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Nacrt uredbe Europske središnje banke o naknadama za nadzor

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Svrha ovog dokumenta za savjetovanje je pružanje pomoći zainteresiranim stranama u shvaćanju i procjeni Nacrta uredbe ESB-a o naknadama za nadzor (koji se nalazi u trećem dijelu). Kao takav, ovaj dokument za savjetovanje ne može se tumačiti i ne može biti pravno obvezujući. Posebno, u inačici uredbe ESB-a o naknadama za nadzor koja bude konačno donesena Europska središnja banka ima pravo zauzeti stajalište različito od onoga navedenog u ovom dokumentu. Štoviše, isključivo Sud Europske unije može tumačiti odredbe prava EU-a na pravno obvezujući način.

Komentari se očekuju isključivo u trećem dijelu ovog dokumenta.

Ovaj se dokument sastoji od tri dijela:

- I. Obrazloženje i opseg uredbe ESB-a o naknadama za nadzor
- II. Sadržaj Nacrta uredbe o naknadama za nadzor
 1. Opća načela okvira naknada
 2. Određivanje ukupne naknade za nadzor
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 6. Promjena statusa: novi nadzirani subjekti, oduzimanje odobrenja i promjena statusa nadzora unutar SSM-a
 7. Sankcije i žalbe
 8. Suradnja s nacionalnim nadležnim tijelima
 9. Odgovornost i izvještavanje
- III. Nacrt uredbe o naknadama za nadzor

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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 1024/2013¹ (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.²

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.³ 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.⁴ 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.

¹ 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).

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

³ See Article 2(9) of the SSM Regulation.

⁴ 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.⁵ 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.

⁵ 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.⁶ In accordance with the Interinstitutional Agreement⁷ 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.

⁶ See Article 30(2) of the SSM Regulation.

⁷ 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.⁸ 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”.⁹ 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.

⁸ See Article 9 of the draft Regulation on supervisory fees.

⁹ 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 million¹⁰, 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.¹¹

(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,¹² 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)¹³ 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.

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

¹¹ See Article 30(3) of the SSM Regulation.

¹² 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.

¹³ 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.¹⁴
- (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.¹⁵
- (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-

¹⁴ See Recital 77 of the SSM Regulation.

¹⁵ 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.¹⁶ 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.

¹⁶ 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>	$[(300/400)*0.5]+[(70/100)*0.5] = \underline{72.5\%}$
Total	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 ECB¹⁷ 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 Regulation¹⁸. 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:

¹⁷ 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.

¹⁸ 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 amount¹⁹ 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

¹⁹ 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.²⁰
- (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.²¹

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 2532/98.²²

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

²⁰ See Articles 43 to 47 of the SSM Framework Regulation.

²¹ See Article 49 of the SSM Framework Regulation.

²² 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.

Regulation²³ 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,²⁴ 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.²⁵

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.²⁶
- (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.

²³ 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.

²⁴ *ibid.*

²⁵ See Article 30(5) of the SSM Regulation.

²⁶ 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.

UREDBA EUROPSKE SREDIŠNJE BANKE

od [dan mjesec GGGG]

o naknadama za nadzor

([ESB/YYYY/XX])

UPRAVNO VIJEĆE EUROPSKE SREDIŠNJE BANKE,

uzimajući u obzir Uredbu Vijeća (EU) br. 1024/2013 od 15. listopada 2013. o dodjeli određenih zadaća Europskoj središnjoj banci u vezi s politikama bonitetnog nadzora kreditnih institucija¹, a posebno njezin članak 4. stavak 3., članak 30. i članak 33. podstavak 2.,

uzimajući u obzir javno savjetovanje i analizu provedenu u skladu s člankom 30. stavkom 2. Uredbe (EU) br. 1024/2013.,

Budući da:

