



BANK ĊENTRALI EWROPEW

EUROSISTEMA



## KONSULTAZZJONI PUBBLIKA

### abbozz ta' Regolament tal-Bank Ċentrali Ewropew dwar id-drittijiet superviżorji

Fl-2014 il-pubblikazzjonijiet kollha tal-BCE se juru motiv mehud mill-karta tal-€20

**Mejju 2014**

Dan id-dokument ta' konsultazzjoni huwa maħsub biex jgħin lill-partijiet interessati jifhmu u jevalwaw l-abbozz ta' Regolament tal-BĊE dwar id-drittijiet superviżorji (li jinsab fit-Tielet Parti). Għalhekk, dan id-dokument ta' konsultazzjoni m'għandux valur interpretattiv u mhuwiex legalment vinkolanti. B'mod partikolari, fil-verżjoni tar-Regolament tal-BĊE dwar id-drittijiet superviżorji li tiġi adottata finalment, il-Bank Ċentrali Ewropew għandu l-jedd jiehu pożizzjoni differenti minn dik li tidher f'dan id-dokument. Barra minn hekk, hija biss il-Qorti tal-Ġustizzja tal-Unjoni Ewropea li tista' tagħti interpretazzjoni legalment vinkolanti tad-dispożizzjonijiet tal-liġi tal-Unjoni Ewropea.

Il-partijiet interessati jistgħu jikkummentaw biss fuq it-Tielet Parti ta' dan id-dokument.

Dan id-dokument fih tliet partijiet:

- I. Motivazzjoni u kamp ta' applikazzjoni ta' Regolament tal-BĊE dwar id-drittijiet superviżorji
- II. Kontenut tal-abbozz ta' Regolament dwar id-drittijiet superviżorji
  1. Principji ġenerali tal-qafas tad-drittijiet
  2. Kalkolu tad-dritt superviżorju totali
  3. Fatturi li jwasslu għall-kalkolu tad-drittijiet
  4. Metodoloġija għall-kalkolu tad-drittijiet superviżorji
  5. Aspetti proċedurali tal-fatturazzjoni
  6. Bidla fl-istatus: entitajiet ġodda sorveljati, irtirar tal-awtorizzazzjoni u l-bidla fl-istatus superviżorju fi hdan il-MSU
  7. Sanzjonijiet u appelli
  8. Kooperazzjoni mal-awtoritajiet nazzjonali kompetenti
  9. Responsabbiltà u dikjarazzjonijiet (reporting)
- III. L-abbozz ta' Regolament dwar id-drittijiet superviżorji

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Id-drittijiet kollha miżmumin. Ir-riproduzzjoni għal finijiet edukattivi u mhux kummerċjali hija permessa sakemm jissemma s-sors.

# **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.*



## **REGOLAMENT TAL-BANK ĊENTRALI EWROPEW**

**ta' [data Xahar SSSS]  
dwar it-tariffi supervizzorji**

**([BĊE/SSSS/XX])**

IL-KUNSILL GOVERNATTIV TAL-BANK ĊENTRALI EWROPEW,

Wara li kkunsidra r-Regolament tal-Kunsill (UE) Nru 1024/2013 tal-15 ta' Ottubru 2013 li jagħti kompiti speċifiċi lill-Bank Ċentrali Ewropew fir-rigward ta' politiki relatati mas-supervizzjoni prudenzjali ta' istituzzjonijiet ta' kreditu<sup>1</sup> u b'mod partikolari t-tieni subparagrafu tal-Artikoli 4(3), l-Artikolu 30 u t-tieni subparagrafu tal-Artikolu 33(2) tiegħu,

Wara li kkunsidra l-konsultazzjoni pubblika u l-analiżi li saret skont l-Artikolu 30(2) tar-Regolament (UE) Nru 1024/2013,

Billi:

