



Chapter 4

Supervision of institutions' conduct



Chapter 4

Takeaways

- The objective of conduct supervision is to verify that institutions offer their customers appropriate and transparent treatment in accordance with regulations and standards of conduct in the provision of banking and payment services, adopting the necessary measures where appropriate.
- The supervisory priorities in 2024 were: i) to verify the proper application of the rules and measures intended to favour groups facing difficulties; ii) to ensure that institutions' competitive practices and strategies respect customers' rights and interests; iii) to enhance supervisory knowledge on new market players and trends; and iv) to reinforce institutions' internal controls.
- The actions carried out in 2024 include most notably those related to: i) the verification of the application of measures related to codes of good practice and measures intended to alleviate the rise in mortgage loan interest rates; ii) the joint marketing of products; iii) new digital banks; iv) customer service departments; v) controls on fraud in card payments and digital channels; and vi) commercial communication policies.
- In 2024, a committee of experts evaluated the conduct supervision carried out by the Banco de España and made a series of recommendations. In response, the Banco de España designed an action plan for 2024-2025, which seeks to adapt supervision to the challenges of the future.

1 Institutions' conduct supervision model

The purpose of conduct supervision is to verify that institutions offer their customers appropriate and transparent treatment in accordance with regulations and standards of conduct in the provision of banking and payment services, adopting the supervisory measures necessary for this purpose where appropriate. Its strategic objective is to promote the proper functioning of the financial system and, consequently, to boost confidence in the banking system.

- In recent years, the extent of the Banco de España's commitment to the protection of bank customers has evolved in scope and depth. This has occurred at the same time as regulation in this area has developed and changes have taken place in the manner in which institutions sell products and relate to customers. The ultimate aim of supervising compliance with the rules governing how institutions should act is to bring about a change to their culture, promoting a relationship model that takes into account the interests and needs of their customers.
- Conduct supervision follows a risk-based approach, in this case conduct risk, which is taken to be the possibility that banking activity may have an impact on customers' rights and interests. To this end, the entire risk management process is addressed —by the institution as well— with the aim of influencing it, instead of focusing on a corrective and legalistic approach that only seeks to identify institutions' regulatory non-compliance.

In 2024, a committee of independent experts carried out an external evaluation of the Banco de España's conduct supervision function, the details of which can be found at [this link](#). The evaluators highlighted the achievements made in recent years —including most notably the transformation towards a more forward-looking and risk-based supervisory approach— and identified areas for improvement. In response to their recommendations, the Banco de España designed an action plan for 2024-2025 that includes various measures covering the entire supervisory process, from the definition of conduct risk to the public communication strategy.

- Given that there is no internationally recognised framework for evaluating conduct supervision, the committee of experts proposed, as a starting point, a conceptual conduct supervision model against which to evaluate this function at the Banco de España.
- The evaluation against this conceptual model allowed the committee to identify areas for improvement and make recommendations. The implementation of the recommendations will help the Banco de España adapt to the challenges of the future and will ensure that its working procedures and methodologies are more robust and more in line with international best practices. This will strengthen public confidence in supervised institutions, foster integrity in the behaviour of the financial sector and provide greater legal certainty to the market.
- The 2024-2025 action plan, designed by the Banco de España in response to this evaluation, includes measures that fall into five areas: i) detection, which seeks the early identification of new risks —both those arising from market trends and those specific to each institution—

Figure 4.1
2024-2025 Action Plan



SOURCE: Banco de España.

and the monitoring of already identified risks; ii) investigation, which seeks to understand, in a given situation, the underlying pattern in the institution's behaviour and assess its severity; iii) mitigation, which drives change in institutions' conduct; iv) efficiency of supervision; and v) impact and reputation of this supervisory function. The specific measures for each of these areas are shown in Figure 4.1.

