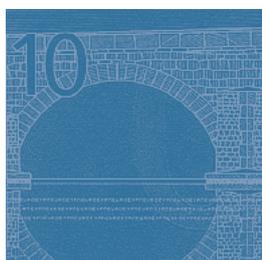




EUROPEAN CENTRAL BANK

EUROSYSTEM



## PUBLIC CONSULTATION

### on a draft Regulation of the European Central Bank on supervisory fees

In 2014 all ECB publications feature a motif taken from the €20 banknote.

**May 2014**

This consultation document is intended to assist interested stakeholders in understanding and assessing the draft ECB Regulation on supervisory fees (to be found in Part III). As such, this document has no interpretative value and cannot be legally binding. In particular, in the version of the ECB Regulation on supervisory fees which is finally adopted, the European Central Bank is entitled to take a position different to that set out in this document. Moreover, only the Court of Justice of the European Union can give a legally binding interpretation of provisions of EU law.

Comments are only expected on Part III of this document.

This document consists of three parts:

- I. Rationale for and scope of an ECB Regulation on supervisory fees
- II. Content of the draft Regulation on supervisory fees
  1. General principles of the fee framework
  2. Determination of the overall supervisory fee
  3. Fee factors
  4. Methodology for calculating individual supervisory fees
  5. Procedural aspects of invoicing
  6. Change in status: new supervised entities, withdrawal of authorisation and the change in supervisory status within the SSM
  7. Sanctions and appeals
  8. Cooperation with the NCAs
  9. Accountability and reporting
- III. The draft Regulation on supervisory fees

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# **I RATIONALE FOR AND SCOPE OF AN ECB REGULATION ON SUPERVISORY FEES**

- (1) The Single Supervisory Mechanism (SSM) is established by Council Regulation (EU) No 1024/2013<sup>1</sup> (hereinafter the “SSM Regulation”). The SSM Regulation entered into force on 3 November 2013 and the ECB will assume its SSM-related tasks from 4 November 2014.
- (2) The expenditure incurred by the ECB in relation to the tasks conferred on it under Articles 4 to 6 of the SSM Regulation will be covered by fees in accordance with Article 30 of the SSM Regulation. The ECB will levy supervisory fees on:
  - (a) credit institutions established in euro area Member States or non-euro area Member States that have established a close cooperation under Article 7 of the SSM Regulation (hereinafter jointly and individually referred to as “participating Member States”);
  - (b) branches established in a participating Member State by a credit institution located in a non-participating Member State.<sup>2</sup>

## **I.1 Supervision under the SSM**

- (3) The SSM is a system of financial supervision composed of the ECB and the national competent authorities (NCAs) of participating Member States.<sup>3</sup> Within the SSM, the ECB will be responsible for the direct supervision of significant credit institutions, while the NCAs will be responsible for the direct supervision of less significant credit institutions.<sup>4</sup> The ECB will also be responsible for the effective and consistent functioning of the SSM. In this context, it will be exclusively competent to grant and withdraw authorisations for credit institutions and to assess acquisitions of qualifying holdings in all credit institutions. Furthermore, the ECB will be able to issue general instructions to the NCAs with regard to the supervision of less significant supervised entities and will retain investigatory powers over all supervised entities. Such powers include the authority to request information, conduct investigations and carry out on-site inspections, as well as the power to take up direct supervision of less significant supervised entities, when necessary, to ensure a consistent application of high supervisory standards.

<sup>1</sup> Council Regulation (EU) No 1024/2013 conferring specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

<sup>2</sup> Branches are secondary and dependent commercial facilities and therefore, unlike subsidiaries, not separate legal entities.

<sup>3</sup> See Article 2(9) of the SSM Regulation.

<sup>4</sup> The distinction between significant and less significant credit institutions is laid down in Article 6(4) of the SSM Regulation and Part IV of Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17) (OJ L141, 14.5.2014, p.1).

- (4) Benefits of the SSM: The establishment of the SSM will contribute to restoring confidence in the banking sector through independent, integrated supervision in all participating Member States.
- (5) The SSM will also contribute to the effective application of the single rulebook for financial services and the harmonisation of supervisory procedures and practices by removing national specificities. This harmonisation will bring efficiency benefits for supervised entities as they will no longer be required to comply with a range of supervisory systems across participating Member States. This is particularly true for significant cross-border credit institutions.

## **I.2 The ECB Regulation on supervisory fees**

- (6) The ECB must have adequate resources at its disposal to carry out its supervisory tasks effectively. Such resources must be financed via a fee, in order to ensure both the ECB's independence from the NCAs and market participants, and a clear separation of monetary policy and supervisory tasks. The fee will be levied on the entities supervised within the SSM. Together, the SSM Regulation and the ECB Regulation on supervisory fees will provide the legal framework for the levying of fees within the SSM.

## **I.3 Legal basis of the ECB Regulation on supervisory fees**

- (7) Article 30 of the SSM Regulation provides that “the ECB shall levy an annual supervisory fee on credit institutions established in the participating Member States and branches established in a participating Member State by a credit institution established in a non-participating Member State” (hereinafter “supervised entities”). The amount of the fee levied on a supervised entity will be calculated in accordance with the arrangements established by the ECB. The ECB will publish the detailed operational arrangements for its SSM-related tasks by means of regulations and decisions.<sup>5</sup> This requirement also applies to the arrangements for calculating supervisory fees. It was therefore decided that the arrangements for calculating the SSM fees should be established in the form of an ECB regulation.
- (8) An ECB regulation has general application. It is binding in its entirety and directly applicable in all euro area Member States. It is thus the appropriate legal instrument to organise the practical arrangements for the implementation of Article 30 of the SSM Regulation. The SSM Regulation and the ECB Regulation on supervisory fees (once adopted by the ECB's Governing Council) will both form part of EU law and will prevail over national law for the aspects that they regulate.

<sup>5</sup> See Article 33(2) of the SSM Regulation.