- (1) Ir-Regolament (UE) Nru 1024/2013 jistabilixxi Mekkanismu Supervizzorju Uniku (MSU) kompost mill-Bank Ċentrali Ewropew (BĊE) u l-awtoritajiet kompetenti nazzjonali (NCAs).
- (2) Il-BĊE huwa responsabbli għall-funzjonament effettiv u konsistenti tal-MSU għall-istituzzjonijiet ta' kreditu kollha, kumpanniji holding finanzjarji u kumpanniji holding finanzjarji mhallta fl-Istati Membri kollha taż-żona tal-euro kif ukoll fi Stati Membri li mhumiex taż-żona tal-euro li jidhlu f'kooperazzjoni mill-qrib mal-BĊE. Ir-regoli u l-proċeduri li jirregolaw l-kooperazzjoni bejn il-BĊE u l-NCAs fi hdan l-MSU u ma' awtoritajiet nazzjonali nominati huma stabbiliti fir-Regolament (UE) Nru 468/2014 (ECB/2014/17) tal-Bank Ċentrali Ewropew<sup>2</sup>.
- (3) L-Artikolu 30 tar-Regolament (UE) Nru 1024/2013 jipprovdi għal impożizzjoni ta' tariffa supervizzorja annwali mill-BĊE fuq istituzzjonijiet ta' kreditu stabbiliti fl-Istati Membri parteċipanti u fuq friegħi stabbiliti fi Stat Membru parteċipant minn istituzzjoni ta' kreditu stabbilita fi Stat Membru mhux parteċipanti. It-tariffi li l-BĊE jimponi għandhom ikopru, u ma jaqbx, in-nefqa li jagħmel il-BĊE fir-rigward tal-kompiti li jingħatawlu mill-Artikoli 4 sa 6 tar-Regolament (UE) Nru 1024/2013.
- (4) Bis-saħħa tar-Regolament (UE) Nru 1024/2013, il-BĊE huwa responsabbli għall-funzjonament effettiv u konsistenti tal-MSU. Għalhekk it-tariffa supervizzorja annwali għandha tinkludi

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

<sup>2</sup> Regolament (EU) Nru [...] tal-Bank Ċentrali Ewropew tas-16 ta' April 2014 li jistabilixxi l-qafas għall-kooperazzjoni fi hdan il-Mekkanizmu Supervizzorju Uniku bejn il-Bank Ċentrali Ewropew u l-awtoritajiet kompetenti nazzjonali u mal-awtoritajiet nazzjonali nominati (Regolament Qafas tal-MSU) (BĊE/2014/17) (ĠU L141, 14.5.2014, p.1).

ammont li ghandu jithallas ta' kull sena mill-istituzzjonijiet ta' kreditu kollha stabbiliti fi Stati Membri parteċipanti u friegħi stabbiliti fi Stat Membru parteċipanti minn istituzzjoni ta' kreditu stabbilita fi Stat Membru mhux parteċipanti li huma ssorveljati għewwa l-MSU.

