The supervision of banks within the Eurozone –
the Single Supervisory Mechanism

History

This report is one in a series of RegZone reports, charts and diagrams which explain how financial
institutions are regulated and supervised across Europe. You can access the other materials here.

The Single Supervisory Mechanism (‘SSM’) is one of the key elements of the Banking Union (which was
announced in 2012 as part of the response to the Eurozone crisis. You can read about the other elements
of the Banking Union here.

On 12 September 2012 the European Commission published legislative proposals for a Regulation putting
the ECB in charge of prudential regulation for all Eurozone banks, another Regulation on slightly adjusting
EBA voting procedures to provide safeguards for non-Eurozone Member States (collectively, the
‘Regulations’) and a ‘Roadmap towards a Banking Union’.

The European Commission proposed “to have the [single supervisory mechanism] in place by 1 January
2013” - a term which was not met. The final vote of the European Parliament on adopting the Regulations
did not take place until 12 September 2013.

These were published in the Official Journal on 29 October 2013¹, and came into force on 3 November
2014. The ECB assumed its supervisory role under the SSM on 4 November 2014, although the European
Central Bank (ECB) had begun to carry out some of its tasks prior to that date.

In November 2014 the ECB published a Guide² explaining how bank supervision was to operate under the
SSM.

ECB is now one of the leading global bank regulators

Under the SSM, the ECB supervises banking assets of roughly € 30 trillion (the vast majority of Eurozone
banking assets – as much as 85%). This is substantially more than any other bank regulator. It also
supervises nine G-SIBs, more than any other regulator.

Geographical scope

The Single Supervisory Mechanism (‘SSM’) applies to all credit institutions in every Eurozone Member
State. Non-Eurozone Member States can join the SSM, but so far, none have done so.

The Single Supervisory Mechanism (‘SSM’)

The official objectives of the SSM are to promote the safety and soundness of credit institutions (e.g. banks)
and the stability of the financial system, “with due regard” for the integrity of the single market. The ECB and
National Competent Authorities (NCAs) combine their varied functions to implement the SSM. (You can find
a full list of NCAs within the SSM here).

¹ Council Regulation No 1024/2013 of 15 October 2013
² Council Regulation no 1022/2013 of 22 October 2013
³ Guide to Banking Supervision of November 2014
Due to the legal basis for the change, the ECB has no “overall responsibility” for supervision; rather, it just has the “ultimate responsibility” for “specific supervisory tasks” concerning the prudential regulation of banks.

These include:

- granting and withdrawing authorisation for credit institutions;
- assessing qualifying holdings;
- ensuring compliance with prudential requirements (solo and consolidated supervision – see below);
- “supplementary” supervision of conglomerates on a group-wide basis (although the prudential supervision of e.g. an insurance undertaking which is part of a group is not carried out by the ECB);
- taking “early intervention measures” when a bank breaches capital requirements;
- exercising other macro-prudential powers, such as setting additional capital buffers for firms; and
- co-ordinating and expressing a “common position” of participating Member States (the ‘SSM Participants’) to the European Banking Authority (EBA) [and other ESAs].

The ECB is the competent authority for each SSM Participant, and for each of the tasks above, with all the powers that entails. The ECB also has additional investigatory powers akin to those of the national regulators. Four Directorates General have been set up to perform the supervisory tasks of the ECB in cooperation with NCAs.

Any supervisory task that is not expressly given to the ECB remains with the national regulators - most importantly, consumer protection and conduct issues. Also, the EBA retains the same role and powers as before (see below).

The ECB is ultimately responsible for the supervision of roughly 4,700 entities within participating Member States.

The SSM applies to institutions established in a participating state - credit institutions, financial holding company or mixed financial holding company qualify for supervision. Where such a credit institution, financial holding company or mixed financial holding company is the parent undertaking with its head office in a participating state, then the entire group qualifies for ECB/SSM group/consolidated supervision. The ECB is also participates in the supplementary supervision of financial conglomerates in relation to the credit institutions included in a conglomerate and assumes the responsibilities of the coordinator under the Financial Conglomerates Directive.

The SSM also applies to a branch (in a participating state) of a credit institution whose head office is established in a non-participating state (in a non-SSM EU state or in a third country).

**Distinction between significant institutions and less significant institutions**

The extent of the ECB’s supervision of each entity – whether it be a single or group entity - depends on whether it is categorised as ‘significant’ or ‘less significant’. A range of criteria are used to assess which category an entity falls into.