- (9) Before adopting the ECB Regulation on supervisory fees, the ECB must carry out open public consultations and analyse the potential related costs and benefits, and publish the results of both.<sup>6</sup> In accordance with the Interinstitutional Agreement<sup>7</sup> between the European Parliament and the ECB, the draft Regulation on supervisory fees was sent to the relevant committee of the European Parliament before the launch of the public consultation.

#### **I.4 Scope of the ECB Regulation on supervisory fees**

- (10) The ECB Regulation on supervisory fees (in its current draft form hereinafter referred to as the “draft Regulation on supervisory fees”) lays down all the rules and procedures for a fair and proportionate SSM-related fee policy.
- (11) In particular, the draft Regulation on supervisory fees sets out the methodology for calculating, allocating and levying the annual supervisory fee. Pursuant to Article 30 of the SSM Regulation, it sets out:
- (a) the methodology for calculating the total amount of the annual supervisory fees – Part II.2;
  - (b) the methodology and criteria for calculating the annual supervisory fee to be levied on individual supervised entities – Part II.3 to Part II.5;
  - (c) the procedure for collecting the annual supervisory fee – Part II.5;
  - (d) the cooperation between the ECB and the NCAs – Part II.8.
- (12) NCA expenditure for supervisory tasks is not included: The NCAs play an important role within the SSM. For the supervisory tasks related to significant institutions that are supervised directly by the ECB, the NCAs cooperate with and assist the ECB, while those related to less significant institutions are performed mostly by the NCAs upon instruction from the ECB. The costs incurred by the NCAs through carrying out the latter tasks are not taken into account in the calculation of the amount of the supervisory fee levied by the ECB.
- (13) In line with Article 30(5) of the SSM Regulation, the draft Regulation on supervisory fees is without prejudice to the right of the NCAs to levy fees in accordance with national law, to the extent that supervisory tasks have not been conferred on the ECB or in respect of the costs of cooperating with and assisting the ECB in the performance of its supervisory tasks.

<sup>6</sup> See Article 30(2) of the SSM Regulation.

<sup>7</sup> Interinstitutional Agreement between the European Parliament and the European Central Bank on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB within the framework of the Single Supervisory Mechanism (OJ L 320, 30.11.2013, p. 1).

## II CONTENT OF THE DRAFT REGULATION ON SUPERVISORY FEES

### II.1 General principles of the fee framework

- (14) **Entities covered by the draft Regulation on supervisory fees:** The ECB is responsible for the effective and consistent functioning of the SSM in its entirety, i.e. in respect of both significant and less significant supervised entities.
- (15) **Obligation to pay fees:** All supervised entities that are supervised within the SSM are obliged to pay an annual supervisory fee to the ECB.
- (16) **Different fees for varying degrees of supervision:** The amount to be paid by the significant and less significant supervised entities will differ, in order to reflect the varying degrees of supervisory scrutiny by the ECB.<sup>8</sup> In particular, it is expected that the share of the total supervisory expenditure to be recovered from the less significant supervised entities will be much lower than that from the significant supervised entities.
- (17) **Fee calculation on the basis of entity groups:** Supervisory fees “shall be calculated at the highest level of consolidation within participating Member States”.<sup>9</sup> Therefore, the supervisory fee is to be calculated at the level of the highest entity in the ownership structure that is established in participating Member States and not on the basis of individual entities. All subsidiaries of this supervised entity are considered as belonging to the same supervised group. The calculation of fees will exclude subsidiaries established in non-participating Member States.
- (18) **Addressee of the fee notice:** The fee notice is to be addressed to each supervised entity that is not part of a group, or to one member of a group of supervised entities. In the latter case, only one fee notice is to be issued for the whole group. The members of the group are required to identify a fee debtor and send notification thereof to the ECB. If the ECB does not receive notification of the fee debtor by 1 March of a given fee period, the fee notice for that fee period will be sent to a supervised entity within the group, as determined by the ECB. The ECB reserves the right to determine the fee debtor, if deemed appropriate.
- (19) **Grouping of subsidiaries of parent entities outside participating Member States:** Supervised subsidiaries of parent entities established outside the participating Member States are also to be charged a fee, but treated separately and not consolidated when calculating the fee.

<sup>8</sup> See Article 9 of the draft Regulation on supervisory fees.

<sup>9</sup> See Article 30(3) of the SSM Regulation.

- (20) **Grouping of branches:** Supervised branches of entities located outside a participating Member State are treated as follows:
- a) Two or more branches of the same entity that are located in the same participating Member State are deemed to be one branch;
  - b) Branches of the same entity that are located in different participating Member States are treated separately;
  - c) A branch and a subsidiary of the same entity that are located in the same participating Member State are not combined when calculating the fee.

## II.2 Determination of the overall supervisory fee

- (21) **Amount to be recovered:** The amount to be recovered via annual supervisory fees is based on the ECB's annual expenditure in relation to its supervisory tasks, comprising all operating expenses, including those related to support functions and the depreciation of fixed assets.
- (22) **Determination of the annual expenditure:** More precisely, the annual expenditure will comprise primarily the expenses of the new business areas that have been established to carry out SSM-related tasks, i.e. the Directorates General Micro-Prudential Supervision I, II, III and IV, the Directorate General Macro-Prudential Policy and Financial Stability, and the Supervisory Board and its Secretariat. In addition, these supervisory business areas will use support services provided by the ECB, including services for the rental of premises, human resources management, administration, budgeting and accounting, as well as legal, internal audit, statistical, language and IT services. Services provided to the supervisory business areas will be billed in full in accordance with the ECB's cost accounting framework.
- (23) In addition, the amount to be recovered via the annual supervisory fee will take into account (i) any damages, in the context of the SSM, incurred by the ECB and to be paid to a third party; (ii) any fees related to previous fee periods that are determined as not collectible; (iii) any interest payments received owing to late payment by the fee debtor; and (iv) any amounts received or refunded in the context of authorisations of new supervised entities, the withdrawal of authorisations from supervised entities or changes in the status of supervised entities from significant to less significant or vice versa.
- (24) **Development in annual expenses:** On the one hand, the supervisory activities may include those that are intended to be temporary and/or that may vary considerably from year to year. On the other hand, the ECB is still in a transition phase, building up its supervisory capacity. The "steady state" level of the ECB's total supervisory expenditure will become apparent in the medium term. To mitigate the risks this entails, the ECB will (i) exercise sound financial management and budgetary control over all areas of expenditure; and (ii) seek to contain any unavoidable volatility in order to minimise the impact on supervised entities.

