C. Banks

1. Introduction

The year under review was the first full year of operation of the SSM. In practice, this means that seven Belgian banking groups regarded as significant according to the criteria defined by the SSM Regulation are now subject to the direct supervision of the ECB: AXA Bank Europe, Argenta, KBC Group, Belfius Bank, Dexia, The Bank of New York Mellon and Bank Degroof Petercam (formerly Bank Degroof). This last bank underwent a comprehensive assessment during the year. The Belgian subsidiaries and branches of banking groups established in other countries participating in the SSM have the same classification as the banking group to which they belong. Thus, BNP Paribas Fortis and ING Belgium are classed as significant.

For the first time, a Supervisory Examination Programme (SEP) was implemented and the governance of credit institutions was subjected to thematic and horizontal analysis. Section 2 gives more details on these aspects of the new supervision and on the inspections carried out under the SSM.

The ECB paid particular attention to standardising the prudential supervision arrangements. The work started by focusing on the Supervisory Review and Evaluation Process (SREP) and resulted in the definition of the additional capital requirements for individual institutions ("pillar 2 requirements"). After that, it concerned the harmonisation of the options and national discretions. These two aspects and the other work of harmonisation, both quantitative and qualitative, are described in section 3.

When harmonising prudential supervision practices and regulations, it is necessary to take account of the principle of proportionality. Apart from that challenge, good cooperation and mutual confidence between the national authorities and the ECB are vital to ensure high-quality supervision under the SSM. Furthermore, it is appropriate to make use of the national authorities' expertise in the exercise of supervision. Finally, the development of procedures – which is inevitable in the initial stage of the SSM and demands much attention – must not be at the expense of regular risk analysis. It is also important to supplement supervision at consolidated level with more granular analyses of the main subsidiaries of large banking groups.

The new microprudential supervision framework was introduced against the backdrop of continuing preparation and implementation of the national and international regulations (discussed respectively in sub-sections 4.1 and 4.2 of this chapter) and work on the quantitative and qualitative information that credit institutions are to submit periodically to the competent authorities (see sub-section 4.3). During the period under review, due attention was also paid to the governance of credit institutions; this was reflected, for instance, in the drafting of a governance handbook and a new detailed horizontal analysis of compliance with the rules on the remuneration policy (see sub-section 4.4).

2. Mapping of the sector and operational aspects

2.1 Population

The Belgian banking landscape was again fairly stable in 2015, with a small decline in the number of branches. In the case of investment firms, there was no change.

One Belgian bank exited the sector following the split after cessation of its business, while – for the first time in years – one new Belgian bank was registered, namely MeDirect Bank SA/NV. This new bank is the result of the conversion of the Belgian subsidiary of Mediterranean Bank, a Maltese credit institution, into a fully-fledged Belgian credit institution. This new credit institution was regarded as a less significant institution when it was licensed, but will be transferred to the significant credit institutions category from 2016 because, following a takeover, the banking group to which it belongs is now considered a significant institution according to the SSM criteria, Consequently, the Belgian subsidiary and the Maltese parent company and other licensed group entities now come under the direct supervision of the ECB, and the Bank will become a member of the Joint Supervisory Team (JST) set up for the purpose under the SSM.

TABLE 2 NUMBER OF INSTITUTIONS SUBJECT TO THE BANK'S SUPERVISION

	31-12-2014	31-12-2015
Credit institutions	119	116
Under Belgian law	37	37
Branches governed by the law of an EEA member country	56	52
Branches governed by the law of a non-EEA member country	10	10
Financial holding companies	6	7
Financial services groups	4	4
Other financial institutions [1]	6	6
Payment institutions	34	34
Under Belgian law	20	20
Branches governed by the law of an EEA member country	12	12
Financial holding companies	2	2

Source: NBB.
(1) These are specialist subsidiaries of credit institutions and credit institutions associated with a central institution with which they form a federation.

In 2015, the ECB also classed the Belgian bank Degroof Petercam (formerly Banque Degroof) as a significant institution on account of its cross-border activities. In accordance with the SSM rules, it subjected the bank to a comprehensive assessment of its financial situation, comprising an asset quality review (AQR) and a stress test. That exercise did not reveal any solvency problems, but offered the opportunity to assess the specific characteristics of the lending practices of that institution – which specialises in discretionary asset management – in the light of the general SSM methodology. The conclusions of that assessment will be taken into account in the regular supervision.

The table lists the Belgian population of credit institutions incorporated under Belgian law, without their branches, grouped according to the classification criteria of the SSM Regulation.

2.2 Supervision programme

Since the entry into force of the SSM, much of the Bank's supervisory work concerning Belgian credit institutions

TABLE 3 BELGIAN CREDIT INSTITUTIONS GROUPED ACCORDING TO THE SSM CLASSIFICATION CRITERIA

Significant institutions	Less significant institutions (7.0 %)
Belgian parent (54.7 %)	Byblos Bank Europe
Argenta	CKV
AXA Banque Europe	CPH
Belfius	Crelan (Crelan, Europabank, Keytrade)
Degroof Petercam	Dierickx, Leys & C°
Dexia	ENI
KBC (KBC Banque, CBC)	Euroclear
Non-Belgian SSM-member parent (35.3 %)	Finaxis (ABK, Delen, Van Breda)
BNP Paribas (BNP Paribas Fortis, Bpost banque)	Nagelmackers
Crédit Mutuel (Beobank, BKCP, Banque Transatlantique)	Optima Bank
ING (ING Belgium, Record)	Shizuoka Bank
Banca Monte Paschi Belgio	United Taiwan Bank
MeDirect (2016)	van de Put & C°
Puilaetco Dewaay Private Bankers	VDK Spaarbank
Santander	
Société Générale Private Banking	
Non-Belgian non-SSM member parent (3.0 %)	
Bank of New York Mellon	

Source: NBB.
The figures in brackets are the market shares calculated on the basis of the consolidated balance sheet totals.

classed as significant is shared with the ECB. The SSM provides for close cooperation between the ECB and the national competent authorities (NCAs), and JSTs have been set up for that purpose for each significant Belgian banking group.

In 2015, these JSTs implemented for the first time a supervisory examination programme (SEP) drawn up at ECB level and approved by the Supervisory Board at the end of 2014. This programme, designed to be applicable to all large European banking groups, was converted into an individual programme for each credit institution, to take account of each institution's size, specific characteristics and the general risk score which it was given in 2014 at the end of the comprehensive assessment to which it was subject in that year.

The SEP comprises various types of work, the frequency and scale of which depend on the factors mentioned above. It includes the preparation of periodic follow-up reports by type of banking risk, the arrangement of interviews with managers and representatives of the credit institution's key functions, and the organisation of detailed thematic reviews conducted simultaneously in all institutions subject to direct ECB supervision. All this work contributes to the annual risk assessment and the assessment of the adequacy of the institution's solvency and liquidity position.

Of course, the implementation of this first programme of supervision at European level entailed adjustments at the level of both the ECB and the Bank, as initial problems emerged in the learning phase. Usually, this concerned the development of the methodologies and adjustment of procedures to local requirements and specific characteristics. In Belgium, for example, the supervision of significant subsidiaries of large banking groups subject to supervision on a consolidated basis plays a dominant role. This was the subject of much discussion in the various networks of experts and in the JSTs. The implementation of individual supervision programmes for each institution also entailed coordination to ensure both the continuity and the consistency of prudential practices at national level. Finally, to ensure the success of the SSM and the maintenance of effective cooperation between the NCAs and the ECB, the Bank kept – and will continue to keep – a close eye on the operational implementation of the matrix organisation involving functional links between the local teams and the ECB, while keeping the existing hierarchical links with the Bank.