- (1) Uredbom (EU) br. 1024/2013 osniva se jedinstveni nadzorni mehanizam (SSM) koji se sastoji od Europske središnje banke (ESB) i nacionalnih nadležnih tijela.
- (2) ESB je odgovoran za učinkovito i dosljedno funkcioniranje SSM-a za sve kreditne institucije, financijske holdinge i mješovite financijske holdinge u svim državama članicama europodručja kao i u državama članicama izvan europodručja koje uspostave blisku suradnju s ESB-om. Pravila i postupci koji uređuju suradnju između ESB-a i nacionalnih nadležnih tijela unutar SSM-a te s nacionalnim imenovanim tijelima utvrđeni su Uredbi (EU) br. 468/2014 (ESB/2014/17) Europske središnje banke².
- (3) Članak 30. Uredbe (EU) br. 1024/2013 propisuje da ESB ubire godišnje naknade za nadzor od kreditnih institucija sa sjedištem u državama članicama sudionicama i od podružnica sa sjedištem u državi članici sudionici koje je osnovala kreditna institucija sa sjedištem u državi članici nesudionici. Naknade koje ubire ESB-a trebale bi pokrivati i ne premašiti rashode ESB-a vezane uz zadaće dodijeljene mu člancima od 4. do 6. Uredbe (EU) br. 1024/2013.
- (4) Sukladno Uredbi (EU) br. 1024/2013 ESB je odgovoran za učinkovito i dosljedno funkcioniranje SSM-a. Shodno tome, iznos naknade za nadzor trebao bi obuhvaćati iznos koji godišnje plaćaju sve kreditne institucije sa sjedištem u državama članicama sudionicama i podružnice sa sjedištem u državi članici sudionici koje je osnovala kreditna institucija sa sjedištem u državi članici nesudionici, a koje se nadziru u okviru SSM-a.
- (5) U okviru SSM-a, nadzorne dužnosti ESB-a i svakog nacionalnog nadležnog tijela dodjeljuju se na temelju značaja nadziranih subjekata.

¹ SL L 287, 29.10.2013., str. 63.

² Uredba (EU) br. 468/2014 Europske središnje banke od 16. travnja 2014. o uspostavljanju okvira za suradnju unutar jedinstvenog nadzornog mehanizma između Europske središnje banke i nacionalnih nadležnih tijela te s nacionalnim imenovanim tijelima (Okvirna uredba o SSM-u) (ESB/2014/17) (SL L 141, 14.5.2014., str. 1.).

- (6) ESB ima izravnu nadležnost za nadzor u odnosu na značajne kreditne institucije, financijske holdinge, mješovite financijske holdinge sa sjedištem u državama članicama sudionicama, te u odnosu na podružnice značajnih kreditnih institucija sa sjedištem u državama članicama nesudionicama, a koje se nalaze u državama članicama sudionicama .
- (7) ESB također nadzire funkcioniranje SSM-a što uključuje sve kreditne institucije bez obzira jesu li one značajne ili manje značajne. ESB je isključivo nadležan za davanje odobrenja subjektima za početak poslovanja kreditne institucije, za oduzimanje odobrenja te za procjenu stjecanja i raspolaganja kvalificiranim udjelima u odnosu na sve kreditne institucije sa sjedištem u državama članicama sudionicama.
- (8) Nacionalna nadležna tijela odgovorna su za izravni nadzor manje značajnih nadziranih subjekata, ne dovodeći u pitanje ovlast ESB-a za provođenje izravnog nadzora u određenim slučajevima u kojima postoji potreba za dosljednom primjenom visokih standarda nadzora. Ova podjela odgovornosti kod nadzora u okviru SSM-a te povezani rashodi ESB-a uzimaju se obzir prilikom raspodjele iznosa koji je potrebno naplatiti putem naknada za nadzor između kategorija značajnih nadziranih subjekata i manje značajnih nadziranih subjekata.
- (9) Članak 33. stavak 2. Uredbe (EU) br. 1024/2013 propisuje da ESB putem uredbi i odluka objavljuje detaljne operativne aranžmane za provedbu zadaća koje mu dodjeljuje Uredba (EU) br. 1024/2013.
- (10) Uredba ima opću primjenu, obvezujuća je u cijelosti i izravno primjenjiva u svim državama članicama europodručja. Stoga uredba predstavlja prikladni pravni instrument za utvrđivanje konkretnih aranžmana za provedbu članka 30. Uredbe (EU) br. 1024/2013.
- (11) Ova Uredba utvrđuje sustav na temelju kojeg ESB ubire godišnju naknadu za nadzor koja se odnosi na nadzorne zadaće ESB-a, osobito metodologiju i kriterije u odnosu na koje se (a) određuje ukupni iznos godišnjih naknada za nadzor, i (b) izračunava pojedinačni iznos koji se plaća po nadziranom subjektu i grupi.
- (12) U skladu s člankom 30. stavkom 5. Uredbe (EU) br. 1024/2013, ova Uredba ne dovodi u pitanje pravo nacionalnih nadležnih tijela na ubiranje naknada u skladu s nacionalnim pravom [uključujući i pravo u odnosu na troškove za suradnju s ESB-om i pružanje pomoći ESB-u].

