EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Danièle NOUY
Chair of the Supervisory Board

COURTESY TRANSLATION

Ms Kostadinka Kuneva
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt am Main, 11 July 2017

Re: Your letter (QZ-042)

Honourable Member of the European Parliament, dear Ms Kuneva,

In your letter passed on by Mr Roberto Gualtieri, Chair of the European Parliament's Committee on Economic and Monetary Affairs, to Mr Mario Draghi, President of the European Central Bank (ECB), with a cover letter dated 31 May 2017, you raised questions relating to the ECB's supervisory tasks, in particular with regard to the ECB's supervisory activities on banks' use of outsourcing. The President has therefore forwarded your letter to me.

For banks, outsourcing may help them become more efficient and focus on their core business and/or competencies. It may also give them access to tools and services that are not available in house. At the same time, outsourcing does not reduce the fundamental risks associated with the activity outsourced; risks of financial losses, disclosure of confidential data and reputational damage remain. Moreover, because the activities are carried out by a third party, outsourcing may give rise to additional risks, such as loss of control over the outsourced activity, greater dependence on the service provider, loss of control over information essential to the bank's operations, loss of know-how, loss of flexibility to react to changes in market conditions, breaches of confidentiality and increased legal risks, among others. Lastly, outsourcing may also limit the ability of the supervisor to monitor the relevant activity, as the company to which the outsourcing takes place is typically not supervised by the ECB. If these risks are not sufficiently mitigated by internal governance structures and procedures, outsourcing may ultimately have a negative impact on the risk management and overall corporate management of a supervised entity.

For these reasons, ECB Banking Supervision has made risks arising from outsourcing one of its supervisory priorities for 2017 and launched a focused thematic review on the topic. The focus of the thematic review is to take stock of selected supervised entities' outsourced activities and scrutinise how banks are managing the associated risks.

However, this thematic review and any other supervisory activity are limited by the scope of the ECB's supervisory mandate. The ECB only assesses outsourcing by banks from a prudential viewpoint. In the absence of any directly applicable Union law in the field, the ECB only applies relevant national law, which differs substantially across Member States. In this respect, the ECB ensures, inter alia, that the ultimate responsibility for the proper management of the risks associated with outsourcing and the outsourced activities lies with the banks' senior management. The ECB also ensures that activities requiring a licence from the supervisory authority, such as the acceptance of deposits or lending, are only outsourced to service providers that have the required authorisation.[1]

Let me underline, however, that the ECB does not have the powers to carry out actions that go beyond the supervisory tasks mentioned above, such as the activities of credit institutions falling under the European Market Infrastructure Regulation (EMIR)[2] and anti-money laundering. Furthermore, the mandate of ECB Banking Supervision does not cover banks' activities outside the financial field that are not listed in Articles 4 and 5 of the SSM Regulation[3], in particular the application of labour law.

Yours sincerely,

[signed]

Danièle Nouy

[1] For more information regarding the underlying principles and cases, please see examples from the Committee of European Banking Supervisors' Guidelines on Outsourcing (2006) from: https://www.eba.europa.eu/documents/10180/104404/GL02OutsourcingGuidelines.pdf.pdf

[2] Regulation (EU) No 648/2012 of the European Parliament and of the Council

[3] Council Regulation (EU) No 1024/2013