

INDEPENDENT EVALUATION OFFICE

THE BANCO DE ESPAÑA'S RESPONSE TO THE EXTERNAL EVALUATION OF ITS CONDUCT SUPERVISION. ACTION PLAN

Banco de España

As part of the annual evaluation plan 2023-2024, conduct supervision¹ at the Banco de España was subject to an external evaluation between November 2023 and May 2024. The main aim of the evaluation, which was conducted by an external evaluation committee comprising three independent experts of recognised standing in the field (Stefan Ingves, Hanzo van Beusekom and Pedro Duarte Neves), was to critically examine the function and document its efficiency and effectiveness and the potential for improvement, taking into account the particularities of conduct supervision and how it differs from prudential supervision.

The Banco de España has defined the actions required to implement the recommendations in the evaluation report. The main recommendations and actions that the Banco de España undertakes to implement in the short and medium term in response to the recommendations are highlighted below.

Section 1: Detect and investigate

Recommendation: Shift the focus of conduct supervision, pivoting away from the traditional regulatory non-compliance approach to a broader definition of risk based on harm to consumers.

- The definition of conduct risk and the assessment and determination methodology will be updated, focusing on potential harm to customers rather than the previous more corrective approach, relegating institution-specific risks to a second level in order to adopt a more market-wide perspective.

Recommendation: Document the new methodology and combine inspection findings, complaints, public perceptions and consumer views to determine conduct risk. The methodology's emphasis on basing each institution's risk profile on the number of complaints received should also be reduced.

¹ Conduct supervision consists of checking that institutions treat customers fairly, transparently and in line with the rules governing the arrangement of banking services.

- New indicators (e.g. business indicators, the findings of previous inspections) will be identified and incorporated into the institution risk profile estimation, enriching the eminently complaints-based indicators.

Recommendation: Publish a forward-looking report that explains how the Banco de España understands consumer protection, the main risks bank customers face and the Bank's expectations of how supervised institutions should address these risks.

- A forward-looking document on the main sectoral risks identified from a conduct perspective will be prepared and published every two years. It will include the risks stemming from possible regulatory changes and those identified in the performance of its monitoring duties, in addition to its conduct supervisory expectations.

Recommendation: Expand the supervisory toolkit to complement traditional inspections, adapting these other tools depending on the size and shape of the risk at hand.

- Cross-cutting supervisory actions will include those specifically intended to check how market practices compare with supervisory expectations. Supervisory actions will be fleshed out with a stronger focus on monitoring the most significant institutions in order to gain more insight into their governance and internal control.

Section 2: Mitigate

Recommendation: Look for opportunities to strengthen formal enforcement within the current legal framework and, where appropriate, advocate for legal changes to facilitate punitive measures in conduct supervision.

- The Bank will prepare a comparative analysis of the sanctioning regime applicable in other European jurisdictions.

Recommendation: Prepare generic reports that describe the main findings of supervisions, the lessons learned and the best market practices identified and create dedicated fora to meet regularly with the industry.

- The Bank will promote the preparation and publication of supervisory guides and guidelines, in addition to thematic reports, and will continue to spearhead the organisation of supervisory fora with the industry, in order to share the best practices identified in cross-cutting supervisory actions. It will also encourage seminars and workshops as part of the legislation and guidelines preparation process.

Section 3: Efficiency

Recommendation: Set a timeframe per activity, in particular for on-site and off-site inspections.

- With regard to the duration of supervisory actions, a new internal circular is being drafted to, inter alia, establish the mandatory reference timeframes and the procedures to deal with possible deviations from deadlines and scopes. The most appropriate key performance indicators will be identified and new efficiency and effectiveness metrics will be established.

Recommendation: Follow a gradual and selective approach to enable adequate onboarding and hire outside the traditional realm of economists and lawyers².

- An action plan will be defined to attract, in external selection processes, profiles that complement those generally available (data, behaviour, communication, etc.), taking into account the restrictions inherent in the Banco de España's general recruitment processes, in addition to capitalising on in-house talent and training to also cover those profiles with experienced and qualified experts.

Recommendation: Develop a strategic view on the IT approach to conduct supervision (RegTech, SupTech and social media), drawing on the most effective international practices.

- The Bank will draw up a roadmap that includes the two-year strategic view on the use of IT tools in the supervision of conduct risk, and an implementation plan, seeking synergies with similar initiatives already implemented in the Directorate General Banking Supervision and with future developments stemming from the SupTech external evaluation action plan.

Section 4: Impact and reputation

Recommendation: Design new communication initiatives for wider engagement with the general public and develop a more proactive communication agenda.

- The Bank will devise a communication strategy that establishes the communication milestones and the criteria for disclosing such information, aimed at supervised institutions, sectoral associations, consumer associations, other stakeholders and the general public.
- In line with Action Plan 4.2. in the Strategic Plan 2024 ("Programme for positioning the Banco de España as a leader in the Eurosystem and in the global arena"), two or three leading conduct supervision authorities will be identified to fully exploit the possibilities of international cooperation in sharing supervisory best practices and staff training.

² Including profiles with complementary skills, such as data scientists, risk analysts, behavioural economists, psychologists, communication experts.