DONIJELO JE OVU UREDBU:

DIO I.
OPĆE ODREDBE

Glava 1.
Predmet i područje primjene

Članak 1.

Predmet

Ovom se Uredbom utvrđuje:

- (a) metodologija za izračun ukupnog iznosa godišnjih naknada za nadzor koje se ubiru od nadziranih subjekata;
- (b) metodologija i kriteriji za izračun godišnje naknade koja se ubire od svakog nadziranog subjekta i grupe;
- (c) postupak za ubiranje godišnje naknade za nadzor od strane ESB-a;
- (d) mehanizmi u vezi suradnje između ESB-a i nacionalnih nadležnih tijela u odnosu na članak 30. Uredbe (EU) br. 1024/2013.

Članak 2.

Područje primjene

- 1. Ova se uredba primjenjuje na:
 - (a) kreditne institucije sa sjedištem u državama članicama sudionicama;
 - (b) podružnice sa sjedištem u državama članicama sudionicama koje je osnovala kreditna institucija sa sjedištem u državi članici nesudionici.
- 2. Ukupni iznos godišnjih naknada za nadzor obuhvaća godišnju naknadu za nadzor u odnosu na svaki značajni nadzirani subjekt i svaki manje značajni nadzirani subjekt te ga ESB izračunava na najvišoj razini konsolidacije u državama članicama sudionicama.

Glava 2.

Definicije

Članak 3.

Definicije

Osim ako nije drukčije propisano, definicije sadržane u Uredbi (EU) br. 1024/2013 primjenjuju se za potrebe ove Uredbe zajedno sa sljedećim definicijama:

1. "godišnja naknada za nadzor" znači naknada koja se plaća za svaki nadzirani subjekt i koja je izračunata u skladu s metodologijom utvrđenom u članku 10. stavku 5. za značajne nadzirane subjekte i manje značajne nadzirane subjekte;
2. "godišnji troškovi" znači iznos utvrđen u skladu s odredbama članka 6. koji ESB naplaćuje putem godišnjih naknada za nadzor za određeno razdoblje za koje se plaća naknada.
3. "podružnica" znači podružnica kako je utvrđeno u točki 17. članka 4. stavka 1. Uredbe (EU) br. 575/2013 Europskog parlamenta i Vijeća³;
4. "država članica europodručja" znači država članica čija je valuta euro;
5. "obveznik naknade" znači kreditna institucija koja plaća naknadu ili podružnica koja plaća naknadu u skladu s člankom 5. i kojoj je upućena obavijest o naknadi;
6. "faktori naknade" znači podaci vezani uz nadzirani subjekt utvrđeni u članku 10. stavku 3. točki (a) koji se upotrebljavaju za izračun godišnje naknade za nadzor;
7. "obavijest o naknadi" znači obavijest kojom se određuje godišnja naknada za nadzor koju u skladu s ovom Uredbom plaća ogovarajući obveznik naknade i koja mu se izdaje u skladu s ovom Uredbom;
8. "kreditna institucija koja plaća naknadu" znači kreditna institucija sa sjedištem u državi članici sudionici;
9. "podružnica koja plaća naknadu" znači podružnica koju je kreditna institucija osnovana u državi članici nesudionici osnovala u državi članici nesudionici;
10. "razdoblje za koje se plaća naknada" znači kalendarska godina;
11. "prvo razdoblje za koje se plaća naknada" znači razdoblje između dana kada ESB preuzme zadaće dodijeljene mu na temelju Uredbe (EU) br. 1024/2013 i kraja kalendarske godine u kojoj ESB preuzme te zadaće;
12. "grupa subjekata koji plaćaju naknadu" znači broj nadziranih subjekata koji ESB-u dostavljaju konsolidirane podatke o svojim faktorima naknade;
13. "grupa" znači grupa kako je utvrđena u članku 2., točki 5. Okvirne uredbe o SSM-u.
14. "država članica" znači država članica Unije;
15. "država članica izvan europodručja" znači država članica čija valuta nije euro;
16. "država članica sudionica" znači (a) država članica europodručja i (b) država članica izvan europodručja koja je uspostavila blisku suradnju s ESB-om u skladu s člankom 7. Uredbe (EU) br. 1024/2013;
17. "država članica nesudionica" znači država članica koja nije država članica sudionica;

