Basic information

2012/0242(CNS) CNS - Consultation procedure Regulation	Procedure completed
Prudential supervision of credit institutions: conferring specific tasks on the European Central Bank (ECB) See also 2012/0244(COD) **Subject** 2.50.04 Banks and credit 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision 5.10.01 Convergence of economic policies, public deficit, interest rates 5.20.01 Coordination of monetary policies, European Monetary Institute (EMI), Economic and Monetary Union (EMU) 5.20.02 Single currency, euro, euro area 5.20.03 European Central Bank (ECB), ESCB	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	THYSSEN Marianne (PPE)	11/09/2012
	Shadow rapporteur PITTELLA Gianni (S&D) KLINZ Wolf (ALDE) LAMBERTS Philippe (Verts/ALE) STREJČEK Ivo (ECR) KLUTE Jürgen (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	
AFCO Constitutional Affairs	DUFF Andrew (ALDE)	19/11/2012

Council of the

Council configuration	Meetings	Date

European Union	Economic and Financial Affairs ECOFIN	3205	2012-12-04
	Economic and Financial Affairs ECOFIN	3220	2013-02-12
	Economic and Financial Affairs ECOFIN	3198	2012-11-13
	Economic and Financial Affairs ECOFIN	3215	2013-01-22
	Economic and Financial Affairs ECOFIN	3264	2013-10-15

European Commission	Commission DG	Commissioner
	Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel

Key events

Date	Event	Reference	Summary
12/09/2012	Legislative proposal published	COM(2012)0511	Summary
22/10/2012	Committee referral announced in Parliament		
13/11/2012	Debate in Council		Summary
28/11/2012	Vote in committee		
03/12/2012	Committee report tabled for plenary, 1st reading/single reading	A7-0392/2012	Summary
04/12/2012	Debate in Council		Summary
22/01/2013	Debate in Council		
12/02/2013	Debate in Council		
21/05/2013	Debate in Parliament		
22/05/2013	Decision by Parliament	T7-0213/2013	Summary
22/05/2013	Results of vote in Parliament		
12/09/2013	Decision by Parliament	T7-0372/2013	Summary
12/09/2013	Results of vote in Parliament		
15/10/2013	Act adopted by Council after consultation of Parliament		
15/10/2013	End of procedure in Parliament		
29/10/2013	Final act published in Official Journal		

Technical information

Procedure reference	2012/0242(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation

Amendments and repeals	See also 2012/0244(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 127-p6
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/10655

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE497.794	08/10/2012	
Amendments tabled in committee		PE498.138	30/10/2012	
Amendments tabled in committee		PE498.139	30/10/2012	
Amendments tabled in committee		PE498.140	30/10/2012	
Amendments tabled in committee		PE498.151	30/10/2012	
Committee opinion	AFCO	PE498.084	30/11/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0392/2012	03/12/2012	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0213/2013	22/05/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0372/2013	12/09/2013	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2012)0511	12/09/2012	Summary
Commission response to text adopted in plenary	SP(2013)774	06/12/2013	
Follow-up document	COM(2017)0591	11/10/2017	Summary
Follow-up document	SWD(2017)0336	13/10/2017	
Follow-up document	COM(2023)0212	18/04/2023	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESRAT	COM(2012)0511	07/11/2012	
Contribution	PT_PARLIAMENT	COM(2012)0511	08/11/2012	
Contribution	BG_PARLIAMENT	COM(2012)0511	08/11/2012	

Contribution	IT_CHAMBER	COM(2012)0511	15/11/2012	
Contribution	IT_SENATE	COM(2012)0511	21/12/2012	
Contribution	CZ_SENATE	COM(2012)0511	21/03/2013	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ECB	European Central Bank: opinion, guideline, report	N7-0045/2013 OJ C 030 01.02.2013, p. 0006	27/11/2012	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	
European Commission	EUR-Lex	

Final act

Regulation 2013/1024
OJ L 287 29.10.2013, p. 0063 Summary

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

2012/0242(CNS) - 11/10/2017 - Follow-up document

This Commission report assesses the setting up and functioning of the **Single Supervisory Mechanism** (SSM) to determine its effectiveness as the first pillar of the Banking Union. It is also the first review by the Commission of the application of the SSM Regulation in accordance with Regulation (EU) No 1024/2013.

