



**EUROPEAN CENTRAL BANK**  
BANKING SUPERVISION

**Danièle NOUY**

Chair of the Supervisory Board

Mr Luke Ming Flanagan  
Member of the European Parliament  
European Parliament  
60, rue Wiertz  
B-1047 Brussels

Frankfurt am Main, 13 December 2018

**Re: Your letter (QZ-074)**

Honourable Member of the European Parliament, dear Mr Flanagan,

Thank you for your letter regarding the possibility for the European Central Bank (ECB) to investigate alleged breaches of money laundering and terrorist financing provisions, which was passed on to me by Mr Roberto Gualtieri, Chairman of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 23 November 2018.

It is important to reiterate that responsibility for ensuring compliance with anti-money laundering (AML) and countering the financing of terrorism (CFT) legislation remains at the national level<sup>1</sup> and is not part of prudential supervisory tasks. Therefore, the ECB is not an AML/CFT supervisor, and has no power to enforce AML/CFT laws. As a result, regarding AML/CFT, the ECB has no mandate to investigate any alleged breaches of AML/CFT requirements by banks and can only act on the basis on information transmitted by the national AML/CFT authorities. The ECB's lack of mandate in AML/CFT matters is correctly reflected by the article you mentioned in your letter, which referred to national AML supervisors' actions to address the alleged breaches that are currently under investigation.

However, the ECB takes the prudential implications of money laundering risks very seriously, as the related risks can pose a threat to the solvency and viability of supervised credit institutions. In this vein, I invite you to read the recent ECB opinion on AML-related matters<sup>2</sup>.

In the light of this distribution of tasks between national authorities and the ECB, questions on investigations of alleged breaches of AML/CFT requirements by banks should be addressed to the relevant national AML/CFT supervisors.

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<sup>1</sup> See Recital No 28 of Council Regulation (EU) No 1024/2013 of 15 October 2013 (the "SSM Regulation"). See also [https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.mepletter180511\\_Schaeuble.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.mepletter180511_Schaeuble.en.pdf).

<sup>2</sup> Opinion of the European Central Bank of 7 December 2018 on an amended proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) and related legal acts (CON/2018/55).

Regarding further direct European follow-up actions concerning the allegations linked to Danske bank, the European Commission has called on the European Banking Authority (EBA)<sup>3</sup> to investigate the possible breach or non-application of Union law by both the Estonian as well as the Danish supervisors under Article 17 of the EBA Regulation<sup>4</sup>. Following its decision, the EBA could issue a recommendation to the relevant authorities. Thus, questions on investigations of alleged breaches of Union law by the relevant AML supervisors should be addressed to the EBA.

Regarding the European Commission's policy on developing "parallel financial investigations" in all serious crime cases and enhancing financial investigation capacities, the ECB understands that your question relates to criminal investigation and prosecution. The ECB has no mandate to carry out criminal investigations or enforce criminal law. Against this background, you may want to consider addressing questions relating to such investigations to the relevant national authorities.

Yours sincerely,

[signed]

Danièle Nouy

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<sup>3</sup> See the EBA's website:  
<https://eba.europa.eu/documents/10180/2101654/Letter+from+Tiina+Astola+requesting+an+investigation+on+possible+BUL+under+Article+17+of+Regulation+%28EU%29+No+10932010++21092018.pdf>.

<sup>4</sup> Regulation (EU) No 1093/2010 of 24 November 2010.