



EUROPEAN CENTRAL BANK

EUROSYSTEM

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The ECB's View

ECB - The New Regulator

ILF/DLA Piper Conference

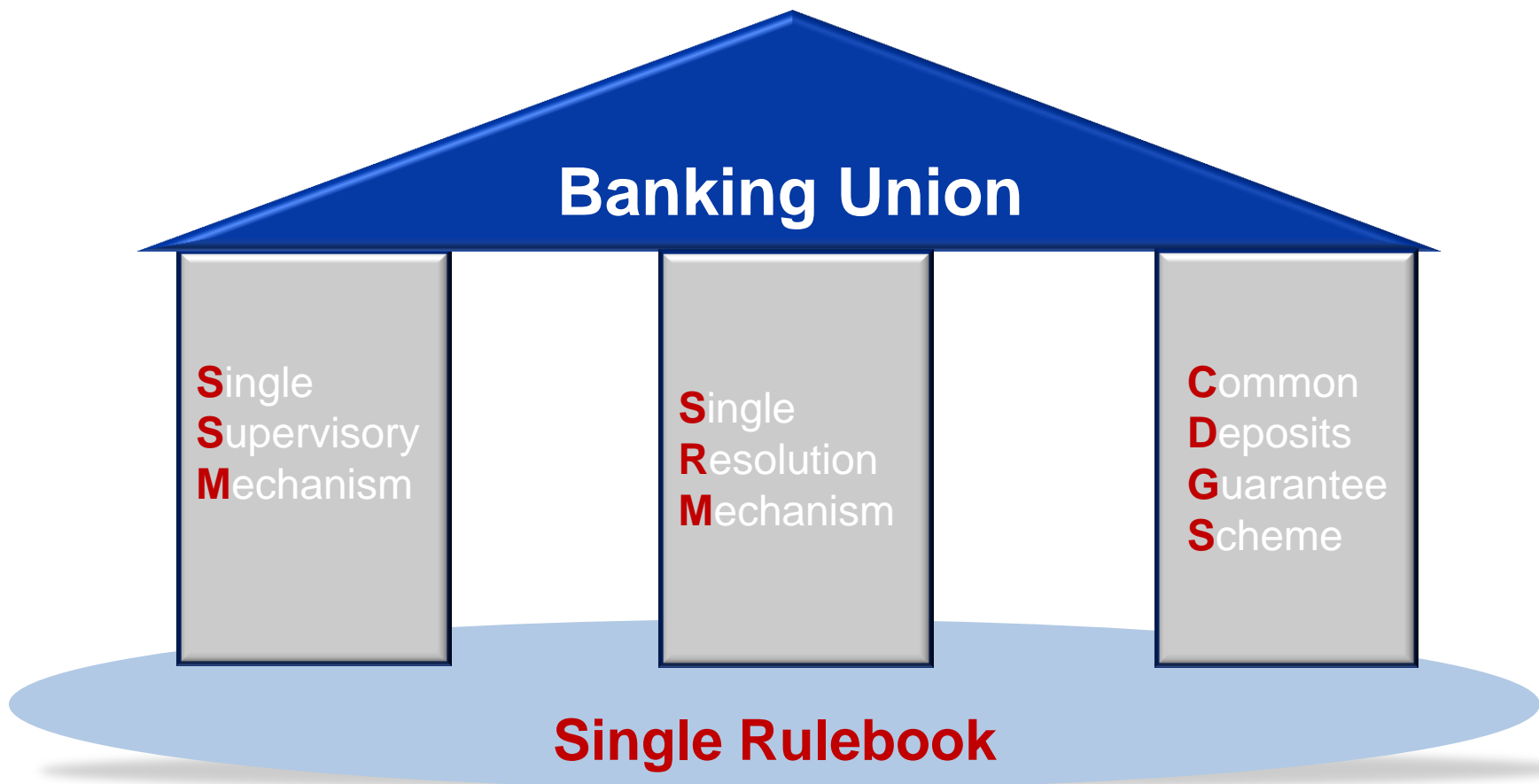
21 October 2014 – Frankfurt/Main

¹The views expressed represent personal views, and not necessarily the ECB's opinion.

Overview

- 1 New Banking Union
- 2 Single Supervisory Mechanism (SSM)
- 3 Comprehensive Assessment

General Structure



Core objectives of the EU-wide financial reform agenda



Source: COM Memo on the Banking Union

Overview

- 1 New Banking Union
- 2 **Single Supervisory Mechanism (SSM)**
- 3 Comprehensive Assessment