The report concludes that the **establishment of the Single Supervisory Mechanism was successful overall**. The organisational difficulties observed at the initial stage have been well managed by the European Central Bank (ECB) and the national central authorities (ACN).

The ECB, with the support of the NCAs, has set up the **necessary procedures and tools that enabled the smooth transfer of supervisory competences** over significant institutions and the exercise by the ECB of its coordinating and oversight functions. On the basis of such framework the ECB has taken up fully its supervisory role and has managed to establish in two years a good reputation as an effective and rigorous supervisory authority.

No major issues have been detected in relation to the **independence of the ECB**. As regards the separation principle, the ECB should ensure that all safeguards are in place and applied, especially as regards services underpinning both the supervisory function of the ECB and all other functions performed by the ECB. The ECB is also invited to ensure the appropriate involvement of the Supervisory Board in macro-prudential decision-making.

The use of **mechanisms for holding the ECB accountable has not demonstrated shortcomings in the way the ECB pursues its supervisory tasks**. Certain disagreements arose concerning the scope of the mandate of the ECA to review the ECB – an issue that is expected to be solved through the declared commitment to better cooperation in the context of the second review that will be conducted by the ECA.

The **relationship between the ECB and the EBA** constitutes another important aspect of the functioning of the SSM in the context of the internal market. This review observed a positive dynamic of interaction which is mutually beneficial, and encourages the ECB to continue cooperating and coordinating with the EBA, especially as regards the implementation of the single rulebook.

The effectiveness of supervision of euro area banks has improved already in the first years of SSM functioning:

- **for significant institutions**, the regulatory framework is more harmonised, and supervision is based on common methodologies applied in a consistent way. The quality of supervision is perceived as having increased in relation to several core supervisory areas, especially the SREP, internal models, fit and proper assessments and the functioning of colleges;
- the ECB also took important steps in harmonising supervisory practices for **less significant institutions**, but more time is required to increase the level of harmonisation and promote the use of common best practices in the supervision of LSIs.

Overall, the application of the SSM Regulation appears to work well in practice, with **no major changes needed to the legal framework at this stage**.

The shortcomings noted in this report may be corrected mainly through actions to be taken by the ECB or through amendments to relevant Union law that are currently discussed by the European Parliament and the Council in the context of the Proposals made by the Commission in November 2016.

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

2012/0242(CNS) - 13/11/2012

The Council discussed proposals aimed at establishing a single supervisory mechanism (SSM) for credit institutions in the eurozone and in other EU Member States choosing to participate. The two proposed regulations are a key element of a broader plan to establish **a banking union for the euro area**.

- The first proposal conferring specific supervisory tasks on the European Central Bank, is based on Article 127 (6) of the Treaty on the Functioning of the European Union which requires unanimity for adoption by the Council, after consulting the European Parliament and the ECB.
- The second proposal modifying Regulation 1093/2010 establishing the European Banking Authority, is based on Article 114 of the Treaty on the Functioning of the European Union which requires a qualified majority for adoption by the Council, in agreement with the Parliament.

The October European Council set **1 January 2013** as the deadline for agreeing on the legal framework set out in the two regulations, whilst indicating that work on operational implementation would take place during 2013.

According to the **Presidency's progress report** of 6 November 2012, consensus is emerging on a number of issues, in particular the separation within the ECB of monetary policy and supervisory functions (Article 18 of the ECB Regulation), subject to finalisation of the drafting. Nevertheless, certain other matters remain open:

1. The equitable treatment of euro-area and non-euro area Member States. There are two important issues in this regard:

(i) The status and role of non-euro area Member States who choose to participate in the SSM (under Articles 6 and 19 of the ECB proposal): the Presidency has amended the Commission’s proposal to allow for all participating Member States to be treated equally in the Supervisory Board (i.e. non-euro area participating Member States will be voting members).

Furthermore, the Presidency has already introduced a number of safeguards for participating non-euro area Member States. More work is needed to meet the concerns of delegations. Nonetheless the Presidency finds that these safeguards should lay the foundations for a satisfactory compromise, subject to further guidance from the Council, especially on the voting rights in the supervisory board.

(ii) The changes to voting modalities in the EBA (Article 1(7) of the EBA proposal):a number of Member States consider that the voting rules should still be further (thoroughly) reviewed, and allow for additional safeguards, e.g. in terms of double majority requirements, in all cases (including qualified majority voting). Against this backdrop, the Presidency considers that further political guidance from the Council is needed to find the adequate balance between anti-discrimination safeguards for non-participating Member States and effective decision-making.

