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SUPERVISION AND OVERSIGHT AT THE BANCO DE ESPAÑA

1.1 Supervisory and oversight functions of the Banco de España

The Banco de España has broad supervisory powers not only over credit institutions, but also over other financial institutions or undertakings related to the financial system operating in Spain. Specifically, it is entrusted with the following functions: prudential supervision, supervision of the provision of payment services, supervision of conduct and transparency, and oversight of financial market infrastructures in Spain. It also collaborates with the Commission for the Prevention of Money Laundering and Monetary Offences (CPMLMO) and its Executive Service (SEPBLAC) in the anti-money laundering and counter-terrorist financing (AML/CTF) area. Figure 1.1 summarises the Banco de España's supervisory and oversight functions.

Prudential banking supervision has two levels: microprudential supervision and macroprudential policy. Chapters 2 and 3, respectively, describe the supervisory activity in those areas.

Microprudential supervision aims to ensure that institutions or groups, considered individually, maintain adequate solvency and liquidity levels, comply with the prudential regulations in force and manage their business and the risks they incur in a prudent manner, with the ultimate aim of ensuring the soundness of the banking system and preserving financial stability. Within the framework of the Single Supervisory Mechanism (SSM) the aim is also to promote greater financial integration in Europe and to ensure supervision is consistent across the participating countries.

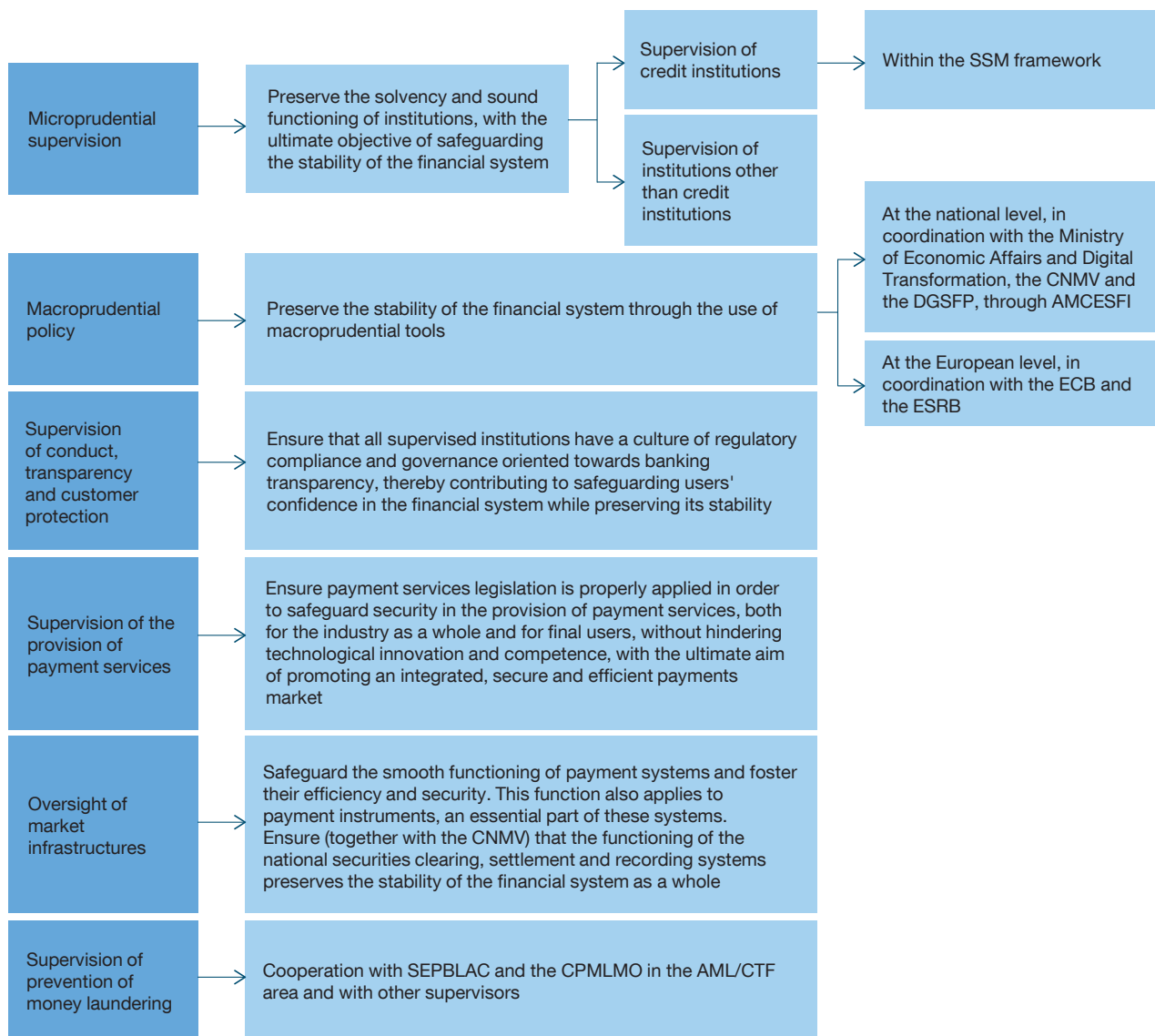
The microprudential supervision of credit institutions of countries participating in the banking union is exercised jointly by the European Central Bank (ECB) and the national competent authorities (NCAs) of such countries – including the Banco de España – within a single supervisory mechanism (SSM). From October 2020 two European Union (EU) Member States that are outside the euro area, Bulgaria and Croatia, participate in European banking supervision. The two countries joined the SSM after establishing close cooperation agreements with the ECB.¹

