

**The Legal Framework
Applicable to the Single
Supervisory Mechanism**
Tapestry or Patchwork?

Giovanni Bassani

Foreword by Andrea Enria

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The Legal Framework Applicable to the Single Supervisory Mechanism Tapestry or Patchwork?

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In this innovative book a leading expert directly involved in the development and implementation of the framework compellingly demonstrates the necessity of removing differences in banking legislation across national borders within the Banking Union.

The author analyses all the cases where the European Central Bank (ECB) is required to apply national legislation in accordance with the country of establishment of the credit institutions under its direct supervision within the Single Supervisory Mechanism (SSM). Drawing on the case law of the European Court of Justice concerning the transposition of EU Directives the book also develops an analytical methodology to assess the derivation of national legislation from EU law with application to several concrete cases.

In an in-depth analysis of the complex legal environment in which the ECB, as prudential supervisory authority, has been operating, the author thoroughly answers the following questions:

- What are the supervisory tasks and powers of the ECB in the micro and macroprudential spheres?
- When is the ECB required to apply national legislation?
- What are the 'direct' and the 'indirect' supervisory powers of the ECB vis-à-vis significant supervised entities?
- What are the options and discretions available in EU law?
- What are the most important prudential options the ECB has exercised for significant supervised entities?
- What are the main legal obstacles to the establishment of a truly single supervisory jurisdiction within the Euroarea with actual fungibility of capital and liquidity for cross-border banking groups?

The legal analysis in this book supports, with great authority, the demands for a leap forward in the full harmonisation of key prudential requirements within the Banking Union. Legal and banking practitioners, officials in national and European authorities, banking law scholars and policymakers will benefit enormously from the lessons it contains for the

way forward of the Banking Union and, more generally, the future of the European Union itself.

'This is a book by a true expert on the function and powers of the SSM and the many obstacles the EBU faces to achieve a fully harmonised prudential framework, in practice. The case Dr Bassani makes in favour of further harmonisation to achieve the risk sharing goals of the EBU is rather powerful. The book also offers a panoramic as well as detailed view of the various legal provisions underpinning different aspects of carrying out SSM's day-to-day supervisory duties. Thus, this book is an essential read and a very useful companion to both market professionals working in the field of bank supervision and the students of EU banking law.'

Professor Emiliós Avgouleas

Chair in International Banking Law and Finance, University of Edinburgh,
United Kingdom

'This is a rich and original book. Against the backdrop of the European integration process – with all its shortcomings and delays – the reader is introduced into the complex legal Framework institutionally centralised within the European Central Bank.

The author wisely unpicks this legal framework through a very detailed analysis, showing its various shortcomings and pitfalls, and on the back of it builds a strong case for further harmonisation and integration of the Monetary and Banking Union and beyond.'

Professor Tom Kirchmaier

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