The Presidency has decided in its forthcoming compromise to make it clear that when the EBA engages in binding mediation, all competent authorities, including the ECB acting in its supervisory capacity, will be treated equally.

2. The distribution of tasks between the ECB and the NCAs: the Commission proposal assigned a wide range of tasks to the ECB with regard to all credit institutions established in the Member States participating in the SSM. Most of them have proved uncontroversial, except in particular those referring to so-called "macroprudential tools" (especially, the setting of buffers under the ECB Proposal) and to the coordination of a single position of NCAs from Member States participating in the SSM.

The Commission proposal was not very explicit in regard to the respective roles of the ECB and the NCAs in their foreseen cooperation within the SSM. Without touching the basic principle of the ECB's exclusive responsibility, the Presidency has introduced a number of significant changes, which aim to establish the supervisory architecture, without prejudice to further specifications. A certain number of improvements were proposed, especially on the exact competences to be granted to the ECB and on the modalities for cooperation between the ECB and the NCAs.

Lastly, the question of granting and withdrawal of authorisation has given rise to concerns by some delegations which find that the key issue of access to and removal from the market should remain within the remit of national authorities.

3. Phasing in of the SSM (Article 27 of the ECB proposal): some delegations have questioned the phasing-in arrangements proposed by the Commission and suggestions have been made to seek a more flexible phasing-in arrangement, thus leaving the ECB more time to prepare for the taking over of its new supervisory tasks.

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

2012/0242(CNS) - 03/12/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted, within the framework of a special legislative procedure (consultation with Parliament), the report by Marianne THYSSEN (EPP, BE) on the proposal for a Council regulation conferring specific tasks on the European Central Bank (ECB) concerning policies relating to the prudential supervision of credit institutions.

The parliamentary committee proposed that the European Parliament amend the Commission proposal as follows:

Clearly defined tasks: Members specify that the Regulation entrusts the ECB with clearly defined tasks in relation to the prudential supervision of credit institutions and the stability of the financial system within the Union and in each Member State participating in the Union, with full regard to a duty of care.

"Participating Member State" means a Member State whose currency is the euro or a Member State whose currency is not the euro which chooses to participate in the Single Supervisory Mechanism (SSM) foreseen by the Regulation.

In fulfilling its tasks, the ECB shall respect the different types and size of credit institutions. It should also take care to ensure that the national competent authorities of all participating Member States shall be treated on an **equal footing** and to respect a**fair balance between the rights of participating Member States.**

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. Within the SSM, the ECB and competent national authorites should cooperate faithfully and be obliged to exchange information.

Whilst always ensuring supervisory consistency within the SSM, the ECB shall request the national competent authorities to assist the ECB in the performance of the tasks conferred on it as well as the powers and obligations in relation to all credit institutions, in particular in relation to credit institutions:

- which have not received or sought direct or indirect financial support from theEuropean Financial Stability Facility (EFSF), the European Stability Mechanism (ESM) or any other future European financial assistance facility: or
- which do not pose a systemic risk, as defined in EU law, individually or as part of a group of credit institutions, financial holding companies and mixed financial holding companies.

Draft supervisory decisions of the national competent authorities shall be deemed adopted by the ECB unless it rejects them within a deadline not exceeding 10 working days. The ECB shall monitor national competent authorities on an ongoing basis.

National competent authorities shall inform the ECB without delay where:

- there are serious concerns about the safety and/or soundness of any credit institution for which they are performing tasks on behalf of the ECB;
- the stability of the financial system is or is likely to be endangered by the situation of any credit institution for which they are performing tasks on behalf of the ECB.

Moreover, the ECB may at any time and under any circumstances assume the responsibilities of the national competent authorities and carry out all or specific supervisory tasks directly.

Participation in the SSM of Member States whose currency is not the euro (close cooperation): the ECB shall carry out its tasks in relation to credit institutions established in a participating Member State whose currency is not the euro.

A close cooperation between the ECB and the national competent authority of a Member State whose currency is not the euro choosing to participateshall be established, by a decision adopted by the ECB, where certain conditions are met. Where these conditions are no longer met, the ECB may decide to issue a warning to the national competent authority of the Member State concerned that the close cooperation will be suspended or terminated if no decisive corrective action is undertaken.