(25) **Expected expenditure during the first fee period:** For the first fee period, encompassing the final two months of 2014 and the 2015 advance payment, the ECB estimates the expenditure to be recovered at approximately €300 million<sup>10</sup>, broken down into €40 million for 2014 and €260 million for 2015. The latter can be broken down into roughly 60% for gross salaries and other personnel costs, approximately 10% for premises-related costs and around 30% for other operating expenses such as travel, consultancy and IT services.

### II.3 Fee factors

(26) **Importance and risk profile determine fees:** The SSM Regulation stipulates that supervisory fees must be based on objective criteria relating to the importance and risk profile of the supervised entity, as well as its risk-weighted assets.<sup>11</sup>

(27) **Total assets as an appropriate indicator of importance:** The draft Regulation on supervisory fees stipulates that total assets (TA) will be the indicator of the importance of a supervised entity. As the SSM Regulation defines TA as a primary parameter for assessing significance,<sup>12</sup> the ECB has selected the same variable for determining importance for the calculation of individual supervisory fees. Moreover, TA is closely related to the allocation of supervisory resources, reflecting the principle that the greater the value of TA, the more important the supervised entity and the more intensive the level of supervision required.

(28) **Total risk exposure as an appropriate indicator of risk profile:** Total risk exposure (TRE) is considered to be the appropriate variable for measuring the risk profile, including risk-weighted assets, of the supervised entities. TRE is used for calculating capital ratios pursuant to Article 92 of the Capital Requirements Regulation (CRR)<sup>13</sup> and covers different types of risk, in particular credit risk, counterparty credit risk, dilution risk, several forms of market risk, and operational risk. It is considered to be an appropriate and well-defined measure that complies with the requirements of the SSM Regulation.

(29) **Relative weights of fee factors:** The importance (i.e. TA) and risk profile (i.e. TRE) are given equal weight in the fee calculation, i.e. both fee factors are weighted at 50%. There appears to be no rationale for any other weighting scheme.

<sup>10</sup> This is a preliminary estimation based on the best available information at this juncture.

<sup>11</sup> See Article 30(3) of the SSM Regulation.

<sup>12</sup> See Article 6(4) of the SSM Regulation. The criteria laid down for determining significance are (i) size; (ii) importance for the economy of the EU or any participating Member State; (iii) significance of cross-border activities; (iv) request for or receipt of public financial assistance directly from the European Financial Stability Facility (EFSF) or the European Stability Mechanism (ESM); and (v) qualifying as one of the three most significant credit institutions in a participating Member State.

<sup>13</sup> 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 (OJ L 176, 27.6.2013, p.1).

- (30) **Exclusion of subsidiaries in non-participating Member States:** The SSM Regulation stipulates that, for the purposes of calculating the fee, subsidiaries established in non-participating Member States are to be excluded from the fee factors used.<sup>14</sup>
- (31) **Obligation to provide data:** If data on fee factors (TA and TRE) made available through regular supervisory or other reporting sources do not meet the requirements in terms of quality, definition or timeliness, the ECB may require the provision of all necessary data to support the fee calculation methodology. All supervised entities must provide the ECB with such data via their NCA.
- (32) **Frequency and reference date for the collection of data on fee factors:** The reporting frequency for fee factors is annual. The reference date for the fee factors (TA and TRE) is the end of the calendar year (i.e. 31 December) of the previous year. The first reference date is 31 December 2014.
- (33) **Access to information by the ECB:** Under the CRR, the European Banking Authority was given the mandate to develop implementing technical standards (ITS) that specify the details of the regulatory reporting requirements to be applied in the EU. The ITS will be part of the single rulebook, the aim of which is to enhance regulatory harmonisation in the EU banking sector and facilitate a proper functioning of cross-border supervision. They prescribe uniform formats, frequencies, reporting dates, definitions and IT solutions to be used by credit institutions in Europe, at both the individual and the consolidated level.<sup>15</sup>
- (34) **Reporting requirements for TA:** The total value of the assets of a supervised entity is derived from the “total assets” line on a balance sheet prepared in accordance with EU law for prudential purposes. In line with the SSM Framework Regulation, figures under the accounting scope of consolidation, as reported in the credit institutions’ audited financial statements, are considered a fallback option for credit institutions and branches that are currently not required to report figures in accordance with EU law for prudential purposes based on the prudential scope of consolidation.
- (35) **Specific reporting requirements for TA of supervised groups:** As outlined in paragraph 30, in the case of supervised groups it is necessary to exclude subsidiaries established in non-participating Member States. Fulfilment of this obligation requires information on the intragroup transactions of the entities of the group and the subsidiaries located in non-participating 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-

<sup>14</sup> See Recital 77 of the SSM Regulation.

<sup>15</sup> With the exception of the supervisory framework for financial reporting (FINREP), which, in principle, only applies at the consolidated level, and when applying International Financial Reporting Standards.

consolidated level and disclose this information. Information on TA calculated at the sub-consolidated level by the supervised groups concerned will be collected by the ECB via the NCAs in accordance with methodologies and procedures to be 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.

- (36) **ITS foreseen as the basis for the provision of data on TRE:** 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.
- (37) **TRE for branches:** Given that branches are secondary and dependent commercial facilities, and not separate legal entities distinct from the principal company, information on the TRE of branches may not be available. The ECB considers that it would not be proportionate or cost-efficient to establish a requirement for branches to submit this information for the purposes of calculating the supervisory fee. For this reason, it is foreseen that the TRE factor for branches will be set at zero.
- (38) **Publication of the data on TA and TRE on the ECB's website:** The ECB will publish the TA and TRE amounts on its website prior to the issuance of the fee notice and for significant and less significant supervised entities separately.