In regard to the less significant banks, the Bank is in the front line for conducting the supervision programme. Since the ECB also carries ultimate responsibility for these banks too, the SSM monitors these local and specialist banks at the second level, and agrees arrangements with the national supervisory authorities in order to adopt the same approach as far as possible in conducting the supervision. Furthermore, in developing its supervision instruments for this group of credit institutions, the Bank systematically checks whether such instruments already exist at the ECB (e.g. for supervising significant institutions) and whether they are applicable, taking account of the required proportionality, to smaller local and specialist institutions. In so doing, the Bank endeavours to make efficient use of resources and also intends to avoid any discrepancy between the supervision practices and instruments used for significant institutions and those applied to less significant institutions.

2.3 Governance and aptitude testing

Since the entry into force of the new Banking Law, the Bank's supervision has become even more important in every aspect relating to bank licensing, and more particularly the assessment of the expertise and professional integrity of bank executives and officers responsible for key functions, such as internal audit, risk management, compliance ("fit & proper" checks), on the one hand, and the assessment of potential acquirers in the event of changes to the capital structure.

Although, since the start of the SSM, the ECB takes the final decision on some institutions, the Bank and the ECB conduct this analysis jointly, with the Bank concentrating primarily on compliance with the specific provisions introduced by the Belgian legislature in transposing the CRD IV into the Banking Law.

The required aptitude is assessed on the basis of the criteria and procedures laid down by the Belgian legislation, namely the Banking Law and the guidelines specified in a Circular [1], and the points for attention emerging from the collaboration with the ECB. More specifically, as regards the assessment of the candidates' expertise, particular attention focuses on the training programmes offered by the institutions to inform candidates about the institution concerned and, where necessary, to update their technical knowledge in various fields. Candidates must also demonstrate that they can devote sufficient time to their duties; in the case of credit institutions classed as significant pursuant to Article 3, 30°, of the Banking Law, account must also be taken of the restrictions on the number of mandates defined by Article 62 of the Law. Other points for attention concern the required collective expertise of the management board or advisory committees and the existence of a policy for identifying and managing conflicts of interest. This refers not only to conflicts of interest relating to personal or professional circumstances, but also conflicts of interest in regard to directors proposed by the government, e.g. as shareholders or in connection with state aid.

Since governance is also one of the SSM's main priorities, the SSM had planned to conduct an in-depth analysis in 2015 on the governance of the banks subject to its supervision. The thematic analysis was conducted at consolidated level, but some subsidiaries classed as significant were also included in the exercise. It covered two topics: the operation of the banks' management bodies (board of directors and executive committee) [2] and the risk acceptance framework [3] defined for pursuing their activities. The thematic analysis was conducted with due regard for national provisions on governance and risk management, but also took account of the recommendations issued on the subject at international level (such as the guidelines on corporate governance principles for banks, laid down by the Basel Committee in July 2015). The JSTs analysed the credit institutions' documents and minutes and met their senior management in order to form an opinion on the quality of the governance and on the risk appetite of each credit institution concerned. In some cases, the JSTs attended a meeting of the board of directors as observers, which enabled them to assess the information presented to members of the board, the interaction between the executive and non-executive directors, and the quality of the discussions that precede decision-making.

In general, as regards governance (composition and organisation of the board of directors), the Belgian banks perform better than the average for all credit institutions under the SSM. Conversely, the assessment of the framework for risk acceptance shows that the Belgian banks need to go into more detail in their discussions and produce more formal documentation on the subject. The "risk" committee that has to advise the board of directors should be able to make a contribution here.

In any case, good governance will always be an important point for attention. This thematic analysis will have enabled the ECB to assess the governance situation in each significant bank in the SSM, but also to determine

(1) Circular NBB_2013_02 of 17 June 2013.
(2) Organisation, composition, quality of documentation and minutes, account taken of the "risk" dimension in discussions.
(3) Quality of the risk appetite framework, assessment of limits and indicators, governance and strategy followed.

reference indicators for banks with a similar profile (benchmarking exercise) and identify good governance practices, adherence to which will be promoted and encouraged in the future.

2.4 Inspections conducted under the single supervisory mechanism

The on-site inspections are detailed investigations into institutions for the assessment of the various risks to which they are exposed and the adequacy of the existing accompanying measures and supervision. The decision to conduct an on-site inspection is generally taken within the framework of a supervision plan, and specific procedures and techniques are followed for the inspection.

Inspections of significant institutions are conducted in accordance with the procedures laid down by the SSM, whereas the national authorities remain responsible for inspecting less significant institutions, with due regard for the guidelines and inspection methodology issued by the ECB.

The procedures concern:

- definition and objectives of the inspections;
- their organisation;
- inspection concepts and techniques;
- the procedures applicable to the various stages of an inspection (planning, preparation, execution, report, follow-up and review).

The inspections are conducted by teams appointed by the ECB and composed of staff of the national competent authorities and the ECB. The 'heads of mission' are generally staff of the national competent authorities and must not be members of the full-time supervision teams.

The SSM inspection methodology describes the objectives for the main inspection themes, and the recommended inspection techniques for each objective. The guidance provided by the methodology forms the basis of all inspections in the SSM, and all inspections must expressly refer to that. The methodology is continuously supplemented and adjusted by the ECB in consultation with the national competent authorities.

3. Single Supervisory Mechanism

3.1 Key projects

While the preparatory phase of the single supervisory mechanism had been dominated by the comprehensive assessment of significant banks and therefore needing to be subject to direct ECB supervision, and by the operational and organisational implementation of the single supervisory mechanism, the year under review – which was the first year of the SSM – was devoted primarily to following up that assessment and developing harmonised prudential policies and supervision practices.

In particular, the harmonisation of the options and national discretions (ONDs) available to the national authorities under the CRD IV/CRR is an important aspect of the development of the single rule book. The harmonisation of the methodologies for risk assessment and for the evaluation of solvency and liquidity positions is also a key element in the convergence of the Supervisory Review and Evaluation Process (SREP) relating to the additional capital requirements, known as pillar 2 requirements. However, the harmonisation work is not confined to these aspects, but covers numerous areas of prudential supervision, both quantitative (validation of internal models, dividend payment policy, etc.) and qualitative (governance and remuneration policy, inspection methodology, etc.).

Monitoring of the financial situation of the Greek banks and the new comprehensive assessment of those banks formed an important part of the maintenance of stability within the SSM during the year under review.

Also in that year, institutions which were considered as significant at the end of 2014, including Bank Degroof Petercam (formerly Bank Degroof), underwent a comprehensive assessment.