Overview

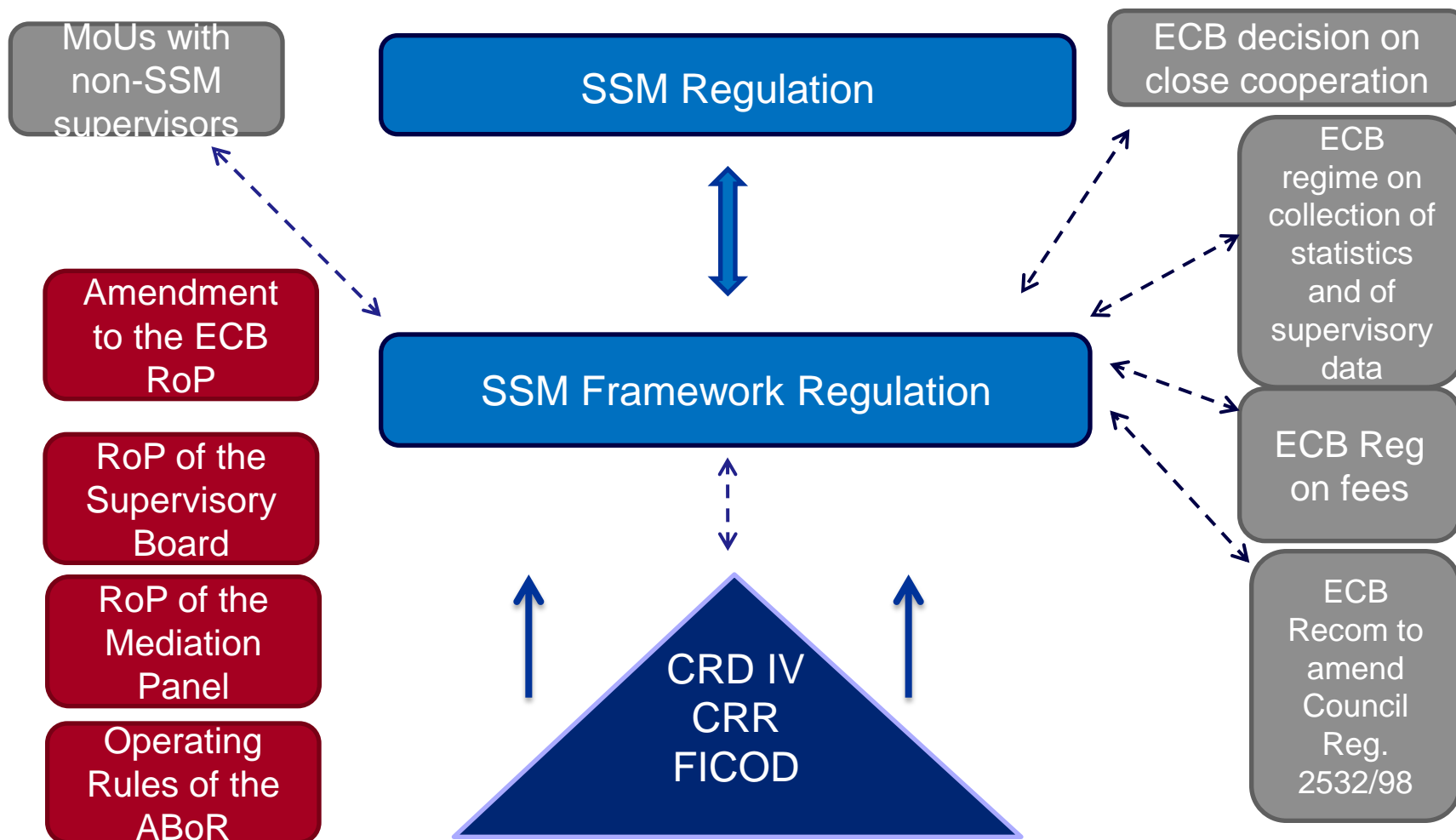
1 New Banking Union

2 Single Supervisory Mechanism (SSM)

- a) Legal Framework
- b) Microprudential Supervision
- c) Macroprudential Supervision
- d) Organisation inside the ECB
- e) Governance
- f) Close Cooperation
- g) Further issues