Within the SSM framework, the functions have been distributed between the ECB and the NCAs as follows: the ECB is tasked with the direct supervision of

¹ In accordance with Article 7 of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions.

Figure 1.1

THE BANCO DE ESPAÑA'S SUPERVISORY AND OVERSIGHT FUNCTIONS



SOURCE: Banco de España.

significant institutions (SIs),² i.e. those that are larger or have a greater relative significance, while NCAs are entrusted with the direct supervision of less significant institutions (LSIs).

The Banco de España is also the microprudential supervisory authority for other financial or financial system-related institutions operating in Spain but

² However, the ongoing monitoring of SIs is performed through Joint Supervisory Teams (JSTs), comprising ECB and NCA staff of the countries in which each institution operates.

which are outside the scope of the SSM: the branches of non-EU credit institutions, the Official Credit Institute (ICO),³ payment institutions (PIs), account information service providers, specialised lending institutions (SLIs), electronic money institutions (ELMIs), mutual guarantee societies (MGSs), reguarantee companies, currency-exchange bureaux, appraisal companies, banking foundations⁴ and Sareb (the asset management company for assets arising from bank restructuring).⁵

Macroprudential policy is aimed at safeguarding financial stability through the prevention and mitigation of systemic risks and vulnerabilities, thereby helping the financial system to contribute to economic growth in a sustainable manner.

In the macroprudential sphere, the Banco de España is the designated national authority for formulating, deciding on and implementing macroprudential measures on credit institutions, pursuant to European capital requirements legislation and its transposition into Spanish law, and other Spanish capital requirements legislation.

Together with the two other financial supervision sectoral authorities – the National Securities Market Commission (CNMV) and the Directorate General of Insurance and Pension Funds (DGSFP) – and the Ministry of Economic Affairs and Digital Transformation, the Banco de España participates in the Spanish macroprudential authority (AMCESFI), which aims to identify, prevent and mitigate systemic risk in order to contribute to preserving the stability of the Spanish financial system as a whole.

Additionally, the Banco de España is entrusted with supervising the provision of payment services. Following the entry into force in 2015 of the Second Payment Services Directive (PSD-2),⁶ new payment services and new specialist payment service providers were regulated, and operational and security risk requirements were strengthened. Consequently, the supervision of technological aspects in the provision of payment services has become a key aspect of the supervisory function, as mentioned in Section 2.6. Box 1.1 describes the internal distribution of supervisory powers entrusted to the Banco de España in this connection.

3 The ICO has the legal form of a credit institution, pursuant to Article 1 of Law 10/2014 of 26 June 2014 on the regulation, supervision and solvency of credit institutions. However, it is supervised by the Banco de España, since it is excluded from the scope of the SSM under Article 1 of Council Regulation (EU) No 1024/2013 of 15 October 2013.

4 Law 26/2013 of 27 December 2013 on savings banks and banking foundations confers on the Banco de España control of compliance with certain rules related to the influence of the banking foundation over the management of the investee credit institution.

5 The Banco de España supervises fulfilment of Sareb's sole corporate purpose, in order to identify deviations therefrom jeopardising the attainment of Sareb's overall statutory objectives.

