



**EUROPEAN CENTRAL BANK**  
BANKING SUPERVISION

**Danièle NOUY**

Chair of the Supervisory Board

*COURTESY TRANSLATION*

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Mr Carlos Zorrinho  
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Members of the European Parliament  
European Parliament  
60, rue Wiertz  
B-1047 Brussels

Frankfurt am Main, 28 June 2016

**Re: Your letters (QZ63, QZ064, QZ065)**

Honourable Members of the European Parliament,

Thank you for your letters, which were passed on to me by Mr Roberto Gualtieri, Chairman of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 7 June 2016.

Regarding the fact that investors in banks incurred losses following the recent resolution of banks in, for instance, Italy and Portugal, it is worth clarifying that these resolution cases did not involve the use of the bail-in tool as laid down in the Bank Recovery and Resolution Directive (BRRD)<sup>1</sup>. The resolution authorities applied a write-down of capital instruments and subordinated debt, which is a precondition under EU State aid rules for the use of public funds, including resolution funds. In that context, the European Commission assessed the resolution measures and deemed them to be in line with the State aid requirements.

Generally, it should be recalled that investing in a bank's subordinated debt securities is not risk-free. This is why it is crucial that investors, and especially retail investors, are made sufficiently aware of the risks attached to any investment in bank securities, notably subordinated instruments or unsecured bonds. I would recommend that further efforts be made at EU level to raise awareness of this fact and to duly protect retail investors against the consequences of insufficient information on the risks associated with certain investment opportunities.

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<sup>1</sup> Directive 2014/59/EU of the European Parliament and of the Council.

Let me also underline that the bail-in tool of the BRRD and the Single Resolution Mechanism Regulation<sup>2</sup> is designed in a way that allows it to be applied without causing instability in the system. Notably, there is the possibility to exclude (totally or partially) certain liabilities from a bail-in if there is a risk of widespread contagion. Looking to the future, successful resolution without the use of taxpayers' money will only be feasible if the bank in question has adequate loss-absorbing capacity. This will be ensured in the EU by determining for each bank a minimum requirement for own funds and eligible liabilities (MREL). This task is assigned to the Single Resolution Mechanism.

Turning to your question on the problem of non-performing exposures in the euro area banking sector, it is useful to recall the complexity and national dimension of this problem. Non-performing loans (NPLs) have reached elevated levels in several Member States. There is evidence that higher levels of NPLs find their origin in a number of factors, including general economic conditions, poor banking practices, flawed legal frameworks for debt recovery and a lack of capacity in the judiciary system. Consequently, there is no one-size-fits-all solution to the NPL problems. From the supervisory side, the Single Supervisory Mechanism (SSM) is currently taking stock of the approaches to NPL resolution in the euro area countries, with the aim of fostering a more consistent supervisory approach. For this purpose, it established a task force on NPLs in 2015, with its first results expected in the course of this year. National and European legislative authorities have an indispensable role to play to make the supervisory approach successful. Among other reforms, they should consider streamlining legal processes related to debt recovery, removing impediments to the enforcement of loan collateral, introducing out-of-court debt work-out solutions, and fostering the development of distressed debt markets.

Regarding your questions on the supervisory and resolution actions taken with regard to Banco Internacional do Funchal, S.A. (Banif), please refer to my reply<sup>3</sup> to Mr Melo, Member of the European Parliament, dated 3 March 2016, for an explanation of the division of labour between the Banco de Portugal, the European Commission and the ECB.

Given that the ECB was not in charge of the supervision of Banif, the sale process or the assessment of compliance with State aid rules, it is not the right addressee for your questions.

As also laid down in the Interinstitutional Agreement, any reporting obligations vis-à-vis the European Parliament are subject to the relevant professional secrecy requirements, as outlined in the Capital Requirements Directive IV<sup>4</sup>. The supervisory measures taken with regard to individual institutions can therefore not be commented on.

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<sup>2</sup> Regulation (EU) No 806/2014 of the European Parliament and of the Council.

<sup>3</sup> [https://www.bankingsupervision.europa.eu/ecb/pub/pdf/160303letter\\_melo.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/160303letter_melo.en.pdf)

<sup>4</sup> Directive 2013/36/EU of the European Parliament and of the Council.

Your question on the counterparty status of Banif relates to the implementation of the ECB's monetary policy. I have therefore forwarded it to the President of the ECB in line with the separation of the ECB's tasks.

Yours sincerely,

[signed]

Danièle Nouy