

# EPPO and EU Law

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# THE EPPO AND EU LAW: A STEP FORWARD IN INTEGRATION

*The cooperation between Judicial and Banking Supervisory Authorities*

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Graziano Grasso  
Banca d'Italia  
Dipartimento Vigilanza Bancaria e Finanziaria

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...to get started: banking  
supervision at a glance

## Why do banks need to be supervised?



### To instil confidence

The financial system is tightly knit. Its components are held together by confidence. The failure of just one bank could shake confidence in the system and jeopardise its integrity. Bank runs can quickly spread from troubled institutions to healthy ones, harming them in turn. Like dominoes, the fall of one bank can lead to the collapse of many more.

Knowing that banks are supervised reassures both markets and depositors, reducing the likelihood of bank runs and other forms of financial contagion.

### To safeguard an essential service

Banks provide financial services that we all use. We deposit our money with them, borrow from them, take out mortgages with them. We as individuals rely on them, as do households, businesses and governments. Banks enable the financial markets to function, thereby enabling economic activity.

### To protect savers

Ordinary savers are not able to evaluate a bank's safety and soundness. They do not have access to the necessary information and perhaps lack the required background knowledge. Therefore, supervisors act in the public interest by regularly checking banks' risk culture and corporate governance, and by granting (or withdrawing) banking licenses.



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EUROPEAN CENTRAL BANK  
BANKING SUPERVISION

## EUROPEAN BANKING SUPERVISION THE SINGLE SUPERVISORY MECHANISM (SSM)

The **Single Supervisory Mechanism (SSM)** refers to the system of banking supervision in Europe. It comprises the ECB and the national competent supervisory authorities (NCAs) of the participating countries.

The ECB directly supervises the largest banks (**Significant Institutions**) while the smaller banks (**Less Significant Institutions**) are under national supervision.

European banking supervision is one of the two pillars of the **EU Banking Union**, along with the **Single Resolution Mechanism**

### The main objectives



**Safe and sound banks**



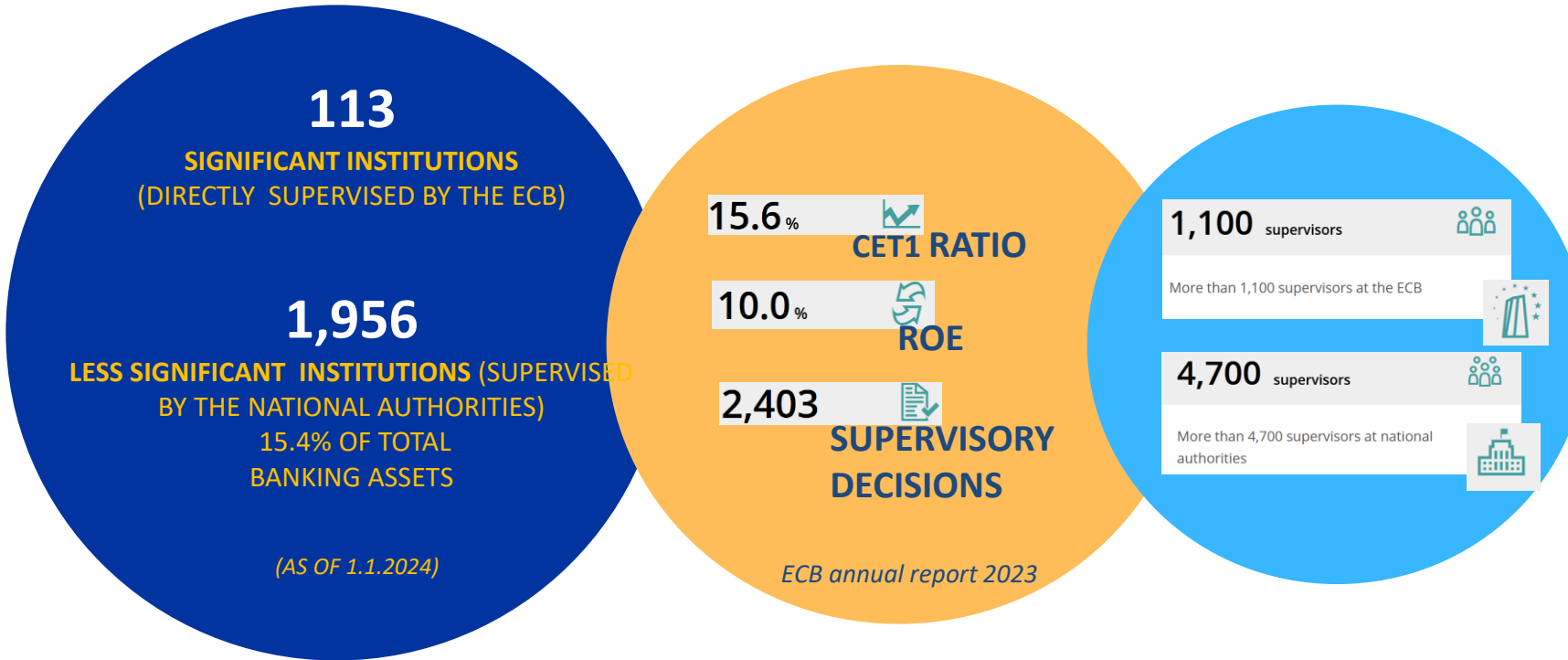
**Stable and integrated financial system**