3.2 Main developments and decisions on supervision

3.2.1 SREP decision and methodology

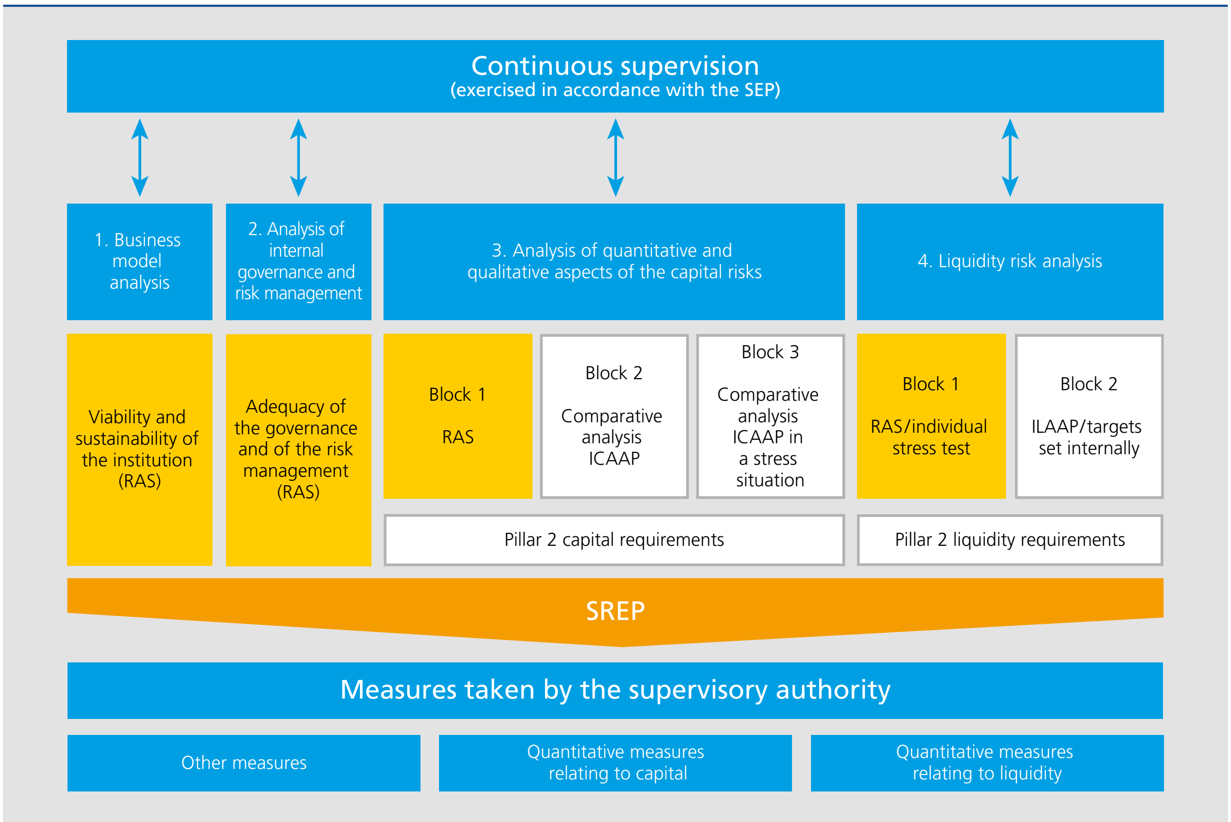
In 2015, the banks subject to SSM supervision adopted the SSM approach to the SREP for the first time. That process comprised four stages. Following an SREP analysis of the individual banks conducted by the JST, horizontal analyses were used to examine consistency between the individual dossiers. In September and October of the year under review, the individual SREP dossiers were discussed with the institutions concerned, after approval by the Supervisory Board. In November 2015, following the period in which the institution had the right to be heard, the SREP decisions on capital and liquidity were again submitted to the Supervisory Board and then to the Governing Council for final approval.

The methodology used follows the SREP guidelines published by the EBA in December 2014 [1] and involves a holistic approach which lists, analyses and quantifies the various aspects of banking risks. The ultimate aim is to conduct a full assessment of the material risks facing the institution and to quantify the capital and liquidity requirements, with the option of imposing specific supervision measures in that respect too.

The first element of the SREP approach is a quantitative and qualitative assessment by the supervisory authority of the risks facing the institution, using the Risk Assessment System (RAS). On the basis of certain indicators of general banking risks, an automatic calculation generates (risk) scores. The risks are then the subject of a much more

(1) EBA/GL/2014/13: Guidelines on Common Procedures and Methodologies for the Supervisory Review and Evaluation Process (SREP).

CHART 3 DIAGRAM OF THE SREP APPROACH



Source: ECB.

detailed and substantiated expert analysis which takes account of the various risk dimensions, and if necessary the JST adjusts the automatically calculated scores.

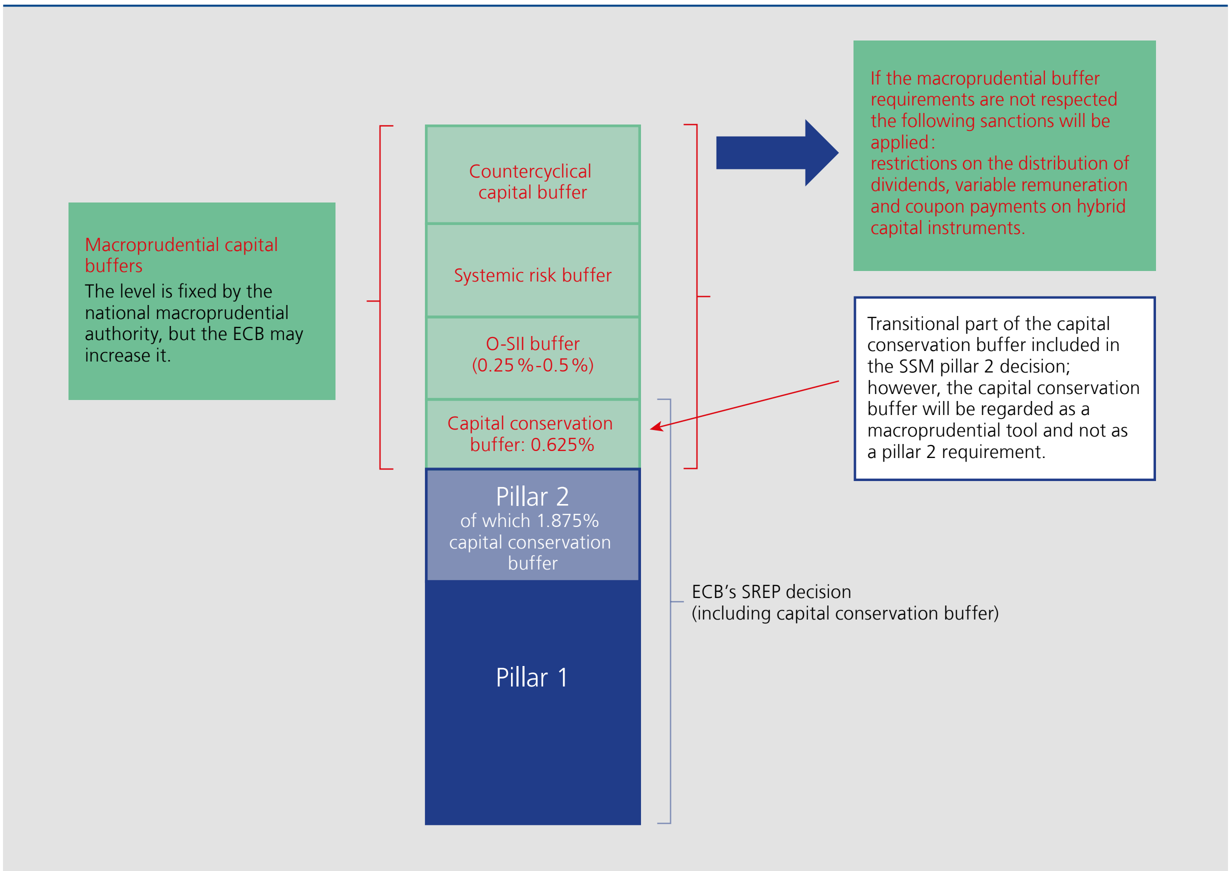
For the purpose of determining the capital and liquidity requirements, the methodology is based not only on the RAS but also on an Internal Capital Adequacy Assessment Process/Internal Liquidity Adequacy Assessment Process (ICAAP/ILAAP)[1], and on checking the assessments and quantifications of the institution's risks with the aid of benchmarks and proxies. In addition, stress tests are conducted over a set timescale (between three and five years, for example) to estimate how the capital and liquidity profile will change in the years ahead and to improve the detection and quantification of any vulnerabilities.

