EU RegCORE Client Alert

Financial Services

August 2026

ECB-SSM redraws the boundary between prudential rules and supervisory expectations

Dr. Michael Huertas
Tel: +49 160 97375760
michael.huertas@pwc.com

Dr. Hagen Weiss
Tel: +49 151 15708446
hagen.weiss@pwc.com

Fabian Joshua Schmidt, LL.M.
Tel: +49 151 41490437
fabian.joshua.schmidt@pwc.com

EU RegCORE Team
de_regcore@pwc.com

Fewer publications, clearer legal status and a more judgement-led model of Banking Union supervision

QuickTake

European banking supervision has spent more than a decade building an extensive body of guides, methodologies, supervisory letters and reports. It is now beginning to rationalise the architecture it created.

On 26 June 2026, the European Central Bank (**ECB**), acting in its role at the head of the Banking Union's Single Supervisory Mechanism (**SSM**), announced[1] the results of a review of approximately 130 supervisory publications. Around 40 documents are being discontinued, several key guides will be revised and the ECB-SSM has introduced a clearer classification of its different supervisory publications. More fundamentally, the ECB-SSM has expressly stated that its supervisory expectations are non-binding, that departures from

[1] See details here, here and here.

its guidance should not automatically trigger supervisory action and that any supervisory concern should instead be connected to the applicable legal framework and the risks presented by the individual institution.

This is therefore more than an exercise in document management. It represents a recalibration of supervisory soft law and of the relationship between legal requirements, supervisory expectations, observed good practices and institution-specific supervisory judgement.

Bottom line: despite the headlines the prudential bar is not being lowered. The ECB-SSM is instead seeking to ensure that the bar is derived from the law and applied to the risks that matter—rather than being constructed through an accumulation of documents that may, in practice, have operated as an additional layer of quasi-rules.

This PwC Legal EU RegCORE Client Alert should be read in conjunction with further excellent publications from our PwC Risk & Regulatory colleagues notably from the EBA/SSM Office.

Background and context

The principal developments in this exercise are:

- the ECB-SSM has reviewed approximately 130 guides, reports, letters and methodologies and identified 39 publications for discontinuation or eventual replacement – a number of these have been and will be covered in detailed analysis from our EU RegCORE;
- introduction of a new classification system that explains the distinct purpose and supervisory status of guides, letters, methodologies and reports;
- the ECB-SSM has confirmed that supervisory publications do not create obligations beyond EU and applicable national law;
- a bank's departure from an ECB-SSM guide should not, by itself, result in a supervisory reaction;
- the proposed Guide on governance and risk culture will be replaced by a report describing observed good practices;
- the ECB-SSM will clarify that an ICAAP management buffer is determined by the bank and is neither an additional supervisory capital requirement nor a supervisory add-on; and
- important guidance on licensing, risk data aggregation and reporting, on-site inspections, internal model investigations and leveraged transactions will be revised during the remainder of 2026.

For banks, the immediate task is not simply to remove discontinued publications from internal libraries. Institutions should reassess how they distinguish binding requirements from supervisory expectations, how they document justified departures from ECB-SSM guidance and how they demonstrate that alternative arrangements remain appropriate for their business model and risk profile.

1. A recalibration of supervisory soft law

The ECB-SSM's central message is (and remains) unusually clear: *its supervisory guidance does **not** create legal obligations.*

Binding requirements arise from legislative instruments i.e., directly applicable EU Regulations and from EU Directives as transposed into national law. ECB-SSM guides may explain how the ECB-SSM intends to exercise its supervisory tasks, interpret the prudential framework and approach supervisory dialogue, but they cannot supplement the legislation by creating additional requirements.

That distinction has always existed formally. Its importance lies in how the ECB-SSM now intends it to operate in practice. And this has not been and even with this most recent drafting attempt will not be free from complexity, confusion and often supervisory let alone judicial challenge.[2]

According to the ECB-SSM, a departure from a guide should not, in itself, trigger a supervisory response. A Joint Supervisory Team (**JST**) should instead identify the underlying prudential risk, assess the institution's particular circumstances and explain how its conclusions are connected to the applicable legal framework.

This should reduce the risk of supervisory guidance becoming a checklist against which every institution is expected to demonstrate literal conformity. It does not, however, render the guidance irrelevant. ECB-SSM expectations will continue to frame supervisory dialogue, influence benchmarking and identify the areas in which supervisors are likely to challenge a bank's arrangements.

