

**Unicredit Response to the  
Public Consultation on  
a draft ECB Regulation on supervisory fees**

**FOR PUBLICATION**

**July 11, 2014**

Institution/Company <b>UniCredit</b>	
Contact person	
<b>Mr</b>	First name <b>Andrea</b>
	Surname <b>Cremonino</b>
E-mail address <a href="mailto:Andrea.Cremonino@unicredit.eu">Andrea.Cremonino@unicredit.eu</a>	
Telephone number 0039 02 8862 3880	
<input type="checkbox"/>	Please tick here if you do not wish your personal data to be published.

## UNICREDIT Comments on a draft ECB Regulation on Supervisory Fees

Issue	Article	Comment	Concise Statement
<b>Obligation to Pay Fees</b>	Section II.1 (15) [page 4]  <b>“Obligation to pay fees:</b> All supervised entities that are supervised within the SSM are obliged to pay an annual supervisory fee to the ECB.”	Amendment/ Clarification/ Deletion	UniCredit suggests to clarify that all entities that are supervised within the SSM, <u>both directly and indirectly</u> , are obliged to pay an annual supervisory fee to the ECB.
<b>Annual supervisory fee payable in respect of individual supervised entities or supervised groups</b>	Art 5 section 5  <b>“Fee Debtor:</b> In calculating the annual supervisory fee, subsidiaries established in non-participating Member States shall not be taken into account. In this respect, and in order to determine the fee factors of a group of fee-paying entities, the group shall provide sub-consolidated data for all subsidiaries and operations controlled by the parent undertaking in participating Member State”	Amendment/ Clarification/ Deletion	UniCredit would deem appropriate to consider the overall assets and liabilities of the group at consolidated level notwithstanding where they are located. First of all, the provision of sub-consolidated data is likely to require a significant effort in terms of dedicated resources and additional costs. Second, such an effort implying the definition of an additional area of consolidation would require significant dedicated resources in a very busy period of the year, already critical in terms of workload, due to the production of the annual financial statement. Furthermore, exposures in subsidiaries located in non-participating Member States would nevertheless require an oversight effort by the ECB. As a “home” supervisor in fact the ECB will have to deal with “host” authorities. Lastly, the provision of Art 5 would turn out to be not neutral from a bank’s perspective when considering the choice of managing business via subsidiaries or branches in non-

			<p>participating Member States.</p> <p>Nevertheless, in case the subsidiaries located outside participating Member States should be excluded, we would recommend to rely on existing reports, e.g. an expanded version of the country by country report commanded by EBA, or simply using total assets without excluding infra-group positions for sake of simplicity.</p>
<p><b>Expenditure and Costs</b></p>	<p>Art. 6 par. 2</p> <p>“The amount of the annual costs shall be determined on the basis of the amount of the annual expenditure consisting of:</p> <p>(a) any expenses incurred by the ECB in the relevant fee period that are directly or indirectly related to its supervisory tasks;</p> <p>(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><b>Amendment/ Clarification/ Deletion</b></p>	<p><b>Amendment to par.2 (a)</b></p> <p>UniCredit suggests to better specify that only the portion of costs that are related to SSM activities and tasks shall be charged to supervised entities. Furthermore, the cost allocation methodology should be properly disclosed.</p> <p>UniCredit deems appropriate specifying which expenditures and costs will be included in the annual costs. In this respect UniCredit would appreciate a clarification explaining why the costs related to the DG Macro-Prudential Policy and Financial Stability are included in the annual costs. Such costs pertain to the tasks that a central bank performs anyway.</p> <p>In addition, a proper allocation between costs related to monetary policy activities and supervision is particularly difficult.</p> <p>Therefore, we would suggest for a reduction of the contributions to the cost related to DG Macro-Prudential Policy and Financial Stability, as the ECB would anyway perform these functions for monetary policy.</p> <p><b>Deletion of par. 2 (b)</b></p> <p>As a first best option, UniCredit suggests <b>deleting</b> par. 2(b).</p> <p>As second best option, UniCredit</p>

