide a single set of harmonised prudential rules which credit institutions must respect throughout the EU. Beyond the legislation elaborated by the European Parliament and the EU Council with the assistance of the European Commission, the EBA has the competence to further develop this single rulebook and monitor its implementation.

Single Supervisory Mechanism (SSM)

A mechanism composed of the ECB and national competent authorities in participating Member States for the exercise of the supervisory tasks conferred upon the ECB. The ECB is responsible for the effective and consistent functioning of this mechanism, which forms part of the banking union.

SSM Framework Regulation

The regulatory framework setting out, in particular, the practical arrangements concerning the cooperation between the ECB and the national competent authorities within the Single Supervisory Mechanism, as provided for in Article 6 of the SSM Regulation.

SSM Regulation

The legal act creating a single supervisory mechanism for credit institutions in the euro area and, potentially, other EU Member States, as one of the main elements of Europe's banking union. The SSM Regulation confers on the ECB specific tasks concerning policies relating to the prudential supervision of credit institutions.

Supervisory Examination Programme (SEP)

In accordance with Article 99 of the CRD, ECB Banking Supervision adopts annually an SEP for the institutions it supervises. This programme defines for each significant institution the main supervisory activities that will be carried out to monitor risks and to address weaknesses. It identifies which institutions are intended to be subject to enhanced supervision. The SEP for a significant institution covers ongoing supervisory activities, on-site inspections and internal model investigations.

Supervisory Manual

A manual detailing the general principles, processes and procedures as well as the methodology for the supervision of significant and less significant institutions, taking into account the principles for the functioning of the SSM. It describes the procedures for cooperation within the SSM and with authorities outside the SSM.

Supervisory Review and Evaluation Process (SREP)

The process used to guide the supervisory review of significant and less significant credit institutions and to determine whether (on top of minimum requirements) possible additional requirements should be applied with respect to own funds, disclosure or liquidity, or whether any other supervisory measures should be applied.

Abbreviations

ABoR	Administrative Board of Review	ILAAP	Internal Liquidity Adequacy Assessment Process
AT1	Additional Tier 1	IPS	institutional protection scheme
BCBS	Basel Committee on Banking Supervision	IRRBB	interest rate risk in the banking book
BRRD	Bank Recovery and Resolution Directive	IRT	Internal Resolution Team
CEO	Chief Executive Officer	ITS	Implementing Technical Standards
COREP	common reporting on capital adequacy	IU	Investigating Unit
CRD	Capital Requirements Directive	JST	Joint Supervisory Team
CRR	Capital Requirements Regulation	JSTC	Joint Supervisory Team coordinator
DG FISMA	Directorate-General for Financial Stability, Financial Services and Capital Markets Union	LCR	liquidity coverage ratio
DG MS I	Directorate General Microprudential Supervision I	LSI	less significant institution
DG MS II	Directorate General Microprudential Supervision II	MEL	minimum engagement level
DG MS III	Directorate General Microprudential Supervision III	MoU	Memorandum of Understanding
DG MS IV	Directorate General Microprudential Supervision IV	NCA	national competent authority
DG/E	Directorate General Economics	NPL	non-performing loan
DG/L/SLA	Directorate General Legal Services - Supervisory Law Division	NRA	national resolution authority
DG/MF	Directorate General Macroprudential Supervision and Financial Stability	NSFR	net stable funding ratio
DG/S	Directorate General Statistics	OSI	on-site inspection
DGS	deposit guarantee scheme	P2G	Pillar 2 guidance
DGSD	Deposit Guarantee Scheme Directive	P2R	Pillar 2 requirement
DGSSB	Directorate General Secretariat to the Supervisory Board	RTS	Regulatory Technical Standards
EBA	European Banking Authority	SB	Supervisory Board
ECB	European Central Bank	SEP	Supervisory Examination Programme
EIOPA	European Insurance and Occupational Pensions Authority	SI	significant institution
ESCB	European System of Central Banks	SRB	Single Resolution Board
ESM	European Stability Mechanism	SREP	Supervisory Review and Evaluation Process
ESRB	European Systemic Risk Board	SRF	Single Resolution Fund
EU	European Union	SRM	Single Resolution Mechanism
FiCoD	Financial Conglomerates Directive	SRT	significant risk transfer
FINREP	financial reporting	SSM	Single Supervisory Mechanism
FSAP	Financial Sector Assessment Program	SSMFR	SSM Framework Regulation
FSB	Financial Stability Board	SSMR	SSM Regulation
HoM	Head of Mission	STE	Short Term Exercise
ICAAP	Internal Capital Adequacy Assessment Process	SUBA	Supervisory Banking data system
		T2	Tier 2
		TFEU	Treaty on the Functioning of the European Union
		TSCR	total SREP capital requirement

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