If no such corrective action is undertaken, **the ECB may suspend or terminate the close cooperation with that Member State**.

Board of Appeal: Members propose that the ECB establish an Administrative Board of Appeal (composed of five individuals) for the purposes of settling appeals against decisions by the ECB acting as a single supervisor under this Regulation.

Members of the Board of Appeal and two alternates shall be appointed by the ECB for a **term of five years, which may be extended once**, following a public call for expressions of interest published in the Official Journal of the European Union, and after consultation of the Banking Supervisory Board. They shall not be bound by any instructions. A decision by the ECB within the MSU by the Board of Appeal or, in cases where there is no right of appeal to the Board of Appeal, may be **contested before the Court of Justice of the European Union** in accordance with Article 263 of the Treaty of the Functioning of the European Union.

Accountability and reporting: Members make the following requests:

- at the requestof theEuropean Parliament, the Chairof theSupervisory Board shall participate in a **hearing on the execution of its supervisory tasks**, including the fees levied and the expenditure incurred, by the competent committees of the Parliament;
- upon request the Chair of the Banking Supervisory Board shall provide the Economic and Monetary Affairs Committee of the European Parliament in camera any confidential information concerning its tasks which are required for the exercise of the European Parliament's powers under the Treaty and under this regulation;
- at the request of a **national parliament** of a participating Member State, a representative of the Banking Supervisory Board, together with a representative of the competent national authority, shall appear before that parliament and answer questions about the performance of supervisory tasks.

Moreover, this Regulation is without prejudice to the right of the European Parliament:

- to set up a **temporary Committee of Inquiry** to investigate alleged contraventions or maladministration in the implementation of Union law pursuant to Article 226 TFEU;
- or to require the setting up of an **independent inquiry** into actions or failure to act of the ECB that have or may have led to a significant event in relation to financial stability, confidence or failure of a credit institution.

Reporting of Violations: the ECB shall ensure that effective mechanisms are put in place for reporting of breaches of this Regulation, including specific procedures for the receipt of reports of breaches and their follow-up.

Banking Supervisory Board: the amendments state that the Banking Supervisory Board shall include a **Chairman or Chairwoman**, appointed by the Governing Council after an open selection procedure on the basis of merit, skills and thorough knowledge of financial institutions and financial supervision and **after approval by the European Parliament**.

When exercising its tasks, the Banking Supervisory Board shall take account of all relevant facts and circumstances in the participating Member States and shall perform its duties in the interest of the Union as a whole. All members of the Banking Supervisory Board shall have equal voting rights.

By the 1 January 2014, the ECB shall carry out in full the supervisory tasks conferred on it by this Regulation.

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

2012/0242(CNS) - 04/12/2012

The Council held a **policy debate** on proposals aimed at establishing a single supervisory mechanism (SSM) for the oversight of credit institutions, as part of a broader plan to establish a banking union.

The proposals involve two regulations:

- one conferring supervisory tasks on the European Central Bank,
- the other modifying Regulation 1093/2010 establishing the European Banking Authority. The draft EBA amending regulation is based on article 114 of the TFEU, which requires a qualified majority for adoption by the Council, in agreement with the Parliament.

In its conclusions of 18 and 19 October 2012, the European Council set **1 January 2013 as the deadline** for agreeing on the legal framework set out in the two regulations, while indicating that work on operational implementation would take place during 2013. The European Council emphasised the need to:

- ensure a clear separation between ECB monetary policy and supervision functions, and the equitable treatment and representation of both euro and non-euro area Member States participating in the SSM;
- establish a single rulebook underpinning the centralised supervision;
- ensure a level playing field between those Member States which take part in the SSM and those which do not and to find an acceptable and balanced solution regarding changes to voting modalities and decisions under the European Banking Authority (EBA) Regulation;
- adopt rapidly the provisions relating to the harmonisation of national resolution and deposit guarantee frameworks based on the Commission's legislative proposals on bank recovery and resolution and on national deposit guarantee schemes;
- ensure a fair balance between home and host countries.

Lastly, the Council agreed to hold an extra meeting on a date yet to be set before the European Council on 13 and 14 December 2012 in order to **reach an agreement that would enable negotiations with the European Parliament to start with the aim of approving the texts before the end of the year**.