The practical change is therefore *from presumed conformity with published expectations towards explainable supervisory judgement* supported by a legal basis and an institution-specific risk assessment.

For banks, this creates both an opportunity and a burden. Institutions should have greater scope to adopt proportionate or alternative approaches, but will need to explain more convincingly why those approaches achieve the relevant prudential outcome.

2. A clearer hierarchy of supervisory publications

The ECB-SSM has introduced a revised classification intended to clarify what each type of supervisory publication is—and what it is not.

a. **Supervisory guides:** Guides explain how the ECB-SSM conducts supervision and communicate forward-looking supervisory expectations. They may bring together relevant legal requirements, describe supervisory processes and indicate how the ECB-SSM intends to apply EU law. The expectations contained in a guide are non-binding and serve as the starting point for case-by-case supervisory dialogue. Different approaches remain possible, subject to proportionality and the circumstances of the institution.

b. **Supervisory letters:** Letters allow the ECB-SSM to respond quickly to a specific risk, market development or supervisory priority. They communicate focused supervisory views or expectations directly to bank management. Although targeted and potentially influential, these letters also constitute non-binding supervisory communication rather than a separate source of prudential law.

c. **Methodologies:** Methodologies explain the technical frameworks, processes and analytical assumptions used by the ECB-SSM—for example, in supervisory assessments, statistical compilation or data production. The ECB-SSM's revised classification expressly states that methodologies do not contain supervisory expectations. Their function is transparency and accountability concerning how an assessment or analysis is performed.

---

[2] As explored in this Client Alert. An easier situation (certainly for the SSM) would have been simply to just clarify what are and what are not binding obligations as opposed to continuing the "supervisory song and dance" about the enforceability of its own supervisory expectations and what is binding and what is not – not least when applying supervisory guidelines issued by say the European Banking Authority.

d. **Reports:** Reports are backward-looking or observational. They may present the results of a thematic review or describe practices that supervisors have observed to be effective. They do not establish new forward-looking supervisory expectations. Good-practice reports are intended to help banks consider possible improvements, but not every practice will be appropriate for every institution.

The classification matters because banks frequently receive a combination of legislation, EBA Guidelines, ECB-SSM guides, supervisory letters, speeches, thematic-review findings and institution-specific decisions—materials that do not share the same legal status and should be reflected accordingly in regulatory inventories, policy documentation, control frameworks and supervisory communications.

3. Governance and risk culture: from expectations to observed practices

One of the most significant changes concerns the ECB-SSM's proposed Guide on governance and risk culture.

The ECB-SSM consulted on the draft guide in July 2024 and received more than 1,000 stakeholder comments. It has now decided not to proceed with the document as a forward-looking supervisory guide. Instead, it will publish a report focused exclusively on good practices observed through supervisory work. Publication is planned for the first quarter of 2027, following completion of the EBA's revised Guidelines on internal governance.

The change is substantively important. A supervisory guide communicates what the ECB-SSM expects banks to do. A good-practice report illustrates arrangements that supervisors have observed to work effectively, without suggesting that those arrangements are the only acceptable means of complying with the prudential framework.

The future report is expected to address matters including:

- the effectiveness and independence of management-body members;
- the operation of internal control functions;
- risk culture;
- risk-appetite frameworks; and
- the relevance of materiality and institution-specific circumstances.

Banks should not interpret the change as a reduction in supervisory attention to governance. The ECB-SSM continues to regard weak governance as an early indicator of the accumulation of prudential risk.

The adjustment narrows the normative character of the publication. Governance arrangements should be assessed against applicable legal requirements, the revised EBA Guidelines and the effectiveness of the institution's actual arrangements—not solely against a uniform ECB-SSM model. This should be particularly relevant for cross-border banking groups operating under different national corporate-law structures, providing greater room to demonstrate equivalence of outcome where governance models differ across jurisdictions.

4. The ICAAP management buffer is not a supervisory add-on

The ECB-SSM will shortly publish a revised Guide to the internal capital adequacy assessment process.

The revised guide will clarify that a management buffer represents the bank's own forward-looking assessment of the capital needed to keep its business model sustainable above minimum regulatory requirements. It does not constitute an additional capital requirement, a Pillar 2 add-on or another supervisory buffer imposed by the ECB-SSM.