#### **II.4 Methodology for calculating individual supervisory fees**

- (39) **Split of expenditure to be recovered:** The annual amount to be recovered will be related to the status of the supervised entity, reflecting the varying degrees of supervisory scrutiny by the ECB.<sup>16</sup> Therefore, the annual amount to be recovered will be split into two amounts, i.e. the amount to be recovered from significant supervised entities and the amount to be recovered from less significant supervised entities. This split will be determined on the basis of the costs incurred by the ECB's business areas that are responsible for the supervision of significant supervised entities and the business areas overseeing the supervision of less significant supervised entities respectively. Based on the preliminary estimate of expenditure to be recovered for the first fee period, as outlined in Part II.2, the split would be €255 million for the significant supervised entities and €45 million for the less significant supervised entities.

<sup>16</sup> See Article 9 of the draft Regulation on supervisory fees.

- (40) Once the proportion of the total expenditure has been determined for each category of supervised entity, the individual supervisory fee for each supervised entity will be calculated on the basis of the methodology outlined below.
- (41) **Composition of fee:** The annual supervisory fee will consist of two elements – a fixed minimum fee component and a variable fee component. The sum of the minimum fee and the variable fee will constitute the annual fee to be paid by each supervised entity.
- (42) **Minimum fee component:** A percentage of the total amount to be allocated to supervised entities is distributed to all entities in the same category (i.e. the category of significant entities or that of less significant entities). The minimum fee component represents the lower limit of the supervisory fee. The percentages will be kept stable over time, which means that the actual minimum fee will then vary in line with the total expenditures to be recovered.
- (43) **Minimum fee percentage for significant entities:** 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 may be small relative to the 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 €10 billion or less.
- (44) **Minimum fee percentage for less significant entities:** The minimum fee percentage for the less significant entities will be 10%.
- (45) **Variable fee component:** The distribution of the amounts remaining after the deduction of the minimum fee component will be conducted on the basis of the fee factors (i.e. TA and TRE). An entity's share in the variable component will depend directly on the entity's weighted fee factors as a proportion of the sum of all entities' weighted fee factors. The table below provides an example:

	TA (50%)	TRE (50%)	Proportion of expenditure
Entity A	100	30	$[(100/400)*0.5]+[(30/100)*0.5] = 27.5\%$
Entity B	<u>300</u>	<u>70</u>	$[(300/400)*0.5]+[(70/100)*0.5] = \underline{72.5\%}$
<b>Total</b>	400	100	100.0%

- (46) **Impact analysis:** An analysis of the impact of the foreseen methodology has been conducted, when applied to preliminary data.
- (47) For significant supervised entities, the supervisory fees may range from roughly €150,000 for the smallest ones to about €15 million for the largest ones. The majority of these entities, representing nearly 50%, are expected to have weighted fee factors in the range of €30 billion to €200 billion. The average fee calculated for this category may then vary from about €700,000 to about €2 million.

- (48) For less significant supervised entities, the supervisory fees may range from roughly €2,000 for the smallest ones to about €210,000 for the largest ones. The majority of these entities, representing nearly 75%, are expected to have TA in the range of €1 million to €1 billion. The average fee calculated for this category may then vary from about €2,000 to €7,000.

## II.5 Procedural aspects of invoicing

- (49) **Advance payment based on a reasonable estimate:** In principle, supervised entities will be charged annually in advance, using the budget of the ECB<sup>17</sup> necessary to carry out the tasks conferred on it by the SSM Regulation to calculate the amount to be charged. The budget for a particular year will be finalised towards the end of the previous year. The collection of an advance payment on the basis of an estimate is explicitly provided for in Article 30 of the SSM Regulation.
- (50) **Treatment of surplus/deficit:** The annual supervisory fee levied by the ECB must cover, but not exceed, the annual expenditure incurred by the ECB in the relevant fee period in relation to the supervisory tasks conferred on it by the SSM Regulation<sup>18</sup>. As the advance payment is based on an estimate, a surplus or deficit between the amount collected in advance and the actual expenditure incurred may arise. The surplus or deficit from the previous year, if any, will be deducted from or added to the advance payment for the following year.
- (51) **Publication of overall amount to be recovered:** Prior to the issuance of the fee notices, the ECB will publish on its website the total annual amount to be collected in the current fee period, split into the amount recoverable from significant supervised entities and that recoverable from less significant supervised entities. This will represent the total amount to be collected from all supervised entities, consisting of (a) the estimated total annual expenditure collected in advance for the current fee period; and (b) the surplus (or deficit) from the previous year, if any, that will be refunded (or charged). The total amount will also include any other amounts received or paid in the previous period, such as damages paid, interest received for late payments of fees or adjustments to income resulting from changes in the status of supervised entities.
- (52) **Fee notice:** The ECB will issue fee notices on an annual basis to each supervised entity within the first eight months of the calendar year. The foreseen date of issuance of the fee notices is between June and August.
- (53) **Elements of the fee notice:** As a minimum, a fee notice will contain the following elements:

<sup>17</sup> Article 29(1) of the SSM Regulation states that the ECB's expenditure for carrying out the tasks conferred on it by the SSM Regulation must be separately identifiable within the budget of the ECB.

<sup>18</sup> Specifically the tasks set out in Articles 4 to 6 of the SSM Regulation.

- a) the details of the fee debtor to whom a fee notice is being sent (i.e. contact person, address, country, VAT registration number and/or a bank identification number (if relevant));
  - b) the total amount of the fee, split into the minimum fee component and the variable fee component;
  - c) the period to which the fee relates;
  - d) the individual fee factors applied for the purposes of calculating the fee;
  - e) the due date of the payment;
  - f) the means of payment and bank account details of the ECB.
- (54) **Payment maturity date:** The fee is due within 30 days of the fee notice being issued. A credit institution is deemed to have paid within the payment period if the fee has been credited in euro to the ECB's account by the 30th day after the fee notice has been issued. If the 30th day after the issuance date of the fee notice falls on a Saturday, Sunday or a public holiday, the fee is to be credited to the ECB's account by the working day preceding the due date.
- (55) **Partial payment or non-payment of fees:** In the event of a partial payment or non-payment by the due date, the ECB will initiate a follow-up procedure and will notify the fee debtor of the outstanding amount.
- (56) **Penalty fee:** In the case of overdue payments (or partial payments), an interest amount (penalty fee) will be imposed on the fee debtor. The interest amount will accrue on a daily basis on the overdue amount<sup>19</sup> outstanding from the date on which the payment was due.
- (57) **First fee notice:** The first fee notice will be issued in 2015. It will cover the advance payment for 2015 and the actual expenditure incurred during the first fee period, i.e. November and December 2014.