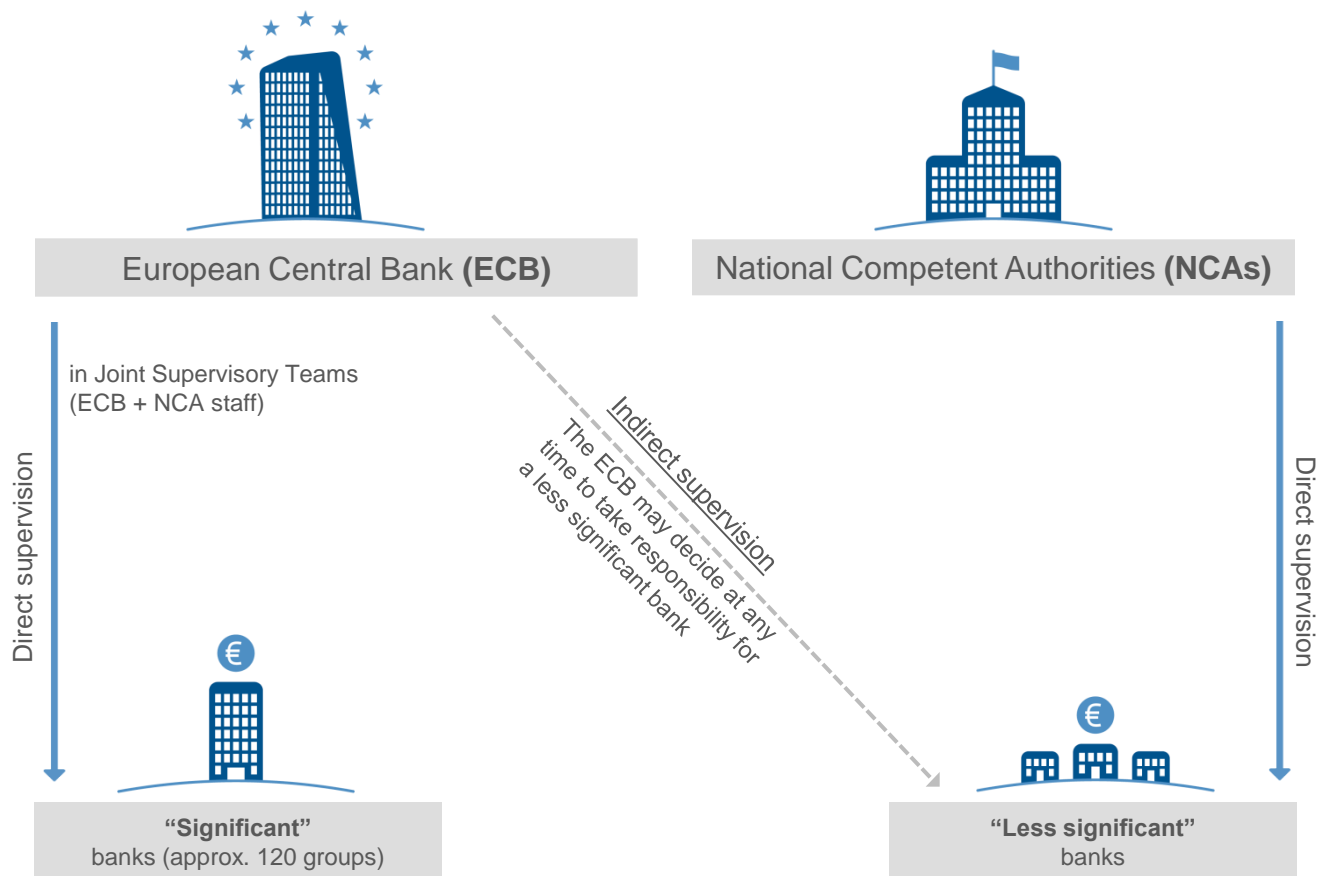
3 Comprehensive Assessment

SSM Legal Framework



Microprudential Supervision

Distribution of tasks within the SSM



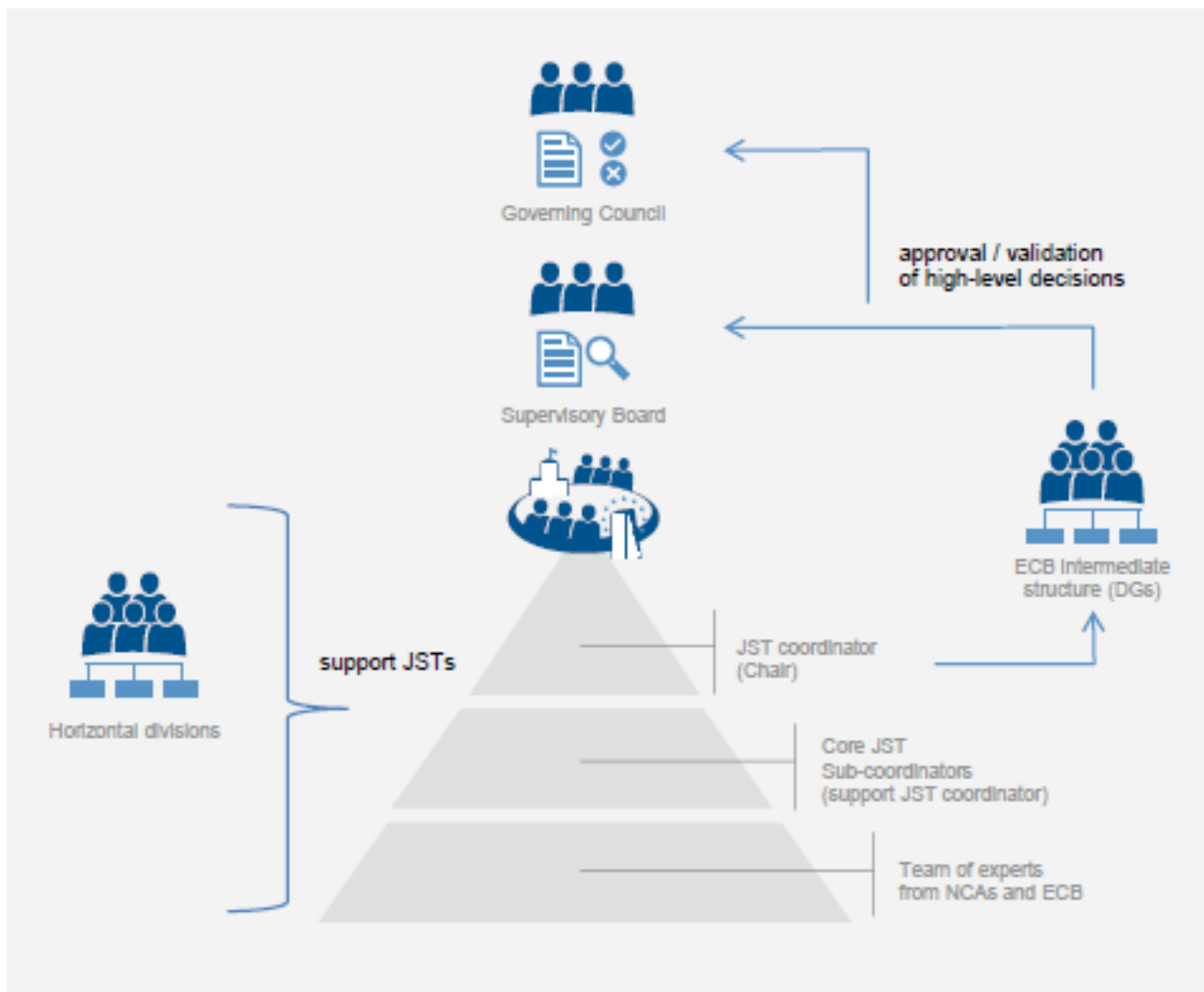
Microprudential Supervision

Classification criteria (significant CI)

	Size	Importance (for the economy of the EU or a participating Member State)	Cross-border activities	Direct public financial assistance from ESM	3 most significant CI in a part. MS	
Requirements	<ul style="list-style-type: none"> Total value of assets > EUR 30 billion 	<ul style="list-style-type: none"> Total value of assets > 20% GDP (unless < EUR 5 billion) 	<ul style="list-style-type: none"> Importance for specific economic sectors Interconnectedness Substitutability Complexity 	<ul style="list-style-type: none"> Parent undertaking established in a participating Member State Subsidiaries in more than one participating Member State. Total assets > EUR 5 billion. Cross-border assets or liabilities > 20% total assets or liabilities. 	<ul style="list-style-type: none"> Request for or receipt of assistance 	<ul style="list-style-type: none"> Not a significant supervised entity due to other criteria Higher amount of total assets.
