



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, 20 December 2018

Re: Your letter (QZ-077)

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 4 December 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).¹ I therefore cannot comment on individual credit institutions, their management or investigations undertaken with regard to them.

As I also stated in my letters of 23 April² and 22 June³, the SSM Regulation has tasked the ECB with supervising credit institutions from a prudential perspective. Supervisory tasks not conferred on the ECB, including consumer protection, remain the responsibility of the national competent authorities.

At the same time, the ECB takes the prudential implications of breaches of consumer protection rules into account when performing its prudential tasks in the context of two procedures. First, any matters with prudential implications, such as conduct risk, are assessed under the ECB's Supervisory Review and Evaluation Process (SREP) and may lead to targeted supervisory measures. Second, the ECB examines the suitability ("fit and proper") criteria set out in the CRD IV, which need to be fulfilled at all times by the senior management and board members of a credit institution. Here, too, inappropriate behaviour regarding conduct risk will be taken into account.

¹ Directive 2013/36/EU of the European Parliament and of the Council.

² https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.mepletter180426_Flanagan.en.pdf.

³ https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.mepletter180625_Flanagan.pdf.

Please note that, regarding the fit and proper assessment, the ECB can only act on the basis of (i) public information (for example a, sanction published by the authority that imposed it) or (ii) information transmitted by the national authorities in charge of consumer protection issues. Without any prejudice to the outcome of such investigations carried out by the national competent authority, the ECB as a supervisor assesses (on the basis of all the relevant information available) the materiality of the facts and their impact on the suitability of a member of a management body. The ECB may take appropriate actions in accordance with the criteria set out in the ECB Guide to fit and proper assessments.⁴

Yours sincerely,

[signed]

Danièle Nouy

⁴ https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.fap_guide_201705_rev_201805.en.pdf