6 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

DISTRIBUTION OF COMPETENCES IN THE SUPERVISION OF PAYMENT SERVICES AT THE BANCO DE ESPAÑA

Royal Decree-Law 19/2018 of 23 November 2018 on payment services and other urgent financial measures, which transposes the Second Payment Services Directive to Spanish law, designates the Banco de España as the competent authority for ensuring and overseeing effective compliance with said Royal Decree-Law. In turn, the Banco de España distributes these responsibilities among several directorates general.

As regards supervision of the provision of payment services and payment services providers, it has opted for a model based on specialisation by subject, which involves three departments belonging to different directorates general.

The Payment Systems Department is responsible for supervising specialist payment service providers regarding the adequate management of operational and security risks and the protection of users' funds. It is also in charge of strong customer authentication requirements and secure standards of communication for all payment service providers, including credit institutions. Moreover, it is responsible for supervising access to payment systems, among other issues, and for monitoring fraud data and serious operational and security incidents.

Supervision Department III is responsible for supervising the solvency of payment service providers and the adoption of measures necessary to ensure compliance

with own funds rules, the control regime for qualifying holdings and the review of professional indemnity insurance or an equivalent guarantee to which payment initiation or account information service providers are subject.

Lastly, the Institutions' Conduct Department performs supervisory actions relating to transparency, reporting requirements and customer relations applicable to payment services.

Royal Decree-Law 19/2018 establishes different forms of access to the activity of payment service provision, based on the type, origin and scope of action of the institution applying for it. Thus, payment institutions and electronic money institutions are subject to an authorisation and registration regime; account information service providers or institutions that are exempt owing to their small size are only subject to the registration regime; other providers (those known as "limited networks" or certain providers of telecommunication services) are subject to an ex-post notification and registration regime; and, lastly, payment service providers from other EU countries also have access to the Spanish market through the single European passport.

All of these access procedures are processed by the Deputy General Secretariat in collaboration with other Banco de España departments.

The Banco de España supervises the conduct, transparency and customer protection of the institutions in its Official Registers, whether they are credit institutions or other institutions offering banking services. Chapter 4 shows the supervisory actions conducted in this area.

The Banco de España also oversees financial market infrastructures. Specifically, it oversees payment systems and instruments and shares with the CNMV the oversight of the financial market securities infrastructures. Chapter 5 of this report includes information on the Banco de España's oversight activity in the last year.

The Banco de España cooperates closely with the CPMLMO and SEPBLAC in the supervision and inspection of compliance with AML/CTF obligations by institutions, pursuant to Spanish legislation and the cooperation and coordination agreement entered into with the CPMLMO.

Lastly, under Article 233(6) of the consolidated text of the Securities Market Law (LMV, by its Spanish abbreviation), the Banco de España is entrusted with supervisory, inspection and sanctioning functions regarding compliance with the obligations envisaged in Article 16 of Regulation (EU) 2016/1011 of the European Parliament by supervised institutions that contribute data for the indices developed by the Banco de España, and in Articles 28(2) and 29(1) thereof.

1.2 Organisation of banking supervision and oversight at the Banco de España

The supervisory function is performed by the Banco de España's different directorates general and departments:

- The Directorate General Banking Supervision (DGBS) is responsible for the ongoing remote supervision of institutions in connection with their solvency, liquidity and business management, and for the related on-site inspections and the review of internal models for calculating capital requirements. It further provides support to the Banco de España's representative on the Supervisory Board (SB) of the ECB. It also performs horizontal tasks, such as data analysis, methodology, planning, training, quality function, etc. and is responsible for accounting standards, among other functions.
- The General Secretariat is tasked with supervising market conduct; participating in the processes of senior officer suitability and of granting and withdrawal of institutions' authorisation; the register of credit institutions; and the handling of sanctioning proceedings.
- The Directorate General Financial Stability, Regulation and Resolution (DGFSRR) is responsible for macroprudential policy and performs the analytical work required for decision-making in this area; it also assesses and participates in the development of the regulatory framework applicable to supervised institutions. It is also responsible for receiving and monitoring institutions' supervisory reporting.
- Lastly, the Directorate General Operations, Markets and Payment Systems (DGOMPS) is responsible for overseeing financial market infrastructures and payment instruments. It is also responsible for ongoing supervision of payment service providers other than credit institutions (except for matters relating to solvency and customer relations) and of the payment services offered by all such providers.

