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

2012/0242(CNS) - 22/05/2013 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted amendments on the proposal for a Council regulation conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

The matter has been referred back to the committee responsible. The vote has been postponed.

The main amendments adopted in plenary are the following :

Subject matter and scope: the ECB is conferred **specific tasks concerning policies relating to the prudential supervision** of credit institutions, with a view to contributing to the safety and soundness of credit institutions and the stability of the financial system within the EU and each Member State, with full regard and **duty of care** for the unity and integrity of the internal market based on equal treatment of credit institutions with a view to preventing regulatory arbitrage.

When fulfilling its tasks, and without prejudice to the objective to ensure the safety and soundness of credit institutions, the ECB shall have full regard to the different types, business models and sizes of credit institutions. The exercise of the ECB's tasks should: (i) contribute in particular to ensure that credit institutions fully internalise all costs caused by their activities so as to avoid moral hazard and the excessive risk taking arising from it ; (ii) take full account of the relevant macroeconomic conditions in Member States, in particular the stability of the supply of credit and facilitation of productive activities for the economy at large.

Single Supervisory Mechanism (SSM): this is defined as a European system of financial supervision composed by the European Central Bank and national competent authorities of participating Member States. ‘Participating Member State’ shall mean a Member State whose currency is the euro or a Member State whose currency is not the euro which has established a **close cooperation** in accordance with this Regulation. The ECB and the national competent authorities of non-participating Member States shall conclude a memorandum of understanding describing in general terms how they will cooperate with one another in the performance of their supervisory tasks.

Where necessary the ECB shall enter into **memoranda of understanding** with competent authorities of Member States responsible for markets in financial instruments. Such memoranda shall be made available to the European Parliament, the Council and competent authorities of all Member States.

Tasks conferred on the ECB: the ECB shall carry out its tasks within a single supervisory mechanism composed of the ECB and national competent authorities. The ECB shall be responsible for the effective and consistent functioning of the single supervisory mechanism. Both the ECB and national competent authorities shall be subject to a **duty of cooperation in good faith, and an obligation to exchange information**.

Within this framework, the ECB shall be exclusively competent to carry out, for prudential supervisory purposes, the following tasks in relation to all credit institutions established in the participating Member States:

- to authorise credit institutions and to withdraw authorisations of credit institutions subject to certain provisions;
- for credit institutions established in a participating Member State, which wish to establish a branch or provide cross-border services in a non participating Member State, to carry out the tasks which the competent authority of the home Member State shall have under the relevant Union law;
- to assess applications for the acquisition and disposal of qualifying holdings in credit institutions, except in the case of a bank resolution;
- to ensure compliance with the acts which impose prudential requirements on credit institutions in the areas of own funds requirements, securitisation, large exposure limits, liquidity, leverage, and reporting and public disclosure of information on those matters;
- to carry out supervision on a consolidated basis over credit institutions' parents established in one of the participating Member States;
- to carry out supervisory tasks in relation to recovery plans, and early intervention where a credit institution or group in relation to which the ECB is the consolidating supervisor, does not meet or is likely to breach the applicable prudential requirements.

The ECB should have the supervisory power to **remove a member of a management body** in accordance with the provisions of this regulation.

For the carrying out of its tasks and the exercise of its supervisory powers, **the ECB should apply the material rules relating to the prudential supervision of credit institutions**. Those rules are composed of the relevant Union law, in particular directly applicable Regulations or Directives, such as those on capital requirements for banks and on financial conglomerates.

Macroprudential tasks and tools: whenever appropriate or deemed required, the competent or designated authorities of the participating Member States shall apply requirements for capital buffers to be held by credit institutions at the relevant level in accordance with relevant Union law in addition to own funds requirements. The ECB may, if deemed necessary, instead of the national competent or national designated authorities of the participating Member State, ap**ply higher requirements for capital buffers** than applied by the national competent or national designated authorities of participating Member States to be held by credit institutions at the relevant level.

Early intervention and precautionary powers: within the scope of the tasks conferred on the ECB, national law confers on national competent authorities certain powers which are currently not required by Union law, including certain early intervention and precautionary powers. The ECB should be able to require national authorities to make use of these powers, in order to ensure the performance of full and effective supervision within the Single Supervisory Mechanism.

Close cooperation with the competent authorities of participating Member States whose currency is not the Euro: the ECB may address instructions to the national competent authority of the participating Member State whose currency is not the Euro. It may decide to issue a warning to the Member State concerned that the close cooperation will be suspended or terminated if no decisive corrective action is undertaken in certain cases.

If a non-euro participating Member State disagrees with a draft decision of the Supervisory Board, it shall inform the Governing Council of its reasoned disagreement. The Governing Council shall then decide about the matter within five working days, taking fully into account those reasons, and explain in writing its decision to the Member State concerned. The Member State concerned may request the ECB to terminate the close cooperation with immediate effect and will not be bound by the ensuing decision.

Role of national parliaments: the role for national parliaments is appropriate given the potential impact that supervisory measures may have on public finances, credit institutions, their customers and employees,

and the markets in the participating Member States. In this regard, the ECB should also **forward the reports, which it addresses to the European Parliament and the Council, to the national parliaments of the participating Member States**. National parliaments of the participating Member States should be able to address any observations or questions to the ECB on the performance of its supervisory tasks, to which the ECB may reply. The parliament of a participating Member State should also be able to invite the Chair or a representative of the Supervisory Board to participate in an exchange of views in relation to the supervision of credit institutions in that Member State together with a representative of the national competent authority.

Monetary and supervisory functions: these should be carried out separately. The ECB shall ensure that the operation of the Governing Council is completely differentiated as regards monetary and supervisory functions.

Organisational separation of staff should ensure that the exercise of the tasks conferred by this Regulation is fully subject to **democratic accountability** and oversight as provided for by this Regulation.

Supervisory Board: this should be an essential body in the exercise of supervisory tasks by the ECB. The Council should be given the power to adopt an implementing decision to appoint the Chair and the Vice-Chair of the Supervisory Board. After hearing the Supervisory Board, the ECB should submit a proposal for the appointment of the Chair and the Vice-Chair to the European Parliament for approval. Following the approval of this proposal, the Council should adopt that implementing decision.

The Chair should be chosen on the basis of an open selection procedure, on which the European Parliament and the Council should be kept duly informed. The term of office should not exceed five years and should not be renewable.