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

2012/0242(CNS) - 27/11/2012 - European Central Bank: opinion, guideline, report

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.

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.

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

2012/0242(CNS) - 12/09/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 559 votes to 62 with 18 abstentions, in the framework of a special legislative procedure, (consultation of Parliament) a legislative resolution on the proposal for a Council regulation conferring specific tasks on the European Central Bank (ECB) concerning policies relating to the prudential supervision of credit institutions.

Parliament approves the Commission proposal as amended.

Subject matter and scope: the ECB will be entrusted with 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 Union 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 carrying out its tasks, the ECB shall have full regard to the different types, business models and sizes of credit institutions.

Tasks conferred on the ECB: The ECB shall carry out its tasks within a single supervisory mechanism (SSM). Both the ECB and national competent authorities shall be subject to a duty of cooperation in good faith, and an obligation to exchange information.

The **SSM** is defined as the system of financial supervision composed by the ECB and national competent authorities of participating Member States.

'Participating Member State' means a Member State whose currency is the euro or a Member State whose currency is not the euro which has established a close cooperation.

Within this framework, the ECB will 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 conditions;
- 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 notifications of 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 supervisory reviews, including where appropriate in coordination with EBA, stress tests and their possible publication;
- 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.

Macroprudential tasks and tools: whenever appropriate or deemed required, the national competent authorities shall apply requirements for capital buffers to be held by credit institutions at the relevant level in addition to own funds requirements.

The ECB may, if deemed necessary, apply **higher requirements for capital buffers** than applied by the national competent authorities, while cooperating closely with the national designated authorities in the Member States concerned.

Early intervention: in order to preserve financial stability, the deterioration of an institution's financial and economic situation must be remedied at an early stage. The ECB should have the task of carrying out early intervention actions as laid down in relevant Union law. It should however coordinate its early intervention action with the relevant resolution authorities.

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 or to the national designated 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 participating Member State whose currency is not the euro notifies the ECB of its reasoned disagreement with a draft decision of the Supervisory Board, it shall inform the Governing Council, stating its reasons.

The Governing Council will decide on the matter and explain its decision in writing. 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.

Penalties: in order to enable the ECB to effectively carry out its tasks relating to the enforcement of supervisory rules set out in directly applicable Union law, the ECB should be empowered to impose **pecuniary penalties** on credit institutions, financial holding companies and mixed financial holding companies for breaches of such rules.

Transparency and democratic control: when carrying out the tasks conferred on it by this Regulation, the ECB and the national competent authorities acting within the SSM shall act independently.

The ECB shall be accountable to the European Parliament and to the Council for the implementation of the Regulation.

At the request of the European Parliament, the Chair of the Supervisory Board of the ECB shall participate in a hearing on the execution of its supervisory tasks by the competent committees of the European Parliament.

The ECB shall reply orally or in writing to questions put to it by the European Parliament.

Role of national parliaments: this role is strengthened. When submitting reports to the European Parliament and the Council the ECB shall simultaneously forward that report directly to the national parliaments of the participating Member States. National parliaments may address to the ECB their reasoned observations on that report and may request the ECB to reply in writing to any observations or questions submitted by them to the ECB in respect of the tasks of the ECB.

The national parliament of a participating Member State may invite the Chair or a member 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 policy functions and the exercise of supervisory tasks: these two functions must be carried out in **full separation,** in order to avoid conflicts of interests. The ECB must be able to ensure that the Governing Council operates in a completely differentiated manner as regards monetary and supervisory functions.

Organisational separation of staff should concern all services needed for independent monetary policy purposes and should ensure that the exercise of the tasks is fully subject to democratic accountability and oversight.

The Supervisory Board: this should be an essential body in the exercise of supervisory tasks by the ECB. It shall be presided over by a Chair and have a Vice-Chair. It will include representatives of the ECB and national competent authorities.

After hearing the Supervisory Board, the ECB shall 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 shall adopt an implementing decision. The Chair shall be chosen on the basis of an open selection procedure, on which the European Parliament and the Council shall be kept duly informed. The Chair's term of office will not exceed five years and will not be renewable.

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

2012/0242(CNS) - 15/10/2013 - Final act

PURPOSE: to establish a framework allowing the European Central Bank to perform specific tasks relating to bank supervision in the context of the creation of a banking union.