Calculation parameters	<ul style="list-style-type: none"> Prudential perimeter Accounting data: subsidiary 		<ul style="list-style-type: none"> Assessment on a case by case basis 	<ul style="list-style-type: none"> Assets/liabilities with counterparties located in a participating MS other than the MS in which the parent undertaking of the relevant supervised group has its head office 	-	<ul style="list-style-type: none"> See size criterion

Microprudential Supervision

Functioning of Joint Supervisory Teams (JST)



Microprudential Supervision

Powers conferred on the ECB

Supervisory Powers (Article 16 SSM Regulation)

- » Require CIs to hold own funds in excess
- » Restrict or limit the business or operations of a CI
- » Restrict or prohibit profits distributions
- » Remove any member from the management body

Microprudential Supervision

Powers conferred on the ECB

Investigatory Powers (Articles 10 ff SSM Regulation)

- » Requests for information:
 - ❖ Ad hoc information
 - ❖ Supervisory reporting
 - ❖ Statistical reporting

- » General investigations and on-site inspections

Microprudential Supervision

Powers conferred on the ECB

Sanctioning Powers

- » Allocated between ECB and NCAs on the basis of the rules infringed and the classification of the CI

Macroprudential Supervision

- **Distinction NCA/NDA**

- » Accommodates different competences assigned to NCAs and NDAs under EU and national law

