

# Single Supervisory Mechanism

A Practitioner's Guide

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Dr. Klaus Lackhoff

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European Banking  
Supervision by the SSM

A Practitioner's Guide

by  
Klaus Lackhoff

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*Pour Nadia, Samuel et Simon*



## Preface

Establishing the Single Supervisory Mechanism (SSM) and thereby denationalizing banking supervision is a substantial step of European integration and puts a lot of responsibility on the European Central Bank (ECB).

As an outsider one gets the impression that this responsibility is deeply felt by the ECB as organisation and by its staff. The ambition “to get it right” and the intent to ensure that significant European credit institutions are sufficiently capitalized in order to be in the position to survive an aggravation of the still on-going financial crisis can almost be felt. While this might also cause legal issues if ambition and legal framework do not fit together the significant point is that the ECB is well aware that the SSM is among others a decisive factor for the shape of the European financial markets. This is in particular true after the decision of the United Kingdom in favour of the “Brexit”. And if the SSM should fail the Banking Union will not proceed.

So, the SSM should better be a success. However, establishing the SSM and supervising the significant credit institutions is a Herculean task. Further, acting as an administrative agency – i. e. as a banking supervisory authority – is new ground for the ECB as an institution. And all this has to be done on the basis of a new legal framework – consisting in particular of the SSM-Regulation and the SSM-Framework Regulation.

The purpose of this book is to shed some light on the new organisational and procedural framework applying to banking supervision. It does not intend to discuss again whether the SSM makes sense or not and how it should best be structured. The articles looking at that are legion. But the SSM, as it is, is a fact and a more practical view might be of help for those who have to work with it. This book looks at the SSM from this perspective. Criticism with regard to the legal framework and/or ECB’s actions within this framework is against this background based on the conviction that we all have a common interest to get this right and to make the existing SSM an effective system for banking supervision. Otherwise we all will feel the consequences of failing to do so.

The foregoing also sheds some light on the positions that will be pursued in this book. While objectivity may not be achieved, what can and needs to be followed is, however, an appropriate methodological approach. In the area of law this in particular includes to apply the different methods of interpretation. From the above it may be clear that this book puts a particular emphasis on the teleological interpretation. The SSM-Regulation and the SSM-Framework Regulation should (while respecting methodological limitations) be understood as a comprehensive system whose functioning and effectiveness was an legislative objective that, therefore, should be taken into account when discussing specific legal issues.

On this basis it is almost superfluous to spell it out but this book exclusively reflects the personal views of the author (who can be reached via [lackhoff\\_ssm@yahoo.com](mailto:lackhoff_ssm@yahoo.com)) (and not necessarily those of the ECB) as of 1 December 2016 and all mistakes are only his.

Hamm

Klaus Lackhoff



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## Table of Contents

<b>A. Purpose of the SSM and Basic Functioning</b> .....	1
I. Introduction .....	1
II. Purpose of the SSM .....	2
III. Basic functioning of the SSM .....	2
IV. The legal framework .....	3
1. Legal acts establishing and shaping the SSM .....	3
2. Overview on the content of the Framework Regulation (FR) and its relation to the SSMR .....	10
a) Content of the FR .....	10
b) Relationship of the FR to the SSMR .....	11
c) Legal basis of the FR and compliance with higher ranking law? .....	13
<b>B. Some Fundamental Questions</b> .....	15
I. Compliance of the SSMR with higher ranking Union law and national constitutional law ...	15
1. Introduction .....	15
2. Is Article 127 (6) TFEU a sufficient legal basis for establishing the SSM? .....	16
a) Article 127 (6) TFEU constitutes no sufficient legal basis for establishing the SSM .....	16
b) Article 127 (6) TFEU constitutes a sufficient legal basis for establishing the SSM .....	16
3. Does the SSM comply with the requirements resulting from the principle of democracy as enshrined in the Union Law? .....	18
4. Does the SSM comply with the principle of institutional balance? .....	20
5. The SSM and German constitutional law .....	21
II. The principle of independence and ECB's supervisory function .....	23
III. The SSM and national tasks and powers .....	24
1. The background of the national powers issue .....	24
2. What is prudential supervision? .....	27
3. To what extent are tasks relating to prudential supervision transferred to the ECB? .....	31
a) Narrow interpretation .....	32
b) Broader interpretation .....	33
c) Teleological interpretation .....	33
d) Own position .....	33
4. Limitations to the transfer of tasks relating to the prudential supervision .....	35
5. To what extent are prudential supervisory powers transferred to the ECB? .....	37
6. Practical implications .....	39
IV. Direct application of directives by the ECB in connection with the SSM? .....	41
<b>C. Governance Structure and Decision Making</b> .....	43
I. The organisational structure of the SSM .....	43
1. Introduction .....	43
2. Intra SSM organisation – overview .....	45
3. Intra ECB organisation – overview .....	46
4. The Joint Supervisory Teams (JSTs) .....	48
a) Legal basis and composition .....	48
b) Internal structure of the JSTs .....	49
c) Tasks of the JSTs and attribution of activities to the ECB .....	50
d) Accountability of the Joint Supervisory Team and its members .....	51
5. Directorate General Micro Prudential Supervision 1 and 2 .....	52
a) Legal basis .....	52
b) Internal structure of DGMS 1 and 2 .....	52
c) Tasks of DGMS 1 and 2 and attribution of activities to the ECB .....	53
d) Accountability .....	54
6. Directorate General Micro Prudential Supervision 3 .....	54
a) Legal basis .....	54
b) Internal structure of DGMS 3 .....	54
c) Tasks of DGMS 3 and attribution of activities to the ECB .....	55
d) Accountability .....	55