To qualify as a significant institution an entity must meet at least one of the following conditions:

- The value of its assets exceeds € 30 billion.
- The value of its assets exceeds both € 5 billion and 20% of national GDP of the member state in which it is located.
- The institution is among the three most significant credit institutions of the country in which it located.
- The institution is a recipient of direct assistance from the European Stability Mechanism.
- The total value of its assets exceeds € 5 billion and the ratio of its cross-border assets / liabilities in more than one other participating Member State to its total assets / liabilities is above 20%.

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3 Supervised entities each with their Head Office in the same participating member state may qualify for group supervision if they are permanently affiliated to a central body which supervises them under the conditions laid down in Article 10 of Regulation No575/2013 and which is established in the same member state.
The conditions above represent a guide rather than the rule, as ultimately the ECB possesses a broader discretion (within certain parameters) to designate an entity as ‘significant’.

‘Significant’ entities are directly supervised by the ECB. On a day-to-day basis Joint Supervisory Teams (JSTs), made up of ECB staff assisted by NCA (National Competent Authority) staff, supervise these entities.

The ECB acts as supervisor of about 120 banks which qualify as significant and over 1,000 additional entities which fall within these banking groups. ECB originally stated that it would supervise about 1,200 entities in total.

‘Less Significant’ entities are still subject to the instructions of the ECB, but they are directly supervised by the appropriate NCA. However, if the ECB deems it appropriate, it may take over the direct supervision of a ‘less significant’ entity. Approximately 3,500 entities are currently considered ‘less significant’.

Authorisation and other regulatory processes (significant and less significant institutions)

The processes reflect the concept that the SSM is a ‘truly integrated supervisory mechanism’ involving both the ECB and the NCAs. The ECB has the power to grant and withdraw authorisation and approve qualifying holdings for all institutions. Common procedures apply for both significant and less significant institutions.

The institution makes its application to the relevant NCA. The ECB is notified by the NCA. Once the usual issues about completeness are resolved, the common procedure involves assessment by the NCA and ECB (and other relevant NCAs). A draft decision is then prepared by the NCA which is submitted to the ECB which has the final decision (made via its Supervisory Board and Governing Council).

The assessment for authorisation seeks to ensure all relevant parties gain a good understanding of the proposed business model and its viability. If an application (for authorisation or approval of qualifying holdings) is to be rejected or additional conditions are needed, it will become the subject of a hearing procedure. The applicant is then notified of the final decision by the NCA processing the application.

The procedure for withdrawal of authorisation can be initiated by both the ECB on its initiative and by the relevant NCA, which may be acting on its initiative or at the request of the institution concerned. The ECB and NCA consult and the ECB makes the final decision.

Supervision (significant institutions)

Each significant institution is supervised under an individually tailored Supervisory Examination Programme (SEP) produced by the relevant JST. These programmes are made up of a 12 month schedule of objectives, inspections and investigations which are agreed with the significant institution.

Day-to-day supervision is carried out by the JST, which has the power to call ad hoc meetings with staff and has access to all the internal information needed to analyse the institution’s financial health. JSTs determine the appropriate scope and frequency of on-site inspections.

For general supervisory approvals, notifications and requests, there are a variety of procedures for cooperation between the ECB and the relevant NCA. Significant institutions apply either to the ECB for general permissions but various different procedures apply for the exercise of rights of establishment, changes to management boards and internal model approval (where it is stressed that ‘intensive cooperation’ between the significant institution and the JST is required).

Enforcement and Sanctions (significant institutions)

The ECB has an Enforcement and Sanctions Division. This will investigate where the JST finds evidence of any regulatory breaches. The ECB has the power to require a significant institution to address any perceived shortcomings. If regulatory requirements are breached the supervisor may impose sanctions on the institution or on the institution’s management.

The ECB can apply ‘administrative pecuniary penalties’:

- If the amount of profits gained/losses avoided due to a breach can be calculated, then a penalty of up to twice that figure may be imposed; or
- A penalty of up to 10% of total turnover in the preceding business year may be imposed.
If a supervisory decision or regulation of the ECB is breached:

- A periodic penalty payment may be imposed in order to compel compliance with the breached decision / regulation. This will be calculated on a daily basis for up to 6 months.

**Less Significant Institutions**

NCAs are responsible for the supervision of less significant institutions. They are to act within the common framework and methodologies created for the SSM. The ECB has set up Directorate General for Micro-Prudential Supervision III to ensure close cooperation between the NCAs and the ECB. ECB staff may attend on-site inspections and may provide expertise or support to the NCA.