The Supervisory Board formulated some important strategic clarifications in regard to capital requirements under the SREP. First, the SREP requirements must be covered by CET 1 capital, since that is better able to absorb shocks. Next, CET 1 capital must first and foremost be used to cover the pillar 1 requirement and the pillar 2 requirement before it can be allocated to compliance with the macroprudential capital buffer requirements, whether it be the capital conservation buffer or the other buffers imposed when systemic risks emerge. Consequently, in the event of failure to comply with the overall pillar 1 and pillar 2 requirements and the macroprudential capital buffers, the distribution of dividends and variable remuneration and the payment of coupons on hybrid capital instruments must be limited pursuant to the provisions of the CRD[2]. The ECB thus specified in its Recommendation of 28 January 2015 on dividend distribution policies that it expected institutions which did not respect the total requirements of pillars 1 and 2 and the buffers applicable to refrain from distributing dividends. In accordance with that Recommendation, it notified the institutions, via the SREP decisions, that the necessary measures would be

(1) The institution's ICAAP comprises the processes and strategies for continuously analysing and ensuring the adequacy of the internal capital in terms of quantity, type and distribution, taking account of the risks to which the institution is exposed or which it may encounter. The ILAAP encompasses the institution's processes and strategies for ensuring that it has adequate liquidity reserves at all times to cover the potential liquidity risks.

(2) Article 141 of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012

CHART 4 CET 1 CAPITAL REQUIREMENTS



Source: NBB.

taken if their capital margin in relation to the total requirements [1] was less than 25 basis points.

Overall, following this harmonisation, the 2015 CET 1 requirements for banks under the SSM (applicable in 2016) increased by an average of 46 basis points, compared to the 2014 requirements (applicable in 2015). Thus, the pillar 1 and 2 requirements – including the capital conservation buffer – increased from 9.7 % in 2015 to 10.1 % in 2016. In addition to these requirements, there are the other macroprudential buffers imposed by the various national competent authorities. The national macroprudential authorities have very often supplemented the above requirements with additional requirements to take account of the systemic dimension of credit institutions at national level or to reduce certain emerging structural or cyclical systemic risks. Those requirements will generally be phased in over the period 2016-2019.

In the case of the Belgian banks, the microprudential requirements for CET 1 have been reduced. Thus, on average, the sum of the pillar 1 and pillar 2 requirements – including the capital conservation buffer – declined from 12.1 % in 2014 (applicable in 2015) to 10.25 % in 2015 (applicable in 2016), the reason being that the Bank has already in the past demonstrated the necessary prudence when determining the pillar 2 requirements, and in so doing has also taken account of certain systemic dimensions. As stated in chapter A of the Report in the section on "Prudential regulation and supervision", the Bank classified eight domestic banks as systemically important institutions and decided to impose an additional capital requirement on those Belgian institutions, ranging between 0.75 % and 1.5 %. That additional capital buffer requirement will be phased in between 1 January 2016 and 1 January 2018 at the rate of one-third of the required amount each year.

3.2.2 Options and national discretions

Both the CRD and the CRR and the delegated acts which supplement them make provision for a number of ONDs

(1) Namely the sum of the pillar 1 and pillar 2 requirements and the buffer requirements (CET 1).

CHART 5 OVERALL CAPITAL REQUIREMENTS FOR BANKS [1]
(CET 1, in %)

Sources: ECB, NBB.
(1) The 2014 (2015) requirements apply in 2015 (2016). These are unweighted averages. The average for Belgium concerns the banks classed as significant, including BNP Paribas Fortis and ING Belgium.

for the competent supervisory authority and/or the Member States.

Now that the ECB has become the competent authority for significant credit institutions in the euro area, it has embarked on the necessary work of specifying how these ONDs available to the supervisory authority should be applied. In the course of this work, the ECB has distinguished between the options and discretions which will apply to all credit institutions in general and those which may be used case by case on the basis of a dossier submitted by the institution.

The ECB's aim is to harmonise prudential treatment at the level of the euro area; that is essential to ensure fair treatment for all credit institutions, and also tends to make it easier to supervise them. The comprehensive assessment conducted in 2014 showed that divergences in the use of the ONDs within the euro area were creating substantial differences in solvency ratios between credit institutions. Those divergences were due in particular to differences in the use of the transitional measures laid down by the CRR. In this harmonisation exercise, the ECB has generally adopted a prudent approach, defining strict criteria for the use of national discretions, taking account of the best practices followed by the various euro area supervisory authorities and, as far as possible, respecting the international standards defined by the Basel Committee. The ECB has also taken account of the legitimate expectations of credit institutions in not systematically modifying all the national rules to which they are subject.

On 11 November 2015, following completion of this work, the ECB published two consultation documents aimed at harmonising the arrangements for exercising the 122 options and national discretions available to the competent authorities. The first document is a draft Regulation intended to harmonise the arrangements for exercising 36 general options and national discretions. The main ones concern the CRR transitional measures relating to the definition of own funds. In that regard, the ECB draft Regulation makes provision, in particular, for a transitional regime limited to five years for the deduction of deferred tax assets from own funds, except in the case of banks subject to restructuring plans, while some national authorities had decided, in accordance with the CRR, to adopt a ten-year transitional period for deferred tax assets in existence on 31 December 2014. The second document is a Guide clarifying the policy and criteria that the ECB actually follows to decide on the use of ONDs that have to be exercised case by case. This notably concerns the option of not deducting insurance holdings from credit institutions' own funds, or waiving the limit on significant risks for cross-border intra-group exposures. In that connection, the ECB clarified the exemption criteria laid down by the CRR and the criteria for exempting institutions from compliance with the short-term liquidity coverage ratio (LCR) at company level in cases where they constitute sub-groups of entities managing their liquidity centrally. In such cases, the LCR must be respected at the level of the sub-group as a whole. However, the ECB stipulates that institutions forming part of such sub-groups must individually maintain sufficient liquidity to fulfil 75 % of the LCR. With a view to finalising the implementation of the banking union in the euro area, it will review that rule in 2018 in the light of its practical experience, with due regard for institutional developments.

On the basis of the outcome of the public consultation which ended in mid-December 2015, the ECB will finalise its Regulation and its Guide so that both can apply from March 2016. It will also continue to examine the options and national discretions not yet covered by the Regulation and Guide.

In that connection, it should be noted that this is not a question of total harmonisation of the prudential rules, as the Regulation and Guide will apply only to significant institutions and subject to direct ECB supervision, and ONDs offered to the Member States rather than the competent authorities are not included in this harmonisation exercise.

In the case of the Belgian credit institutions subject to direct ECB supervision, this Regulation should not imply any fundamental change in the current framework. In fact, most of the options adopted by the ECB correspond to options used in Belgium pursuant to the National Bank of Belgium Regulation of 4 March 2014 on the implementation of the CRR. The transitional measures adopted in Belgium are generally in line with the options proposed by the ECB, except for the deduction of unrealised losses on available-for-sale (AFS) securities issued by sovereign EU Member States. In their case, the Belgian Regulation offered the option of not deducting the losses if they did not exceed 5 % of the face value of the portfolio of securities in question. Also, the ECB did not question the option of not deducting insurance holdings from the own funds of credit institutions, an option which is widely used in Belgium and in other Member States.

In addition, in accordance with the option that the CRR offers to Member States, the limit of 100 % of own funds was maintained for cross-border intra-group exposures in relation to parent companies and sister companies of Belgian credit institutions.

The Bank likewise decided to maintain until 1 January 2017 at the latest the obligation to respect the CRR's LCR in full, both on a solo basis and on a consolidated basis. After that date, the rules defined by the ECB can be applied, and institutions will be able, if appropriate, to apply for exemption from the obligation to respect that liquidity ratio in full on a solo basis if they constitute or form part of a sub-group managing its liquidity centrally and they respect the criteria laid down by the CRR and the ECB. Belgian institutions also remain subject to the general solvency requirement (gearing ratio) laid down by the Regulation dated 4 March 2014, pending the application of a minimum leverage ratio at European level.