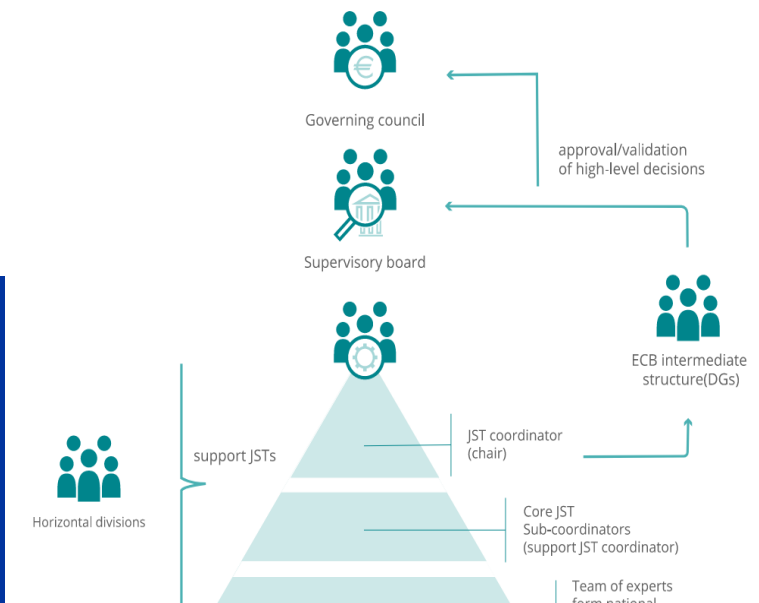
**Consistent supervision of all banks**



# The Single Supervisory Mechanism (SSM): Facts and figures

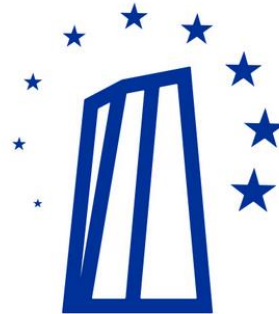


**Joint Supervisory Teams (JSTs)** are one of the main forms of cooperation between the ECB and the national supervisors. They actively foster a common supervisory culture and promote consistent supervisory practices and approaches.





## The cooperation between Judicial and Supervisory Authorities



Why is it so important that supervisory  
Authorities and the Judiciary  
cooperate in the performance of their  
duties?

- ✓ **General shared interest to preserve legality as a condition of economic growth**
- ✓ **Fostering a compliance culture in the financial system is crucial to improve the effectiveness of the banking supervision**
- ✓ **Legal obligation to report suspected criminal offences to the competent Authority**



## The cooperation between Judicial and Supervisory Authorities



### ✓ General shared interest to preserve legality as a condition of economic growth

- ✓ **Criminal activity acts like a tax on the entire economy:** it discourages domestic and foreign direct investments, it reduces firms' competitiveness, and reallocates resources creating uncertainty and inefficiency.
- ✓ The integrity of the banking and financial services marketplace depends heavily on the perception that it functions within a framework of high legal, professional and ethical standards. **A reputation for integrity is the one of the most valuable assets of a financial institution.**
- ✓ The (real or perceived) lack of integrity of a financial institution **may lead to a loss of confidence** by investors and depositors and ultimately to its financial crisis.

## The cooperation between Judicial and Supervisory Authorities

- ✓ **Fostering a compliance culture in the financial system is crucial to improve the effectiveness of the banking supervision**



Core Principles for effective  
banking supervision

[https://www.bis.org/basel\\_framework/](https://www.bis.org/basel_framework/)

*The supervisor determines that banks have adequate policies and processes, including **strict customer due diligence** rules to promote **high ethical and professional standards** in the financial sector and **prevent the bank from being used, intentionally or unintentionally, for criminal activities**..*

BIS/ Basel Principle 29 – Abuse of financial services

In some jurisdictions, other authorities, such as a financial intelligence unit, rather than a banking supervisor, may have primary responsibility for assessing compliance with laws and regulations regarding criminal activities in banks, such as fraud, money laundering and the financing of terrorism. Thus, in the context of this Principle, “**the supervisor**” might refer to such other authorities ... and in such jurisdictions, the banking supervisor cooperates with such authorities to achieve adherence with the criteria mentioned in this Principle.