- (5) Fi hdan l-MSU, ir-responsabbiltajiet superviżorji tal-BĊE u kull NCA huma allokatu fuq il-bażi tal-importanza tal-entitajiet issorveljati.
- (6) Il-BĊE għandu kompetenza superviżorja diretta fir-rigward ta' istituzzjonijiet ta' kreditu sinifikanti, kumpanniji holding finanzjarji mħallta stabbiliti fi Stati Membri parteċipanti, u friegħi li jinsabu fi Stati Membri parteċipanti ta' istituzzjonijiet ta' kreditu sinifikanti stabbiliti fi Stati Membri li mhumiex parteċipanti.
- (7) Il-BĊE jissorvelja wkoll il-funzjonament tal-MSU, li jinkludi l-istituzzjonijiet ta' kreditu kollha, kemm sinifikanti kif ukoll inqas sinifikanti. Il-BĊE huwa kompetenti esklussivament fir-rigward tal-istituzzjonijiet ta' kreditu kollha stabbiliti fl-Istati Membri parteċipanti biex entitajiet jiġu awtorizzati li jibdeu in-negozju ta' istituzzjoni ta' kreditu, jirtiraw awtorizzazzjonijiet u biex jivvalutaw akkwisti u trasferimenti ta' holdings li jikkwalifikaw.
- (8) L-NCAs huma responsabbli għas-superviżjoni diretta ta' entitajiet inqas sinifikanti taht superviżjoni, mingħajr preġudizzju għall-poter tal-BĊE li jeżerċita superviżjoni diretta f'kazijiet speċifiċi meta dan ikun meħtieġ għall-applikazzjoni konsistenti ta' standards superviżorji għoljin. Meta jiġi allokat l-ammont li jrid jiġi rkuprat permezz tat-tariffi superviżorji bejn il-kategoriji ta' entitajiet sinifikanti taht superviżjoni u entitajiet inqas sinifikanti taht superviżjoni, jiġu kkunsidrati dan it-tqassim ta' responsabbiltajiet superviżorji għewwa l-MSU u n-nefqa relatata magħmula mill-BĊE.
- (9) L-Artikolu 33(2) tar-Regolament (UE) Nru 1024/2013 jistabbilixxi li l-BĊE għandu jippubblika permezz ta' regolamenti u deċiżjonijiet l-arrangamenti operattivi ddettaljati għall-implimentazzjoni tal-kompiti li jingħatawlu mir-Regolament (UE) Nru 1024/2013.
- (10) Regolament għandu applikazzjoni ġenerali, jorbot fl-intier tiegħu u japplika direttament fl-Istati Membri kollha taż-żona tal-euro. Għaldaqstant huwa l-istrument legali xieraq biex jiġu stabbiliti arrangamenti prattiċi għall-implimentazzjoni tal-Artikolu 30 tar-Regolament (UE) Nru 1024/2013.
- (11) Dan ir-Regolament jistabbilixxi l-arrangamenti li bihom il-BĊE jimponi u jiġbor it-tariffa superviżorja annwali li tirrigwarda l-kompiti superviżorji tal-BĊE, partikolarment il-metodologija u l-kriterji li b'referenza għalihom (a) jiġi ddeterminat l-ammont totali tat-tariffi superviżorji annwali, u (b) jiġi kkalkulat l-ammont individwali li għandu jithallas għal kull entità u grupp taht superviżorji.

- (12) Skont l-Artikolu 30(5) tar-Regolament (UE) Nru 1024/2013, dan ir-Regolament huwa minghajr preġudizzju għad-dritt tal-NCAs li jimponu tariffi skont id-dritt nazzjonali, [inkluż fir-rigward ta' spejjeż ta' kooperazzjoni ma' u assistenza lill-BĊE],

ADOTTA DAN IR-REGOLAMENT:

## **PARTI I**

### **DISPOŻIZZJONIJIET ĠENERALI**

#### **Titolu 1**

#### **Suġġett u kamp ta' applikazzjoni**

##### *Artikolu 1*

#### **Suġġett**

Dan ir-Regolament jistabbilixxi:

- (a) il-metodoloġija għall-kalkolu tal-ammont totali tat-tariffi supervizorji annwali li għandhom jiġu imposti fuq entitajiet taht supervizorji;
- (b) il-metodoloġija u l-kriterji għall-kalkolu tat-tariffa supervizorja annwali li għandha tiġi imposta fuq kull entità u grupp taht supervizjoni;
- (c) il-proċedura għall-gbir mill-BĊE tat-tariffa supervizorja annwali;
- (d) arrangamenti dwar il-kooperazzjoni bejn il-BĊE u l-NCAs fir-rigward tal-Artikolu 30 tar-Regolament (UE) Nru 1024/2013.

##### *Artikolu 2*

#### **Kamp ta' applikazzjoni**

1. Dan ir-Regolament japplika għal:
  - (a) istituzzjonijiet ta' kreditu stabbiliti fl-Istati Membri parteċipanti;
  - (b) friegħi stabbiliti fi Stati Membri parteċipanti minn istituzzjoni ta' kreditu stabbilita fi Stat Membru mhux parteċipanti.
2. L-ammont totali tat-tariffi supervizorji annwali għandu jinkludi t-tariffa supervizorja annwali fir-rigward ta' kull entità sinifikanti taht supervizjoni u kull entità inqas sinifikanti taht

supervizjoni u ghandu jiġi kkalkulat mill-BĊE fl-ogħla livell ta' konsolidazzjoni ġewwa Stati Membri partecipanti.