3 Uredba (EU) br. 575/2013 Europskog parlamenta i Vijeća od 26. lipnja 2013. o bonitetnim zahtjevima za kreditne institucije i investicijska društva i o izmjeni Uredbe (EU) br. 648/2012 (SL L 176, 27.6.2013., str. 1.).

18. 'nadzirani subjekt' znači bilo koji od navedenih: (a) kreditna institucija sa sjedištem u državi članici sudionici; (b) financijski holding sa sjedištem u državi članici sudionici; (c) miješani financijski holding sa sjedištem u državi članici sudionici; (d) podružnica koju je u državi članici sudionici osnovala kreditna institucija sa sjedištem u državi članici nesudionici;
19. "nadzorne zadaće" znači zadaće dodijeljene ESB-u na temelju članka 4. do 6. Uredbe (EU) br. 1024/2013;
20. "značajni nadzirani subjekt" znači značajni nadzirani subjekt kako je utvrđen u članku 2. točki 16. Okvirne uredbe o SSM-u;
21. 'manje značajni nadzirani subjekt' znači manje značajni nadzirani subjekt kako je utvrđen u članku 2. točki 7. Okvirne uredbe o SSM-u;
22. "ukupna imovina" znači ukupna vrijednost imovine koja proizlazi iz reda 'ukupna imovina' u bilanci grupa subjekata koji plaćaju naknadu, kreditne institucije koja plaća naknadu i koja nije dio grupe ili podružnice koja plaća naknadu, u skladu s metodologijom i postupcima koje je ESB utvrdio i objavio na temelju članka 10. stavka 3. U slučaju grupe subjekata koji plaćaju naknadu, ukupna imovina isključuje društva kćeri sa sjedištem u državama članicama nesudionicama [i trećim državama];
23. "ukupna izloženost riziku" znači, u odnosu na grupu subjekata koji plaćaju naknadu i kreditnu instituciju koja plaća naknadu i koja nije dio grupe subjekata koji plaćaju naknadu, iznos izračunat primjenom članka 92. stavka 3. Uredbe (EU) br. 575/2013. Kod grupe subjekata koji plaćaju naknadu, ukupna izloženost riziku isključuje doprinos ukupnoj izloženosti riziku od društava kćeri sa sjedištem u državama članicama nesudionicama i trećim državama.

Glava 3.

Opća obveza

Članak 4.

Opća obveza plaćanja godišnje naknade za nadzor

1. ESB ubire godišnju naknadu za nadzor od svake kreditne institucije koja plaća naknadu i od svake podružnice koja plaća naknadu u odnosu na svako razdoblje za koje se plaća naknada.
2. Ukupni iznos godišnje naknade za nadzor pokriva i ne premašuje rashode ESB-a u vezi njegovih nadzornih zadaća u odgovarajućem razdoblju za koje se plaća naknada.

Članak 5.