In order to ensure equal treatment between Belgian institutions classed as significant and those considered less significant, the Bank decided to adapt the Regulation of 4 March 2014 in order to align the various provisions.

3.2.3 Miscellaneous

To preserve the renewed confidence in the European banking sector, the SSM continued its efforts to put the euro area's banking sector on a sound footing, taking account of the weaknesses detected in some banks, particularly those which had failed the comprehensive assessment. The ECB thus monitored the capital plans adopted by those institutions to restore their solvency position. In that regard, particular attention focused on the viability of their business models and the adequacy of the provisions, taking account of the very high level of non-performing loans in some Member States. The persistence or even continuing growth of these non-performing loans seriously weakens banks' profitability and is a major hindrance to the recovery of economic growth. Against that backdrop, the SSM set up a task force to identify good practices relating to the resolution of these loans and the obstacles – particularly legal ones – hampering their resolution. The entry into force of the BRRD on 1 January 2016 could make it considerably harder to resolve these bad debts – particularly by setting up 'bad banks' granted government aid – in view of the implications of state aid for the credit institutions concerned. Thus, from 1 January 2016, all state aid must be preceded by the application of a bail-in as defined by the BRRD and – save in exceptional circumstances – the outcome will always be the resolution of institutions which have received state aid.

The ECB also conducted a new comprehensive assessment which, as in 2014, was based on two complementary pillars: an asset quality review (AQR) and stress tests. The ECB conducted the exercise on the basis of a harmonised methodology designed to promote convergence in the definition of prudential concepts and rules, and in supervision practices. Two types of institution were involved. First, there were the institutions which had not been subjected to this exercise in 2014 because they had not been designated as significant until after the list was drawn up in September 2014. The Belgian credit institution Bank Degroof Petercam (formerly Bank Degroof) took part in this exercise in 2015 with eight other institutions subject to the SSM, and passed all the elements of the comprehensive assessment as described in section 2.1 of this chapter.

Furthermore, in view of the precarious financial situation of a number of Greek banks, pursuant to the agreement reached by the Eurogroup in August 2015, the ECB was also given the task of determining the capital needs of those institutions classed as significant. Under the financial plan totalling € 86 billion, a maximum of € 25 billion can be devoted to improving the financial situation of those banks and absorbing their resolution costs, in return for the application of a degree of risk-sharing with their shareholders and creditors. To avoid serious contagion risks and an even greater deterioration in economic activity, depositors were not subject to this risk-sharing. To meet the Eurogroup's requirements, the ECB conducted a new comprehensive assessment for those banks, taking account in particular of the significant degradation of their loan portfolios and liquidity position. The initial results of that exercise for banks considered significant indicated a capital need amounting to € 14.4 billion. In addition, the capital plan submitted by those institutions should make it possible to reduce the intervention of the European Stability Mechanism to € 5.43 billion.

In response to the many questions raised in recent years concerning the consistency of the capital requirements indicated by internal models, the SSM launched a project for the horizontal assessment of those internal models. That project, called the TRIM (Targeted Review of Internal Models), was prepared in 2015. It will concentrate on the assessment of a range of key factors likely to lead to insufficiently consistent results. All "suspect" topics will be taken into account, ranging from clarifications of the legislation to the qualitative and quantitative aspects of internal models. The year 2016 will be devoted to off-site analyses of the transversal aspects (clarifications of the legislation and qualitative factors), and on-site assessments of the quantitative elements will be conducted in 2017 and 2018. A representative sample of the models will undergo an on-site assessment. This project will make it possible to reduce unwarranted variations in the risk-weighted assets and to check whether the results of the internal models are sufficiently consistent.

4. Continuing implementation and development of national and international legislation

4.1 International regulations

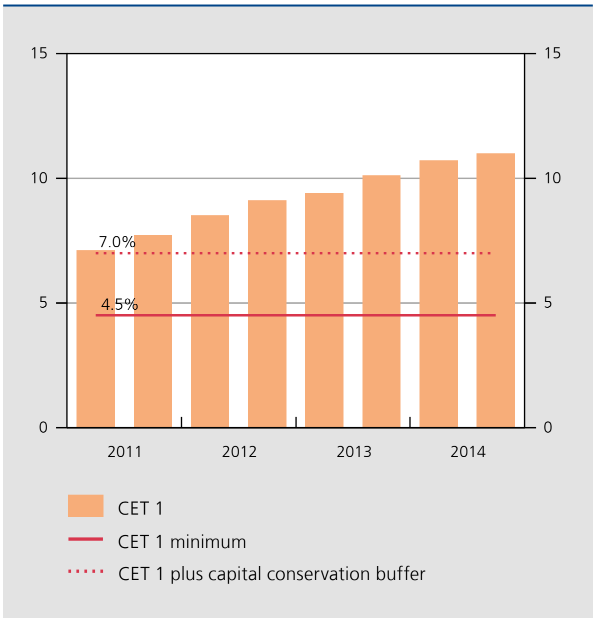
The introduction of the Basel III framework remains fundamental to the construction of a robust financial system, the maintenance of public confidence in bank regulation, and the guarantee of fair competition between banks operating internationally. Monitoring of the implementation of these regulatory reforms therefore remains a priority for the Basel Committee.

During the year under review, the Basel Committee continued to work on its programme of scanning the introduction of the new regulatory standards by individual supervisory authorities. Under the Regulatory Consistency Assessment Programme launched by the Committee, the implementation of the rules on both capital and liquidity forming part of the Basel III package was assessed for the countries forming part of the Committee.

In analysing the impact of the entry into force of this new prudential framework, the Basel Committee continues to base its views on six-monthly impact studies concerning capital requirements (both risk-weighted solvency ratios and the leverage ratio) and liquidity criteria in all banks of the countries which are members of the Basel Committee. Since the launch of the Basel III standards, there has been a general, gradual improvement in both capital and liquidity ratios. The data for the end of December 2014 show that, for the first time, all the large banks operating internationally respected the minimum CET 1 ratio (7 % + any buffers for systemically important banks). Under the current prudential framework, the CET 1 ratio averaged 11.7 % for large internationally active banks. The big Belgian banks recorded a higher average CET 1 ratio. The average Basel III leverage ratio, defined as the ratio between the Tier 1 capital and the total assets plus part of the off-balance-sheet positions, came to 5.0 % for large banks operating internationally. The Belgian banks included in this sample recorded a leverage ratio which was slightly lower on average than that of their international counterparts.

CHART 6 BASEL III CET 1 RATIOS FULLY IMPLEMENTED: AVERAGE FOR LARGE INTERNATIONALLY ACTIVE BANKS

(in %)



Source: Basel Committee on Banking Supervision.

A similar picture emerges for the banks' liquidity situation : since the completion of the two Basel III liquidity standards, both the LCR and the long-term structural liquidity ratio – the net stable funding ratio (NSFR) – have increased considerably. While the LCR determines whether a bank has sufficient liquid assets to withstand a liquidity stress scenario for one month, the NSFR indicates whether a bank has sufficient long-term funding to finance illiquid assets. At the end of December 2014, the LCR averaged 125.3 % for large banks operating internationally, while 81 % of the banks in the sample already had an LCR of more than 100 %. The NSFR stood at 111.2 % for that group of banks, and 75 % of those banks already had an NSFR of more than 100 %. On average, the Belgian banks in that sample had liquidity ratios slightly higher than their international counterparts.

As well as monitoring the implementation of the Basel III standards, the Basel Committee continues to work on improving the consistency of the capital requirements. Benchmark studies conducted by the Committee on the calculation of the capital requirements by banks confirmed that there are significant differences between the banks' regulatory capital ratios, owing to factors unconnected with the underlying risks of the banks' portfolios. Those differences raise questions about the methods of calculating risk-weighted capital ratios. In response, the Basel Committee is working on a range of policy and supervision measures to supplement the Basel III package, in order to limit the excessive variability of the capital requirements calculated on the basis of a bank's internal models. The focus of the current work, scheduled for completion by no later than the end of 2016, is therefore on the denominator of the general risk-based capital coefficient, i.e. the methods of calculating the risk-weighted assets.