			<p>suggests <b>amending</b> provision on par. 2 (b) by specifying that damages to be paid by third parties for losses directly or indirectly caused by the ECB in the performance of its supervisory task, shall, in the first place, be recovered from the supervised entity which, by failing to provide the necessary data or information, caused the relevant damages. UniCredit also suggests that - whenever those damages are not incurred in consequence of any misconduct of the supervised entity and are solely attributable to the ECB – they should be paid out of any fines collected by the ECB in accordance with Counsel Regulation no. 2532/98 rather than being collected from the supervised entities.</p> <p>In case of damages which exceed the amount of the fund collected by the ECB by imposing fines, it would be advisable to cause the ECB to take relevant resolutions for a capital increase.</p>
<b>Expenditure and Costs</b>	<p>Art. 6, par. 3</p> <p>“When determining the annual costs, the ECB shall take into account:</p> <p>(a) any fee amounts related to previous fee periods that were not collectible;</p> <p>(b) any interest payments received in accordance with Article 11;</p> <p>(c) any amounts received or refunded in accordance with Article 8(3).”</p>	<p>Amendment/ <b>Clarification/</b> Deletion</p>	<p>UniCredit suggests to better clarify what the sentence “any fee amounts related to previous fee periods that were not collectible” refers to:</p> <ul style="list-style-type: none"> <li>➤ Which kind of fees can be considered not collectible?</li> <li>➤ By when and by whom such previous fees are classified as not collectible? (in UniCredit view collectible fees should be exclusively related to the case of a bank under resolution)</li> <li>➤ Which kind of disclosure of not collectible fees will be provided to supervised entities?</li> <li>➤ It is important to clearly define an escalation process</li> </ul>

			in order to collect the unpaid fees before getting other supervised entities to contribute to un-collectible fees
<b>Split of annual costs between significant and less significant supervised entities</b>	Art. 9, par.2 “The split of the annual costs in accordance with paragraph 1 shall be made on the basis of the costs allocated to the ECB’s organisational units which perform the direct supervision of significant supervised entities and the indirect supervision of less significant supervised entities.”	Amendment/ Clarification/ Deletion	For the sake of clarity, the methodology for the allocation of costs not directly related to significant and less significant banks (e.g. secretariats, DG 4) should be disclosed
<b>Annual supervisory fee payable in respect of individual supervised entities or supervised groups</b>	Art. 10, par. 3 “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; (ii) total risk exposure. In the case of a fee-paying branch, total risk exposure is considered zero. The data regarding the fee factors shall be determined and collected in accordance with the methodology and procedures as established by the ECB and as published on its website. (b) The relative weighting used in respect of the fee factors shall be: (i) total assets: 50 %; (ii) total risk exposure: 50 %. The sum of all fee debtors’ total assets and the sum of all fee debtors’ total risk exposure shall be published on the ECB’s website.”	Amendment/ Clarification/ Deletion	UniCredit suggests to rely only on TA rather than TRE, since currently RWA (hence, TRE) is not always a consistent metric across banks and jurisdictions, as outlined by the benchmarking analysis on internal models performed both by the EBA and the Basel Committee.  Furthermore, UniCredit suggests to clarify that TA has to be calculated applying IAS-IFRS Accounting Standards as per the European Union endorsement.
<b>Annual</b>	Art. 10, par. 4	Amendment/	Banks are requested to provide fee