## The cooperation between Judicial and Supervisory Authorities

- ✓ **Fostering a compliance culture in the financial system is crucial to improve the effectiveness of the banking supervision**

The Basel “Essential criteria” used for the IMF FSAP principles assessment further develop the principle:

(1) **Banks duty to report: “Banks policies and processes should include the prevention and detection of criminal activity, and reporting of such suspected activities to the appropriate authorities”.**

(2) **Supervisors cooperation with judicial authorities: “The supervisor, directly or indirectly, shares information related to suspected or actual criminal activities with relevant authorities”.**

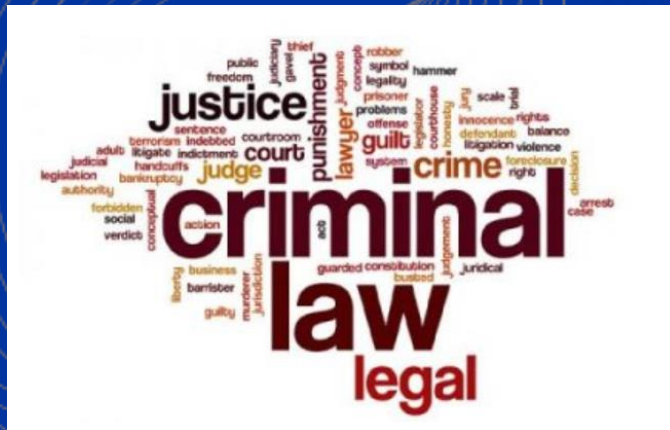




## The cooperation between Judicial and Supervisory Authorities



### ✓ Legal obligation to report suspected criminal offences to the competent Authority



In some jurisdictions (such as in Italy) supervisors as public officers: they have an obligation to report suspected criminal offences to the Judiciary (art. 331, Italian Criminal Procedure Code)

## The cooperation between Judicial and Supervisory Authorities

### Supervisory Authorities:

wide range of powers and tools to timely intervene  
to restore legality and sound and prudent management



### Interplay

between Judicial and Supervisory authorities

Prevention of financial crimes

Collection of information deemed  
relevant for institutional purposes



Sound and prudent management of  
banking and financial entities without  
distortions caused by undue criminal  
influence



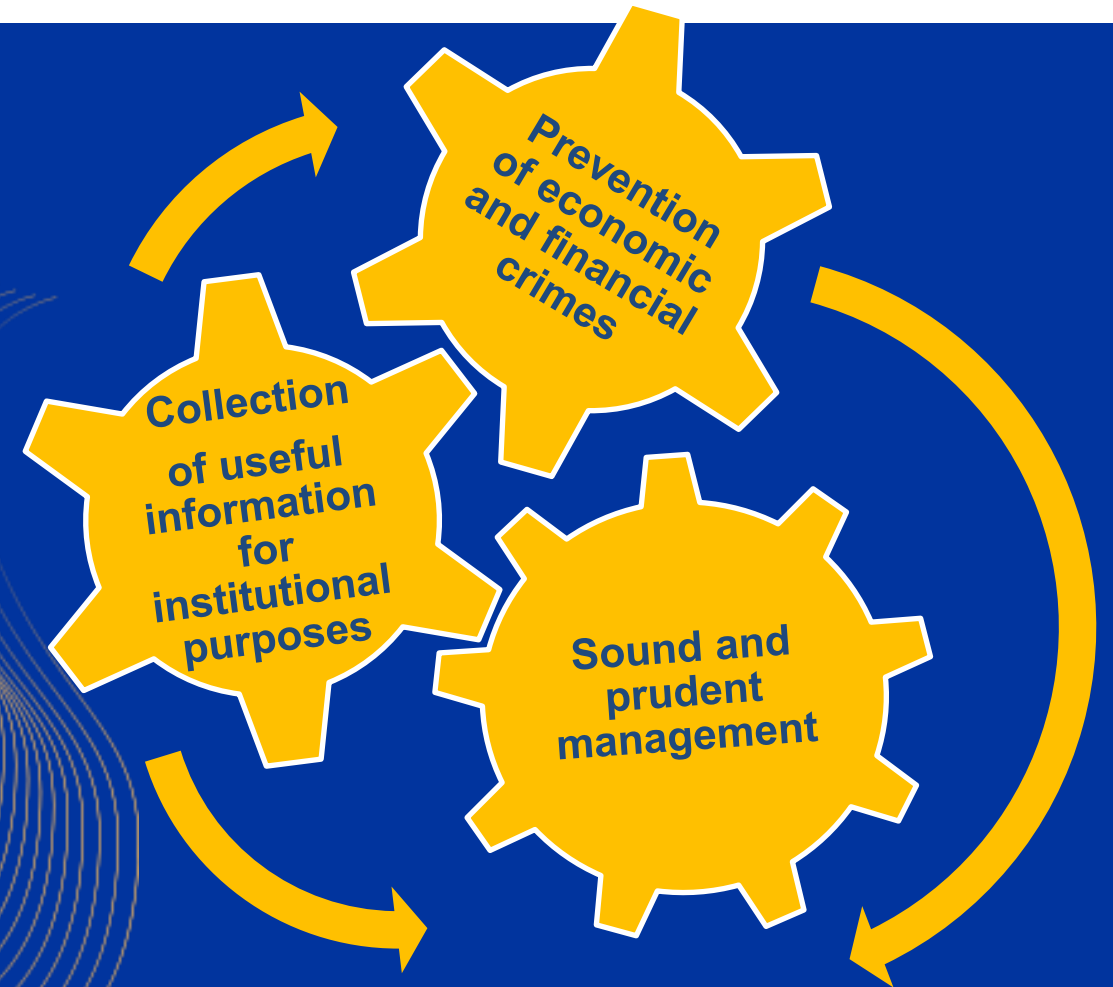
## The cooperation between Judicial and Supervisory Authorities