Obveznik naknade

1. Obveznici naknade u pogledu godišnje naknade za nadzor su:
 - (a) kreditne institucije, ako se radi o kreditnim institucijama koje plaćaju naknadu i koje nisu dio grupe;
 - (b) podružnice koje plaćaju naknadu, ako se radi o podružnicama koje plaćaju naknadu i koje nisu objedinjene s drugom podružnicom koja plaća naknadu;
 - (c) obveznici naknade koji su utvrđeni u skladu s odredbama stavka 2., ako se radi o grupi subjekata koji plaćaju naknadu.
2. Neovisno o sporazumima unutar grupe subjekata koji plaćaju naknadu s obzirom na raspodjelu troškova, s grupom subjekata koji plaćaju naknadu postupa se kao s jednim obveznikom naknade. Svaka grupa subjekata koji plaćaju naknadu imenuje obveznika naknade za cijelu grupu i obavještava ESB o identitetu obveznika naknade. Takva se obavijest smatra valjanom samo:
 - (a) ako su u njoj navedeni nazivi svih subjekata koji plaćaju naknadu i koji su dio grupe obuhvaćene obaviješću;
 - (b) ako je potpisana u ime svih subjekata koji plaćaju naknadu koji su dio grupe;
 - (c) ako je dostavljena ESB-u najkasnije do 1. ožujka svake godine, kako bi se mogla uzeti u obzir za izdavanje obavijesti o naknadi u odnosu na sljedeće razdoblje za plaćanje naknade.

Ako ESB ne primi obavijest o identitetu obveznika naknade do 1. ožujka, ESB određuje obveznika naknade.

Ako se ESB-u pravovremeno dostavi više od jedne obavijesti po grupi subjekata koji plaćaju naknadu, prednost ima najkasnija obavijest koju ESB primi prije roka.
3. Dvije ili više podružnica koje plaćaju naknadu i pripadaju istoj kreditnoj instituciji u istoj državi članici sudionici smatraju se jednom podružnicom. Podružnice iste kreditne institucije u različitim državama članicama sudionicama ne smatraju se jednom podružnicom.
4. Podružnica koja plaća naknadu i društvo kćer kreditne institucije koja plaća naknadu sa sjedištem u istoj državi članici sudionici ne objedinjuju se za potrebe ove Uredbe.
5. Društva kćeri sa sjedištem u državama članicama nesudionicama ne uzimaju se u obzir kod izračuna godišnje naknade za nadzor. S tim u vezi, te kako bi se utvrdili faktori naknade grupe subjekata koji plaćaju naknadu, grupa dostavlja potkonsolidirane podatke za sva društva kćeri i poslove koje nadzire matično društvo u državama članicama sudionicama.
6. Ne dovodeći u pitanje stavak 2., ESB pridržava pravo utvrđivanja obveznika naknade.

DIO II.

RASHODI I TROŠKOVI

Članak 6.

Godišnji troškovi

1. Godišnji troškovi predstavljaju osnovicu za utvrđivanje godišnje naknade za nadzor i nadoknađuju se plaćanjem te godišnje naknade za nadzor.
2. Iznos godišnjih troškova određuje se na temelju iznosa godišnjih rashoda koji se sastoje od:
 - (a) svih troškova ESB-a u odgovarajućem razdoblju za koje se plaća naknada, a koji su izravno ili neizravno povezani s njegovim nadzornim zadaćama;
 - (b) [svake štete koja je nastala u odgovarajućem razdoblju za koju se plaća naknada i koja se mora nadoknaditi trećoj osobi radi gubitka koji je izravno ili neizravno prouzročio ESB u obavljanju svojih nadzornih zadaća];
3. Kod utvrđivanja godišnjih troškova, ESB uzima u obzir:
 - (a) sve iznose naknade koji se nisu mogli ubrati i vezani su uz prethodna razdoblja za koja se plaća naknada;
 - (b) sve uplate kamata u skladu s člankom 11.;
 - (c) sve iznose primljene ili nadoknađene u skladu s člankom 8. stavkom 3.

Članak 7.

Procjena i utvrđivanje godišnjih troškova

1. Neovisno o njegovim izvještajnim obvezama u skladu s Uredbom (EU) 1024/2013, ESB do kraja svake kalendarske godine izračunava za sljedeću kalendarsku godinu procijenjene godišnje troškove u vezi s razdobljem za koje se plaća naknada. Procijenjeni godišnji troškovi služe kao osnovica za izračun naveden u članku 13. stavku 1. točki (a).
2. U roku od četiri mjeseca od kraja svakog razdoblja za koje se plaća naknada, ESB određuje stvarne godišnje troškove za to razdoblje. Stvarni godišnji troškovi služe kao osnovica za izračun naveden u članku 13. stavku 1. točki (b).