- **Tools and procedures**

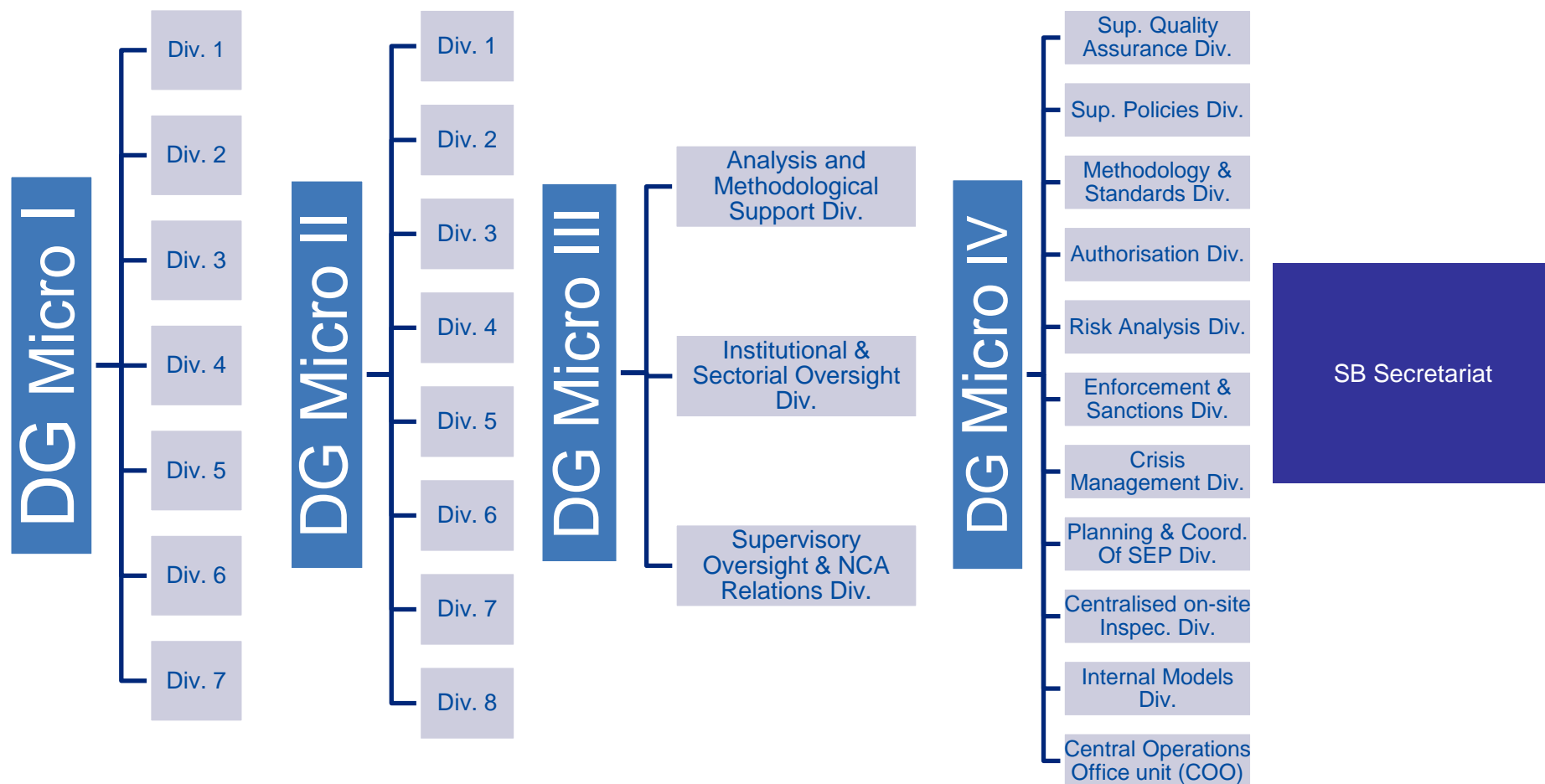
- » Tools
 - ❖ Countercyclical capital buffer
 - ❖ Systemic risk buffer
 - ❖ Systemically important institutions buffer
 - ❖ Pillar 2 measures
 - ❖ National flexibility measures (e.g. own funds, large exposure)
- » NDAs/NCAs and the ECB will exchange information and cooperate

- **Application by the ECB**

- » ECB may set stricter requirements
- » ECB may set a buffer where an NCA/NDA has not done so

Organisation inside the ECB

Internal supervisory structures



Organisation inside the ECB

Shared Services



Governance

Overview of involved bodies

- **Governing Council**
- **Executive Board**
- **Supervisory Board**
- **Steering Committee**
- **Mediation Panel**
- **Administrative Board of Review**

Governance

Governing Council

- **Composition**

- » The six members of the Executive Board
- » Governors of the National Central Banks of the 18 euro area countries

- **Supervisory responsibilities**

- » Governing Council is the sole ECB decision-making body for the prudential supervision of credit institutions established in Member States participating in the SSM.
- » In the performance of this function, it is assisted by the Supervisory Board.

Governance

Executive Board

- **Composition**

- » President of the ECB
- » Vice-President
- » 4 other members

→ All members are appointed by the European Council, acting by a qualified majority

- **Supervisory Responsibilities**

- » Remains responsible for the current business of the ECB also as regards the implementation of the ECB's supervisory tasks

Governance

Supervisory Board – Art. 26 SSM Regulation)

- **Composition**

- » A Chair, appointed by the EU Council for a non-renewable term of five years.
- » A Vice Chair, appointed by the EU Council among the members of the ECB Executive Board.
- » Four representatives of the ECB, appointed by the ECB Governing Council, which shall not perform duties directly related to the monetary function of the ECB.
- » One representative of the NCA in each participating Member State.