This clarification should be reflected carefully in ICAAP governance, capital planning and internal communications.

Banks should distinguish between:

1. minimum own-funds requirements;
2. Pillar 2 requirements;
3. combined buffer requirements;
4. Pillar 2 guidance; and
5. any internally determined management buffer.

The management buffer remains relevant to the credibility of a bank's capital plan—the clarification does not mean management can set it arbitrarily or disregard adverse scenarios—but the buffer remains owned and determined by the bank, rather than silently becoming an additional supervisory requirement through the ICAAP dialogue.

Institutions should review whether board materials, recovery indicators, risk-appetite metrics, capital-allocation processes and external disclosures describe the buffer consistently with that status.

5. Further revisions expected during 2026

Several publications will undergo more substantive revision.

Licensing

The ECB-SSM expects to publish an updated Guide to licence applications in the third quarter of 2026. The revision will clarify procedural matters and align the guide with the EBA Guidelines on the common assessment methodology for granting authorisation as a credit institution and with current ECB-SSM practice. New banking ventures, fintech applicants, third-country groups and firms considering changes to their EU licensing perimeter should ensure that project plans remain sufficiently flexible to accommodate the revised process.

Risk data aggregation and risk reporting

A revised Guide on effective risk data aggregation and risk reporting is expected in the fourth quarter of 2026. It will provide further detail on the scope of banks' data-governance frameworks and the implementation of an integrated data architecture. This is unlikely to be a purely technical update. Data architecture increasingly connects prudential reporting, risk management, finance, resolution planning, operational resilience and the responsible deployment of artificial intelligence. Banks should treat the revised guide as an operating-model issue involving board accountability, data ownership, lineage, controls and remediation governance—not merely as a regulatory-reporting exercise.

On-site inspections and internal model investigations

The ECB-SSM expects to update its Guide to on-site inspections and internal model investigations by the end of 2026, principally to clarify processes. Banks should revisit inspection-readiness procedures, document-retention arrangements, escalation routes and the division of responsibilities between group, entity and business-line functions once the revised guide is available.

Leveraged transactions

The ECB-SSM is reviewing its Guidance on leveraged transactions and expects to complete its assessment by the end of 2026. This review will be important for banks active in acquisition finance, leveraged lending, private credit distribution and originate-to-distribute structures. Institutions should not assume that simplification will necessarily lead to a less intensive approach. The likely direction is more targeted supervision of material risk, supported by clearer expectations and stronger institution-specific analysis.

Internal models and CRR III alignment

The ECB-SSM has already removed content concerning credit conversion factors from its Guide to internal models while the EBA develops guidelines on that topic. References to credit valuation adjustment have also been removed from assessment and materiality methodologies to reflect the CRR III framework. These changes illustrate a broader objective: reducing duplication between ECB-SSM publications, EBA materials and binding legislation.

Publication	Expected timing	Nature of revision
Guide to licence applications	Q3 2026	Procedural clarification; alignment with EBA common assessment methodology guidelines and current ECB-SSM practice
Guide on effective risk data aggregation and risk reporting	Q4 2026	Clarify scope of data-governance framework and integrated data architecture expectations
Guide to on-site inspections and internal model investigations	End of 2026	Process clarification
Guidance on leveraged transactions	End of 2026	Substantive review of supervisory approach
Guide to internal models	Already updated	Credit conversion factor content removed pending EBA guidelines

Guide on assessment methodology / Guide on materiality assessment	Already updated	Credit valuation adjustment references removed to reflect CRR III
Guide to the internal capital adequacy assessment process (ICAAP)	Shortly	Clarifies management buffer is bank-determined, not a supervisory add-on
Draft Guide on governance and risk culture	Q1 2027	Replaced by a report on observed good practices

6. Thirty-nine publications discontinued or earmarked for replacement

The annex identifies 39 publications that are being discontinued or will be superseded. They include:

- several letters on variable-remuneration policies issued between 2015 and 2020;
- pandemic-era publications concerning credit risk, IFRS 9, reporting, remuneration and contingency planning;
- historical materials relating to the Targeted Review of Internal Models;
- earlier ICAAP and ILAAP expectations;
- outdated licensing and qualifying-holding guides;
- earlier asset-quality-review and comprehensive-assessment manuals;
- publications on options and national discretions;
- the 2016 SSM Supervisory Statement on Governance and Risk Appetite; and
- earlier guidance on the qualification of Additional Tier 1 and Tier 2 capital instruments.