- The measures proposed in the action plan include most notably those related to the establishment of mechanisms and spaces for interaction with various stakeholders —such as the banking sector itself or consumer associations— that are key to improving the effectiveness of supervision. In particular, these interactions are of interest when it comes to identifying current and emerging risks to customers, designing effective regulatory solutions or communicating supervisory expectations. For more details on the use of this supervisory tool over the course of 2024, see [Box 4.1](#).
- Also worthy of note in the action plan are the measures aimed at reinforcing internal coordination and optimising the resources available for supervisory tasks, with the objective of improving supervisory efficiency and providing a more agile and effective response to the challenges of the financial sector.

2 Supervisory actions

In 2024, four supervisory priorities were defined, as detailed in Figure 4.2, due to their effects on risks to customers: i) the correct application by institutions of rules and measures intended to favour groups facing difficulties; ii) the verification that institutions' competitive practices and strategies respect customers' rights and interests; iii) the enhancement of supervisory knowledge of new market players and trends; and iv) the reinforcement of institutions' internal controls, aimed at identifying and mitigating risk. These priorities led to supervisory actions—such as monitoring, inspections, cross-institutional reviews, meetings and other types of interactions—on specific areas.

- The Banco de España sets its supervisory priorities on the basis of certain factors with an impact on conduct risk. In 2024, it took into consideration factors such as: the macroeconomic context, with the strong and rapid rise in interest rates; financial innovation, with new marketing channels and products, accompanied by the entry of new competitors; fraud; and the increase in the joint sale of products.
- The actions carried out in 2024 include most notably those related to: (i) the application by institutions of rules and measures to cater for customers facing difficulties in mortgage loans and consumer loans, and regulations to alleviate the rise in interest rates on mortgage loans; (ii) the joint sale of insurance and mortgages; (iii) the business model of the new digital banks; iv) customer service departments (CSDs), in terms of both their functioning and the information on CSDs provided on institutions' websites; v) fraud management in card payments and digital channels and the fraud prevention measures implemented by institutions; and vi) adverts and commercial communication policies. The aspects reviewed and the main findings and results in relation to these actions are described further below.
- In addition, in 2024 the Banco de España continued with the actions related to institutions' application of responsible lending principles and to the verification of control processes and systems for compliance with the code of conduct applicable to contributors to the mortgage loan reference index (IRPH by its Spanish abbreviation). An action was also initiated to enhance the supervisor's knowledge of the activity of real estate lenders and credit intermediaries.
- The priority areas and actions for the year were set out in the 2024 supervisory activity plan.

As part of the priority related to groups facing difficulties, in 2024 it was checked that institutions had procedures in place for the application of the protection measures set out in the codes of good practice (CGPs) applicable to mortgage loans, and institutions' consumer credit solutions for this type of customer were reviewed. Also, actions were carried out on the application of regulations to alleviate the rise in interest rates on mortgage loans.

Figure 4.2

Supervisory priorities and actions



SUPERVISORY PRIORITIES	AREA OF SUPERVISORY ACTIONS
Correct application of the rules and measures intended to favour groups facing difficulties.	Instruments for dealing with customers facing difficulties: CGP and consumer loans.
	Conversion of the variable interest rate to a fixed rate.
Verification that institutions' competitive practices and strategies respect customers' rights and interests.	Joint marketing of tied-in products.
	Responsible lending principles: consumer loan.
Enhancement of supervisory knowledge of new market players and trends.	New digital banks.
	Real estate lenders and credit intermediaries.
	Checks on data contributions for the preparation of the IRPH.
Reinforcement of institutions' internal controls for identifying and mitigating risk.	CSDs.
	Controls on fraud in card payments and payments through digital channels.
	Commercial communication policies.

SOURCE: Banco de España.