- **Responsibilities**

- » Planning and execution of the supervisory tasks
- » Carrying out preparatory works regarding ECB supervisory tasks and proposing complete draft decisions for adoption by the ECB's Governing Council
- » Decisions of the SB are taken by simple majority, except in the case of regulations which are adopted on the basis of a qualified majority

Governance

Steering Committee - Art. 26(10) SSM Regulation

- **Composition**

- » Chair of the Supervisory Board
- » Vice Chair of the Supervisory Board
- » One of the ECB representatives in the Supervisory Board
- » Five members of the SB representing NCAs

- **Responsibilities**

- » Supporting the activities of the SB, including preparing the meetings.
- » The SC shall have no decision-making powers, shall execute its preparatory tasks in the interest of the Union as a whole and shall work with full transparency with the SB.

Governance

Mediation Panel – Art. 25(5) SSM Regulation

- **Composition:**

- » The Vice-Chair of the Supervisory Board shall act as Chair of the Mediation Panel.
- » One member per participating Member State, chosen by each Member State among the members of the Governing Council and the Supervisory Board.

- **Responsibilities:**

- » Part of the rules regarding the separation from monetary policy.
- » Resolving differences of views expressed by the competent authorities of participating Member States concerned regarding an objection of the Governing Council.

- » Decisions by simple majority

Governance

Administrative Board of Review

- **Composition**

- » Five Members
- » Two Alternates

→ Appointed by the ECB for five years, renewable once.

- **Responsibilities:**

- » Internal review body for addressees of supervisory decisions. The review is without prejudice to the right to bring proceedings before the Court.
- » The review shall be limited to the examination of the grounds relied upon by the applicant as set out in the notice of review.
- » The opinion of the Administrative Board of Review is not binding on the Supervisory Board or the Governing Council.

Governance

Decision-making process: non-objection procedure

- **SSM-Regulation:**

- Article 26(8):

- The Supervisory Board shall carry out preparatory works regarding the supervisory tasks conferred on the ECB and propose to the Governing Council of the ECB complete draft decisions to be adopted by the latter, pursuant to a procedure to be established by the ECB. A draft decision shall be deemed adopted unless the Governing Council objects within a period to be defined in the procedure mentioned above but not exceeding a maximum period of ten working days.

- **ECB Rules of Procedure:**

- Article 13g(1):

- The Supervisory Board shall propose to the Governing Council complete draft decisions for the purpose of carrying out the tasks referred to in Article 4 of the SSM Regulation together with explanatory notes outlining the background to and the main reasons underlying the draft decision.

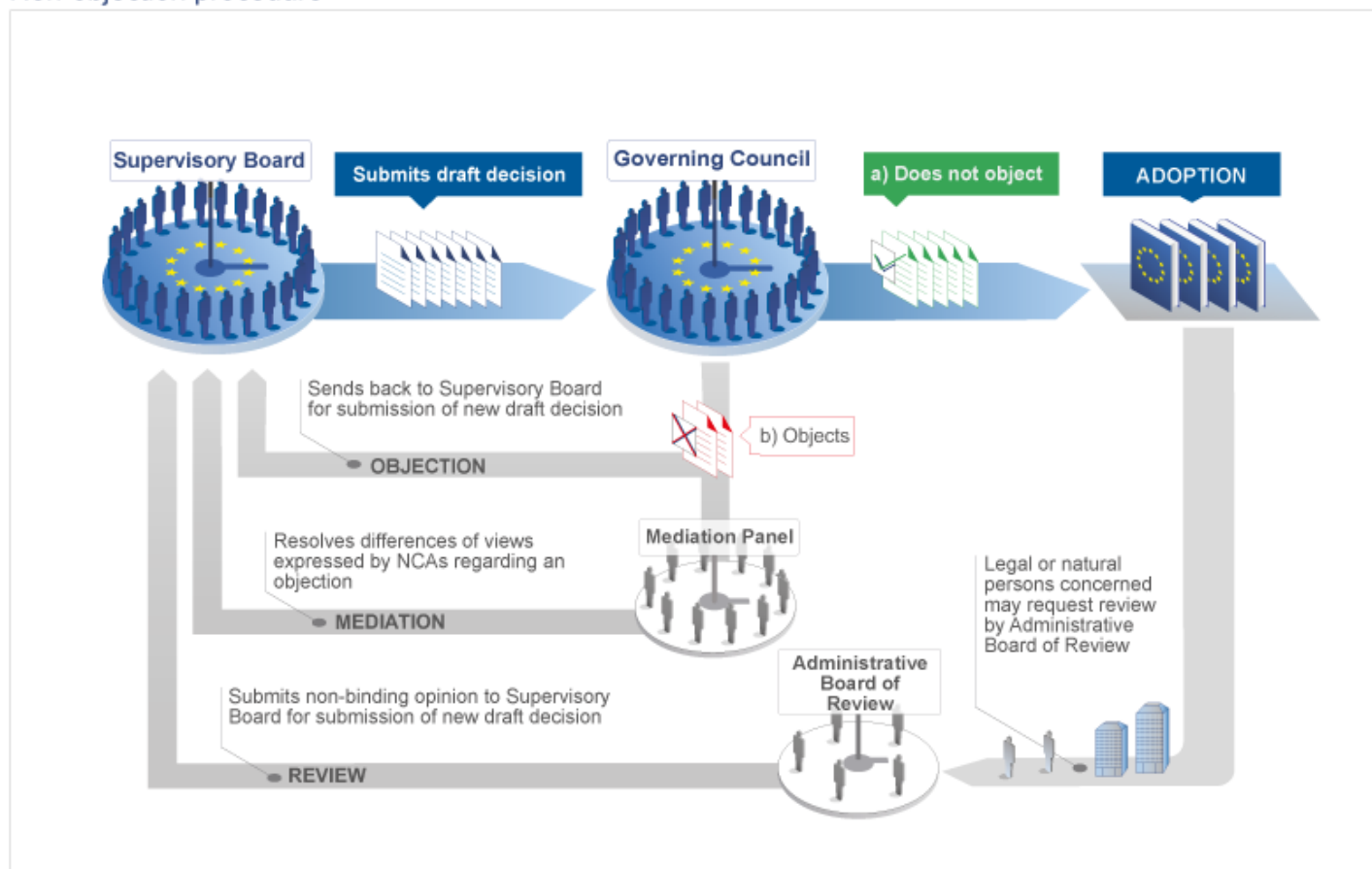
- Article 13g(2):