Four documents—including the fintech licensing guide, the governance and risk-appetite statement and two publications concerning capital instruments—will be discontinued or superseded only after related replacement publications have been updated. The implementation dates will be announced separately.

Discontinued documents will remain available on the ECB-SSM’s website for archival purposes and earlier publications may remain relevant when interpreting historic supervisory findings, commitments, remediation programmes or decisions taken while those materials formed part of the supervisory dialogue.

The correct approach is to distinguish between:

- current requirements and expectations;
- superseded expectations;
- historical evidence relevant to prior supervisory periods; and
- controls or remediation measures that remain appropriate even though the originating publication has been withdrawn.

The full list of the 39 discontinued or replaced publications is set out below:

No.	Publication

1 Guide on addendum to the licensing guide (14 September 2018)

2 Letter on variable remuneration policy (9 January 2019)

3 Letter on variable remuneration policy (21 January 2020)

4 Letter on variable remuneration policy (4 January 2018)

5 Letter to CEOs on variable remuneration policy (13 December 2016)

6 Letter to CEOs on variable remuneration policy (26 November 2015)

7 Identification and measurement of credit risk in the context of the coronavirus (COVID-19) pandemic (4 December 2020)

8 Supervisory reporting measures in the context of the coronavirus (COVID-19) pandemic (15 April 2020)

9 IFRS 9 in the context of the coronavirus (COVID-19) pandemic (1 April 2020)

10 Supervisory expectations on risk data aggregation capabilities and risk reporting practices (14 June 2019)

11 Remuneration policies in the context of the coronavirus (COVID-19) pandemic (15 December 2020)

12 Remuneration policies in the context of the coronavirus (COVID-19) pandemic (28 July 2020)

13 Contingency preparedness in the context of COVID-19 (3 March 2020)

14 Interim update on the Targeted Review of Internal models (TRIM) (3 April 2019)

15 Status update on TRIM: overview of outcome of general topics review and interim update on preliminary results of credit risk on-site investigations (11 June 2018)

16 Information on the current version (February 2017) of the guide to the Targeted Review of Internal Models (TRIM) (28 February 2017)

17 Supervisory expectations on ICAAP and ILAAP and harmonised information collection on ICAAP and ILAAP (8 January 2016)

18 Approach to existing supervisory processes (27 January 2015)

19 Supervisory Guidance on preparations for the benchmark regulation reform (3 July 2019)

20 Guide on Qualifying holding (28 September 2022)

21 Guide on the exercise of options and discretions by NCAs in relation to less significant institutions - subject to public consultation (13 April 2017)

22 Guide on the costs of the review (28 August 2019)

23 Comprehensive assessment stress test manual (8 August 2014)

24 Asset Quality Review Phase 2 Manual, 2018 (20 June 2018)

25 Benchmark on the declared time commitment of non-executive directors in the SSM (14 August 2019)

26 The ECB-SSM's role in approving (mixed) financial holding companies (29 November 2018)

27 Stocktake of IT risk supervision practices - IT supervision outside European banking supervision (16 November 2016)

28 Asset quality review Phase 2 Manual, 2014 (11 March 2014)

29 Methodological note for the publication of aggregated Supervisory Banking Statistics (6 August 2025)

30 Public consultation on the revised ECB-SSM Guide to internal models - FAQs (19 February 2024)

31 Guide to banking supervision (29 September 2014)

32 ECB-SSM Guide on options and discretions available in Union law (28 March 2022)

33	Addendum to the ECB-SSM Guide on options and discretions available in Union law (10 August 2016)
34	ECB-SSM Guide on options and discretions available in Union law (14 March 2016)
35	Guide to assessments of licence applications – Licence applications in general (23 March 2018)
36	Guide to assessments of fintech credit institution licence applications (23 March 2018) *
37	SSM Supervisory Statement on Governance and Risk Appetite (21 June 2016) *
38	Amendments to the Annexes to Public Guidance on the review of the qualification of capital instruments as Additional Tier 1 and Tier 2 instruments (30 September 2020) *
39	Public guidance on the review of the qualification of capital instruments as Additional Tier 1 and Tier 2 instruments (6 June 2016) *

* To be superseded/discontinued only after replacement publications have been updated; implementation dates to be announced separately.