- Against a background of rapid rises in interest rates, which may have a negative impact on debtors' payment capacity, actions relating to banking customers facing potential financial difficulties continued in line with previous years' actions. These actions were deployed in two main focus areas: i) policies for the appropriate treatment of customers in vulnerable situations due to their personal characteristics, their circumstances or market conditions; and ii) compliance with regulations facilitating the change from variable interest rates to fixed rates in mortgage-backed loans.
- Specifically, the actions carried out in the mortgage area involved analysing the degree of application of the protection measures established in the CGPs to which the institutions adhere, and the information provided to customers on the possibility of availing themselves of these measures. In addition, the policies on the conversion of variable interest rates to fixed rates and the suspension of early repayment fees were reviewed, as detailed in [Box 4.2](#). This latter action led to the reimbursement of fees to customers amounting to €5 million.
- In the area of consumer credit, attention was paid to the way in which institutions are implementing solutions to serve customers facing financial difficulties. In addition, the review continued of policies and controls related to the analysis of customers' payment capacity, staff training and the design and marketing of these operations. The objective of

Figure 4.3

Actions to protect customers facing financial difficulties

REAL ESTATE CREDIT AGREEMENTS						
Analysis of the degree of application of the two CGPs in force: <ul style="list-style-type: none"> — Code of Good Practice for the viable restructuring of debts secured by mortgage on the primary residence, included in Royal Decree-Law 6/2012, in force since 11 March 2012 and amended by Title III of Royal Decree-Law 19/2022. — New Code of Good Practice for mortgagor debtors at risk of vulnerability, created by Title II of Royal Decree-Law 19/2022, in force until 31 December 2024. 						
 9 institutions	Areas for improvement	Internal controls and working plans to ensure the correct application of the CGP.	Specific training for employees.	Monitoring of and reporting to management bodies.	Information available on their websites.	Notifications on the viability of restructuring.
CONSUMER LOAN AGREEMENTS						
Analysis of: <ul style="list-style-type: none"> — Products that institutions make available to customers to refinance debt. — Warning systems for detecting customers facing financial difficulties. — Protocols for dealing with these customers. 						
 8 institutions	Areas for improvement	Comprehensive and active management of the debts of customers facing financial difficulties and early detection.	Provision of personalised advisory services.		Internal controls implemented for the management of default.	

SOURCE: Banco de España.

this review was to verify institutions' compliance with responsible lending principles in the marketing and contracting of consumer loans.

- Figure 4.3 shows the conclusions obtained from the actions carried out to assess the tools for assisting customers facing financial difficulties.



As part of the priority related to institutions' competitive practices and strategic behaviour, supervisory actions were carried out to analyse the marketing of insurance together with mortgage loans.

- In recent years, institutions have been developing commercial strategies based on the sale of other products and services —such as insurance— in conjunction with the granting of financing.
- Along these lines, several inspections were carried out with the aim of assessing the marketing of insurance together with mortgage loans for home purchases. Figure 4.4 shows the scope of the inspections and the main areas in which shortcomings or weaknesses were identified.

In recent years, new competitors have entered the market as a result of digital transformation. As part of the priority of obtaining greater supervisory knowledge, in 2024 an action was carried

Figure 4.4

Supervisory actions on the contracting of insurance together with mortgage loans

SCOPE OF INSPECTIONS	
 3 institutions	 Review of mortgage loan marketing and staff remuneration policies, with verification of a sample of cases.
AREAS WITH SHORTCOMINGS AND WEAKNESSES	
Internal controls and procedures.	Obligations to provide prior information to the customer.
Obligations, limitations and prohibitions established for tie-in sales.	Bringing marketed insurance into line with customer needs.

SOURCE: Banco de España.

out in order to ascertain the implications of this phenomenon for conduct risk and, consequently, for conduct supervision.

- Digital transformation has brought about a change in the offering of banking products and services and in the way institutions relate to their customers. This phenomenon has even led to new operators entering the market that make more intensive use of technological innovation in their activities, particularly in the design, marketing and provision of banking services.
- With the aim of enhancing supervisory knowledge of these new digital banks, in 2024 an action was launched to collect information on this matter directly from institutions by means of a questionnaire. Figure 4.5 shows the objectives and areas on which this supervisory action was focused.


As part of the priority of making progress in strengthening institutions' internal controls, various supervisory actions related to the functioning of CSDs and the information on CSDs provided on institutions' websites were carried out in 2024.