### Two-way information exchange

The Supervisory Authorities may benefit from knowing the outcomes of the investigations carried out upon Supervisory Authorities' input.

- Tailored supervisory actions
- Closer monitoring of certain intermediaries/specific phenomenon





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## The cooperation between Judicial and Supervisory Authorities

### HOW COOPERATION WORKS IN PRACTICE

#### THE COOPERATION BETWEEN THE BANK OF ITALY AND INVESTIGATIVE AUTHORITIES

- a. **Reports of suspected criminal offences** detected in supervisory activities and information exchange with the regulated entities
- b. **Advisory activities and technical assistance** in the context of investigations
- c. **Training activities**
- d. **Cooperation and working arrangements**

	EPPO	SSM
<b>Legal basis</b>	Art. 86 TFEU Council regulation (EU) 2017/1939	art. 127(6) TFEU (attributing specific tasks to the ECB) Council Regulation 1024/2013
<b>Legal nature</b>	Body of the Union	The ECB is EU Institution (since the Treaty of Lisbon 2009) . The ECB shall carry out its tasks within a single supervisory mechanism composed of the ECB and national competent authorities
<b>Independence</b>	Institutional and personal independence	Institutional and personal independence



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	EPPO	SSM
<b>Shared competence</b>	«This Regulation provide for a system of shared competence between the EPPO and national authorities» (rec 13)	“This Regulation is without prejudice to the responsibilities and related powers of the competent authorities of the participating Member States to carry out supervisory tasks not conferred on the ECB by this Regulation” (art. 1).
<b>Structure</b>	<p>Central level (European Chief Prosecutor, Permanent Chambers and European Prosecutors)</p> <p>Decentralised Level (European Delegated Prosecutors)</p>	<p>Central decision making (Supervisory Board and Governing Council) and JST central coordinator</p> <p>JST NCA Local coordinators and staff</p> <p>NCA to prepare proposals for common procedures</p>



	EPPO	SSM
Competence	<p>EU level: based on type of offence EPPO responsible for investigating , prosecuting the perpetrators of offences against Union’s financial interests (as determined by the Regulation) with evocation procedure</p> <p>National level: all other offences</p>	<p>EU level:</p> <ol style="list-style-type: none"> <li>I. direct supervision based on distinction significant/less significant institution</li> <li>II. common procedures for all banks (mixed proceedings)</li> </ol> <p>National level: all other financial intermediaries/types of supervision</p>





### Upon EPPO's institution, any room to enhance cooperation?

(Article 99 EPPO REG.)

- The EPPO may establish and maintain cooperative relations with institutions, bodies, offices or agencies of the Union and with the authorities of Member States of the European Union which do not participate in enhanced cooperation on the establishment of the EPPO, the authorities of third countries and international organisations.
- In compliance with some limitations provided by law, the EPPO may directly exchange information with the entities referred above.
- The EPPO may also conclude working arrangements with the entities referred above with aim of facilitating cooperation and the exchange of information between the parties.



