PUBLIC CONSULTATION

DRAFT ECB REGULATION ON SUPERVISORY FEES

TEMPLATE FOR COMMENTS

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Please separate your comments per issue, citing the relevant article of the draft Regulation on supervisory fees where appropriate and indicating whether you are proposing an amendment, clarification or a deletion. If you require more space for your comments, please copy page 2.

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DRAFT ECB REGULATION ON SUPERVISORY FEES

TEMPLATE FOR COMMENTS

Name of Institution/Company	Intesa Sanpaolo	Country	Italy

COMMENTS ON THE DRAFT ECB REGULATION ON SUPERVISORY FEES

Issue	Article	Comment	Concise statement why your comment should be taken on board
Inclusion of damages incurred in the total amount of annual costs to be covered by the supervisory fees Costs indirectly related	6(2)b	Deletion	Art. 6(2) provides for the inclusion of 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. We strongly believe that the ECB should not be allowed to pass on to supervised banks the claims related to damages to be paid to third parties in relation to the performance of its supervisory tasks. Since the ECB is totally independent in the performance of supervision, banks can neither exercise any influence nor any control on the compliance of the ECB duty. Moreover, according to article 340(2) of the Treaty on the Functioning of the EU which governs the liability of EU institutions, provides in particular that damages caused by the ECB or by its servants

to supervision	6(2)a)	Clarification	in the performance of their duties should be made good by the ECB. Therefore, we believe that the provision on article 6(2) of the draft regulation has no legal ground and should be deleted. The wording related to indirect costs is too broad. Indirect costs should be strictly defined.
Lack of complexity criterion in determining the level of the supervisory fee	10	Amendment	The methodology on which the supervisory fee will be calculated fails to consider the supervisory costs related to the complexity of a bank to be supervised. A banking group with a presence in more legal orders and with a high geographic dispersion in third countries should be applied a supervisory fee higher than one which has subsidiaries concentrated within either the Euro area or the EU. In the previous case, the supervisory effort will be higher than in the latter one and the supervisory fees should take into account this difference. Accordingly, we suggest that banks with over of 75% of their assets within the Euro area and the EU should be granted a significant fee reduction compared to banks that have a majority of their assets in third countries.
Allocation of costs between significant and non significant banks		Clarification	According to the Q&As, initial estimates show that 85% of the supervisory costs will be allocated to directly supervised entities while 15% to less significant ones. Since we do not have access to the data, we assume that the 85% of the expenditures which will be charged to significant banks will relate to DG MP I and DGMP II and a pro quota of DG IV, DG Macro-Prudential Policy and Financial Stability, the Supervisory Board and its Secretariat. We would like to know in which proportion the allocation of the costs incurred by DG IV, DG Financial Stability, Supervisory Board and its Secretariat - which perform horizontal services for both significant and non- significant banks - has been made.
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