7. What banks should do now

Reclassify the supervisory inventory

Banks should update regulatory inventories so that each relevant document is classified by type—legislation, EBA Guideline, ECB-SSM guide, supervisory letter, methodology, report, speech or institution-specific measure—and by status: binding, subject to comply-or-explain, non-binding expectation, or purely illustrative.

Review internal cross-references

Policies, control descriptions, risk-appetite statements, ICAAP and ILAAP documentation, model-governance frameworks and board materials may contain references to documents that have now been discontinued. Those references should be removed, replaced or retained as historical references, depending on their purpose.

Document justified departures

Where a bank does not follow an ECB-SSM expectation or good practice, it should maintain a concise, evidence-based explanation covering the relevant legal requirement, prudential objective, business model and risk profile, alternative arrangement adopted, evidence of effectiveness and approving body or function. A statement that guidance is “non-binding” will not, on its own, answer a prudential concern.

Ask for the legal and risk basis of findings

Where a supervisory finding appears to rely predominantly on non-binding guidance, banks should seek clarification of the binding legal requirement engaged, the material prudential risk identified, why existing arrangements are considered inadequate, and how proportionality and institution-specific circumstances have been taken into account. This need not be confrontational; it should form part of a more disciplined and transparent supervisory dialogue.

Revisit capital-planning terminology

Institutions should ensure that the ICAAP management buffer is described consistently as a management-determined planning tool and not as an additional ECB-SSM capital requirement.

Prepare for the next wave of guidance

Banks should establish coordinated workstreams for the forthcoming publications on licensing, data aggregation, on-site inspections, internal models, leveraged transactions and governance. Waiting until each final document is published may leave insufficient time to assess changes across legal, risk, compliance, finance, data and technology functions.

8. Closing the gaps: further considerations from the ECB-SSM's own materials

The ECB-SSM's own publications point to several additional dimensions that a purely document-inventory exercise can overlook. These are addressed below for completeness.

Towards a single guidebook and a training lag

The ECB-SSM has signalled that the current exercise is an interim step rather than an end state: it has stated that, looking further ahead, it will work towards creating a single guidebook consolidating supervisory publications by thematic area. Banks should therefore expect today's classification of guides, letters, methodologies and reports to be further consolidated over time and should design internal regulatory inventories so that they can absorb a future re-mapping of sources without a full rebuild.

The ECB-SSM has also confirmed a dedicated supervisory culture programme, including SSM-wide training, intended to embed the non-binding status of guidance consistently across JSTs. Importantly, the ECB-SSM itself acknowledges that these efforts will take time to be fully rolled out and implemented. Banks should not assume immediate or uniform application of the new approach and should continue to press for a legally grounded explanation of any finding in the interim.

Where more substantial changes are required to a guide, the ECB-SSM has committed to launching a public consultation. Banks with an interest in the licensing, risk-data, on-site-inspection or leveraged-transactions guides under revision should monitor for consultation opportunities as these publications are developed.

Sequencing within the wider reform agenda

The guidance review does not stand alone. It was deliberately sequenced to begin only once the SREP reform and the ECB-SSM's next-level supervision project were sufficiently advanced and remained underway as at 13 July 2026. Banks should read the 26 June 2026 announcements as one stage of a continuing reform process rather than a completed, self-contained event.

A proportionality review for less significant institutions was scheduled to start in 2026, following embedding of the SREP and next-level supervision reforms. It remains an open question whether the non-binding characterisation of guidance will be extended in the same terms to national competent authorities supervising less significant institutions, or is confined for now to the ECB-SSM's direct supervision of significant institutions.

The discontinuation of the ECB-SSM's options-and-discretions guides and addenda should also be read together with the ECB-SSM's update, on 25 July 2025, of its policies on options and discretions under EU law, covering operational and market risk capital calculation and minority-interest treatment in subsidiary capital. Banks should confirm whether the substantive content of the discontinued guides has migrated into that updated framework, or whether any gap remains, before relying on the discontinuation alone.

