



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Danièle NOUY

Chair of the Supervisory Board

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Ms Cora van Nieuwenhuizen
Members of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt am Main, 26 May 2015

Re: Your letter (QZ91)

Honourable Members of the European Parliament,

Thank you for your letter, which was passed on to me by Mr Roberto Gualtieri, Chairman of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 5 May 2015.

At the ECON hearing of 31 March 2015 I mentioned that in order to achieve the SSM objective of improving the quality and consistency of supervision, we need to achieve convergence, not only on supervisory practices, but also on European bank regulation. Any difference in the way European Union regulations (most notably, the Capital Requirements Directive and Regulation) have been implemented nationally before the establishment of the SSM is a source of unevenness for cross-border banks with similar profiles but subject to different national rules and a source of complexity for the SSM supervisors.

Drawing on the list of options and national discretions established and published by the European Banking Authority¹ and after thorough analysis of the European Union regulations, the ECB has identified more than 150 legal provisions where flexibility is expressly granted either to the competent authorities (that is, the supervisory authority) or to the national government, for the application and/or the implementation of the prudential requirements applicable to European Union banks (i.e. banks established in EU).

¹ <http://www.eba.europa.eu/supervisory-convergence/supervisory-disclosure/options-and-national-discretions>

As regards the SSM, the ECB has been mandated by the SSM Regulation to promote safety and soundness of banks established in participating Member States, with the more general goal of ensuring financial stability and promoting sustainable financial integration. This mandate implies an obligation to foster and enforce a rigorous harmonisation of the prudential framework applicable throughout the SSM.

Responding to this mandate, the ECB has launched a project involving all the national competent authorities of the SSM participating Member States, in close coordination with the European Banking Authority, to identify, assess and where possible address the degree of flexibility granted to the competent authority with a view to reduce the level of fragmentation and ensure a level playing field within the SSM. This exercise is ongoing and I will be happy to report on its progress.

As for the second part of your question referring to problems encountered in transposition, taking into account that when it comes to directives, Member States are free to choose the form and method of implementation, it is unavoidable that there are many divergences in the way different national provisions implement the directive. These are differences relating to both detail and scope. Furthermore there are cases where it is not clear whether certain national provisions implement or complement the directive, which gives rise to legal uncertainty whether, having regard to the provisions of the SSM Regulation, the ECB is competent to exercise the power directly or instruct the national competent authority to decide. The application of the different national laws is hampering the achievement of a level-playing field and further integration in the banking sector.

Yours sincerely,

[signed]

Danièle Nouy