To this end, the Basel Committee is first devising specific measures to improve the system of calculating the capital requirements for operational, credit and market risks on the basis of internal models. The changes in question will limit the available model parameters and choices, particularly for portfolios or risk types which, by their very nature, are less suited to modelling.

A second measure is the revision of the standardised approach for the calculation of the capital requirements for operational, credit and market risks. The Committee has continued to work on this revision on the basis of proposals published earlier. On completion, these revised standardised approaches will form the basis for establishing a floor for the capital requirement calculated on the basis of internal models which should ensure that the capital requirements based on internal models are maintained at a prudent level.

A third measure concerns the introduction of a leverage ratio which does not involve risk-weighting of assets. Although a risk-weighted capital requirement is very important, it cannot prevent institutions with low-risk assets from relying very heavily on debt financing. The leverage ratio rectifies that. In the event of financial difficulties, excessive debt financing may lead to a forced debt reduction and the fire sale of assets, triggering a fall in the price of those assets and financial losses, and potentially destabilising the financial system. The Basel III measures provide for the introduction of a minimum leverage ratio from 2018. That leverage ratio is currently still an observation ratio, but it must be made public by credit institutions. Public disclosure of the leverage ratio is compulsory from the year under review, at the same time as the publication of the institution's financial reports. For institutions reporting quarterly, this must therefore be done from the publication relating to the first quarter of 2015. Since mid-2011, a sample of institutions have already been reporting the leverage ratio to the supervisory authorities. On the basis of the information gathered during this observation period, the Basel Committee is examining whether final adjustments should be made to the definition, calibration and minimum level of the leverage ratio requirement. It is also examining the degree to which the leverage ratio can be used as a macroprudential instrument by the possible introduction of additional buffer requirements for this ratio. At the meeting of the Group of Central Bank Governors and Heads of Supervision on 10 January 2016, it was decided that the leverage ratio should be calculated on the basis of the Tier 1 capital and must equal at least 3 %. Requirements concerning additional buffers for G-SIBs were also discussed.

At European level, the EBA is to report by the end of October 2016 on the impact and effectiveness of the introduction of a binding leverage ratio in the European context, in order to establish a final definition and a minimum requirement for the leverage ratio as a mandatory capital requirement for European banks by 2018. That report includes an analysis of the extent to which the minimum required level and the reporting requirements should be differentiated according to the size, business model and risk profile of the institutions. It also examines the interaction between the leverage ratio and other prudential requirements such as the risk-weighted capital ratio and the liquidity requirements, and the possible impact on the financial markets of the introduction of a leverage ratio.

A fourth and final Basel Committee measure to limit the excessive variability of the capital requirements is the increase in the transparency of the bank balance sheet, activities and risks. In that respect, the year under review saw the finishing touches to new guidelines on the information that credit institutions have to disclose.

Apart from this work on following up the implementation of the Basel III standards and limiting the variability of the risk-weighted assets, there were some important regulatory developments concerning the prudential treatment of securitisation operations. A key point here is the Basel Committee's revision, in December 2014, of the framework relating to the capital requirements for credit institutions' securitisation positions. That revised framework, which will enter into force in January 2018, is a major step forward in the completion of Basel III.

At the same time, the Capital Markets Union aims to improve the financing of the real economy through capital markets in Europe. Securitisation is an important element of that initiative, being perfectly in tune with its objectives. With that in mind, in connection with the action plans announced at the end of September 2015, the EC published its proposal for legislation on a new harmonised European securitisation framework. That framework will replace all the sectoral regulations on securitisation and will also create a standard for simple, transparent and standardised securitisation in the EU. The preferential prudential treatment of this type of securitisation by credit institutions and investment firms will be implemented via amendments to the CRR.

Other more specific measures under the Capital Markets Union Action plan are a consultation on covered bonds, adjustments to the Solvency II calibrations for investment by insurers in infrastructure projects and European long-term investment funds, and proposals for modernising the Prospectus Directive in order to facilitate access to public contracts.

In the prudential sphere, the call for evidence on the cumulative impact of the financial reforms is a significant initiative under the Capital Market Union Action Plan. It aims to assess the impact of the CRR and the CRD IV on the bank financing of the economy. The results of this work will probably have implications for the strategic approach adopted by the EC for bank regulation. During the reforms to be introduced under the Capital Markets Union Action plan, it is important not to lose sight of the impact on the financial system's stability.

Finally, the international community of supervisory and financial authorities is also taking a critical look at the treatment of sovereign risks or risks associated with exposure to governments. Those exposures currently receive preferential treatment in the calculation of the capital requirements for banks. The Basel Committee and other international groups are examining the extent to which that preferential treatment is still justified in the light of the crisis, and whether a change in that approach would affect related spheres such as the financing of governments and monetary policy.

4.2 Belgian legislation

Owing to the creation of the SSM and the direct supervision by the ECB over significant Belgian credit institutions, developments in Belgian legislation mainly concern matters for which the national supervisory authority or the Member State still retain regulatory competence.

That applies in the first place to the structural reforms in the banking sector, where the national legislation has been developed further in anticipation of a European framework. In this connection, the Banking Law prohibits Belgian credit institutions which collect deposits or issue debt instruments covered by the Belgian deposit protection system from engaging in proprietary trading activities or certain very high-risk trading activities. The Belgian provisions on these structural reforms were set out in detail in the 2014 Report. At the end of March 2015, following consultation with the sector, the Bank published a Circular containing instructions on a periodic qualitative and quantitative reporting obligation, designed to permit regular monitoring of compliance with the provisions concerned. Thus, all institutions have to submit an annual qualitative conformity report. As for the quantitative reporting obligations, the Bank was pragmatic in its allowance for the principle of proportionality. Thus, institutions with a small trading portfolio are exempt from these obligations.

Apart from the structural reforms in the banking sector, the EU Member States also retained some latitude on entry into force of new liquidity standards for credit institutions, namely the LCR and the NSFR. Basel III in fact set two liquidity standards: the liquidity coverage requirement (LCR) and a minimum net stable funding ratio (NSFR). New legislation was needed for these instruments to be used. The LCR was developed in a Delegated Regulation (1), which came into force on 1 October 2015. The NSFR Regulation has yet to be developed. The CRR and the Delegated Regulation provide for a transitional period from 1 October 2015 to 1 January 2018, during which the LCR will be phased in, rising from 60 % to ultimately 100 %. The Member States may nevertheless decide to introduce the 100 % LCR immediately and to

(1) Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No. 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions, *Official Journal* L 11 of 17 January 2015, p. 34.

apply the national rules on liquidity up to 2018. This avoids any temporary weakening of the liquidity requirements in Member States which already have national rules on the subject. Belgium was one of the Member States which already had such rules.

The Banking, Finance and Insurance Commission (CBFA) – and later the Bank – have in fact had a liquidity stress test ratio in place since 2010, measured over a one-month horizon [1]. The Bank decided to replace the existing Belgian liquidity standards with the LCR from October 2015, but to introduce the 100 % LCR immediately, on grounds of prudence. This new liquidity regime was set out in an NBB Regulation [2] and an NBB Circular [3]. The Regulation stipulates that every Belgian credit institution must apply the 100 % LCR at company and consolidated level, and at sub-consolidated level if it is the subsidiary of a European banking group. The Regulation excludes the option of applying certain preferential treatment to incoming and outgoing flows. In principle, the Regulation and the Circular will be abolished once the 100 % LCR is introduced throughout the European Union ; that is scheduled for 1 January 2018. In connection with the development of a harmonised European regulatory framework (see sub-section 3.3.2 of this chapter), the Bank nevertheless decided to repeal these provisions by no later than 1 January 2017.