## **II.6 Change in status: new supervised entities, withdrawal of authorisation and the change in supervisory status within the SSM**

- (58) **Pro-rata approach for supervised entities that change status:** Each supervised entity is obliged to pay a supervisory fee for the portion of the year for which it is supervised by the SSM. It follows that supervised entities that are authorised will be obliged to pay a supervisory fee covering the period from the date of authorisation to 31 December of that year. Similarly, an entity whose authorisation is revoked or lapses during the course of the year will be obliged to pay a supervisory fee covering the period from 1 January to the date on which its authorisation

<sup>19</sup> The overdue amount is the difference between the amount charged and the amount credited to the ECB's bank account within the payment period.

lapsed or was revoked. The supervisory fee payable will be calculated on the basis of the number of full months during the fee period that the supervised entity was supervised.

- (59) **Pro-rata approach for a change in status between significant and less significant:** Since, over time, the status of a credit institution can change between significant and less significant, a procedure has been set out for reviewing and determining the annual supervisory fee based on the status of a supervised entity. The annual supervisory fee will be calculated on the basis of the number of months during the fee period that a supervised entity was significant or less significant on the last day of the month.
- (60) The change in status of a supervised entity from significant to less significant and vice versa will be determined in an ECB decision that will specify the date on which the change in status becomes effective.<sup>20</sup>
- (61) **Changes in status after calculation of fee has been finalised:** Where the annual supervisory fee levied deviates from the fee calculated on the basis of paragraphs 58 or 59 above, a refund to the supervised entity will be paid or an invoice will be issued by the ECB.

The ECB will publish on its website a list of those credit institutions identified as significant supervised entities or as forming part of a significant supervised group. Furthermore, the ECB will publish on its website a list of each entity that is supervised by an NCA together with the name of the supervising NCA. These lists will be updated on a regular basis.<sup>21</sup>

## II.7 Sanctions and appeals

- (62) **Appeals:** Within one month of receipt of a fee notice, a fee debtor will be able to submit an appeal against it to the Administrative Board of Review.
- (63) **Sanctions:** If a supervised entity is in breach of its obligations as these arise under the Regulation on supervisory fees, the ECB may impose sanctions in accordance with Council Regulation (EC) No 2532/98.<sup>22</sup>

## II.8 Cooperation with the NCAs

- (64) **Cost-effectiveness of the overall supervision:** The SSM Regulation has changed the supervisory architecture for all supervised entities in participating Member States. This will necessarily have an impact on the overall cost of supervision resulting from the sum of expenditure at the national and the supranational level. It is a stated objective of the SSM

<sup>20</sup> See Articles 43 to 47 of the SSM Framework Regulation.

<sup>21</sup> See Article 49 of the SSM Framework Regulation.

<sup>22</sup> Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions (OJ L 318, 27.11.1998, p. 4). See Article 18(7) of the SSM Regulation.

Regulation<sup>23</sup> that due regard should be given to ensuring that supervision remains cost-effective and its costs reasonable for all credit institutions and branches concerned. In this regard, the ECB must communicate with the NCAs before determining the total amount of the annual supervisory fee.

- (65) **ECB to communicate with the NCAs on final fee level:** The ECB will develop and implement a channel of communication between the NCAs and the ECB. Prior to deciding on the final fee level,<sup>24</sup> it will use this channel to ensure that supervision remains cost-effective and reasonable for all credit institutions and branches concerned.
- (66) **Rights of the NCAs to charge fees:** The right of the ECB to levy a supervisory fee is without prejudice to the right of the NCAs to levy fees in accordance with national law and, to the extent supervisory tasks have not been conferred on the ECB, or in respect of the costs of cooperating with and assisting the ECB and acting on its instructions.<sup>25</sup>

## II.9 Accountability and reporting

- (67) **Annual Report:** The ECB is accountable to the European Parliament and to the Council for the implementation of the supervisory fee framework. On an annual basis, the ECB will submit to the European Parliament, to the Council, to the Commission and to the Eurogroup a report on the execution of the tasks conferred on it by the SSM Regulation, including information on the amount of the supervisory fees. This reporting requirement is further specified in the Interinstitutional Agreement between the European Parliament and the ECB, confirming that the SSM Annual Report must cover the method for calculating the supervisory fees together with the budget for supervisory tasks.<sup>26</sup>
- (68) **Review clause:** The ECB will conduct a review of this Regulation on supervisory fees, in particular of the methodology and criteria for calculating the annual supervisory fee to be levied on each supervised entity or group, no later than 2017.
- (69) **Explanation of the calculation of the supervisory fees on the ECB's website:** The supervisory fees and an explanation of how they are calculated will be published on the ECB's website.

<sup>23</sup> See Article 30(3) of the SSM Regulation. The ECB must communicate with the national competent authority before deciding on the final fee level so as to ensure that supervision remains cost-effective and reasonable for all credit institutions and branches concerned.

<sup>24</sup> *ibid.*

<sup>25</sup> See Article 30(5) of the SSM Regulation.

<sup>26</sup> As stated in the accountability, access to information, confidentiality provision of the Interinstitutional Agreement between the European Parliament and the European Central Bank (see footnote 8).