## **Titolu 2**

### **Definizzjonijiet**

#### *Artikolu 3*

### **Definizzjonijiet**

Għall-finijiet ta' dan ir-Regolament, japplikaw id-definizzjonijiet li hemm fir-Regolament (UE) Nru 1024/2013, sakemm ma jiġix stabbilit mod ieħor, flimkien mad-definizzjonijiet li ġejjin:

1. 'tariffa supervizorja annwali' tfisser it-tariffa li tithallas fir-rigward ta' kull entità taht supervizjoni, kif ikalkulata skont il-metodologija stabbilita fl-Artikolu 10(5) għal entitajiet sinifikanti taht supervizjoni u entitajiet inqas sinifikanti taht supervizjoni;
2. 'kosti annwali' tfisser l-ammont, kif iddeterminat skont id-dispożizzjonijiet tad-dispożizzjonijiet tal-Artikolu 6, li għandu jiġi rkuprat permezz tat-tariffi supervizorji annwali għal perijodu tariffarju speċifiku;
3. 'fergħa' tfisser fergħa kif iddefinita fil-punt 17 tal-Artikolu 4(1) tar-Regolament (UE) Nru 575/2013 tal-Parlament Ewropew u tal-Kunsill<sup>3</sup>;
4. 'Stat Membru taż-żona tal-euro' tfisser Stat Membru li l-munita tiegħu hija l-euro;
5. 'debitur tariffarju' tfisser l-istituzzjoni ta' kreditu li thallas tariffa jew fergħa li thallas tariffa iddeterminata skont l-Artikolu 5 u li lillu jkun indirizzat l-avviz tariffarju;
6. 'fatturi tariffarji' tfisser id-dejta relata ma' entità taht supervizjoni definita fl-Artikolu 10(3)(a) li jintużaw biex tiġi kkalkulata t-tariffa supervizorja annwali;
7. 'avviz tariffarju' tfisser kull avviz li jispeċifika t-tariffa supervizorja annwali li tithallas minn u tinhareġ lid-debitur tariffarju rilevanti skont dan ir-Regolament;
8. 'istituzzjoni ta' kreditu li thallas tariffa' tfisser kull istituzzjoni ta' kreditu stabbilita fi Stat Membru partecipanti;
9. 'fergħa li thallas tariffa' tfisser kull fergħa ta' istituzzjoni ta' kreditu stabbilita fi Stat Membru partecipanti minn istituzzjoni ta' kreditu stabbilita fi Stat Membru mhux partecipanti;
10. 'perijodu tariffarju' tfisser sena kalendarja;

3 Ir-Regolament (UE) Nru 575/2013 tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar ir-rekwiziti prudenzjali għall-istituzzjonijiet ta' kreditu u d-ditti tal-investment u li jemenda r-Regolament (UE) Nru 648/2012 (ĠU L 176, 27.6.2013, p. 1).