*Table of Contents*

7. Directorate General Micro Prudential Supervision 4 .....	55
a) Legal basis .....	55
b) Internal structure of DGMS 4 .....	55
c) Tasks of DGMS 4 and attribution of activities to the ECB .....	56
8. The SB-Secretary and the SB-Secretariat .....	58
9. The Supervisory Law Division of the Directorate General Legal Services .....	59
10. The Supervisory Board (SB) .....	60
a) Introduction .....	60
b) Composition, term, appointment and removal process .....	62
c) Functions .....	65
d) Operation, voting .....	66
e) Steering Committee of the SB .....	70
11. The Governing Council .....	71
a) Composition, operation, voting, function .....	71
b) The inherent conflict .....	72
12. The Mediation Panel (MP) .....	73
13. The Executive Board (EB) .....	74
14. The interconnection with the NCAs .....	76
15. Immunities .....	77
II. The principle of separation .....	78
1. Limited involvement of the Governing Council and Executive Board .....	79
2. Separation of objectives .....	79
3. Separation of tasks and organisation .....	79
4. Separation of procedures .....	81
III. Delegation .....	81
1. Is a delegation at all permissible? .....	81
2. Is an explicit legal basis required? .....	82
3. To whom may the exercise of supervisory tasks and powers be delegated? .....	83
4. What is the scope of a permissible delegation? .....	84
5. How can delegation be effected? .....	85
IV. Decision making within the SSM .....	86
1. Differentiate between the decision making process in monetary policy matters, supervisory matters, and current business matters – the scope of the non-objection procedure .....	86
2. The non-objection procedure .....	91
<b>D. The Applicable Substantive and Procedural law .....</b>	<b>95</b>
I. The Substantive Law to be applied by ECB .....	95
1. Primary law .....	95
2. Regulations .....	95
3. National law making use of options under regulations .....	96
4. National law transposing directives .....	97
5. “Gold-plated” provisions .....	97
6. Implementing technical and regulatory technical standards .....	97
7. Guidelines of EBA .....	97
8. Prudential provisions neither provided for in CRR nor in CRD IV .....	98
II. The Legal Instruments available to the ECB .....	98
1. Introduction .....	98
2. Regulations .....	101
3. Guidelines .....	102
4. Decisions, instructions, requests .....	104
5. Recommendations .....	105
6. Informal supervisory measures .....	106
7. Agreements .....	106
III. The procedural law to be applied by ECB .....	107
1. The concept of ECB supervisory procedure and ECB supervisory decision .....	107
2. No application of national administrative procedural law by the ECB? .....	108
3. Sources of the procedural law of the SSM .....	109
4. The Language Regime .....	110
5. The parties and their representation .....	112
6. Ex officio principle and further general provisions .....	113
7. Right to be heard .....	114
8. Access to files .....	116