DIO III.
UTVRĐIVANJE GODIŠNJE NAKNADE ZA NADZOR

Članak 8.

Novi nadzirani subjekti ili promjena statusa

1. Ako nadzirani subjekt ima svojstvo nadziranog subjekta samo za dio razdoblja za koje se plaća naknada, godišnja naknada za nadzor izračunava se prema broju navršenih mjeseci razdoblja za koje se plaća naknada i u kojem kreditna institucija ili podružnica ima svojstvo nadziranog subjekta.
2. Ako se nakon odgovarajuće odluke ESB-a status nadziranog subjekta promijeni iz značajnog u manje značajni ili obrnuto, godišnja naknada za nadzor izračunava se na temelju broja mjeseci za vrijeme kojih je nadzirani subjekt zadnjeg dana u mjesecu imao svojstvo značajnog ili manje značajnog nadziranog subjekta.
3. Ako iznos godišnje naknade za nadzor koja se ubire odstupa od iznosa naknade izračunate u skladu sa stavcima 1. ili 2., ESB vrši povrat nadziranom subjektu ili izdaje račun.

Članak 9.

Podjela godišnjih troškova između značajnih i manje značajnih nadziranih subjekata

1. Radi izračuna godišnje naknade za nadzor koja se plaća u odnosu na svaki nadzirani subjekt, godišnji troškovi dijele se na dva dijela, jedan za svaku kategoriju nadziranih subjekata, i to kako slijedi:
 - (a) godišnji troškovi koji se naplaćuju od značajnih nadziranih subjekata;
 - (b) godišnji troškovi koji se naplaćuju od manje značajnih nadziranih subjekata.
2. Podjela godišnjih troškova u skladu sa stavkom 1. vrši se na temelju troškova raspoređenih organizacijskim jedinicama ESB-a koje obavljaju izravni nadzor značajnih nadziranih subjekata i neizravni nadzor manje značajnih nadziranih subjekata.

Članak 10.

Godišnja naknada za nadzor koja se plaća u odnosu na pojedinačne nadzirane subjekte ili nadzirane grupe

1. Godišnja naknada za nadzor koja se plaća u odnosu na svaki značajni nadzirani subjekt ili značajnu nadziranu grupu određuje se putem raspodjele godišnjih troškova značajnih nadziranih subjekata na pojedinačne značajne nadzirane subjekte ili značajne nadzirane grupe na temelju faktora naknade.

2. Godišnja naknada za nadzor koja se plaća u odnosu na svaki manje značajni nadzirani subjekt ili manje značajnu nadziranu grupu određuje se putem raspodjele godišnjih troškova manje značajnih nadziranih subjekata na pojedinačne manje značajne nadzirane subjekte ili manje značajne nadzirane grupe na temelju faktora naknade.
3. Faktori naknade na najvišoj razini konsolidacije u državi članici sudionici izračunava se na temelju sljedećeg:
 - (a) Faktori naknade, koji se koriste radi određivanja godišnje naknade za nadzor koja se plaća u odnosu na svaki nadzirani subjekt, predstavljaju iznos na kraju kalendarske godine:
 - (i) ukupne imovine;
 - (ii) ukupne izloženosti riziku. U slučaju podružnice koja plaća naknadu, ukupna izloženost riziku iznosu nula.

Podaci u vezi faktora naknade utvrđuju se i prikupljaju u skladu s metodologijom i postupcima koje je ESB utvrdio i objavio na svojoj mrežnoj stranici.

- (b) Relativni ponder koji se koristi u pogledu faktora naknade predstavlja:
 - (i) ukupna imovina; 50 %;
 - (ii) ukupna izloženost riziku: 50 %.

Zbroj ukupne imovine svih obveznika naknade i zbroj ukupne izloženosti riziku svih obveznika naknade objavljuje se na mrežnoj stranici ESB-a.