11. 'l-ewwel perijodu tariffarju' tfisser il-perijodu ta' zmien bejn id-data meta l-BĊE jassumi l-kompiti li jinghatawlu bir-Regolament (UE) Nru 1024/2013 u t-tmiem tas-sena kalendarja li fiha l-BĊE jassumi dawn il-kompiti;
12. 'grupp ta' entitajiet li jhallsu tariffa' tfisser numru ta' entitajiet taht supervizjoni li jipprovdu informazzjoni kkonsolidata fuq il-fatturi tariffarji tagħhom lill-BĊE.
13. 'grupp' tfisser grupp kif iddefinit fil-punt 5 tal-Artikolu 2 tar-Regolament Qafas dwar l-MSU;
14. 'Stat Membru' tfisser kwalunkwe Stat Membru tal-Unjoni;
15. 'Stat Membru li mhwiex taż-żona tal-euro' tfisser Stat Membru li l-munita tiegħu mhijiex l-euro;
16. 'Stat Membru parteċipanti' tfisser (a) kwalunkwe Stat Membru taż-żona tal-euro, u (b) kwalunkwe Stat Membru li mhwiex taż-żona tal-euro li dahal f'kooperazzjoni mill-qrib mal-BĊE skont l-Artikolu 7 tar-Regolament (UE) Nru 1024/2013;
17. 'Stat Membru mhux parteċipanti' tfisser kwalunkwe Stat Membru li mhuwiex Stat Membru parteċipanti;
18. 'entità taht supervizjoni' tfisser kull waħda minn dawn li ġejjin: (a) istituzzjoni ta' kreditu stabbilita fi Stat Membru parteċipanti; (b) kumpannija holding finanzjarja stabbilita fi Stat Membru parteċipanti; (c) kumpannija holding finanzjarja mhallta stabbilita fi Stat Membru parteċipanti; (d) fergħa stabbilita fi Stat Membru parteċipanti minn istituzzjoni ta' kreditu stabbilita fi Stat Membru mhux parteċipanti;
19. 'kompiti supervizorji' tfisser il-kompiti mogħtija lill-BĊE skont l-Artikoli 4 sa 6 tar-Regolament (UE) Nru 1024/2013;
20. 'entità sinifikanti taht supervizjoni' tfisser entità sinifikanti taht supervizjoni kif iddefinit fil-punt 16 tal-Artikolu 2 tar-Regolament Qafas dwar l-MSU;
21. 'entità inqas sinifikanti taht supervizjoni' tfisser entità inqas sinifikanti taht supervizjoni kif iddefinita fil-punt 7 tal-Artikolu 2 tar-Regolament Qafas dwar l-MSU;
22. 'assi totali' tfisser il-valur totali tal-assi ġejjin mil-linja 'assi totali' fuq il-karta tal-bilanċ ta' grupp ta' entitajiet li jhallsu tariffa, istituzzjoni ta' kreditu li thallas tariffa li mhijiex parti minn grupp jew fergħa li thallas tariffa, skont il-metodologija u l-proċeduri stabbiliti u ppubblikati mill-BĊE bis-sahħa tal-Artikolu 10(3). Fil-każ ta' grupp ta' entitajiet li jhallsu tariffa, l-assi totali jeskludu sussidjarji stabbiliti fi Stati Membri li mhumiex parteċipanti [u pajjiżi terzi];
23. 'espożizzjoni totali għar-riskju' tfisser, b'referenza għal grupp ta' entitajiet li jhallsu tariffa u għal istituzzjoni ta' kreditu li thallas tariffa li mhijiex parti minn grupp ta' entitajiet li jhallsu tariffa, l-ammont ikkalkulat bl-applikazzjoni tal-Artikolu 92(3) tar-Regolament (UE) Nru 575/2013. Fil-każ ta' grupp ta' entitajiet li jhallsu tariffa, espożizzjoni totali għar-riskju teskludi

l-kontribuzzjoni għall-espożizzjoni totali għar-riskju mis-sussidjarji stabbiliti fl-Istati Membri li mhumiex parteċipanti u pajjiżi terzi.

### **Titolu 3**

#### **Obbligu ġenerali**

##### *Artikolu 4*

#### **Obbligu ġenerali li tithallas it-tariffa superviżorja annwali**

1. Il-BĊE għandu jimponi tariffa superviżorja annwali fuq kull istituzzjoni ta' kreditu li thallas tariffa u fuq kull fergħa li thallas tariffa fir-rigward ta' kull perijodu tariffarju.
2. L-ammont totali tat-tariffi superviżorji annwali għandhom ikopru, imma mhux jaqbu, in-nefqa magħmula mill-BĊE fir-rigward tal-kompiti superviżorji tiegħu fil-perijodu tariffarju rilevanti.