Figure 1.2 provides greater details of the organisation of the supervisory and oversight functions performed by the Banco de España.

Figure 1.2

ORGANISATION OF SUPERVISION AND OVERSIGHT AT THE BANCO DE ESPAÑA

DIRECTORATE GENERAL BANKING SUPERVISION	Supervision Department I	<ul style="list-style-type: none"> – Ongoing remote supervision of the four largest Spanish SIs and of the branches and subsidiaries in Spain of European SIs, through the JSTs
	Supervision Department II	<ul style="list-style-type: none"> – Ongoing remote supervision of the other Spanish SIs through the JSTs
	Supervision Department III	<ul style="list-style-type: none"> – Ongoing remote supervision and on-site inspections of: <ul style="list-style-type: none"> • Spanish LSIs • Other institutions outside the scope of the SSM: ICO, SLIs, PIs, account information service providers, EMIs, MGSs, reguarantee companies, currency-exchange bureaux, appraisal companies and Sareb • Other branches and subsidiaries in Spain of foreign institutions
	Supervision Department IV	<ul style="list-style-type: none"> – Monitoring market risk, operational risk and structural liquidity and interest rate risks – On-site inspections and internal model reviews of SIs within the SSM
	Supervision Department V	<ul style="list-style-type: none"> – Stress tests – Identification and assessment of risks from a microprudential standpoint – Supervisory methodology – Definition of supervisory policies and bank accounting regulation – Analysis and assessment of technology risk – Supervision of AML/CTF procedures
	Organisation and Quality	<ul style="list-style-type: none"> – Quality control in the supervisory process – Training of DGBS staff
	SSM Coordination	<ul style="list-style-type: none"> – Preparation and monitoring of annual supervision planning – Support to the Banco de España representative on the SB – Management of information received within the scope of the SSM
DIRECTORATE GENERAL FINANCIAL STABILITY, REGULATION AND RESOLUTION	Financial Stability and Macroprudential Policy Department	<ul style="list-style-type: none"> – Analysis of financial system risks and vulnerabilities – Formulation of macroprudential policy proposals – Coordination with AMCESFI and, at European level, with the ESRB and with the ECB's macroprudential function
	Financial Reporting and CCR Department	<ul style="list-style-type: none"> – Receipt, quality control and forwarding of supervisory information that credit institutions are required to submit to the ECB, within the SSM, and to the Banco de España, in the exercise of their supervision powers and of information from other supervised institutions – Management of the Central Credit Registry
	Regulation Department	<ul style="list-style-type: none"> – Analysis, definition and monitoring of regulatory policies at the global and European levels – Coordination with the EBA and other international fora and bodies – Development and interpretation of prudential regulations
GENERAL SECRETARIAT	Institutions' Conduct Department	<ul style="list-style-type: none"> – Supervision of market conduct and compliance with legislation on transparency of information and customer protection in the marketing of banking products and services – Definition of regulatory and supervisory policies concerning market conduct
	Deputy General Secretariat	<ul style="list-style-type: none"> – Participating in the assessment of compliance with the suitability requirements of senior officers – Maintaining the Senior Officer Register – Participating in the granting and withdrawal of institutions' authorisation – Maintaining the Register of Institutions, Agents and Articles of Association – Managing the single European passport
	Legal Department	<ul style="list-style-type: none"> – Conducting sanctioning proceedings
DIRECTORATE GENERAL OPERATIONS, MARKETS AND PAYMENT SYSTEMS	Payment Systems Department	<ul style="list-style-type: none"> – Ongoing supervision of compliance with legislation specific to PIs, account information service providers and EMIs, except in relation to solvency, conduct and transparency – Supervision of the provision of payment services by payment service providers – Definition of supervisory policy regarding the provision of such services – Supervision of Iberpay, as the management company of the National Electronic Clearing System – Oversight of financial market infrastructures and of payment instruments

SOURCE: Banco de España.

1.3 Supervisory and oversight staff

At 31 December 2020, the Banco de España had 847 employees performing supervisory and oversight functions (compared with 818 employees in 2019). Of these 847 employees, 539 belong to the DGBS, 182 to the DGFSRR, 58 to the Institutions' Conduct Department, 46 to the Deputy General Secretariat and 22 to the DGOMPS.

