



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Danièle NOUY

Chair of the Supervisory Board

COURTESY TRANSLATION

Mr Nicolaos Chountis
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt am Main, 30 August 2018

Re: Your letter (QZ-062)

Honourable Member of the European Parliament, dear Mr Chountis,

Thank you for your letter to Mr Mario Draghi, President of the European Central Bank (ECB), which was passed on by Mr Roberto Gualtieri, Chair of the European Parliament's Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 23 July 2018. In your letter you raised questions relating to loan-granting practices applied to bank executives. As this topic is related to banking supervision, the President forwarded your letter to me.

In your letter you request clarification on loans granted, during the period 2006-17, by the four Greek significant institutions to members of their management boards and other top executives, for which the executives used bank shares held by them as collateral. Specifically, you raise queries concerning the supervisory review of the procedures followed by the banks, both in granting the loans and for their repayment.

In this regard, I would first like to stress that it is primarily the responsibility of banks, and in particular of their boards of directors and senior management, to devise, implement and oversee the implementation of sound internal governance arrangements. This includes the process of extending credit (also in the form of loans) to management board members and senior executives, who are usually considered related parties. Banks are required to establish effective internal control mechanisms to verify compliance with internal governance arrangements at all times.

As part of the tasks conferred upon the ECB as of 4 November 2014 by the SSM Regulation, the ECB carries out supervisory reviews and evaluation processes (SREP) of supervised institutions. Key elements underpinning these activities are the review of the adequacy of an institution's governance and control framework to ensure that risks to which an institution is, or may be, exposed are adequately identified, measured and monitored, as well as the level of own funds held. Depending on the specific circumstances,

this review may lead to the imposition of qualitative requirements aimed at improving the internal system of credit-granting activities.

Since it took on its supervisory tasks, the ECB has continuously promoted strengthening the internal governance arrangements of significant institutions, including those in Greece. This includes the oversight of credits to related parties. These efforts aim to enhance the effectiveness of the banks' oversight bodies and internal control mechanisms. Moreover, a number of supervisory tools, including the ongoing monitoring of banks' activities and on-site inspections, are used to detect any irregularities in the banks' governance. Deficiencies identified in the course of supervisory activities are communicated bilaterally to the affected banks, which are requested to address supervisory concerns in an effective and timely fashion, and are subject to a follow-up process undertaken by the Joint Supervisory Teams.

I would also like to draw your attention to the relevant existing legal framework on credits to related parties. The exercise of the ECB's supervisory tasks on credits to related parties relies on existing national laws implementing the relevant EU directives, which are directly applied by the ECB under Article 4(3) of the SSM Regulation. Allow me to recall in this regard that Greek law does not provide *ex ante*, or *ex post*, for supervisory approvals of individual credits to related parties, such as loans to management board members or senior executives. In particular, Article 15(2)(d) and (e) of the Greek Banking Law¹ and Article 4 of chapter I. A. of the Bank of Greece Governor's Act No 2651 of 20 January 2012² set out the applicable framework for credits to related parties in Greece and provide only for quarterly reporting requirements of certain operations by credit institutions to the competent supervisory authority. This means that the ECB has no supervisory powers to approve or object to individual credits to related parties under Greek law. That being said, even if it is not provided for in national legislation, if cases of wrongdoing come to the attention of the ECB in the context of off-site supervision or on-site inspections, the ECB can still put forward the supervisor's expectations regarding sound internal governance arrangements.

Against this background, I consider that the supervisory powers concerning related parties should be harmonised at the European level in the context of the current review of the CRR/CRD package. The ECB, in its legal opinion on the Commission's proposal to review the CRR/CRD IV³, has already explicitly commented on this issue and proposed the harmonisation of regulatory framework governing credits to related parties under Union law. Moreover, the International Monetary Fund (IMF) made a similar recommendation in its 2018 Financial Sector Assessment Program-Technical Note on the euro area.⁴

Finally, as regards the fit and proper assessment of management board members and other senior executives, please note that, for reasons of professional secrecy under the CRD IV, the ECB cannot comment further on the situation of individual institutions under its direct supervision or on their

¹ Greek Law 4261/2014 available at https://www.bankofgreece.gr/BoGDocumentEn/LAW_4261_OF_2014.pdf.

² Available (in Greek only) at: https://www.bankofgreece.gr/BoGDocuments/%CE%A0%CE%94_%CE%A4%CE%95_2651.pdf.

³ ECB Opinion of 8 November 2017 on amendments to the Union framework for capital requirements of credit institutions and investment firms (CON/2017/46), Section 1.12.2, amendment 22 of the CRD and amendment 5 of the CRR.

⁴ IMF Country Report No 18/233 of 19 July 2018, available at: <http://www.imf.org/en/Publications/CR/Issues/2018/07/19/Euro-Area-Policies-Financial-Sector-Assessment-Program-Technical-Note-Detailed-Assessment-of-46107>.

management. The ECB is strongly committed to ensuring that issues concerning related parties' transactions and conflicts of interest affecting the suitability of managers are, at all times, properly monitored.

Yours sincerely,

[signed]

Danièle Nouy