LEGISLATIVE ACT: Council Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

CONTENT: the regulation confers on the ECB **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 Union and each Member State. THE ECB should carry out the tasks entrusted to it from 4 November 2014.

With the Regulation (EU) No 1022/2013 amending Regulation (EU) No 1093/2010 creating a European Banking Authority (EBA), the present regulation foresees the creation of a Single Supervisory Mechanism (SSM) of banks and other financial institutions, also putting in place one of the key elements of the European banking union.

The SSM is composed of the ECB and Member State supervisory authorities. It covers the Euro area as well as non-participating countries on the basis of a **memorandum of understanding** establishing a close cooperation. Member States outside the Euro area have full and equal voting rights on the monitoring committee.

The ECB **directly supervises** the euro area banks in close cooperation with the national supervisory authorities. It is responsible for the operation of the SSM.

When carrying out the tasks conferred on it, and without prejudice to the objective to ensure the safety and soundness of credit institutions, **the ECB should have full regard to the diversity of credit institutions and their size and business models.**

The European Parliament has called on various occasions for a European body to be directly responsible for certain supervisory tasks over financial institutions, starting with its resolution of 13 April 2000, then that of 21 November 2002 on prudential supervision rules in the European Union

Tasks conferred on the ECB: in terms of regulation, **the ECB shall be exclusively competent** to carry out the following tasks in relation to all credit institutions established in the euro area:

- **to authorise credit institutions and to withdraw authorisations** of credit institutions subject to certain reservations;
- to assess **notifications of 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 **supervisory reviews**, including stress tests and their possible publication;
- 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 does not meet or is likely to breach the applicable prudential requirements.

The ECB may also apply **higher requirements for capital buffers**, subject to close cooperation with the national authorities.

Tasks not conferred on the ECB, such as consumer protection, the fight against money laundering, payments services and supervision of branches of credit institutions from third countries, should remain with the national authorities.

Separation of tasks: to avoid any conflict of interest between the objectives of monetary policy and prudential supervision, the regulation stipulates that the tasks relating to monetary policy be strictly separated from its monitoring tasks.

Sanctions: in the case of breach of EU law, the ECB may impose on credit institutions, financial holding companies, or mixed financial holding companies **administrative pecuniary penalties** of up to twice the amount of the profits gained or losses avoided because of the breach where those can be determined, or up to 10 % of the total annual turnover, as defined in relevant Union law, of a legal person in the preceding business year.

Independence, transparency and democratic control: the ECB and the competent national suthorities must act independently within the SSM. The ECB shall be accountable to the **European Parliament and to the Council** for the implementation of this Regulation. At the request of the European Parliament, the Chair of the Supervisory Board of the ECB shall participate in a hearing on the execution of its supervisory tasks by the competent committees of the European Parliament.

The ECB shall also forward its reports to the European Parliament and to the Council to the **national parliaments** of the participating Member States. The national parliaments of the participating Member States may present to the ECB any observations or questions on the execution of its supervisory tasks, to which the ECB must reply.

Supervisory board: the supervisory board becomes the **fundamental body** in the execution of its supervisory tasks. It is composed of its Chair and Vice Chair, and four representatives of the ECB, and one representative of the national competent authority in each participating Member State.

After hearing the Supervisory Board, the ECB **shall submit to the European Parliament**, for approval, a proposal for the appointment of the Chair and the Vice-Chair. Following the approval of this proposal, the Council shall adopt an implementing decision. The Chair's term of office cannot exceed **five years** (non-renewable).

ENTRY INTO FORCE: 30/10/2013.

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

2012/0242(CNS) - 12/09/2012 - Legislative proposal

OBJECTIVE: to confer specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions in the context of creating a banking union.

PROPOSED ACT: Council Regulation.

BACKGROUND: the creation of the European Banking Authority (EBA) by Regulation (EU) No. 1093/2010 of the European Parliament and the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), and of the European System of Financial Supervision (ESFS) already contributed to improved cooperation between national supervisors and to the development of a single rulebook for financial services in the EU. However, **supervision of banks remains to a large extent within national boundaries** and thereby fails to keep up with integrated banking markets.

In May 2012 the Commission has therefore called for **a banking union** to restore confidence in banks and in the euro. Among the key elements of the banking union will be a **Single Supervisory Mechanism (SSM)** with direct oversight of banks. The European Council conclusions of 29 June 2012 invited the President of the European Council to develop a road map for the achievement of a genuine Economic and Monetary Union.