- The function of institutions' CSDs is particularly important, not only because of their customer complaints and claims handling and resolution activity, but also because of their role as an internal control mechanism. Thus, CSDs contribute to the early detection of incidents and the transmission of this information to the competent areas of the organisation.
- In addition to the ongoing monitoring of CSDs' activity, amendments to their rules of procedures were reviewed to check that they are in line with the CSD regulations and guidelines¹ and changes of the CSDs' head officers were noted.

¹ *Guidelines on the organisational and operating criteria of customer service departments at institutions supervised by the Banco de España*, published on 19 July 2021.

Figure 4.5

Supervisory action on new digital banks

OBJECTIVE	Determine the conduct risk arising from their activity and establish a new supervisory framework for this type of institution.			
AREAS ANALYSED	 Business model	 Governance and internal controls	 Compliance with conduct and transparency regulations	 Service provision regime
	<ul style="list-style-type: none"> – Portfolio of banking products and services. – Points of sale and sales channels. – Customer profile. – Commercial strategy. 	<ul style="list-style-type: none"> – Conduct risk management policies and procedures. – Internal organisation, reporting lines and outsourcing of services. 	<ul style="list-style-type: none"> – Product design. – Adequate explanations and precontractual information. – Contracting, withdrawal and cancellation. – Ancillary products. 	<ul style="list-style-type: none"> – Implications of operating simultaneously as a branch and under the freedom to provide services.

SOURCE: Banco de España.

- Also, cross-institutional reviews and inspections were carried out in order to verify the proper functioning of CSDs and the adequacy of the information on CSDs provided on institutions' websites, taking into account, in both cases, the CSD regulations and guidelines. Figure 4.6 shows the revised requirements that CSDs must meet to ensure their effectiveness as a key part of institutions' internal control. In certain cases, weaknesses were observed in the functioning of the CSD as an early warning mechanism, while in other cases the weaknesses were related to the location of and website access to information on the CSD and to the timeframes for resolving complaints and claims.

As part of the priority to strengthen the institutions' internal controls, the work on the actions related to procedures for fraud risk control and prevention in the use of cards and payments through digital channels continued, from a conduct standpoint.

The measures adopted by institutions to mitigate their effects were also reviewed. In particular, cross-institutional reviews were carried out and sectoral interactions took place, which contributed to enhancing supervisory knowledge of the matter. This will enable good practices to be identified that will help strengthen institutions' internal controls.

- The actions from the 2023 supervisory plan on this matter included cross-institutional reviews at five institutions. These increased the supervisor's knowledge of the way in which institutions manage the risk of fraud, from a customer protection point of view, in the use of cards and payments made through digital channels and, in particular, of the preventive measures they apply.
- This review continued in 2024, with seven new institutions, which will consolidate and increase knowledge of how financial institutions manage fraud. In addition, exchanges took place with

Figure 4.6
Institutions' CSDs

CSD OPERATING REQUIREMENTS		
Procedures	Organisational structure and allocation of resources	Risk identification and mitigation tools
<ul style="list-style-type: none"> – Appointment of the head of the CSD. – Conflict of interest policy. – Remuneration. – Staff training. – Handling and monitoring of claims. 	<ul style="list-style-type: none"> – Organic and functional independence. – Sufficiency of technical and human resources. – Channels of communication with the management and intervention body. – Membership of cross-institutional committees or bodies. 	<ul style="list-style-type: none"> – Identification of recurring or systemic problems as an early warning mechanism. – Identification of operational, legal and conduct risks. – Adaptation to the principles and criteria set out in the CSD Guidelines. – Adoption of the criteria set by the Banco de España or the courts in their rulings. – Transfer of the criteria established by the CSD in its resolutions to the institution's day-to-day operations.
WEBSITE REPORTING REQUIREMENTS		
Content	Access to file a claim	Publication of the CSD communication channels
<ul style="list-style-type: none"> – Indication of a postal and email address. – Reference to the possibility of contacting the Banco de España to file a complaint or claim. – Publication of the CSD's operating rules. – References to applicable regulations on transparency and customer protection in financial services. – Deadlines for the resolution of complaints by the CSD. 	<ul style="list-style-type: none"> – Prominent location. – Quick and easy. – Clear access route. – Limited number of intermediate screens. – Inclusion of terms such as "claims" or "CSD". 	<ul style="list-style-type: none"> – Clearly visible. – All together in the same section.