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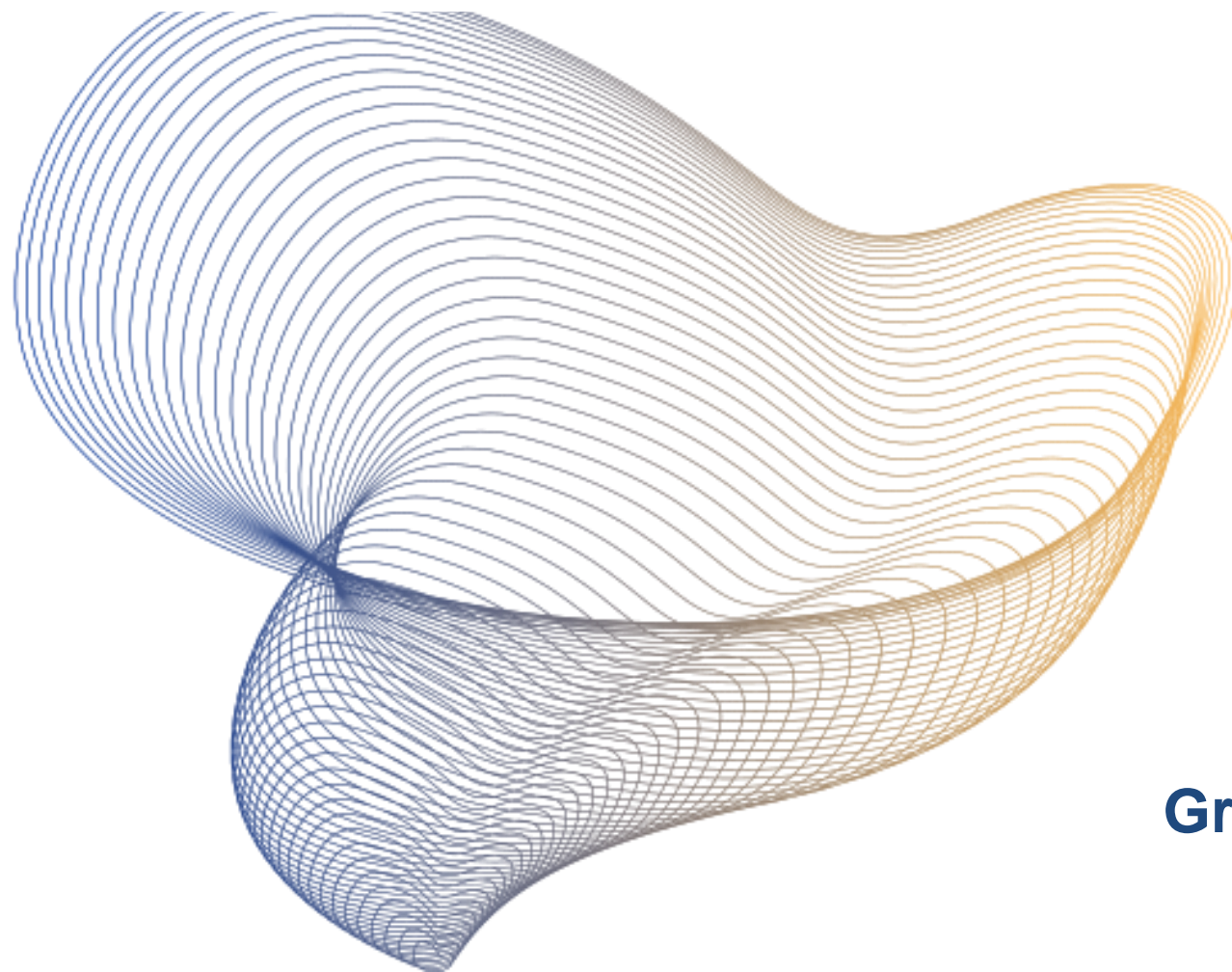
## EPPO: cooperation with National AML Authorities



*Around 5% of the offences investigated by the EPPO by the end of 2023 involved money laundering derived from (...) criminal offences that the EPPO is competent to investigate. (...) Criminals use underground financial systems to process transactions and payments away from surveillance mechanisms. (...) Suspects may launder the unduly obtained sums by transferring them to bank accounts of companies created abroad or managed by family members, potentially followed by withdrawing the money in cash. (...)*

*EPPO, annual report 2023*

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**[Graziano.Grasso@bancaditalia.it](mailto:Graziano.Grasso@bancaditalia.it)**