The European Parliament called on various occasions for a European body to be directly responsible for certain supervisory tasks over financial institutions, starting with its resolutions of 13 April 2000 on the Commission communication on implementing the framework for financial markets: Action Plan, and of 21 November 2002 on prudential supervision rules in the European Union.

The present proposal accompanies a related proposal amending the Regulation establishing the EBA towards a new bank monitoring system in order to ensure that EBA decision-making structures continue to be balanced and to preserve fully the integrity of the Single Market.

IMPACT ANALYSIS: the Commission has taken into account the analysis done in the context of the adoption of the "supervisory package" creating the European Supervisory Authorities, which assessed operational, governance, financial and legal aspects relevant to the establishment of a SSM.

LEGAL BASIS: Article 127 (6) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal foresees that the ECB will be responsible for **specific tasks concerning the prudential supervision of credit institutions which are established in Member States whose currency is the Euro** (participating Member States) with the objective to promote the safety and soundness of credit institutions and the stability of the financial system.

After a transitional period, the ECB:

- will be responsible for carrying out key supervisory tasks **for all credit institutions** established in participating Member States, regardless of their business model or size;
- shall be the **host supervisor** for credit institutions established in non-participating Member States, which establish a branch or provide cross-border services in a participating Member State .

The ECB will carry out its tasks within the framework of the ESFS and will cooperate closely with national supervisors and the EBA. The EBA will keep its powers and tasks to further develop the single rulebook and ensure convergence and consistency of supervisory practice.

Tasks of the ECB: the ECB will be exclusively competent for key supervisory tasks which are indispensable **to detect risks for banks' viability and require them to take the necessary action**. It will, inter alia, be the competent authority for licensing and authorizing credit institutions:

- assessing qualifying holdings,
- ensuring compliance with the minimum capital requirements, ensuring the adequacy of internal capital in relation to the risk profile of a credit institution (Pillar 2 measures),
- **supervising financial conglomerates**.

However, the ECB will be only responsible for carrying out its tasks for the supplementary supervision of financial conglomerates on a group-wide basis, while the prudential supervision of the individual insurance undertaking itself will be carried out by national competent authorities.

Role of national supervisors: National supervisors will continue to play an important role with the creation of a Single Supervisory Mechanism (SSM):

1) **all tasks not conferred on the ECB will remain with national supervisors**. for example, national supervisors will remain in charge of consumer protection and the fight against money laundering, and of the supervision of third country credit institutions establishing branches or providing cross-border services within a Member State;

2) even for the tasks conferred on the ECB, most day-to-day verifications and other supervisory activities necessary to prepare and implement the ECB's acts could be exercised by national supervisors operating as an integral part of the SSM.

Powers of the ECB: the ECB will have the **supervisory powers** that those authorities shall have in accordance with the EU banking legislation. Those include supervisory powers:

- the authorisation of credit institutions and the withdrawal of authorisations and the removal of a member of a credit institution's management board;
- the power to impose pecuniary sanctions and periodic penalty payments;
- all necessary investigatory powers, including on-site inspections, to be able to carry out its tasks.

Relationship with Member States whose currency is not the Euro: as regards the supervision of cross-border banks active both within and outside the Euro area, the proposal does not affect in any way the position of non participating Member States in the Colleges of Supervisors set up under Directive 2006/48/EC. The provisions on those colleges and the obligation to cooperate and exchange information in consolidated supervision and between home and host supervisors will apply fully to the ECB – as the competent authority for the participating Member States.

Subject to meeting specific conditions Member States that have not adopted the euro but wish to participate in the banking union will be able to enter into a close supervisory cooperation with the ECB.

Entry into force: due to the urgency of setting up an effective SSM, the regulation will enter into force on 1 January 2013. A **phasing-in** approach is envisaged:

- as of 1 January 2013, the ECB will be able to to apply its supervisory tasks to any banks, in particular banks which have received or requested public financial assistance;
- as of 1 July 2013, the most significant credit institutions of European systemic importance shall be subject to ECB supervision;
- in relation to all other banks, the ECB will assume in full its tasks as from 1 January 2014 at the latest.

BUDGETARY IMPLICATION: this proposal has no implication for the Union budget, since in accordance with the Treaty the ECB's budget is not part of the Union budget.