SOURCE: Banco de España.

banking and consumer associations, and other bodies, in order to understand the problems and possible solutions so as to minimise fraud. Once the new actions have been completed, the main supervisory expectations in the area of fraud risk prevention will be identified among those applied by the institutions and they will be shared with the industry with the aim of improving fraud risk management. This will contribute to strengthening institutions' internal controls.



- Figure 4.7 shows information on both the cross-institutional reviews and the exchanges on the matter.

In the area of advertising in the context of the priority of making progress in strengthening institutions' internal controls, supervision was focused on the review of procedures and controls and of institutions' conduct risks. In addition, priority was given to the review of vehicle finance adverts and adverts disseminated on social networks and websites.

- The supervision of the advertising activity was centred on the review of internal procedures and controls, and of the conduct risk analysis plans and models developed by the institutions. These plans and models identify the risks derived from their advertising activity and the controls established to mitigate them.
- In addition, the supervision of adverts continued, prioritising vehicle finance advertising and adverts disseminated on social media and websites (banners), on the basis of the risks

Figure 4.7




Fraud in card payments and digital channels

CROSS-INSTITUTIONAL REVIEWS		EXCHANGES HELD	
2024	 7 institutions	Banking associations	Understand the problems, the solutions and the measures implemented by the institutions to minimise fraud.
		Consumers and Users Organisation (OCU)	Ascertain customers' concerns and worries and the possible solutions proposed for the incidents detected.
2023	 5 institutions	Spanish National Cybersecurity Institute (INCIBE)	First contact for collaboration in fraud management.

SOURCE: Banco de España.

Figure 4.8

Findings of the review of adverts

INCORRECT ADVERTS AS A PERCENTAGE OF TOTAL ADVERTS REVIEWED					
	12% in social media		13% on websites (banners)		22% in vehicle financing