- A draft decision shall be deemed adopted unless the Governing Council objects to it within ten working days.

Governance

Decision-making process: non-objection procedure

Decision-making process of the Single Supervisory Mechanism:
Non-objection procedure



Governance

Principle of Separation

**Supervisory
Board**

**Separated
Governing
Council
deliberations**

**Separation at
staff level**

Internal rules

**Mediation
panel**

Governance

Independence of the ECB

- » General independence of the ECB and national central banks under Art. 130 TFEU
- » This independence includes any supervisory tasks conferred on it under Article 127(6) TFEU by the SSM Regulation
- » Explicit reference to independence in Art. 19 SSM Regulation
- » The operational independence of the ECB in its supervisory function is an internationally recognised principle as referred to in the Basel Committee on Banking Supervision's Core Principles for Effective Banking Supervision.

Close cooperation – Art. 7 SSM Regulation

- **Principles**

- » ECB's position will be comparable to the one it holds in respect of supervised entities and groups established in euro area countries
- » ECB may not act directly vis-à-vis banks but through instructions, requests or guidelines addressed to NCAs
- » Provisions on sanctions and on fees shall apply accordingly

Further issues

Accountability

- **European Parliament**

- » Tools: Reports, hearings and confidential oral discussions, responding to questions
- » Modalities are laid down in the Inter-Institutional Agreement between the European Parliament and the ECB of November 2013