A third area in which the Belgian legislation is being developed in anticipation of (and in accordance with) future international developments expected in both the Basel Committee and the SSM is the monitoring of the interest rate risk associated with banking activities outside the trading book. In view of the current low interest rates and the potential consequences of both a persistence of these low rates and a possible interest rate turnaround, the interest rate risk has been considered a priority, in recent years, in the supervision of Belgian credit institutions. In this connection, particular attention focused not only on a more refined analysis of recent developments in banks' interest income, but also on an improvement in the prudential reporting of the interest rate risk. At international level, too, work is in progress to strengthen the prudential reporting and treatment of the interest rate risk associated with activities outside the trading book, and to improve the comparability of these procedures. Thus, in May 2015, the EBA published new guidelines on the treatment of the interest rate risk, while the Basel Committee is currently working on a new improved approach to that risk. Finally, the SSM is also in the process of developing its interest rate risk approach.

The prudential reporting and treatment of the interest rate risk of Belgian credit institutions as applied up to the end of 2015 were described in the 2006 Circular on sound management practice in relation to the interest rate risk inherent in non-trading activities [4]. However, analyses revealed substantial differences between the various Belgian credit institutions in regard to the underlying assumptions and methodologies used in that prudential reporting. Since it will be some time yet before the work at international level is completed, an improvement in the quality and comparability of Belgian prudential reporting is an immediate priority. That is why a new Circular [5] will enter into force on 1 January 2016, setting out guidelines on sound management practice and reporting of the interest rate risk associated with non-trading activities. The new Circular contains a number of clarifications and details relating to the underlying methodologies and assumptions to be used in prudential reporting. It also incorporates the said EBA guidelines in the Belgian prudential framework.

The new Circular does not affect the principle that the interest rate risk associated with activities outside the trading book is a risk that needs to be properly managed, assessed and covered by capital within the institution. Prudential reporting aims to compare the risk between different institutions so as to detect any outlier values. The banks are thus expected to manage their interest rate risk positions on the basis of various possible interest rate scenarios, including persistently low interest rates, and in so doing to measure the impact on both the bank's income and on the economic value. Prudential reporting therefore remains a basis on which the supervisory authority assesses the interest rate risk in its SREP and determines any pillar 2 capital add-ons. In its assessment of the interest rate risk according to the principles and reporting described in the Bank's Circular, the supervisory authority considers both qualitative elements (adequacy of the institution's risk management) and quantitative elements (size of the interest rate risk that the institution actually incurs).

4.3 Reporting and accounting

The quantitative and qualitative information that the credit institutions report periodically to the competent authorities is a vital tool for the exercise of prudential supervision. Similarly, the reports that credit institutions publish each year under the Basel pillar 3 framework are an important source of information for market

(1) CBFA Regulation of 27 July 2010 on the liquidity of credit institutions, financial holding companies, settlement institutions and entities equivalent to settlement institutions (repealed).
(2) Royal Decree of 5 July 2015 approving the National Bank of Belgium Regulation of 2 June 2015 on the liquidity of credit institutions, *Moniteur belge / Belgisch Staatsblad* 10 July 2015.
(3) Circular NBB_2015_20 of 2 June 2015.
(4) Circular PPB-2006-17-CPB of 20 December 2006.
(5) Circular NBB_2015_24 of 3 September 2015.

participants wishing to assess the risks that the institution incurs and how it manages them. In particular, the Bank has monitored some recent changes in these respects. On the one hand, this concerns the international accounting rules, and more particularly the European debate on the adoption of the new International Financial Reporting Standard 9 (IFRS 9 – Financial Instruments) destined to replace International Accounting Standard 39 (IAS 39 – Financial Instruments: Recognition and Measurement) from 2018. Also, in 2014, the ECB adopted a new Regulation extending the financial reporting requirements on the basis of the Financial Reporting Framework, known as FINREP. Finally, the Bank transposed into the Belgian legislative framework the EBA guidelines on disclosures under pillar 3, and the 2013 accounting guidelines concerning institutions subject to its supervision.

4.3.1 IFRS 9, Financial Instruments

This new standard, destined to replace IAS 39, is applicable to the banking and insurance sector and was developed in three stages, starting in 2008. The first stage concerned the classification and valuation of financial instruments in IFRS financial statements. The second stage concerned the recognition of losses incurred on those same financial instruments in the event of deterioration in their credit quality (impairment). The third stage was devoted to the accounting treatment of specific hedging operations (micro-hedge accounting). The International Accounting Standards Board (IASB) continues to work on the fourth stage relating to the accounting treatment of hedging operations, particularly interest rate risk hedging, on a broader basis (macro-hedge accounting).

The standard was completed by the IASB in July 2014 and its application will be compulsory from 2018 (it may be applied before that). In Europe, however, its application depends on a decision that the EC is to take following a procedure for the adoption of the IFRS standards. The discussions on this subject are still in progress at European level, notably with a view to resolving the problems specific to the insurance sector.

The Bank kept a close eye on the development of IFRS 9, which aimed primarily to remedy the "too little, too late" effect of the model used in IAS 39 which was based on losses incurred, and hence to improve the quality of the institutions' financial reporting. The main effect of this new accounting standard should in fact be to increase the credit risk provisions by switching to a model based on expected losses, which is more in line with the prudential requirements.

In the discussions on the adoption of IFRS 9 by the European Union, the European bank supervision authorities – via the EBA – stressed the need to give the sector sufficient time to make sound arrangements for the practical implementation of this particularly demanding project.

In that connection, the bank supervisors emphasised that it was crucial for every institution concerned to proceed rapidly with the launch of this project, not only to ensure a qualitative transition within the time allowed, but also to anticipate any repercussions on the capital of the institutions concerned. The competent authorities – together with the EBA – will therefore keep a close watch on the progress of the project in the institutions subject to their supervision throughout the preparatory phase.

Finally, the Bank played an active part in the work of the Basel Committee and the EBA on the drafting of guidelines by the bank supervisory authorities in order to ensure a robust implementation of the new model for recording expected losses in the accounts on the basis of IFRS 9.

4.3.2 Application of FINREP at individual level

FINREP is the European framework defining the financial information that credit institutions must report periodically to the competent authorities. FINREP has applied in Belgium since 2006. Following CRD IV, FINREP was considerably revised and harmonised at European level via an implementing technical standard (ITS) prepared by the EBA, and now applies throughout the EU countries. FINREP was designed mainly to collect IFRS accounting data. It may also be supplemented by accounting data produced according to national standards, but in that case it is necessary to carry out a concordance exercise (mapping) at national level.

On 17 March 2015, under the SSM, the ECB adopted ECB Regulation (EU) 2015/534 on reporting of supervisory financial information. Since the current European rules only cover the financial reporting (FINREP) of credit institutions subject to prudential supervision which apply the IFRS on a consolidated basis, this new Regulation will now make it possible to require financial information in the FINREP format from a) groups which are subject to prudential supervision and draw up their consolidated annual accounts in accordance with national accounting standards, and (b) on an individual basis from all institutions (whether they prepare their accounts on the basis of national or international accounting rules). In Belgium's case, this ECB Regulation only has the effect of imposing FINREP (or part of it) at individual company level (see (b) above), as all

Belgian groups subject to prudential supervision already draw up FINREP on a consolidated basis, using the IFRS.

In order to ease the reporting burden for small institutions, the ECB Regulation makes provision for four sets of more or less binding FINREP tables in order to adapt the content of the data to the characteristics of each group of credit institutions. The Regulation also sets an initial reference date for that reporting, which varies according to the characteristics of each institution. For significant institutions, the first reference date – depending on the institution's characteristics – will be 31 December 2015 ("stand-alone" significant institutions – none as yet recorded in Belgium), 30 June 2016 (other significant institutions), or 30 June 2017 (less significant institutions).