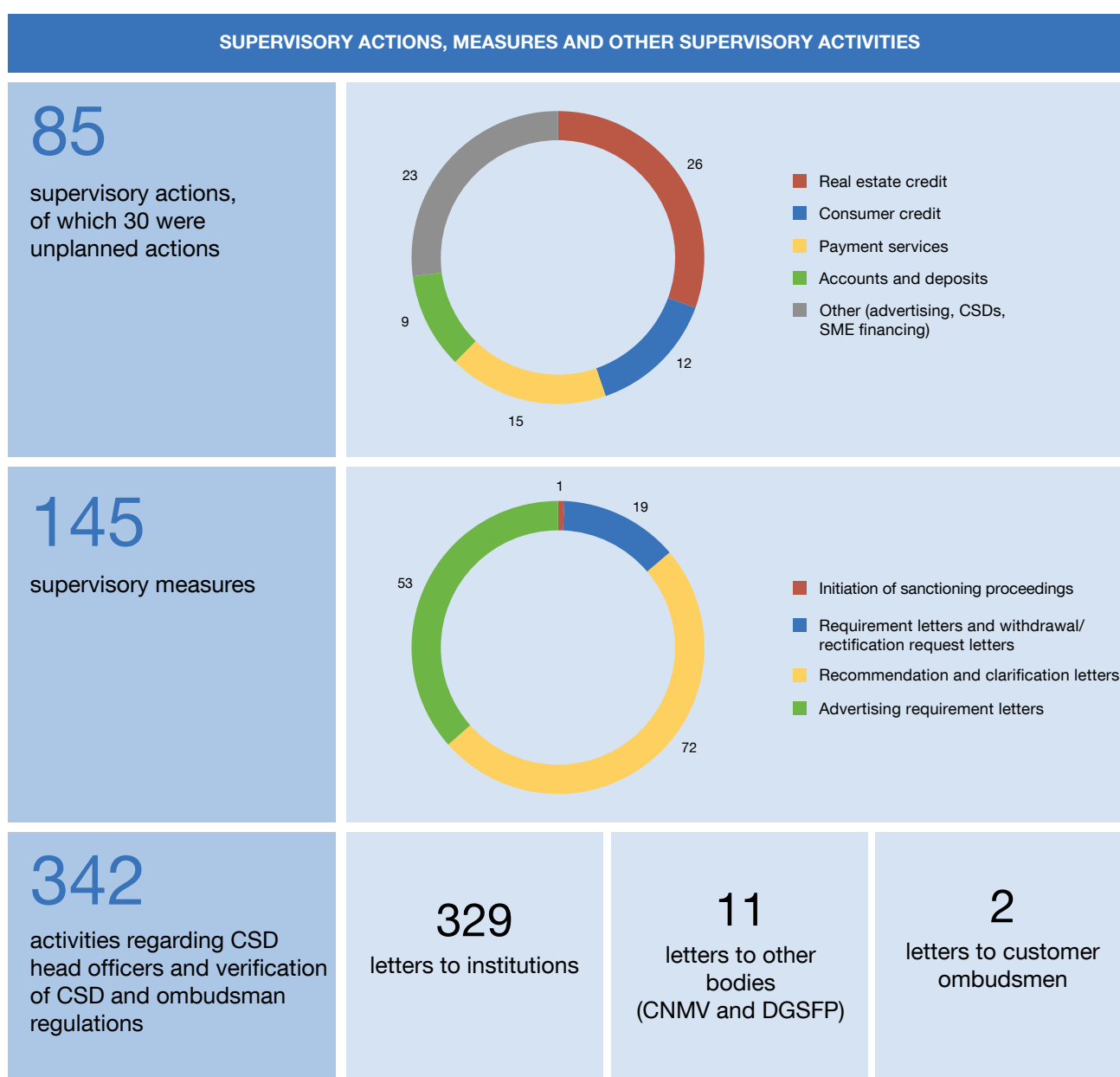
SOURCE: Banco de España.

identified the previous year. Following the intensification of these reviews, an increase of almost 50% in the degree of non-compliance was observed in the case of the adverts reviewed on social networks and websites and more than 30% in the case of vehicle finance adverts, compared to 2023. That confirms the advisability of continuing to prioritise the supervision of adverts on these media and products, which have higher rates of non-compliance. Figure 4.8 shows the breakdown of incorrect adverts belonging to the aforementioned areas.

3 Conduct supervision in figures

In 2024, 85 supervisory actions were carried out, many of which were cross-institutional, affecting 665 supervised institutions, including 66 credit institutions. With the aim of correcting the shortcomings and weaknesses identified in these actions, the Banco de España adopted 145 supervisory measures. These measures are graded according to the nature and seriousness of the non-compliance detected, and may consist of sending letters to clarify the treatment

Figure 4.9

Conduct supervision in figures. 2024


SOURCE: Banco de España.

applicable to certain products and situations, recommend a certain action to the institution or require compliance, cessation or rectification of its behaviour. In certain cases, sanctioning proceedings may even be initiated. In addition, 342 letters were sent in relation to CSD head officers and the regulations governing the functioning of CSDs and customer ombudsmen.

- The topics on which supervisory actions were taken were focused mainly on areas of activity relating to real estate credit and payment services (see first panel of Figure 4.9).
- The supervisory measures adopted include most notably the initiation of one sanctioning proceeding and the issuance of 72 requirement letters and requests for cessation and rectification, of which 53 were related to advertising activity and 19 to other areas. In addition, 72 letters were sent with recommendations and clarifications (see second panel of Figure 4.9).
- Furthermore, the Banco de España verifies that the rules of procedures of the CSDs and customer ombudsmen are in line with regulations and with supervisory expectations. Also, it makes a record of the CSD head officers, and publishes both the rules of procedures and the identity of these head officers on its website. In the context of these verifications, 342 letters were sent (see third panel of Figure 4.9).

