

# ESCB SOCIAL DIALOGUE

ADVANCE QUESTIONS WITH A VIEW TO THE SSM-DEDICATED MEETING

FRANKFURT - 26 FEBRUARY 2014

## 1. Conditions of employment and independence

Since banking supervision is a function carrying sovereign power and high responsibility and should be bound to the principle of legality, the officials tasked with banking supervision should be civil servants with loyalty to the law and the institution and, at the same time, independent and protected against undue pressure, political, national and/or economic influence. Against this background:

- a) We understand that the ECB offers initially term contracts only. Why is it so? How does it impact on the independence and impartiality expected from ECB staff? Why is the term of the contracts different according to the position and longer for management positions? What are the conditions for issuing indefinite term contracts? Who decides on these conditions? Where are they publicised? Please convey the text of the conditions under which a term-contract is converted into employment contracts for an indefinite period. What is the legal status of a staff member whose contract is terminated in respect of unemployment and pension (national) schemes?
- b) We understand that a core principle of civil service in force at the EU Commission and in other institutions is career development based on a combination of merit and length of service. How is the system for career development at the ECB? Are length of service and loyalty to the institution rewarded on a systematic basis? What is the annual salary progression of a satisfactorily rated official in percent of his/her basic salary? Is there any career path at all?
- c) How will the ECB ensure the orientation of its staff to the legality principle? Which law will be declared binding to all SSM staff?

## 2. Taking into account staff interests in the establishment of the SSM

The successful establishment and functioning of the SSM will directly depend on the level of expertise and involvement of staff. This is fully acknowledged in the SSM regulation, which states: "Whereas... (79) Highly motivated, well-trained and impartial staff is indispensable to effective supervision". Against this background:

- a) How have rights or interests of NCB/NCA staff been considered so far in the discussions and preparatory work for the establishment of SSM?
- b) Will the ECB and/or NCBs/NCAs have the power to force staff under NCB/NCA contract to accept to be seconded to the ECB?

- c) Will the ECB and/or NCBs/NCAs have the right to dispatch NCB/NCA staff on an ongoing or long term basis to other NCBs/NCAs supervisory teams? To other job locations?
- d) If so, what would be the longest period NCB/NCA staff would be requested to work under SSM outside their home country
  - in a row (in days)?
  - in a year (in days)?
- e) Is SSM travel time considered as working time from ECB perspective as well as from NCB/NCA perspective?
- f) Will the ECB compensate for tax disadvantages due to employment outside the NCB/NCA country (e.g. due to German - Luxembourg double taxation agreement)?

### **3. ECB/ESCB new structure and functioning**

- a) What is the impact of the SSM on the ECB/ESCB bodies and on the decision-making process?
- b) What are the composition and the rules of procedure of the Supervisory Board and other new bodies established under the SSM?
- c) Please convey a detail organisation chart of the new DGs and the Supervisory Board secretariat. On which basis was the structure designed?
- d) What is the impact of the SSM on the structure and functioning of other areas (HR, IT, statistics etc.)?
- e) What is the impact of the SSM on the macroprudential supervision and on the ESRB?

### **4. Preparatory work - state of play**

- a) Which decisions involving a qualitative or quantitative impact on the ECB and/or NCBs/NCAs staff have already been taken by the Supervisory Board? By the Governing Council?
- b) What is the state of play as regards the comprehensive assessment? How is the exercise managed and carried on? What is the impact on the ECB and NCBs/NCAs staff?
- c) Why were external consultants recruited? Were NCBs/NCAs obliged to involve such external consultants? Were they free to choose them? Who pays them? Are so high salaries really justified in absolute terms? Compared with ECB or NCBs/NCAs experts salaries?
- d) Does it mean that the ECB and the NCBs/NCAs do not have sufficient resources or sufficient expertise to carry on such an exercise? Is this a cause for concern in respect of the whole SSM project?

### **5. SSM staffing**

- a) How much staff work for the SSM at the ECB / in each participating countries at the moment? How are those numbers expected to evolve? How is the breakdown ECB on the one side, NCBs/NCAs on the other side expected to develop?

