Prudential supervision of credit institutions: conferring specific tasks on the European Central Bank (ECB)

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OPINION OF THE EUROPEAN CENTRAL BANK

on **a proposal for a Council Regulation conferring specific tasks on the European Central Bank concerning**

policies relating to the prudential supervision of credit institutions and a

proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1093/2010

establishing a European Supervisory Authority (European Banking Authority)

Since both texts relate to the conferral of specific supervisory tasks on the ECB and the establishment of the single supervisory mechanism (SSM), and despite the distinct legislative procedures applying to these texts, the **ECB has adopted a single opinion on the two proposals**.

The ECB broadly welcomes such proposals, which are in line with the main findings of the report by the President of the European Council and the conclusions of the European Council of 29 June and 18 October 2012. The ECB stands ready to perform the new tasks relating to the prudential supervision of credit institutions provided for in the proposed SSM regulation. The ECB considers that **Article 127(6) of the Treaty constitutes the appropriate legal basis** for rapidly and effectively conferring specific supervisory tasks upon the ECB.

The ECB supports the conclusions of the Interim Report by the President of the European Council on economic and monetary union and an integrated financial framework and is of the opinion that such a **single resolution mechanism** - focused on a European Resolution Authority - is indeed a necessary complement to the SSM to achieve a well-functioning financial market union. Therefore, such a mechanism should be established, or at least there should be clear deadlines for its establishment, when the ECB assumes its supervisory responsibility in full.

From the ECB's perspective, **the proposed SSM regulation should comply with the following main principles**:

- the ECB, within the SSM, should be able to carry out the tasks assigned to it **effectively and rigorously** without any risk to its reputation;

- the ECB is of the view that the proposed SSM regulation should enable the **activation of the macro-prudential instruments** provided by Union law, either at the initiative of the ECB or the national authorities;

- the ECB should remain **independent** in carrying out all its tasks; the ECB considers that the liability of the ECB, the national competent authorities and their respective officials should only be incurred in cases of intentional misconduct or gross negligence;

- there should be a **strict separation** between the ECB's new tasks concerning supervision and its monetary policy tasks assigned by the Treaty to prevent potential conflicts of interest and ensure autonomous decision-making for the performance of these tasks;

- the ECB should be able to have **full recourse to the knowledge, expertise and operational resources** of national supervisory authorities;

- the SSM should operate in a manner fully consistent with the **principles underpinning the single market in financial services** and in full adherence to the single rulebook for financial services. In this regard, the ECB also welcomes the possibility to involve non-euro area Member States in the SSM to ensure greater harmonisation of supervisory practices within the European Union, thus strengthening the internal market;

- the ECB is ready to comply with the highest standards of **accountability** for the supervisory tasks.

The ECB stresses the importance of reaching an agreement on the above proposals **by the end of 2012** to maintain the envisaged timetable, namely the entry into force of the proposed SSM regulation on 1 January 2013, gradual operational implementation in the course of 2013, and full implementation by 1 January 2014.

To ensure that the **proposed SSM regulation can in the future be technically adjusted**, the ECB recommends that the European Council considers having recourse to Article 48 of the Treaty on European Union under which the European Council may either authorise the Council to act by qualified majority for future technical amendments to the proposed SSM regulation, or for such amendments to be adopted under the ordinary legislative procedure.