



**EUROPEAN CENTRAL BANK**  
BANKING SUPERVISION

**Danièle NOUY**

Chair of the Supervisory Board

Mr Luke Ming Flanagan  
Member of the European Parliament  
European Parliament  
60, rue Wiertz  
B-1047 Brussels

Frankfurt am Main, 22 June 2018

**Re: Your letter (QZ045-49)**

Honourable Member of the European Parliament, dear Mr Flanagan,

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 24 May 2018.

As established in the Interinstitutional Agreement between the European Parliament and the European Central Bank, any reporting obligations vis-à-vis the European Parliament are subject to the relevant professional secrecy requirements, as outlined in the Capital Requirements Directive (CRD IV).<sup>1</sup> Thus, I cannot comment on individual credit institutions and their actions.

As a follow-up to one of your previous enquiries, you asked if the ECB has any responsibility to intercede in the sales of non-performing loans (NPLs). As stated in my letter of reply to MEP Matt Carthy of 21 March<sup>2</sup> and in line with the ECB Guidance to banks on non-performing loans, the specific tools that banks use as part of their NPL-reduction strategies are the responsibility of, and chosen at the discretion of, their management. The supervisor is not encouraging banks to sell their NPLs or related collateral but expects risks relating to NPLs to be sufficiently covered.

Turning to your question on whether the ECB will examine the role and reports of the auditors in relation to interest rates charged by Irish credit institutions, please note that, as stated in my letter of 23 April 2018,<sup>3</sup> these matters should be addressed to the competent authorities and are not for the ECB to investigate. As also stated in my letter of 23 April, the protection of consumers does not fall under the supervisory tasks

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<sup>1</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

<sup>2</sup> [https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.mepletter180321\\_Carthy.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.mepletter180321_Carthy.en.pdf)

<sup>3</sup> [https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.mepletter180426\\_Flanagan.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.mepletter180426_Flanagan.en.pdf)

conferred on the ECB but remains the responsibility of the national competent authorities.<sup>4</sup> The ECB may only use its investigatory powers for the purpose of carrying out the supervisory tasks conferred upon it by Council Regulation (EU) No 1024/2013.

As regards your query on the tracker mortgages case in the context of the assessment and measurement of the risks of each bank under the ECB's Supervisory Review and Evaluation Process (SREP<sup>5</sup>), the Joint Supervisory Teams carry out the SREP continuously and prepare individual SREP decisions once a year. Credit institutions are due to receive their next SREP decision in January 2019. The SREP decision is tailored to each bank's individual risk profile and, depending on the SREP findings, supervisors may ask the bank to hold additional capital and/or set qualitative requirements in areas such as the bank's governance structure or its management. The individual SREP decisions feed into the strategic and operational planning for the next supervisory cycle and have a direct impact on the frequency and depth of off-site and on-site supervisory activities regarding a given bank.

The ECB also examines the suitability ("fit and proper") criteria set out in the CRD IV, which need to be fulfilled at all times by members of the management body of a credit institution. According to the rules governing the ECB's fit and proper assessments, the ECB may initiate a new assessment of the suitability of a member of the management body if it becomes aware of new facts or issues that may have an impact on the initial suitability assessment for that member. After assessing the given facts and issues, the ECB then decides on appropriate action, in accordance with applicable EU and national law. Due to the relevant professional secrecy requirements, the ECB cannot disclose information about individual SREP decisions or specific fit-and-proper cases and decisions.

You also raised the issue of dividend distribution. As stated in my letter of 23 April 2018, under the consolidated method of accounting, intra-group dividend payments are treated only as internal transfers of cash. This means that any dividend payment does not contribute to a subsidiary's loss or the consolidating entity's profit. Let me add that a bank's annual financial result is one of the factors influencing an ECB assessment of conservatism and prudence around dividend distribution assumptions, but not the only one. I refer you to the ECB recommendation on dividend distribution policies<sup>6</sup> for more information in this regard.

Yours sincerely,

[signed]

Danièle Nouy

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<sup>4</sup> Recital (28) of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

<sup>5</sup> <https://www.bankingsupervision.europa.eu/about/ssmexplained/html/srep.en.html>

<sup>6</sup> [https://www.bankingsupervision.europa.eu/ecb/legal/pdf/celex\\_52017hb0044\\_en\\_txt.pdf](https://www.bankingsupervision.europa.eu/ecb/legal/pdf/celex_52017hb0044_en_txt.pdf)