### **III THE DRAFT REGULATION ON SUPERVISORY FEES**

*This draft Regulation is a working draft for consultation purposes only. It does not purport to represent or prejudge the final proposal for an ECB Regulation on supervisory fees to be presented by the Supervisory Board to the Governing Council in accordance with Article 30 of the SSM Regulation.*

**REGULATION OF THE EUROPEAN CENTRAL BANK**  
**of [date Month YYYY]**  
**on supervisory fees**  
**([ECB/YYYY/XX])**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions<sup>1</sup>, and in particular the second subparagraph of Article 4(3), Article 30 and the second subparagraph of Article 33(2) thereof,

Having regard to the public consultation and to the analysis carried out in accordance with Article 30(2) of Regulation (EU) No 1024/2013,

Whereas:

- (1) Regulation (EU) No 1024/2013 establishes a Single Supervisory Mechanism (SSM) composed of the European Central Bank (ECB) and national competent authorities (NCAs).
- (2) The ECB is responsible for the effective and consistent functioning of the SSM for all credit institutions, financial holding companies and mixed financial holding companies in all euro area Member States as well as in non-euro area Member States which enter into close cooperation with the ECB. The rules and procedures governing the cooperation between the ECB and NCAs within the SSM and with national designated authorities are laid down in Regulation (EU) No 468/2014 (ECB/2014/17) of the European Central Bank<sup>2</sup>.
- (3) Article 30 of Regulation (EU) No 1024/2013 provides for the levying of an annual supervisory fee by the ECB on credit institutions established in the participating Member States and on branches established in a participating Member State by a credit institution established in a non-participating Member State. The fees levied by the ECB should cover, and not exceed, expenditure incurred by the ECB in relation to the tasks conferred on it under Articles 4 to 6 of Regulation (EU) No 1024/2013.
- (4) Pursuant to Regulation (EU) No 1024/2013, the ECB is responsible for the effective and consistent functioning of the SSM. The annual supervisory fee should accordingly comprise an

<sup>1</sup> OJ L 287, 29.10.2013, p. 63.

<sup>2</sup> Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17) (OJ L 141, 14.5. 2014, p. 1).

amount to be paid annually by all credit institutions established in participating Member States and branches established in a participating Member State by a credit institution established in a non-participating Member State that are supervised within the SSM.

- (5) Within the SSM, the supervisory responsibilities of the ECB and each NCA are allocated on the basis of the significance of the supervised entities.
- (6) The ECB has direct supervisory competence in respect of significant credit institutions, financial holding companies, mixed financial holding companies established in participating Member States, and branches located in participating Member States of significant credit institutions established in non-participating Member States.
- (7) The ECB also oversees the functioning of the SSM, which includes all credit institutions, whether significant or less significant. The ECB is exclusively competent in relation to all credit institutions established in the participating Member States to authorise entities to take up the business of a credit institution, to withdraw authorisations and to assess acquisitions and disposals of qualifying holdings.
- (8) The NCAs are responsible for the direct supervision of less significant supervised entities, without prejudice to the ECB's power to exercise direct supervision in specific cases where this is necessary for the consistent application of high supervisory standards. When allocating the amount to be recovered via supervisory fees between the categories of significant supervised entities and less significant supervised entities, this sharing of supervisory responsibilities within the SSM and the related expenditure incurred by the ECB is taken into account.
- (9) Article 33(2) of Regulation (EU) No 1024/2013 provides for the ECB to publish by means of regulations and decisions the detailed operational arrangements for the implementation of the tasks conferred upon it by Regulation (EU) No 1024/2013.
- (10) A regulation has general application, is binding in its entirety and directly applicable in all euro area Member States. It is thus the appropriate legal instrument to lay down the practical arrangements for the implementation of Article 30 of Regulation (EU) No 1024/2013.
- (11) This Regulation sets out arrangements under which the ECB levies and collects the annual supervisory fee which relates to the ECB's supervisory tasks, in particular the methodology and criteria by reference to which (a) the total amount of the annual supervisory fees is determined, and (b) the individual amount to be paid per supervised entity and group is calculated.
- (12) In line with Article 30(5) of Regulation (EU) No 1024/2013, this Regulation is without prejudice to the right of NCAs to levy fees in accordance with national law, [including in respect of costs of cooperating with and assisting the ECB],

HAS ADOPTED THIS REGULATION:

**PART I**  
**GENERAL PROVISIONS**

**Title 1**

**Subject matter and scope**

*Article 1*

**Subject matter**

This Regulation lays down:

- (a) the methodology for calculating the total amount of the annual supervisory fees to be levied on supervised entities;
- (b) the methodology and criteria for calculating the annual supervisory fee to be levied on each supervised entity and group;
- (c) the procedure for the collection by the ECB of the annual supervisory fee;
- (d) arrangements relating to the cooperation between the ECB and NCAs with regard to Article 30 of Regulation (EU) No 1024/2013.

*Article 2*

**Scope**

1. This Regulation applies to:
  - (a) credit institutions established in the participating Member States;
  - (b) branches established in participating Member States by a credit institution established in a non-participating Member State.
2. The total amount of the annual supervisory fees shall encompass the annual supervisory fee in respect of each significant supervised entity and each less significant supervised entity and shall be calculated by the ECB at the highest level of consolidation within participating Member States.

## **Title 2**

### **Definitions**

#### *Article 3*

### **Definitions**

For the purposes of this Regulation, the definitions contained in Regulation (EU) No 1024/2013 shall apply, unless otherwise provided for, together with the following definitions:

1. ‘annual supervisory fee’ means the fee payable in respect of each supervised entity, as calculated in accordance with the methodology set out in Article 10(5) for significant supervised entities and less significant supervised entities;
2. ‘annual costs’ means the amount, as determined in accordance with the provisions of Article 6, to be recovered by the ECB via the annual supervisory fees for a specific fee period;
3. ‘branch’ means a branch as defined in point 17 of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>3</sup>;
4. ‘euro area Member State’ means a Member State whose currency is the euro;
5. ‘fee debtor’ means the fee-paying credit institution or fee-paying branch determined in accordance with Article 5 and to which the fee notice is addressed;
6. ‘fee factors’ means the data related to a supervised entity defined in Article 10(3)(a) which are used to calculate the annual supervisory fee;
7. ‘fee notice’ means a notice specifying the annual supervisory fee payable by and issued to the relevant fee debtor in accordance with this Regulation;
8. ‘fee-paying credit institution’ means a credit institution established in a participating Member State;
9. ‘fee-paying branch’ means a branch established in a participating Member State by a credit institution established in a non-participating Member State;
10. ‘fee period’ means a calendar year;
11. ‘first fee period’ means the period of time between the date on which the ECB assumes the tasks conferred on it under Regulation (EU) No 1024/2013 and the end of the calendar year in which the ECB assumes these tasks;

<sup>3</sup> 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 (OJ L 176, 27.6.2013, p. 1).