- **Council**

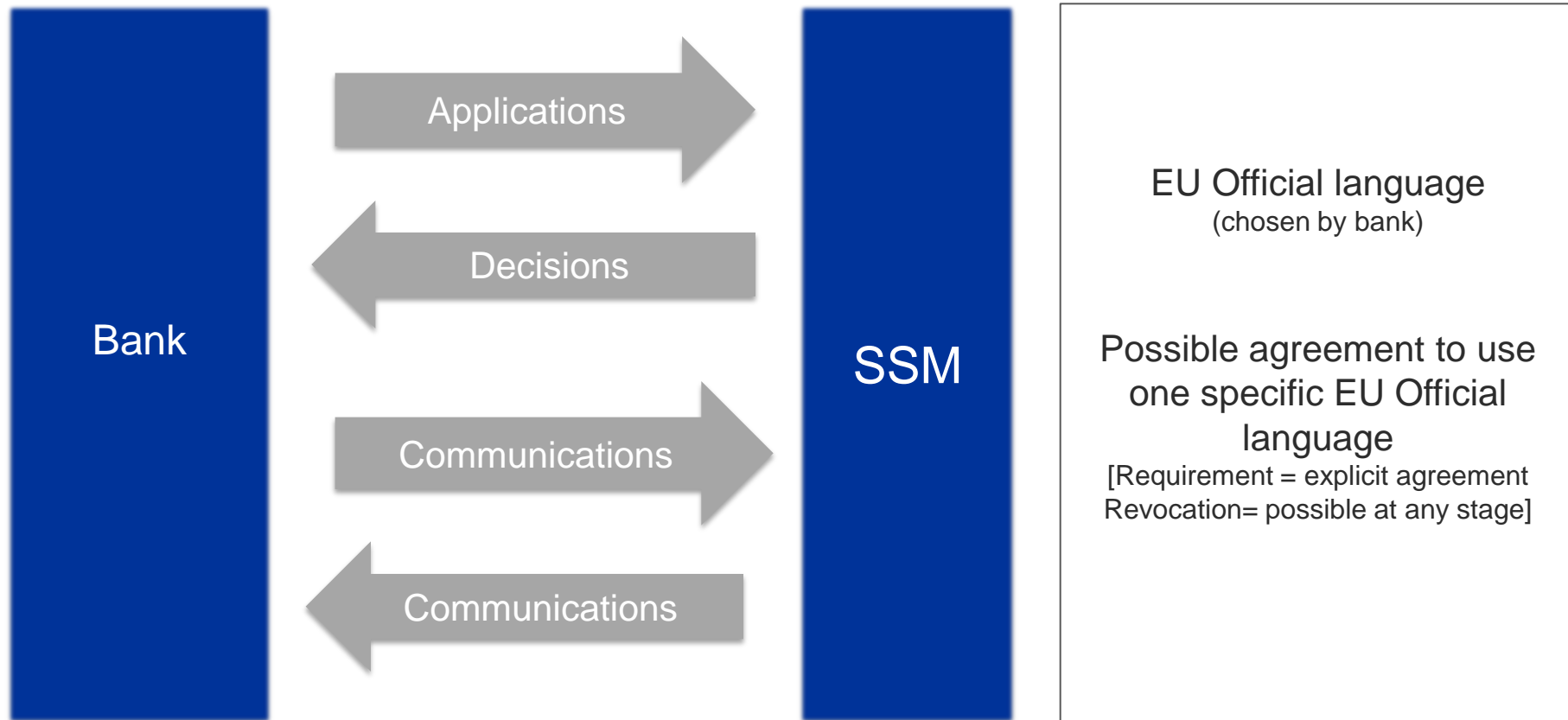
- » Tools: Reports, hearings and exchanges of views, responding to questions
- » Modalities are laid down in the Memorandum of Understanding between the Council and the ECB of December 2013

- **National Parliaments**

- » Tools: Reports, observations, exchanges of views, responding to questions
- » Recital 56 SSM Regulation: The role is appropriate given the potential impact that supervisory measures have on public finances, the credit institutions and the markets in the participating Member States

Further issues:

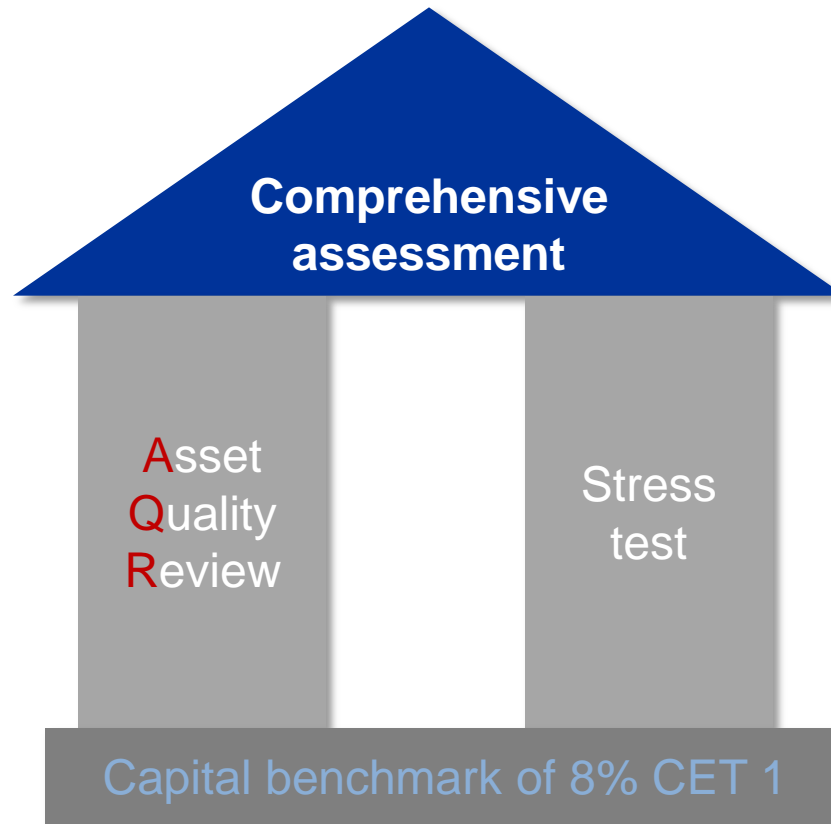
Language regime



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What it is about



What it is about

- **Required pursuant to Art. 34(4) SSM-Regulation**
- **Conducted on 130 banks**
- **Broader and tougher than any previous assessment at European level**
- **CA will conclude with**
 - » Aggregate disclosure of the outcomes
 - » Bank level data
 - » Recommendations for supervisory measures
- **The results will be published on 26 October 2014 (Sunday), at 12 noon CET**

Thank you
for your attention!