4. Nadzirani subjekti dostavljaju faktore naknade s referentnim datum 31. prosinca prethodne godine te dostavljaju predmetnom nacionalnom nadležnom tijelu potrebne podatke za izračun godišnjih naknada za nadzor do završetka poslovanja 1. ožujka u godini nakon referentnog datuma ili sljedećeg radnog dana, ako 1. ožujka nije radni dan. Nacionalna nadležna tijela dostavljaju ESB-u sve te podatke u skladu s postupcima koje ESB uspostavlja. Kada nadzirani subjekt treba revidirati podatke dostavljene u odnosu na izračun njegove naknade, ažurirani podaci dostavljaju se bez nepotrebne odgode i najkasnije do 15. ožujka.
5. Izračun godišnje naknade za nadzor za svakog obveznika naknade obavlja se kako je dolje navedeno.
 - (a) Godišnja naknada za nadzor predstavlja zbroj najnižeg sastavnog dijela naknade i promjenjivog sastavnog dijela naknade.
 - (b) Najniži sastavni dio naknade računa se kao fiksni postotak ukupnog iznosa godišnjih troškova svake kategorije nadziranih subjekata u skladu s člankom 9. Ovaj se iznos ravnomjerno dijeli između svih obveznika naknade. Za značajne nadzirane subjekte s ukupnom imovinom od 10 milijardi eura ili manje, najniži sastavni dio naknade je prepolovljen. Za kategoriju značajnih nadziranih subjekata, fiksni postotak iznosi 10%. Za kategoriju manje značajnih nadziranih subjekata, fiksni postotak iznosi 10%. Iznos se

ravnomjerno dijeli između svih obveznika naknade. Najniži sastavni dio naknade predstavlja donju granicu godišnje naknade za nadzor po obvezniku naknade.

- (c) Promjenjivi sastavni dio naknade predstavlja razliku između ukupnog iznosa godišnjih troškova svake kategorije nadziranih subjekata u skladu s člankom 9. i najnižeg sastavnog dijela naknade iz iste kategorije. Promjenjivi sastavni dio naknade raspodjeljuje se na pojedinačne obveznike naknade iz svake kategorije prema udjelu svakog obveznika naknade u zbroju ponderiranih faktora naknade svih obveznika naknade, kako je utvrđeno sukladno stavku 3.

Članak 11.

Kamata u slučaju neplaćanja

Ne dovodeći u pitanje bilo koje pravno sredstvo kojim ESB raspolaze, u slučaju djelomičnog plaćanja, neplaćanja ili nepostupanja u skladu s uvjetima za plaćanje utvrđenim u obavijesti o naknadi, kamata se dnevno obračunava na nepodmireni iznos godišnje naknade za nadzor po kamatnoj stopi za glavnu stopu refinanciranja ESB-a uvećanoj za 8 postotnih bodova od dana dospijeca plaćanja.

DIO IV.

SURADNJA S NACIONALNIM NADLEŽNIM TIJELIMA

Članak 12.

Suradnja s nacionalnim nadležnim tijelima

1. ESB komunicira s nacionalnim nadležnim tijelima prije odluke o konačnoj razini naknade kako bi se osiguralo da nadzor ostane troškovno učinkovit i razuman za sve uključene kreditne institucije i podružnice. U tu svrhu ESB razvija i uspostavlja odgovarajući komunikacijski kanal u suradnji s nacionalnim nadležnim tijelima.
2. Nacionalna nadležna tijela pružaju pomoć ESB-u kod ubiranja naknada ako to ESB zatraži.
3. U slučaju kreditnih institucija u državi članici sudionici izvan europodručja čija suradnja s ESB-om nije suspendirana niti raskinuta, ESB izdaje upute nacionalnim nadležnim tijelima te države članice u vezi prikupljanja faktora naknade i izdavanja računa za godišnju naknadu za nadzor.

DIO V.
IZDAVANJE RAČUNA

Članak 13.

Iznos koji se naplaćuje

1. Ukupni iznos godišnjih naknada za nadzor koju ubire ESB predstavlja zbroj:
 - (a) godišnjih troškova za tekuće razdoblje za koje se plaća naknada koji su izračunati na temelju odobrenog proračuna za razdoblje za koje se plaća naknada;
 - (b) bilo kakvog viška ili manjka iz prethodnog razdoblja za koje se plaća naknada koji su utvrđeni oduzimanjem stvarnih godišnjih troškova nastalih u vezi prethodnog razdoblja za koje se plaća naknada od procjene godišnjih troškova ubраниh u prethodnom razdoblju za koje se plaća naknada u skladu sa stavkom 1(a) .