Box 4.1
INTERACTION AND COMMUNICATION AS CONDUCT SUPERVISION TOOLS

In order to achieve adequate protection of bank customers, supervision must have an impact on institutions' conduct. To this end, the supervisor has several complementary tools at its disposal, including most notably interaction and communication with various market participants, authorities and bodies.

Such interaction and communication help detect risks and favour their mitigation, and also reinforce the preventive nature of supervision —by anticipating problems— and enable effective solutions to be designed. Consequently, all aspects of conduct supervision benefit from these interactions.

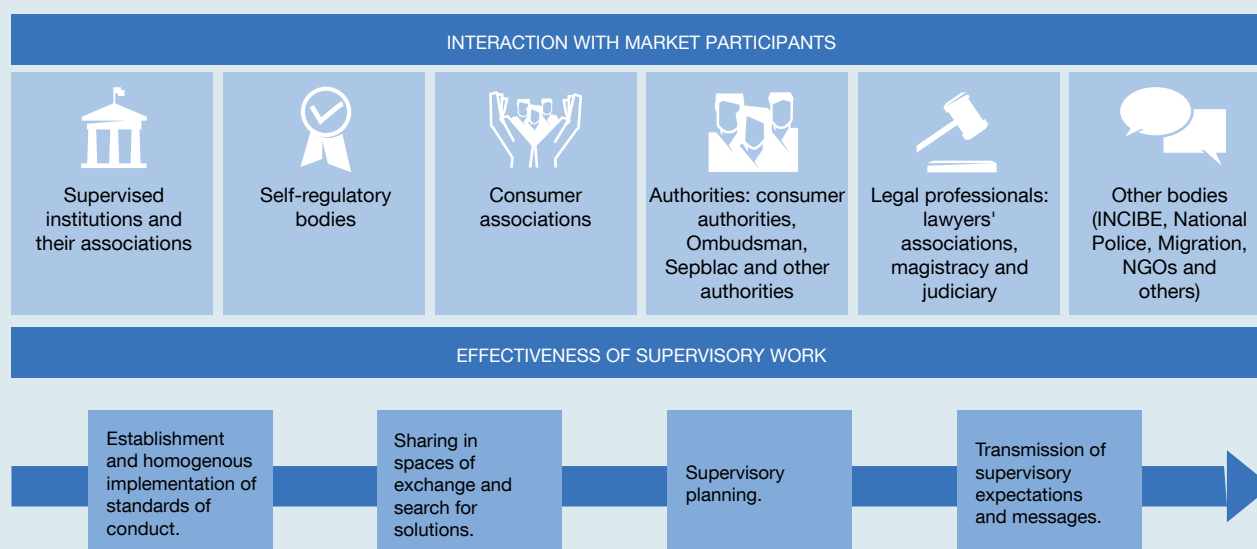
The main interactions in 2024 are summarised below:

- Firstly, the establishment of a regulation geared towards protecting customers, ensuring that their interests and needs are taken into account in the design and marketing of banking products, is an essential preventive element of supervision. In order to contribute to the drafting and subsequent implementation of this regulation, the Banco de España organised workshops and held exchanges: i) with supervised institutions, self-regulation systems and consumer associations, for the definition of

some of the content of the new circular on transparency and customer protection; and ii) with supervised institutions, for the consistent implementation of the *Guidelines on the governance and transparency of revolving credit*.¹

- In addition, the information obtained in exchanges with consumer and user associations, with the General Council of Consumers and Users and with other authorities, such as the Ombudsman, was very useful as a complement to internal analyses for the purpose of establishing supervisory priorities.
- Also, the proper communication of supervisory expectations, priorities and the most immediate areas of interest is essential for supervision to be effective. Regular meetings with institutions and the exchanges that took place within the Supervisory Forum —an annual meeting whose purpose is precisely to convey supervisory expectations and priorities to the sector— contributed to this task.
- In a changing environment, with new risks and challenges, the exchange of information is essential to provide a better service to citizens and increase security and confidence in the provision of banking

Figure 1
Interaction for supervisory effectiveness



SOURCE: Banco de España.