- b) What is the impact of the SSM on the global supervision workload? Are NCBs/NCAs expected to recruit additional staff to comply with SSM requirements?
- c) On which basis and by whom was the number of staff to be recruited by the ECB decided?
- d) Which specific recruitment procedures are followed to take into account the specific nature of the SSM tasks and therefore the specific competences to be taken on board by the ECB? How are NCBs/NCAs involved in the recruitment? How are geographical and gender balances guaranteed? Are staff representatives involved?
- e) Can NCB/NCA staff members apply to ECB internal vacancies? Are there special conditions applicable to them?
- f) How does ECB foresee to integrate NCB/NCA staff members into SSM managerial positions? Does the SSM foresee a career path for NCB/NCA staff members? What does this imply in detail?
- g) Is it so that there was not enough expertise within the NCBs/NCAs to find four directors general?
- h) Could you please provide a pyramid composition of SSM staff members located at the ECB for the different hierarchical positions
  - according to the type of contract: ECB contracts (3-year fixed term contracts, 5-year fixed term contracts, indefinite term contracts) or secondment (up to 1 year / 1 year or more)
  - and with the following information: age, gender, professional experience, professional profile, nationality?
- i) What is the share of former ECB staff in the SSM functions at the ECB?
- j) Is it intended to have ECB staff permanently based outside Frankfurt and NCBs/NCAs permanently based outside their current national location?
- k) How will below provisions of Article 31 of the SSM Regulation be implemented?
 

*“Staff and staff exchange*

  - 1. The ECB shall establish, together with all national competent authorities, arrangements to ensure an appropriate exchange and secondment of staff with and among national competent authorities.*
  - 2. The ECB may require as appropriate that supervisory teams of national competent authorities taking supervisory actions regarding a credit institution, financial holding company or mixed financial holding company located in one participating Member State in accordance with this Regulation also involve staff from national competent authorities of other participating Member States”.*

## **6. SSM conditions of employment**

- a) Is a harmonisation of working conditions and allowances of ECB and NCBs/NCAs staff members foreseen (according the principle: same conditions for same work)?
- b) Will NCB/NCA staff members have access equivalent treatment aligned to ECB members with respect to medical and travel insurances, staff restaurant, office space, preferred conditions in respect e.g. of hotels etc.?

- c) How will be prevented that NCBs/NCAs staff members face conflicting legal conditions due to ECB requirements and the national law applicable, e.g. in cases of data privacy protection issues in their home countries?
- d) Will NCBs/NCAs staff members working for the SSM be legally protected in any form by ECB?
- e) In relation with working travels: What does it means to travel extensively?
- f) Which is the regime of allowances, travel expenses, hotels...?
- g) In case of being out several weeks in inspections, is there any additional compensation either financial or in terms of days per inspection?
- h) What about family fringe benefits, children school availability, life insurance, training courses, working schedule and teleworking options?

## **7. Joint supervisory teams**

- a) How many JSTs will be established? How will they be structured? Where will they be located? How much staff will they include and who will decide on it? Who will appoint their manager(s) and staff members? What will be their reporting line(s) in respect of SSM issues? In respect of staff issues?
- b) How will JSTs staff be evaluated? Will ECB contribute to the national performance evaluation system? How will that be set up? How will it be possible to challenge evaluation contributions by ECB managers towards NCB/NCA staff members? Would NCB/NCA staff members be represented by the ECB and/or NCB/NCA staff representatives?
- c) Has the ECB analysed whether ECB input to the performance of NCB/NCA staff on national level would be compliant with local legislation? What have been the results?
- d) Is JST staff located in Frankfurt going to work on the basis of continuous stay in the local supervised banks, or instead ECB supervision will be focused in Frankfurt but with more or less frequent meetings on-site?
- e) Which rules will apply in terms e.g. of working hours, overtime and leaves?

## **8. On-site inspections**

- a) Who will decide on-site inspections? How will inspection teams be staffed? What will be their reporting lines? How are inspection teams and JSTs related?
- b) How will national laws apply?