**Cross-Border Implications and SSM application to non-Eurozone groups**

Many large international banking groups from non-SSM EU states and third countries are impacted by ECB supervision. Many non-Eurozone banking groups are subject to the SSM regime on account of group entities or branches established within the Eurozone.

The ECB plays a role in the supervision of significant cross-border institutions and groups. The ECB may be the *home/consolidating supervisor* in an international or European supervisory college that include supervisors from non-participating Member States or from countries outside the EU. In this instance the ECB will act as chair of the college. The NCAs of the countries in which the supervised entity is resident will participate in the college as observers. They do not take part in decisions or voting procedures.

For colleges in which the home supervisor is from a non-participating Member State (or simply a country outside of the EU), the ECB will play the role of host supervisor. The NCAs of the countries in which the entity is resident will generally participate in the college as observers. However, if these entities are deemed ‘less significant’ – and so are under the direct supervision of the NCA – the NCA will continue to participate in the college as a member.

**The EBA under the new system**

The aim of the SSM is to provide a common, high-level of prudential supervision across the Eurozone, by moving the supervision of banks to the European level. This sits somewhat uneasily with the role of the EBA in promoting common supervisory standards across the European Union as a whole (i.e. the single supervisory handbook).

Nevertheless, the European Commission stated explicitly that the EBA’s present role will be preserved and it will “retain existing powers and tasks”: the ECB “will carry out supervisory tasks which are currently carried out by national supervisors in the Euro area, not by the EBA.” In particular, no powers will be transferred from the EBA to the ECB.

Whether this will work in practice, or whether the ECB will suffer mission-creep, is unclear.

The one substantial change to the EBA concerns the voting methods used by EBAs when taking decisions. Given that the ECB will co-ordinate a “common position” for all SSM Participants, there is a risk that, under the old EBA voting system, the ECB’s common position would dominate the EBAs’ decision-making. The proposed changes to the EBAs ‘voting modalities’ are designed to help safeguard the position of non-SSM Member States.
The old and new EBA voting systems compared:

<table>
<thead>
<tr>
<th>Application of EU law (under the ‘breach of law’ procedure); and settlement of disagreements between national supervisors.</th>
<th>Old Voting System</th>
<th>New Voting System</th>
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</thead>
<tbody>
<tr>
<td>Simple majority voting.</td>
<td>Voting replaced by decision of an independent panel of 7. Decisions will be taken when simple majority (4) vote in favour.</td>
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<th>Action in emergency situations.</th>
<th>Old Voting System</th>
<th>New Voting System</th>
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<th>Adoption of guidelines and recommendations; adoption of regulatory and implementing technical standards; considering member states’ appeals against EBA temporary prohibitions; and internal budgetary matters.</th>
<th>Old Voting System</th>
<th>New Voting System</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualified majority voting.</td>
<td>Qualified majority voting. including at least a simple majority of SSM Participants and a simple majority of non-SSM Member States.</td>
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</tbody>
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Simple majority voting means one vote per Member State on the EBA Board of Supervisors (which consists of the EBA chairman plus representatives from each Member State).

Qualified majority voting is more complicated: in the past, votes were weighted according to population size (e.g. so the UK has 29 votes while Malta has three votes); but a new and more complex system came into force on 1 November 2014, which is based on both population size and the number of Member States for and against a proposal.

Under the previous system, the Eurozone Member States collectively held a simple majority, but not a qualified majority. The new rules for the calculation of a qualified majority, in operation since 1 November 2014, give Eurozone Member States both a simple majority and a qualified majority.  

SSM review and ECB accountability

The ECB is accountable to the Eurogroup (of Eurozone finance ministers), the Council of the EU and the European Parliament. The SSM is to be reviewed by the European Commission at the end of 2015 and every three years thereafter.

The Single Resolution Mechanism

The Single Resolution Mechanism (the SRM) applies across the SSM participating states. You can read more about the SRM [here](#).

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4 In order to protect the position of non-Eurozone states in EBA decision making, an additional safeguard was adopted, namely a qualified majority was only effective if supported by a simple majority of non SSM participants (currently requiring at least 5 non SSM member states) as well as a simple majority of SSM participants (currently requiring at least 10 SSM member states).

5 Transitional voting arrangements will apply up to 31 March 2017. During this transitional period, the post-1 November system will be in effect, but any participant state may request that a decision requiring a qualified majority vote is taken under the previous (pre-1 November 2014) system.
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