12. 'group of fee-paying entities' means a number of supervised entities that provide consolidated information on their fee factors to the ECB;
13. 'group' means a group as defined in point 5 of Article 2 of the SSM Framework Regulation;
14. 'Member State' means a Member State of the Union;
15. 'non-euro area Member State' means a Member State whose currency is not the euro;
16. 'participating Member State' means (a) a euro area Member State, and (b) a non-euro area Member State which has entered into a close cooperation with the ECB in accordance with Article 7 of Regulation (EU) No 1024/2013;
17. 'non-participating Member State' means a Member State which is not a participating Member State;
18. 'supervised entity' means any of the following: (a) a credit institution established in a participating Member State; (b) a financial holding company established in a participating Member State; (c) a mixed financial holding company established in a participating Member State; (d) a branch established in a participating Member State by a credit institution established in a non-participating Member State;
19. 'supervisory tasks' means the tasks conferred on the ECB under Articles 4 to 6 of Regulation (EU) No 1024/2013;
20. 'significant supervised entity' means a significant supervised entity as defined in point 16 of Article 2 of the SSM Framework Regulation;
21. 'less significant supervised entity' means a less significant supervised entity as defined in point 7 of Article 2 of the SSM Framework Regulation;
22. 'total assets' means the total value of assets derived from the line 'total assets' on the balance sheet of a group of fee-paying entities, a fee-paying credit institution which is not part of a group or a fee-paying branch, in accordance with the methodology and procedures established and published by the ECB pursuant to Article 10(3). In the case of a group of fee-paying entities, total assets exclude subsidiaries established in non-participating Member States and third countries;
23. 'total risk exposure' means, with reference to a group of fee-paying entities and to a fee-paying credit institution that is not part of a group of fee paying entities, the amount calculated by application of Article 92(3) of Regulation (EU) No 575/2013. In the case of a group of fee-paying entities, total risk exposure excludes the contribution to the total risk exposure from the subsidiaries established in non-participating Member States and third countries.

### **Title 3**

#### **General obligation**

##### *Article 4*

#### **General obligation to pay the annual supervisory fee**

1. The ECB shall levy an annual supervisory fee on each fee-paying credit institution and on each fee-paying branch in respect of each fee period.
2. The total amount of the annual supervisory fees shall cover, but not exceed, the expenditure incurred by the ECB in relation to its supervisory tasks in the relevant fee period.

##### *Article 5*

#### **Fee debtor**

1. The fee debtor in respect of the annual supervisory fee is:
  - (a) the credit institution, in the case of a fee-paying credit institution that is not part of a group;
  - (b) the fee-paying branch, in the case of a fee-paying branch that is not combined with another fee-paying branch;
  - (c) determined in accordance with the provisions of paragraph 2, in the case of a group of fee-paying entities.
2. Without prejudice to the arrangements within a group of fee-paying entities with respect to the allocation of costs, a group of fee-paying entities shall be treated as one fee debtor. Each group of fee-paying entities shall nominate the fee debtor for the whole group and shall notify the identity of the fee debtor to the ECB. Such notification shall be considered valid only if:
  - (a) it states the names of all fee-paying entities of the group covered by the notification;
  - (b) it is signed on behalf of all fee-paying entities of the group;
  - (c) it reaches the ECB by 1 March of each year at the latest, in order to be taken into account for the issuance of the fee notice in respect of the following fee period.

If the ECB does not receive notification of the identity of the fee debtor by 1 March, the fee debtor shall be determined by the ECB.

If more than one notification per group of fee-paying entities reaches the ECB in time, the notification received by the ECB closest to but prior to the deadline shall prevail.

3. 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.
4. A fee-paying branch and a subsidiary of a fee-paying credit institution established in the same participating Member State shall not be combined for the purposes of this Regulation.
5. 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 States.
6. Without prejudice to paragraph 2, the ECB reserves the right to determine the fee debtor.

## **PART II**

### **EXPENDITURE AND COSTS**

#### *Article 6*

##### **Annual costs**

1. The annual costs shall be the basis for determining the annual supervisory fee and they shall be recovered via the payment of such annual supervisory fee.
2. The amount of the annual costs shall be determined on the basis of the amount of the annual expenditure consisting of:
  - (a) any expenses incurred by the ECB in the relevant fee period that are directly or indirectly related to its supervisory tasks;
  - (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].
3. When determining the annual costs, the ECB shall take into account:
  - (a) any fee amounts related to previous fee periods that were not collectible;
  - (b) any interest payments received in accordance with Article 11;
  - (c) any amounts received or refunded in accordance with Article 8(3).

## *Article 7*

### **Estimating and determining the annual costs**

1. Without prejudice to its reporting obligations under Regulation (EU) No 1024/2013, the ECB shall by the end of each calendar year calculate the estimated annual costs in respect of the fee period for the following calendar year. The estimated annual costs shall serve as a basis for the calculation referred to in Article 13(1)(a).
2. Within four months after the end of each fee period the ECB shall determine the actual annual costs for that fee period. The actual annual costs shall serve as a basis for the calculation referred to in Article 13(1)(b).

## **PART III**

### **DETERMINING THE ANNUAL SUPERVISORY FEE**

## *Article 8*

### **New supervised entities or change of status**

1. Where a supervised entity is a supervised entity for only part of the fee period, the annual supervisory fee shall be calculated by reference to the number of full months of the fee period for which the credit institution or branch is a supervised entity.
2. Where, following an ECB decision to such effect, the status of a supervised entity changes from significant to less significant, or vice versa, the annual supervisory fee shall be calculated on the basis of the number of months for which the supervised entity was a significant or less significant entity at the last day of the month.
3. Where the amount of the annual supervisory fee levied deviates from the amount of the fee calculated in accordance with paragraphs 1 or 2, a refund to the supervised entity shall be paid, or an invoice shall be issued, by the ECB.