¹ *Guidelines on the governance and transparency of revolving credit for institutions subject to Banco de España supervision*, published on 13 December 2023.

Box 4.1

INTERACTION AND COMMUNICATION AS CONDUCT SUPERVISION TOOLS (cont'd)

services. On the one hand, as regards fraud, a topic of particular interest in recent years, exchanges with the Spanish National Cybersecurity Institute (INCIBE), the National Police and banking associations made it possible to share identified risks and make progress in designing solutions. On the other hand, in relation to the personalised provision of financial services, financial inclusion and social cohesion, communication with the Directorate General for Migration Management and with various NGOs contributed to a better

understanding of the problems associated with issues such as access to payment accounts by certain groups.

- Lastly, it is worth mentioning that the Banco de España participated in various forums for legal professionals, both in the context of meetings held in lawyers' associations and at meetings with the judiciary and magistracy. This channel of communication and understanding helped identify areas of interest and concern.

Box 4.2

MEASURES TO ALLEVIATE THE RISE IN INTEREST RATES ON MORTGAGE LOANS

In response to the rise in interest rates, the legislator approved a series of alleviation measures aimed at reducing the cost of early loan repayments and the conversion to fixed interest rates for debtors. The conduct supervision plan for 2023 and 2024 included actions aimed at verifying the proper application of this regulatory response (see Figure 1). Specifically, inspections were carried out at ten institutions, whose business volume represented a significant percentage of the sector. In the course of these inspections, the fee regime was reviewed, along with the information and documentation provided to the borrower. The work involved the review of procedures, complaints, transaction inventories and file samples.

These inspections revealed a clear preference on the part of customers for the early repayment of loans as compared to the conversion from fixed interest rates to variable rates through subrogations or novations. It was concluded that, in general, institutions had respected the regime of

suspension of fees in early repayments. However, transactions were detected in which these regulations had not been complied with, due mainly to the short period available for the implementation of the IT adaptations necessary for their automatic application.

As a result of these actions, the interpretation of the regulations was standardised, the information made available to customers was improved, and processes that led to incorrect application of the fee regime are being corrected and automated.

All the above has led to the reimbursement to customers of fees amounting to €5 million.

To amplify the impact of these inspections, a document outlining the most common errors identified and best market practices is planned to be sent to the sector in the second quarter of 2025, in line with the preventive approach to conduct supervision.

Figure 1
Regulatory response to the rise in interest rates

	Law 5/2019 regulating Real Estate Credit Agreements	Royal Decree-Law 19/2022	Royal Decree-Law 8/2023
REGULATIONS WHICH HAVE BEEN VERIFIED	<p>Special treatment for the conversion of variable interest rates to fixed rates in novations or creditor subrogations, regardless of the date of conclusion of the original contract:</p> <ul style="list-style-type: none"> — In the first 3 years, the early repayment fee may not exceed the financial loss or 0.15% of the capital repaid. — After 3 years, no fee can be charged for cancellation through subrogation. — No fee can be charged for the conversion of variable interest rates to fixed rates. 	<p>Until 31 December 2023, the charging of early repayment or early redemption fees on variable rate loans was temporarily suspended.</p> <p>From that date, the limit on the fee for cancellation through subrogation with conversion of variable interest rates to fixed rates is reduced from 0.15% to 0.05%.</p>	<p>It extends the scope of this special treatment to conversions to hybrid interest rates, with an initial fixed tranche of at least 3 years.</p> <p>It extends the suspension of early repayment fees on variable rate loans until 31 December 2024.</p>

SOURCE: Banco de España.