Legal and enforcement-relevant implications

Because the ECB-SSM has expressly stated that a departure from a guide should not, in itself, trigger a supervisory reaction and that any concern must be connected to the applicable legal framework and the risks identified at the institution, banks have a stronger procedural basis to challenge supervisory findings, draft SREP decisions or informal supervisory pressure that appears to rest predominantly on non-binding guidance rather than on a binding legal requirement. This basis is relevant both in supervisory dialogue and, where necessary, in any recourse to the Administrative Board of Review or the Court of Justice of the European Union.

The classification exercise also invites a comparison with the legal status of EBA Guidelines, which operate under a comply-or-explain mechanism requiring a national competent authority to notify the EBA if it does not intend to comply. ECB-SSM guides carry no equivalent notification mechanism and are, on the ECB-SSM's own account, a materially different form of soft law. Banks should avoid treating ECB-SSM guides and EBA Guidelines as interchangeable in their internal documentation given this structural distinction.

The ICAAP clarification should also be read alongside the already non-binding status of Pillar 2 Guidance under the CRD framework. The ECB-SSM's confirmation that the management buffer sits analytically alongside, but is legally distinct from, Pillar 2 Guidance is a useful reference point where supervisory dialogue has previously blurred the two.

Reconciling the numbers

The ECB-SSM's public statements describe the discontinuations inconsistently: the blog post and press release both refer to around 40 documents being discontinued, while the annex enumerates 39, four of which are conditional and will take effect only once replacement publications are updated. Banks should treat the four asterisked items as prospective rather than confirmed discontinuations.

It is also worth noting what remains unaffected. Of the approximately 130 publications reviewed, 39 are being discontinued and a further group—comprising the ICAAP guide, governance and risk culture guide, licensing guide, risk data aggregation guide, on-site inspections guide, leveraged transactions guidance, internal models guide and assessment and materiality methodologies—is being revised. On the ECB-SSM's own figures, a substantial remainder of 80 or more publications is not currently affected and should not be assumed to be in flux.

Open questions on scope

Neither the blog, press release nor annex specifies whether the non-binding characterisation applies identically to national competent authorities' supervision of less significant institutions, to third-country bank branches, or to institutions undergoing licensing, where a guide may carry more practical weight in the absence of an established supervisory track record. Banks in any of these categories should treat the scope of the new approach as an open question.

9. The legal lens: documentation priorities for regulated firms

Viewed through the lens of contractual and policy documentation, the review has two connected implications: how internal policy documentation is built and sourced and how contractual documentation—particularly around outsourcing, capital instruments and leveraged finance—reflects the same underlying framework.

Policy documentation priorities

- Rebuild the regulatory inventory around legal status, not just topic, so that every policy provision is traceable to either a binding legal source or a specifically identified, still-current piece of supervisory guidance, reflecting the ECB-SSM's distinction between binding regulation and non-binding guides, letters, methodologies and reports.

- Purge and reconcile references to the 39 discontinued or superseded publications, particularly in ICAAP and ILAAP documentation, model-governance frameworks, remuneration policies, licensing and qualifying-holding procedures and board materials. References should be removed, replaced, or expressly retained as historical references where relevant to a past remediation programme or finding. For the four conditional items, flag for follow-up once the ECB-SSM announces the implementation date rather than removing the reference prematurely.

- Build an evidenced departure file discipline into policy governance, capturing the legal requirement engaged, the prudential objective, the alternative arrangement adopted, the evidence of its effectiveness and the approving body, since a bare assertion that guidance is non-binding is not itself sufficient.

- Align capital-planning documentation with the revised ICAAP terminology, ensuring board papers, recovery-plan indicators, risk-appetite metrics and external disclosures consistently describe the management buffer as bank-determined and distinct from own-funds requirements, Pillar 2 requirements, the combined buffer requirement and Pillar 2 guidance.

- Re-anchor governance documentation once the good-practices report and the revised EBA Guidelines on internal governance are finalised, treating the EBA Guidelines as the binding reference point and the future ECB-SSM report as illustrative rather than normative, particularly for cross-border groups with differing governance structures.

Contractual documentation priorities

- Prioritise DORA-driven re-papering of third-party and outsourcing contracts, given the pressure expected in the 2026 oversight cycle on audit and access rights, sub-outsourcing controls, data portability and exit provisions.

