

PUBLIC CONSULTATION
DRAFT ECB REGULATION ON SUPERVISORY FEES
TEMPLATE FOR COMMENTS

Name of Institution/Company	BBVA	Country	Spain
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COMMENTS ON THE DRAFT ECB REGULATION ON SUPERVISORY FEES

Issue	Article	Comment	Concise statement why your comment should be taken on board
Subject Matter	1 (a)	Amendment	<p>The Regulation lays down on (a) the methodology for calculating the total amount of the annual supervisory fee to be levied by the ECB on supervised entities</p> <p>Comment: even if in the Rationale and Scope it is clarified that this Regulation will cover specifically the supervision activity of the SSM, article 1 may specify that this Regulation covers all the supervisory activities pursued by the ECB</p>
Total risk exposures	3.23	Clarification	<p>Total risk exposure means (...) the amount calculated by application of Article 92(3) of Regulation EU no 575/2013...</p> <p>Comment: the amount calculated by application of Article 92(3) of the regulation</p>

			575/2013, will apparently imply that neither the RWA derived from macro-prudential measures, nor the Pillar 2 would be considered.
Fee debtor	5.2	Clarification	<p>Each group of fee-paying entities shall nominate the fee debtor for the whole group</p> <p>Comment: More clarity in the role of the fee debtor would be welcome. Is the ECB considering a specific role (i.e.: senior management, Chief Accounting Officer, etc) within the bank to be nominated as fee debtor.</p>
Fee debtors: Grouping of branches of entities located in non- participating Member State	5.3	Amendment	<p>Two or more fee-paying branches of the same credit institution in the same participating Member State are deemed to be one branch. Branches of the same credit institution in different participating Member States are not deemed to be one branch.</p> <p>Comment: Branches of the same entity that located in different participating Member States are treated separately regardless that the combined or gathered assets are bigger than the minimum threshold. Several non-Euro area banks with commercial presence in different countries would be significant if this criterion would be amended. In fact, the supervisory effort of the SSM grouping all different parts of the group would justify a higher fee rather than the potential one computed by the current draft.</p>
Fee debtors: Grouping of subsidiaries of parent entities in non- participating Member states	5	Amendment	<p>Add Art 5.4 bis Subsidiaries of the same credit institution of parent entities established in non-participating Member States in different participating Member States are-deemed to be one subsidiary ”</p> <p>Comment: There is no reference in article 5 to the treatment of supervised subsidiaries of parent entities established in non-participating Member states.</p> <p>Paragraph (19) of Part II Content of the draft regulation on supervisory fees states that Supervised subsidiaries of parent entities established in non-participating Member States are also to be charged a fee, but treated separately and not consolidated when calculating</p>



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			the fee.
Annual costs	6.2 b	Amendment	<p>The amount of the annual costs shall be determined on the basis of the amount of the annual expenditure consisting of: (b) any damages incurred in the relevant fee period to be paid to a third party for a loss directly or indirectly caused by the ECB in the performance of its supervisory tasks.</p> <p>Comment: We do not share the rationale to assume the responsibility of any damages caused directly or indirectly by the ECB in its supervisory task</p>
Expenditure and costs	6.3 a	Clarification	<p>When determining the annual costs, the ECB shall take into account: a) any fee amounts related to previous fee periods that were not collectible</p> <p>Comment: Some clarification is required related to fee periods that were not collectible. This means that a period before the entry into force of the SSM could be charged with a supervisory fee (i.e.: comprehensive assessment period). Even if in the public hearing was ensured that no fee will be charged by the comprehensive assessment some sort of clarification in this regard could be more than welcome</p>
Estimating and determining annual costs	7	Clarification	<p>...The estimated annual costs shall serve as a basis for the calculation referred to in Article 13 (1) (a)</p> <p>Comment: ECB should give more information related to the breakdown of costs covering the SSM activities on an annual basis. Even if the SSM would have some sort of accountability vis-à-vis the European Parliament, more information in this regard should be unveiled</p>
Split of annual costs between significant and less significant	9	Clarification	<p>According to Q&A document on page 3 Question 6 the split of the total supervisory fees between significant and less significant institutions would be 85% and 15% respectively. This percentage is also pointed out in the Draft Regulation on page 8 II.4 Methodology for calculating individual supervisory fees. Proportions that were repeated in the public hearing</p>

supervised entities			<p>held on June the 24th 2014.</p> <p>Comment: However there will be around 120 significant banks and more than 5800 less significant banks therefore the supervisory effort should be bigger.</p>
Fee factors	10.3 (a) (i)	Clarification	<p>The fee factors at the highest level of consolidation within participating Member States shall be calculated on the following basis. (a) The fee factors used to determine the individual annual supervisory fee payable in respect of each supervised entity shall be the amount at the end of the calendar year of: (i) Total assets</p> <p>Comment: Total assets amounts are dependent on the implementation of IFRS or on the National GAAPS. It could happen that the treatment of certain accounts such as derivatives may imply big changes in those factors. As such these portfolios (i.e.: derivatives) will increase the supervisory burden of the SSM</p> <p>The methodology should ensure consistency and comparability</p>
Fee factors	10.3 (a) (ii)	Clarification	<p>The fee factors at the highest level of consolidation within participating Member States shall be calculated on the following basis. (a) The fee factors used to determine the individual annual supervisory fee payable in respect of each supervised entity shall be the amount at the end of the calendar year of: (ii) Total risk exposure</p> <p>Comment: the Total Risk exposures are dependent, among other factors, on the application of national discretion chosen by national regulators, the different approach in approving the internal models.</p> <p>Currently RWA computed with internal models are under scrutiny. In this regard, it is not desirable to base the computation of fees when a complete homogeneity is not ensured yet. In fact, using RWA as the sole indicator of total risk exposure will imply that a trading portfolio will be easier to supervise than a mortgage portfolio</p>

			<p>In addition, apart from RWA there are other factors that could be considered when assessing the risk profile of a financial institution such as stability of funding sources, complexity or leverage ratio.</p> <p>In this regard, the risk profile of the supervisory entities (and the supervisory tasks and related expenditures for the ECB) should not depend exclusively on TRE, but the total prudential requirements included in CRR/CRD IV (TRE, leverage, liquidity, large exposures, Pillar 2, buffers and corporate governance).</p> <p>In a nutshell, the appropriate variables (not just one) for measuring the risk profile should take into consideration all those prudential requirements and not only TRE.</p>
Minimum fee percentage for significant entities	11.3 fee factors (43) Minimum fee percentage for significant entities	Clarification	<p>The minimum fee percentage for significant entities will be 10%. In each participating country, at least the three most significant credit institutions will be subject to direct supervision by the ECB, irrespective of their total asset size. These credit institutions shall be small relative to other supervised entities in this category. For this reason, the ECB will halve the minimum fee component for the smaller significant institutions with total assets of €10bn or less.</p> <p>Comment: How will this waiver be offset? This amount will not be covered or it will be transferred to other institutions. If this is the case, how will the allocation of the extra cost be done?</p>
Cooperation with NCAs	12	Clarification	<p>The ECB will communicate the NCA before deciding on the final fee level to ensure that supervision remains cost effective and reasonable for all credit institutions and branches concerned.</p> <p>Comment: Does it mean that those amounts not charged will have to be borne by the rest of banks in the category or what will be the methodology to allocate these potential costs not charged to a specific financial institution</p>



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Sanctions	16	Clarification	In the event of a breach of this Regulation, in addition to the accrual of interest rate, the ECB may impose sanction Comment: more clarification in this regard would be appreciated
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