ESB donosi odluku o ukupnom iznosu godišnje naknade za nadzor koja se ubire, a koja se objavljuje na njegovoj mrežnoj stranici.

2. Izračun godišnje naknade za nadzor koja se ubire od svakog obveznika naknade obavlja se na temelju faktora naknade koji se odnose na kraj kalendarske godine koja prethodi odgovarajućem razdoblju za koje se plaća naknada te koji moraju biti dostupni na početku razdoblja za koje se plaća naknada, u skladu s člankom 10. stavku 4.

Članak 14.

Obavijest o naknadi

1. ESB jednom godišnje izdaje obavijest o naknadi svakom obvezniku naknade, i to najranije 1. lipnja, a najkasnije 31. kolovoza određene kalendarske godine,
2. U obavijesti o naknadi određuje se način plaćanja godišnje naknade za nadzor. Obveznik naknade postupa u skladu sa zahtjevima utvrđenim u obavijesti o naknadi u odnosu na plaćanje godišnje naknade za nadzor.
3. DUGOVANI IZNOS PREMA OBAVIJESTI O NAKNADI OBVEZNIK NAKNADE PLAĆA U ROKU OD 30 DANA OD DANA IZDAVANJA OBAVIJESTI O NAKNADI.

Članak 15.

Dostavljanje obavijesti o naknadi

1. Obveznik naknade do 1. ožujka u svakom razdoblju za koje se plaća naknada, dostavlja ESB-u podatke za kontakt (tj. ime, funkciju, organizacijsku jedinicu, adresu, adresu elektroničke pošte, telefonski broj, broj telefaksa) osobe kojoj bi se obavijest o naknadi trebala izdati.

2. ESB dostavlja obavijest o naknadi osobi određenoj u skladu sa stavkom 1. na jedan od sljedećih načina: (a) u elektroničkom obliku ili drugim usporedivim komunikacijskim sredstvom, b) telefaksom, (c) kurirskom službom, (d) preporučenom poštom s dostavnicom; (e) osobnom dostavom.

DIO VI. ZAVRŠNE ODREDBE

Članak 16.

Sankcije

U slučaju povrede ove Uredbe, ESB može izreći sankcije nadziranim subjektima u skladu s Uredbom Vijeća (EZ) br. 2532/98⁴.

Članak 17.

Prijelazne odredbe

1. Obavijest o naknadi za prvo razdoblje za koje se plaća naknada izdaje se zajedno s obaviješću o naknadi za razdoblje za koje se plaća naknada u 2015.
2. Kako bi se omogućilo ESB-u da počne ubirati godišnju naknadu za nadzor, svaka grupa nadziranih subjekata koji plaćaju naknadu imenuju obveznika naknade za grupu i dostavljaju ESB-u podatke o identitetu obveznika naknade do 31. prosinca 2014. u skladu s člankom 5. stavkom 2.

Članak 18.

Izvješće i preispitivanje

1. U skladu s člankom 20. stavkom 2. Uredbe (EU) br. 1024/2013, ESB svake godine dostavlja Europskom parlamentu, Vijeću, Komisiji i Euroskupini izvješće o predviđenom razvoju strukture i iznosu godišnjih naknada za nadzor.
2. ESB preispituje ovu uredbu do 2017., a osobito u odnosu na metodologiju i kriterije za izračun godišnjih naknada za nadzor koje se ubiru od svakog nadziranog subjekta i grupe.

4 Uredba Vijeća (EZ) br. 2532/98 od 23. studenoga 1998. o ovlastima Europske središnje banke za izricanje sankcija (SL L 318,27.11.1998.,str.4.).

Članak 19.

Stupanje na snagu

Ova Uredba stupa na snagu petog dana od dana objave u Službenom listu Europske unije.

[Primjenjuje se od [datum mjesec GGGG].

Ova Uredba je u cijelosti obvezujuća i izravno se primjenjuje u državama članicama u skladu s Ugovorima.

Sastavljeno u Frankfurtu na Majni, [datum mjesec GGGG].

Za Upravno vijeće ESB-a

Predsjednik ESB-a

Mario DRAGHI