- Address cloud- and ICT-specific contractual terms, including multiregional availability, data portability, recovery point and recovery time commitments, customer-managed key or hardware security module support and contractual regulatory access irrespective of data location, together with time-bound, DORA-aligned incident-notification clauses with service-level-linked remedies.

- Do not assume the January 2026 UK-EU DORA memorandum of understanding resolves cross-border contractual gaps, since it addresses supervisory cooperation only and does not create market-access equivalence; contracts spanning both regimes should be checked against DORA Article 30 and UK SYSC 8 expectations.

- Review capital-instrument documentation for stale ECB-SSM references, since Additional Tier 1 and Tier 2 issuance documentation may cite the 2016 Public Guidance on the qualification of capital instruments and its 2020 amendments, both earmarked for discontinuation only once a replacement is published.

- Watch the leveraged-transactions review for downstream contractual impact and treat existing loan documentation, syndication agreements and risk-retention representations as provisionally settled rather than final pending the ECB-SSM's assessment, expected to conclude by the end of 2026.

- Track the licensing guide revision for authorisation-related contractual conditions precedent, retaining flexibility on timing and procedural assumptions in transaction and structuring documents until the revised Guide to licence applications is published in the third quarter of 2026.

Across both categories, the unifying discipline is the one the ECB-SSM is now modelling: every provision in a policy or contract should be traceable to a specific, current and correctly classified source—binding law, a live ECB-SSM guide, or an internally justified alternative—rather than to an undifferentiated stock of supervisory documents, some of which are now discontinued.

Outlook

The ECB-SSM's reform is part of its wider effort to make European banking supervision more efficient, risk-based, proportionate and digitally enabled, encompassing SREP reform, faster decision-making, more targeted on-site inspections, simplified reporting and greater use of supervisory technology.

The 26 June announcement should not be read as a retreat from active supervision. It is an attempt to improve the legal and operational architecture through which supervision is delivered.

The future model is likely to contain fewer stand-alone documents, clearer distinctions between publication types and greater reliance on supervisory judgement anchored more visibly in binding law, material risk and the circumstances of the individual bank.

For well-governed institutions, this may create greater flexibility and predictability. For banks unable to explain why their arrangements achieve the required prudential outcome, the move away from checklists may make supervisory dialogue more—not less—demanding.

Ultimately, the direction of travel is therefore not from supervision to deregulation. It is from supervision by accumulated guidance towards supervision by legal basis, evidence and risk.

About us

PwC Legal is assisting a number of financial services firms and market participants in forward planning for changes stemming from relevant related developments. We have assembled a multi-disciplinary and multi-jurisdictional team of sector experts to support clients navigate challenges and seize opportunities as well as to proactively engage with their market stakeholders and regulators.

Moreover, we have developed a number of RegTech and SupTech tools for supervised firms, including PwC Legal's Rule Scanner tool, backed by a trusted set of managed solutions from PwC Legal Business Solutions, allowing for horizon scanning and risk mapping of all legislative and regulatory developments as well as sanctions and fines from more than 2,500 legislative and regulatory policymakers and other industry voices in over 170 jurisdictions impacting financial services firms and their business.

Equally, in leveraging our Rule Scanner technology, we offer a further solution for clients to digitise financial services firms' relevant internal policies and procedures, create a comprehensive documentation inventory with an established documentation hierarchy and embedded glossary that has version control over a defined backward plus forward looking timeline to be able to ensure changes in one policy are carried through over to other policy and procedure documents, critical path dependencies are mapped and legislative and regulatory developments are flagged where these may require actions to be taken in such policies and procedures.

The PwC Legal Team behind Rule Scanner are proud recipients of ALM Law.com's coveted "2024 Disruptive Technology of the Year Award" and the "2025 Regulatory, Governance and Compliance Technology Award in 2025".

If you would like to discuss any of the developments mentioned above, or how they may affect your business more generally, please contact any of our key contacts or PwC Legal's RegCORE Team via de_regcore@pwc.com or our website.

Contact

Dr. Michael Huertas
Tel: +49 160 97375760
michael.huertas@pwc.com

Dr. Hagen Weiss
Tel: +49 151 15708446
hagen.weiss@pwc.com

Fabian Joshua Schmidt, LL.M.
Tel: +49 151 41490437
fabi-an.joshua.schmidt@pwc.com

EU RegCORE Team
de_regcore@pwc.com

www.pwc.de