In the DGBS two selection processes were completed in 2020 to cover the following positions: seven IT audit experts and five credit risk measurement model specialists. In 2021 up to 11 bank examiners for credit institutions are expected to join under the selection process currently under way. The DGFSRR conducted a selection process for ten specialists in regulation, which was completed in January 2021.

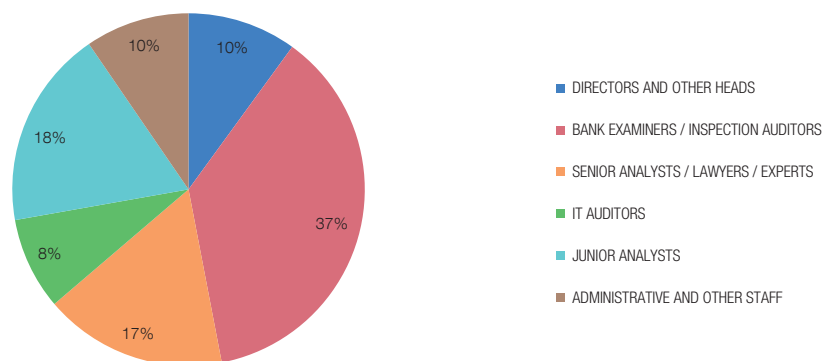
Two experts in payment and securities settlement systems joined the Payment Systems Department, following the relevant selection process, to strengthen the oversight function. A selection process was also conducted for seven IT audit experts, with the aim of continuing to provide the necessary resources to carry out the supervisory tasks related to operational and security risks in payment services, and to appropriately address the supervision of specialised payment services providers.

Chart 1.1 shows the distribution, by professional group, of Banco de España employees who carry out supervisory and oversight functions.

Chart 1.1

% OF EMPLOYEES WHO PERFORM SUPERVISORY AND OVERSIGHT FUNCTIONS, BY PROFESSIONAL GROUP At 31 December 2020

The predominant professional group continues to be that of bank examiners and inspection auditors. The staff composition in the different groups has remained stable in comparison with previous years.



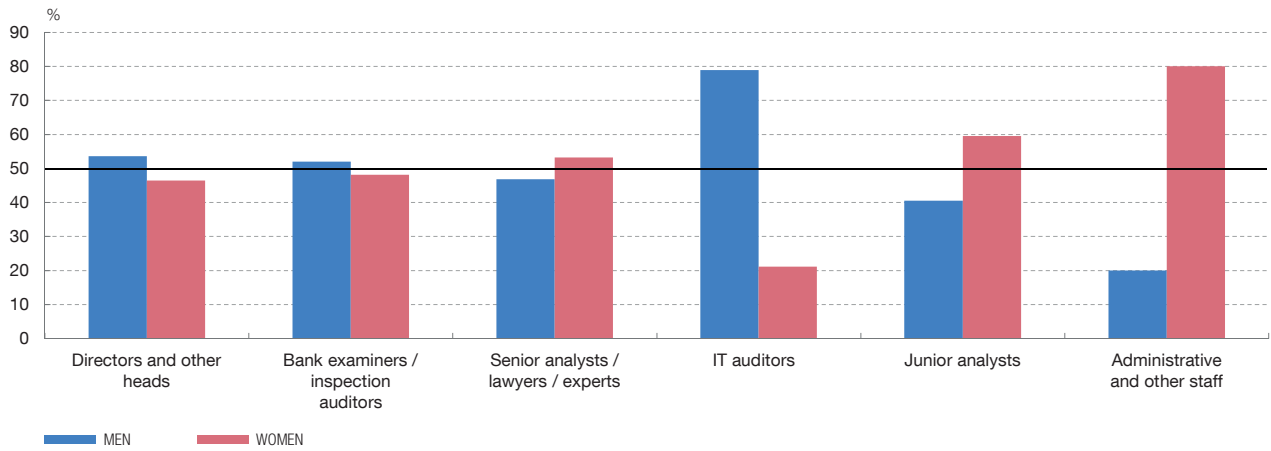
SOURCE: Banco de España.

Chart 1.2

SUPERVISORY AND OVERSIGHT STAFF, BY GENDER

At 31 December 2020

The proportion of men and women is close to parity in three professional groups, with "Directors and other heads" being particularly noteworthy. However, there are strong disparities in "IT auditors" and "Administrative and other staff".



SOURCE: Banco de España.

48% of supervisory and oversight staff are men and 52% are women. Chart 1.2 shows the distribution of men and women in each of the professional groups within this area.