The new ECB Regulation contains no specific provision on the underlying accounting law which must be applied, which means that FINREP needs to be supplemented by data on the credit institution drawn up in accordance with the accounting (or reporting) rules in force in the country concerned. In Belgium, the accounting reference system determined by the 1992 Royal Decrees (BE GAAP)(1) applies to the preparation of the individual company accounts, whereas IFRS applies only to the preparation of consolidated accounts. The main problem in implementing the ECB Regulation will therefore be to establish a concordance (mapping) between FINREP (typically aligned with the IFRS) and the national reporting scheme based on the BE GAAP standards.

4.3.3 Transposition of the Directive on annual financial statements and related reports

In 2015, the Bank presented to the competent ministers a draft Royal Decree transposing the new European Directive 2013/34/EU of 25 June 2013 on annual financial statements into the Belgian accounting law applicable to financial holding undertakings and insurers.

This new Company Law Directive, which repeals and replaces the 4th and 7th Directives on annual accounts and consolidated annual accounts, aims primarily to reduce the administrative burden on small and medium-sized enterprises. However, the administrative simplifications introduced here do not apply to financial holding undertakings and insurers, which are regarded as public-interest entities in the same way as listed companies. Owing to their public importance, these undertakings are required to meet more extensive financial reporting requirements at all times. The new Directive also introduces a range of new reporting requirements. For instance, in the notes to the financial statements, financial holding undertakings and insurers have to supply information on important events which occurred after the balance sheet date.

4.3.4 Application of the EBA guidelines to pillar 3

Part VIII of the CRR (Articles 431 *et seq.*) defines the public disclosure obligations, also known as pillar 3 requirements, applicable to credit institutions and investment firms. That information is meant to enable market participants to measure the level of risk facing each institution and thus to exercise some form of market discipline over it. Article 432 of the CRR states that institutions need not publish the required information if it is considered non-material, proprietary or confidential. Article 433 of the CRR also stipulates that institutions must publish the required disclosures at least once a year, but must assess the need to publish some or all of them more frequently in the light of the specific characteristics of their activities.

In December 2014, on the basis of the powers conferred on it by these provisions, the EBA published guidelines on (a) the way in which institutions must apply the concept of material, proprietary or confidential information in relation to the pillar 3 requirements, and (b) the assessment by the institutions concerning more frequent disclosure of that information.

In 2015, in order to incorporate these EBA guidelines in the national framework, the Bank issued a Circular to Belgian credit institutions and stock-broking firms, requesting them to conform to the EBA guidelines.

4.4 Developments concerning governance

4.4.1 reparation of a governance handbook for the banking sector

Following the international developments relating to governance, both at the level of the supervisory authorities (new directives issued by the Basel Committee and the EBA) and in European legislation, the Banking Law updated the various rules on governance and specified them in more detail in 2014.

The cross-sectoral Circular dated 30 March 2007(2) has in fact become largely obsolete. In those circumstances,

(1) Royal Decree of 23 September 1992 on the annual accounts of credit institutions, investment firms and UCI management companies.
(2) Circular NBB_2015_25: Guidelines on the disclosure of information (pillar 3, CRD IV).

during the year under review the Bank developed a governance handbook which replaces that Circular, at least where credit institutions are concerned[1].

The handbook aims to bring together all the legal documents relating to governance (Banking Law, explanatory memorandum, Regulations, Circulars, European legislation, and international standards) applicable to credit institutions and to provide additional clarification where necessary. The handbook also discusses subjects which are not actually covered by specific legal documents.

The main innovation consists in the possibility of consulting the handbook on line (see www.nbb.be/governancebanks), which enables institutions to look through all the legal documents in a very user-friendly way using interactive links. The aim is for the handbook to become a "dynamic" tool, without the need for systematic adjustment of the references and names which it contains, as in the case of the circulars, for example. Any changes will always be notified to the institutions.

4.4.2 Remuneration policy

In 2015, the Bank conducted another detailed horizontal analysis of large institutions' compliance with the remuneration policy rules – this time in close consultation and collaboration with the SSM. By using the same method to compare institutions with one another, the Bank aims to promote a level playing field in the Belgian financial sector. In this case, six large institutions had been included in the analysis which related to 2014 performance for which variable remuneration had been paid at the beginning of 2015. The Bank paid particular attention here to the new points introduced by the CRD IV and to the implementation of the recommendations which it had made in the previous year.

The primary point highlighted by this fifth horizontal analysis is the importance of proper documentation of the process of selecting the Identified Staff, including staff identified purely on the basis of the level of their remuneration but not ultimately selected because their professional activities were not considered to have any material influence on the institution's risk profile. This should enable the Bank to verify that the selection process conforms to the rules. The Bank also asks for the documentation to include a comparison with the results of the previous year's selection process.

Next, the Bank finds that, in general, there has been a shift from variable to fixed remuneration following the introduction of the cap on variable remuneration. Insofar as role-based allowances are used for that purpose, the Bank stresses that it is necessary to respect the conditions whereby remuneration can be considered fixed, as laid down in the EBA Opinion of 15 October 2014 on the use of allowances.

Third, the Bank notes increased transparency concerning the link between risks and remuneration policy. That applies both to the actual remuneration policy and to its translation into specific decision-making. Moreover, efforts have been made to vary the percentages of deferred variable remuneration according to differences between staff. That said, the payment is generally only deferred for the statutory minimum of three years. However, the Bank expects significant credit institutions as defined in Article 3, 30°, of the Banking Law to apply a minimum delay of five years, at least in the case of members of the board of directors and the people effectively managing the institution.

Finally, each institution must examine how it can conform to the legal requirement whereby at least 50 % of any variable remuneration consists of an appropriate balance between shares or equivalent instruments and, if possible, other capital instruments mentioned in the Banking law[2]. The conditions governing the use of those capital instruments as variable remuneration are listed in the technical regulatory standards adopted by the European Commission[3]. Those instruments can only be used if they have been issued and are sufficiently available. The institutions are asked to examine whether they can use that type of instrument and to inform the supervisory authority accordingly.

At European level, the EBA published a report on 7 September 2015 entitled "Benchmarking of remuneration practices at Union level and data on high earners", relating to the 2013 performance year. That report is based on remuneration data from a representative sample of institutions, collected by national supervisory authorities, including the Bank. The document reports a further fall in the ratio between variable and fixed remuneration. It also identifies a number of other trends at EU level, including in regard to the number of Identified Staff and the composition of the remuneration.

The EBA Guidelines on Remuneration Policies and Practices were also updated to take account of the

(1) Circular NBB_2015_29: Introduction of a governance manual for the banking sector.
(2) This concerns more specifically capital instruments which meet the conditions for eligibility as additional Tier 1 or Tier 2 capital instruments, or other instruments which can be fully converted into Tier 1 core capital instruments, or which can be fully written down, and which in any case accurately reflect the credit quality of the institution from the point of view of continuity.
(3) Delegated Regulation (EU) No. 527/2014 of the Commission of 12 March 2014.

experience gained since they were first applied in 2011 and the changes made in the wake of the CRD IV. These guidelines set out in detail the requirements concerning a good remuneration policy. The points addressed include the following: governance requirements, the application of remuneration policy in a group context, the process of selecting Identified Staff, the distinction between fixed and variable remuneration with a view to the correct calculation of the ratio between these two components, the requirements concerning the link between risks and remuneration policy, etc. The EBA guidelines also make a distinction between obligations applicable to all staff and those applying only to the Identified Staff. The Bank will be guided by this EBA reference document in the actual exercise of its supervision over remuneration policies and practices.