##### *Artikolu 5*

#### **Debitur tariffarju**

1. Id-debitur tariffarju fir-rigward tat-tariffa superviżorja annwali huwa:
  - (a) l-istituzzjoni ta' kreditu, fil-każ ta' istituzzjoni ta' kreditu li thallas tariffa li mhijiex parti minn grupp;
  - (b) il-fergħa li thallas tariffa, fil-każ ta' fergħa li thallas tariffa li mhijiex ikkombinata ma' fergħa oħra li thallas tariffa;
  - (c) iddeterminat skont id-dispożizzjonijiet tal-paragrafu 2, fil-każ ta' grupp ta' entitajiet li jhallsu tariffa.
2. Mingħajr preġudizzju għall-arrangamenti fi hdan entitajiet li jhallsu tariffa fir-rigward tal-allokazzjoni tal-ispejjeż, grupp ta' entitajiet li jhallsu tariffa għandhom jiġu trattati bhala debitur tariffarju wieħed. Kull grupp ta' entitajiet li jhallsu tariffa għandu jinnomina d-debitur tariffarju għall-grupp kollu u għandu jinnotifika l-identità tad-debitur tariffarju lill-BĊE. Din in-notifika għandha tkun ikkunsidrata valida biss jekk:
  - (a) issemmi l-ismijiet tal-entitajiet li jhallsu tariffa kollha tal-grupp kopert bin-notifika;
  - (b) tigi ffirmata f'isem l-entitajiet li jhallsu tariffa kollha tal-grupp;
  - (c) tasal għand il-BĊE sa mhux iktar tard mill-1 ta' Marzu ta' kull sena, sabiex titqies għall-hruġ tal-avviż tariffarju fir-rigward tal-perijodu tariffarju ta' wara.

Jekk il-BĊE ma jirċevix notifika tal-identità tad-debitur tariffarju sal-1 ta' Marzu, id-debitur tariffarju għandu jiġi ddeterminat mill-BĊE.

Jekk tasal fil-hin għand il-BĊE iktar minn notifika waħda għal kull grupp ta' entitajiet li jhallsu tariffa, għandha tipprevali n-notifika rċevuta mill-BĊE li tkun l-egreb lejn, imma qabel, l-iskadenza.

3. Jitqiesu bhala fergħa waħda żewġ friegħi jew iktar tal-istess istituzzjoni ta' kreditu li jhallsu tariffa fl-istess Stat Membru parteċipanti. Friegħi tal-istess istituzzjoni ta' kreditu fi Stati Membri parteċipanti differenti ma jitqisux bhala fergħa waħda.
4. Fergħa li thallas tariffa u sussidjarja ta' istituzzjoni ta' kreditu stabbilita fl-istess Stat Membru parteċipanti m'għandhomx jiġu kkombinati għall-finijiet ta' dan ir-Regolament.
5. Meta tiġi kkalkulata t-tariffa supervizorja annwali, m'għandhomx jittiehdu inkunsiderazzjoni sussidjarji stabbiliti fi Stati Membri li mhumiex parteċipanti. F'dan ir-rigward, u sabiex jiġu ddeterminati l-fatturi tariffarji ta' grupp ta' entitajiet li jhallsu tariffi, il-grupp għandu jipprovdi dejta subkonsolidata għas-sussidjarji kollha u operat ikkontrollati mill-impriza prinċipali fi Stati Membri parteċipanti.
6. Mingħajr preġudizzju għall-paragrafu 2, il-BĊE jirrizerva d-dritt li jiddetermina d-debitur tariffarju.