## *Article 9*

### **Split of annual costs between significant and less significant supervised entities**

1. In order to calculate the annual supervisory fee payable in respect of each supervised entity the annual costs shall be split into two parts, one for each category of supervised entities, as follows:
  - (a) the annual costs to be recovered from significant supervised entities;

- (b) the annual costs to be recovered from less significant supervised entities.
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.

#### *Article 10*

#### **Annual supervisory fee payable in respect of individual supervised entities or supervised groups**

1. The annual supervisory fee payable in respect of each significant supervised entity or significant supervised group shall be determined by allocating the annual costs of significant supervised entities to the individual significant supervised entities or significant supervised groups on the basis of the fee factors.
2. The annual supervisory fee payable in respect of each less significant supervised entity or less significant supervised group shall be determined by allocating the annual costs of less significant supervised entities to the individual less significant supervised entities or less significant supervised groups on the basis of the fee factors.
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.

4. 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.

5. The calculation of the annual supervisory fee per fee debtor shall be performed as outlined below.
  - (a) The annual supervisory fee is the sum of the minimum fee component and the variable fee component.
  - (b) The minimum fee component is calculated as a fixed percentage of the total amount of the annual costs of each category of supervised entities in accordance with Article 9. For the category of significant supervised entities, the fixed percentage is 10%. This amount is split equally among all fee debtors. For significant supervised entities with total assets of EUR 10 billion or less, the minimum fee component is halved. For the category of less significant supervised entities, the fixed percentage is 10%. This amount is split equally among all fee debtors. The minimum fee component represents the lower limit of the annual supervisory fee per fee debtor.
  - (c) The variable fee component is the difference between the total amount of the annual costs of each category of supervised entities in accordance with Article 9 and the minimum fee component of the same category. The variable fee component is allocated to individual fee debtors of each category according to each fee debtor's share in the sum of all fee debtors' weighted fee factors as determined pursuant to paragraph 3.

#### *Article 11*

#### **Interest in case of non-payment**

Without prejudice to any other remedy available to the ECB, in the event of partial payment, non-payment or non-compliance with the conditions for payment specified in the fee notice, interest shall accrue on a daily basis on the outstanding amount of the annual supervisory fee at an interest rate of the ECB main refinancing rate plus 8 percentage points from the date on which the payment was due.

### **PART IV**

#### **COOPERATION WITH NCAS**

#### *Article 12*

#### **Cooperation with NCAs**

1. The ECB shall communicate with the NCAs before deciding on the final fee level to ensure that supervision remains cost-effective and reasonable for all credit institutions and branches concerned. For this purpose, the ECB shall develop and implement an appropriate channel of communication in cooperation with the NCAs.
2. NCAs shall assist the ECB in levying fees if the ECB so requests.
3. In the case of credit institutions in a participating non-euro area Member State whose close cooperation with the ECB is neither suspended nor terminated, the ECB shall issue instructions to the NCA of that Member State regarding the collection of fee factors and invoicing of the annual supervisory fee.

## **PART V**

### **INVOICING**

#### *Article 13*

##### **Amount to be levied**

1. The total amount of the annual supervisory fees to be levied by the ECB shall be the sum of:
  - (a) the annual costs for the current fee period calculated on the basis of the approved budget for the fee period;
  - (b) any surplus or deficit from the previous fee period determined by deducting the actual annual costs incurred in respect of the previous fee period from the estimate of annual costs collected in the previous fee period in accordance with paragraph 1(a).

The ECB shall decide the total amount of the annual supervisory fees to be levied, which shall be published on its website .

2. The calculation of the annual supervisory fee to be levied on each fee debtor shall be performed on the basis of the fee factors relating to the end of the calendar year preceding the relevant fee period and to be made available at the beginning of the fee period, in accordance with Article 10(4).

#### *Article 14*

##### **Fee notice**

1. A fee notice shall be issued annually by the ECB to each fee debtor at the earliest on 1 June and no later than 31 August of the calendar year.

2. The fee notice shall specify the means by which the annual supervisory fee shall be paid. The fee debtor shall comply with the requirements set out in the fee notice with respect to the payment of the annual supervisory fee.
3. The amount due under the fee notice shall be paid by the fee debtor within 30 days of the date of issuance of the fee notice.

#### *Article 15*

#### **Notification of the fee notice**

1. By 1 March of each fee period, the fee debtor shall communicate to the ECB the contact details (i.e. name, function, organisational unit, address, e-mail address, telephone number, fax number) of the person to whom the fee notice should be issued.
2. The ECB shall notify the fee notice to the person identified in accordance with paragraph 1 through any of the following means: (a) electronically or by other comparable means of communication, b) by fax, (c) by express courier service, (d) by registered mail with a form for acknowledgement, (e) by serving or delivering by hand.

### **PART VI**

#### **FINAL PROVISIONS**

#### *Article 16*

#### **Sanctions**

In the event of a breach of this Regulation, the ECB may impose sanctions on supervised entities in accordance with Council Regulation (EC) No 2532/98<sup>4</sup>.

#### *Article 17*

#### **Transitional provisions**

1. The fee notice for the first fee period shall be issued together with the fee notice for the 2015 fee period.

<sup>4</sup> Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions (OJ L 318, 27.11.1998, p. 4).

- 2 To enable the ECB to start levying the annual supervisory fee, each group of fee-paying entities shall nominate the fee debtor for the group and shall notify the identity of the fee debtor to the ECB by 31 December 2014, in accordance with Article 5(2).

#### *Article 18*

##### **Report and review**

1. 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.
2. The ECB shall conduct a review of this Regulation, in particular regarding the methodology and criteria for calculating the annual supervisory fees to be levied on each supervised entity and group by 2017.

#### *Article 19*

##### **Entry into force**

This Regulation shall enter into force on the fifth day following that of its publication in the *Official Journal of the European Union*.

[It shall apply from [date Month YYYY].

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Frankfurt am Main, [date Month YYYY].

*For the Governing Council of the ECB*

*The President of the ECB*

Mario DRAGHI