## **9. Training**

- a) What are the specific SSM-related training needs?
- b) What are the training courses and arrangements available to ECB staff? To staff seconded to the ECB? To NCBs/NCAs staff?

- c) Is general English training foreseen?
- d) Who pays?

#### **10. Code of conduct**

- a) What about ethical rules, especially professional secrecy requirements? Are they similar throughout the whole SSM?
- b) Is there any prevention of an employee leaving to institutions in the supervision of which he has participated? Is there any (similar) cooling-off periods foreseen?
- c) How is the separation between monetary policy and supervisory tasks ensured in practice? What does it involve for staff concerned e.g. in terms of mobility and career developments?
- d) What is the mediation panel and how does it work?

#### **11. Collective representation in staff issues**

- a) How are the ECB staff representatives involved in decisions concerning hiring, firing, promotion and career of ECB staff? Is there a joint committee established compared to the process established under the rules applicable to EU Commission officials or rules applicable to NCBs/NCAs staff?
- b) How are collective agreements reached at the ECB? Is there collective bargaining on the conditions of employment?
- c) Will there be specific conditions for supervisory staff taken into account, e.g. their frequent travel?
- d) Article 9c of the ECB Conditions of employment states that "The ECB shall apply (i) the general principles of law common to the Member States, (ii) the general principles of European Community (EC) law, and (iii) the rules contained in the EC regulations and directives concerning social policy which are addressed to Member States." What are those principles and rules? How are they enforced by the ECB?

#### **12. Resourcing**

- a) How does the ECB deal with the apparent or potential conflict of interest between NCBs/NCAs (who may wish to retain functions and control over staff as much as possible) and the ECB (who will have to ensure the singleness of supervision with adequate resources) when it comes to staffing and resourcing at the ECB? Have you faced in the past difficulties in obtaining adequate resourcing of the ECB under the existing rules and procedures? We understand that the Governing Council decides thereon and that the ECB has only six out of the total 24 votes.
- b) How is the resourcing of the supervisory function decided in terms of staff and other resources?
- c) Is there an involvement of staff representatives in the resourcing decisions?

### **13. Cooperation between the ECB supervision and national competent authorities**

- a) Will the ECB have the power to issue binding directions to national staff working in joint teams and/or national supervisors?
- b) Will and if yes how will the ECB align performance and promotion decisions for ECB and national staff carrying out the same work?
- c) How will priorities be set in this matrix-based management model foreseen for SSM? What procedures are foreseen in case of conflicting priorities set by ECB versus NCB/NCA managers?
- d) How do NCBs/NCAs behave in respect of experts being seconded or even leaving for good? Making trouble as they also do need to retain expertise? Or giving their people some encouragement (including financial incentive) because they take the view that it is important for them and the country to have some people in place in FFM to relay their standpoint and develop influence?
- e) Is decentralisation a basic principle in the SSM organisation and functioning? How is it applied? Is the breakdown of tasks between the ECB on the one side, the NCBs/NCAs on the other side now clarified?
- f) How will relations with non-SSM ESCB countries be organised? Are there such countries considering joining the SSM in the short run?

### **14. Supervisory fees and budget**

- a) What will be the amount of fee to be paid by supervised banks? Who decides?
- b) Will the ECB scheme come on top of existing national schemes or replace such schemes?
- c) If national fee schemes are removed, how will NCBs/NCAs be repaid for their own costs in respect of non-significant banks? And for the costs they bear in respect of the shared operational supervision of significant banks (JSTs, on-site inspections...)? Is each authority going to pay for e.g. travel and hotel costs for its own staff?
- d) Is there a key for sharing the fees paid by the supervised banks amongst the ECB and the NCBs/NCAs?
- e) Is there any guarantee that NCBs/NCAs will still have the necessary resources?
- f) Who paid for expenses made before the SSM regulation entered into force? Who pays for expenses made since then and other expenses that will be made during the 1-year transitory period?
- g) Is there a separate SSM budget? If so, is there a specific decision-making process?