*Table of Contents*

9. Motivation .....	119
10. Suspensive effect .....	120
11. Notification .....	121
12. Reporting of breaches – “Whistle blowing” .....	124
13. Conditions precedent, conditions subsequent, and obligations .....	125
14. Legal succession .....	127
15. Revocation of lawful and unlawful ECB supervisory decisions .....	128
16. Professional secrecy .....	129
17. Exchange of Information .....	131
18. Public access .....	134
<b>E. Determining the Significance of Credit Institutions and the Begin/End of Direct Supervision by the ECB .....</b>	<b>137</b>
I. Introduction .....	137
II. General concepts in connection with the determination of significance and the taking over of direct supervision by the ECB .....	137
1. Supervised Entity .....	138
2. Established in a participating Member State .....	139
3. Significance is determined for a group at the highest level of consolidation based on the prudential perimeter of consolidation .....	140
a) Determination on individual basis .....	140
b) Determination of significance at supervised group level .....	140
c) Determination of the prudential perimeter of consolidation .....	141
d) Determination at highest level of consolidation within participating Member States .....	142
e) Joint ventures .....	143
4. All members of a group are either significant or less significant .....	144
5. Stability of the status as significant supervised entity – the three years rule .....	144
6. Order of the application of the significance criteria .....	145
7. Determining the significance status and the begin/end of direct supervision .....	145
III. The criteria for determining the status as significant or less significant supervised entity .....	146
1. The criterion of size .....	146
2. The criterion of relevance for the economy .....	147
3. The criterion of cross border activities .....	148
4. The criterion of direct public assistance .....	149
5. The criterion of the three most significant credit institutions .....	150
6. Particular circumstances .....	151
7. Assumption of direct supervision over a less significant supervised entity, Article 6 (5) (b) SSMR .....	152
IV. The ending of the status as significant and procedural aspects .....	153
1. The ending of the status as significant .....	154
2. Procedural Aspects .....	154
a) The initial assessment of significance and assumption of direct supervision .....	154
b) Significance review and take-over of supervision in an operating SSM .....	155
c) Pending procedures, Article 48 FR .....	157
<b>F. Tasks and Powers Relating to all Credit Institutions .....</b>	<b>159</b>
I. Introduction .....	159
II. Common Procedures .....	159
1. Authorisation, Article 14 (1) to (4) FR .....	159
a) Task, power, substantive and procedural law, scope .....	159
b) Substantial requirements .....	162
c) Procedure .....	164
2. Withdrawal of authorisation, Article 14 (5) and (6) SSMR .....	166
a) Task, power, substantive and procedural law, scope .....	166
b) Substantial requirements .....	167
c) Procedure .....	168
3. Acquisition of qualifying holdings, Article 15 SSMR .....	171
a) Task, power, substantive and procedural law, scope .....	171
b) Substantial requirements .....	173
c) Procedure .....	174
III. Investigatory powers, Article 10 to 13 SSMR .....	176
1. Overview .....	176

