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Regulation Flash

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Economic Analysis

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ECB publishes SSM framework regulation

In April 2014 the European Central Bank (ECB) publishes the SSM (Single Supervisory Mechanism) Framework Regulation which establishes the framework for cooperation within the SSM between the European Central Bank and National Competent Authorities (NCA). This represents a decisive milestone in the setting-up process of the SSM and facilitates the assumption by the ECB of its new supervisory role from November 2014 onwards. Other rules such as the rules on governance, decision-making procedures within the ECB, the separation of the ECB s supervisory tasks from its monetary policy function and supervisory fees are not addressed in this framework but are or will be set out in separate ECB legal acts.

The SSM should define and implement a "common" supervisory model. To this end, the ECB will publish, in accordance with the Interinstitutional Agreement between the European Parliament and the ECB, a guide to supervisory practices. This guide will also give further details on how the ECB will exercise its supervisory tasks on a daily basis. However, the SSM Regulation Framework lays down general organizational principles for the supervision rather than detailed operational rules. In this regard, the new regulation defines the JST (Joint Supervisory Teams) as the core of the supervision of significant supervised entities, but as mentioned before the regulation does not define the criteria for their composition or detailed rules and it just creates a legal basis for their establishment. To be more precise, it defines that there will be just one JST for each significant supervised entity or significant supervised group.

The significance of supervised group will be determined at the highest level of consolidation within the participating Member States. This means that there will only be a single JST for all supervised entities belonging to a supervised group if that group has its head office in a participating Member State. The methodology for determining the significance of supervised entities provides a required level of flexibility in applying each individual criterion (eg: size, specific circumstances or cross border activities) for determining significance. As such, individual decisions on the classification of a supervised entity as significant or less significant will still require an institution-specific assessment and an ECB decision. A qualification, which by the way, may change over time. In the definitive version, the criterion for assessing significance of supervised entities has been tightened as regards the relative share of cross-border activities which must now be above 20% of total activities (instead of the former 10% threshold).

Another aspect that has been extensively debated is the language regime. In fact the final regulation have made various arrangements including provisions that lessen the use of English as a general rule. Documents addressed to the ECB could be drafted in any official language. In fact, every entity could choose an official language other than English for all written communications from and to the ECB.

As regards supervisory procedures and reporting, national competent authorities will be the point of entry for both significant and less significant entities. In this context, the ECB will organize the procedures relating to the collection and quality review of data reported by supervised entities. However, the framework does not refer to the categories of data that have to be sent to the ECB and is not the legal basis for additional reporting requirements.

In a nutshell, this framework represents a decisive step towards the creation of a banking union being the SSM one of the milestones. In this regard, the build up of a common supervisory regime would be of utmost importance and therefore the publication of a guide to supervisory practices will be the next step to be filled up.

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