<b>supervisory fee payable in respect of individual supervised entities or supervised groups</b>	<p>“The supervised entities shall provide fee factors with a reference date of 31 December of the preceding year and submit the required data to the NCA concerned for the calculation of the annual supervisory fees by close of business on 1 March of the year following the said reference date or on the next business day if 1 March is not a business day. NCAs shall submit all these data to the ECB in accordance with the procedures to be established by the ECB. Where a supervised entity needs to revise the data submitted in relation to its fee calculation, the updated data shall be submitted without undue delay and by 15 March at the latest.”</p>	Clarification/ Deletion	<p>factors with a reference date of 31 December of the preceding year at close of business on 1 March of the following year. Considering the timeline for the drafting of the year-end consolidated financial statements, we deem of crucial importance to align the delivery date with the timeline set for approving the balance sheet. Otherwise the bank could only deliver data that are neither approved by the Board of Directors nor fully audited. Therefore we suggest postponing the deadline at least to the end of March.</p>
<b>Specific reporting requirements for TA of supervised groups / ITS foreseen as the basis for the provision of data on TRE</b>	<p>Section II.3 (35) and (36) [page 7 and 8]</p> <p><b>(35) Specific reporting requirements for TA of supervised groups:</b> As outlined in paragraph 30, in the case of supervised groups it is necessary to exclude subsidiaries established in nonparticipating Member States. Fulfilment of this obligation requires information on the intragroup transactions of the entities of the group and the subsidiaries located in nonparticipating Member States and third countries that is not available via the ITS on supervisory reporting or other reporting sources. Therefore, in the case of supervised groups with subsidiaries outside the SSM area, the supervised group must calculate TA directly at the sub-consolidated level and disclose this information. Information on TA calculated at the subconsolidated level by the supervised groups concerned will be collected by the ECB via the NCAs in accordance with methodologies and procedures to be</p>	Amendment/ <b>Clarification</b> / Deletion	<p>UniCredit suggests two clarifications:</p> <p><u>First clarification:</u> In UniCredit understanding, TA needs to be calculated at the sub-consolidated level, meaning: eliminating from group TA the TA of the legal entities located in non-participating MS net of all intragroup transactions (both with legal entities located in participating Member States and located in non-participating Member States). Is UniCredit understanding correct? As per the proposed amendment to Art 5, UniCredit suggests to report TA and TRE with reference to all the overall assets and liabilities of the group, under an IAS-IFRS accounting consolidation perspective. Alternatively, it is asked if it would be possible to exclude from TA calculation those group entities located outside EU Member States without re-calculating the impact of the intercompany elimination.</p>

	<p>established by the ECB and published on its website. This obligation to directly calculate and return sub-consolidated TA data for the purposes of calculating the supervisory fee is proportionate, as these data impact the fee calculations for all credit institutions and are not otherwise available.</p> <p><b>(36) ITS foreseen as the basis for the provision of data on TRE:</b> It is expected that data on TRE for all supervised entities will be sourced from the supervisory data submitted in accordance with the ITS. This would involve taking data on TRE obtained from the common reporting (COREP) framework. Sub-consolidated TRE data for all subsidiaries and operations controlled by the parent entity in participating Member States would be derived from the contribution to the risk exposure amount of each of the entities within the consolidated group.</p>		<p><u>Second clarification:</u> In UniCredit understanding, it seems that the TA of supervised group is provided to the ECB by the supervised entity while the TRE is determined directly by the ECB based on common reporting (COREP). In order to ensure consistency, both data shall be provided by the same entity (hence either the supervised bank or the ECB) or a coordination mechanism between supervised entity and the ECB shall be set up.</p>
<p><b>Report and review</b></p>	<p>Art. 18, par. 1</p> <p>“In accordance with Article 20(2) of Regulation (EU) No 1024/2013, the ECB shall submit a report on the envisaged evolution of the structure and amount of the annual supervisory fees each year to the European Parliament, the Council, the Commission and the Eurogroup.”</p>	<p><u>Amendment/ Clarification/ Deletion</u></p>	<p>It is considered of particular importance that the supervisory costs are strictly monitored by a competent Body at European level (for instance the European Court of Auditors). It is worth evaluating whether to extend such control to the budgeting phase.</p>