*Table of Contents*

2. Information Provider .....	177
3. Legal form, procedural requirements and decision making process .....	178
4. Requests for information, Article 10 SSM .....	179
a) Ad-hoc information requests .....	179
b) Reporting requests .....	180
5. General investigations, Article 11 SSMR .....	181
6. On-site inspections, Article 12 and 13 SSMR .....	181
a) Overview .....	181
b) Planning of on-site inspections .....	182
c) Preparation of an on-site inspection .....	182
d) Carrying out of an on-site inspection .....	184
e) Reporting .....	184
f) Follow-up .....	185
g) Article 12 (5) and Article 13 SSMR .....	185
IV. Macro-prudential tasks and powers, Article 5 SSMR .....	186
1. Overview .....	186
2. Macro-prudential supervisory instruments .....	187
3. The task and power of the ECB .....	188
4. Procedural aspects .....	188
a) The procedure pursuant Article 5 SSMR .....	188
b) The internal procedure at the ECB .....	189
c) Procedure vis-à-vis the affected credit institutions .....	190
V. Making use of the EU passport .....	190
1. Introduction .....	190
2. The scope of the task and power .....	192
3. Intra SSM scenario .....	192
4. Out-in scenario .....	194
5. In-out scenario .....	194
6. EEA and third countries .....	194
<b>G. Tasks and Powers Relating to the On-Going Supervision of Significant Credit Institutions ...</b>	<b>195</b>
I. Introduction .....	195
II. Micro-prudential supervisory tasks of the ECB .....	196
1. Exclusive tasks but not in respect to all credit institutions .....	196
2. No definitive list of tasks .....	197
3. Personal scope of the tasks and powers .....	197
4. Article 4 (1) (d) SSMR .....	197
5. Article 4 (1) (e) SSMR .....	200
6. Article 4 (1) (f) SSMR .....	201
7. Article 4 (1) (g) SSMR .....	203
8. Article 4 (1) (h) SSMR .....	204
9. Article 4 (1) (i) SSMR .....	204
III. Micro-prudential supervisory powers of the ECB .....	205
1. Introduction .....	205
2. Article 16 (1) SSMR .....	206
3. Article 16 (2) SSMR .....	207
4. Proportionality .....	210
5. Procedural aspects .....	210
<b>H. Enforcement and Sanctioning powers .....</b>	<b>211</b>
I. Introduction .....	211
1. Types of measures/powers .....	211
2. Relevance of the FR and Council Regulation (EC) No. 2532/98 .....	213
II. Article 18 (1) SSMR .....	214
1. Scope, conditions .....	214
2. Procedure for the imposition of administrative pecuniary penalties .....	215
a) Legal basis for the applicable procedure .....	215
b) Description of the applicable procedure .....	215
3. Amount of possible administrative pecuniary penalties and publication .....	216
III. Article 18 (5) SSMR .....	217
IV. Other issues .....	219

*Table of Contents*

V. Article 18 (7) SSMR .....	219
1. Scope of the competence .....	219
2. Procedural aspects .....	220
a) Fines .....	220
b) Periodic penalty payments .....	220
3. Amount of periodic penalty payments .....	220
<b>I. The indirect supervision of less significant credit institutions .....</b>	<b>221</b>
I. Introduction .....	221
II. Harmonising supervisory standards and coordinating the cooperation between the ECB and the NCAs .....	222
III. Assessing specific supervisory actions .....	223
1. Prioritisation of LSEs .....	224
2. Ex ante assessment of supervisory actions .....	224
3. Ex post assessment of supervisory actions .....	225
IV. Further issues .....	225
<b>J. Close Cooperation .....</b>	<b>227</b>
I. Introduction .....	227
II. The underlying issues .....	227
III. The process to establish a close cooperation .....	228
IV. The close cooperation .....	229
<b>K. Supervisory fees .....</b>	<b>231</b>
I. Introduction .....	231
II. The concept of fee debtor .....	232
III. The expenditures that can be allocated .....	233
IV. The distribution of the fees .....	234
<b>L. Contesting ECB Supervisory Decisions in front of the ABoR .....</b>	<b>237</b>
I. Introduction .....	237
II. The composition and internal organisation of the ABoR and the role of the secretary .....	238
1. Personal and professional eligibility criteria .....	238
2. The alternate members .....	239
3. The appointment procedure .....	240
4. The internal structure of the ABoR .....	240
III. Admissibility of a review by the ABoR .....	241
1. Subject matter of a review .....	241
2. Eligible applicant .....	242
3. Time frame for application .....	243
4. Necessary form and content of a notice of review .....	243
5. Language .....	244
6. Procedure in case of inadmissibility .....	244
IV. The procedure before the ABoR .....	245
1. The steps of the proceeding .....	245
2. Hearing .....	246
3. Evidence .....	247
4. Access to files .....	248
V. The scope of review by the ABoR and its opinion .....	248
VI. Suspensive effect .....	249
VII. Costs .....	249
VIII. Practical deliberations .....	250
<b>M. Contesting ECB supervisory decisions in front of the ECJ .....</b>	<b>251</b>
I. Introduction .....	251
II. Contesting ECB supervisory decisions .....	251
1. Admissibility of an action for annulment .....	252
2. Merits of the action for annulment .....	253
III. Contesting measures of NCAs carried out in connection with ECB supervisory procedures .....	254
IV. Actions of NCAs and against NCAs .....	256

*Table of Contents*

<b>N. Non-contractual Liability of the ECB for ECB supervisory decisions</b> .....	259
I. Introduction .....	259
II. Non-contractual liability towards the Supervised Entities .....	259
III. Non-contractual liability towards third parties .....	260
<b>Index</b> .....	263