## **PARTI II**

### **NEFQA U SPEJJEŻ**

#### *Artikolu 6*

#### **Kosti annwali**

1. Il-kosti annwali għandhom ikunu l-bażi għad-determinazzjoni tat-tariffa supervizorja annwali u għandhom jiġu rkuprati permezz tal-hlas ta' din it-tariffa supervizorja annwali.
2. L-ammont tal-kosti annwali għandu jiġi ddeterminat fuq il-bażi tal-ammont tan-nefqa annwali li tikkonsisti minn:
  - (a) kwalunkwe spiza li jagħmel il-BĊE fil-perijodu tariffarju rilevanti li hija relatata direttament jew indirettament mal-kompiti supervizorji tiegħu;
  - (b) [kwalunkwe dannu magħmul fil-perijodu tariffarju rilevanti li għandu jithallas lil terza parti għal telf ikkawżat direttament jew indirettament mill-BĊE fit-twettiq tal-kompiti supervizorji tiegħu].
3. Fid-determinazzjoni tal-kosti annwali, il-BĊE għandu jqis:

- (a) kwalunkwe ammont tariffarju relatat mal-perijodi tariffarji preċedenti li ma setgħux jingabru;
- (b) kwalunkwe hlas ta' imghaxijiet irċevut skont l-Artikolu 11;
- (c) kwalunkwe ammont irċevut jew rifiż skont l-Artikolu 8(3).

#### *Artikolu 7*

### **Stima u determinazzjoni tal-kosti annwali**

1. Minghajr preġudizzju għall-obbligi ta' rappurtar skont ir-Regolament (UE) Nru1024/2013, il-BĊE għandu sal-ahħar ta' kull sena kalendarja jikkalkula l-kosti annwali stmati fir-rigward tal-perijodu tariffarju għas-sena kalendarja ta' wara. Il-kosti annwali stmati għandhom iservu bhala bazi għall-kalkolu msemmi fl-Artikolu 13(1)(a).
2. Fiz-żmien erba' xhur wara t-tmiem ta' kull perijodu tariffarju l-BĊE għandu jiddetermina l-kosti annwali attwali għal dak il-perijodu tariffarju. Il-kosti annwali attwali għandhom iservu bhala bazi għall-kalkolu msemmi fl-Artikolu 13(1)(a).

### **PARTI III**

### **DETERMINAZZJONI TAT-TARIFFA SUPERVIŻORJA ANNWALI**

#### *Artikolu 8*

### **Entitajiet taht superviżjoni ġodda jew bidla fl-istatus**

1. Meta entità taht superviżjoni tkun entità taht superviżjoni għal parti biss mill-perijodu tariffarju, it-tariffa superviżorja annwali għandha tiġi kkalkulata b'referenza għan-numru ta' xhur shah tal-perijodu tariffarju li għalih l-istituzzjoni ta' kreditu jew fergħa tkun entità taht superviżjoni .
2. Meta, wara deċiżjoni tal-BĊE f'dak is-sens, l-istatus ta' entità taht superviżjoni jinbidel minn sinifikanti għal inqas sinifikanti, jew viċi versa, it-tariffa superviżorja annwali għandha tiġi kkalkulata fuq il-bazi ta' numru ta' xhur li matulhom l-entità taht superviżjoni kienet entità sinifikanti jew inqas sinifikanti fl-ahħar jum tax-xahar.
3. Fejn l-ammont tat-tariffa superviżorja annwali imposta jiddevja mill-ammont tat-tariffa kkalkulata skont il-paragrafi 1 jew 2, għandha tithallas rifiżjoni lill-entità taht superviżjoni, jew għandha tinhareġ fattura mill-BĊE.



## *Artikolu 9*

### **Qsim ta' kosti annwali bejn entitajiet sinifikanti u inqas sinifikanti taht supervizjoni**

1. Sabiex tiġi kkalkulata t-tariffa supervizorja annwali li tithallas fir-rigward ta' kull entità taht supervizjoni l-kosti annwali għandhom jinqasmu f'żewġ partijiet, wahda għal kull kategorija ta' entitajiet taht supervizjoni, kif ġej:
  - (a) il-kosti annwali li jiġu rkuprati minn entitajiet sinifikanti taht supervizjoni;
  - (b) il-kosti annwali li jiġu rkuprati minn entitajiet inqas sinifikanti taht supervizjoni;
2. Il-qsim ta' kosti annwali skont il-paragrafu 1 għandu jsir fuq il-bażi tal-kosti allokati lill-unitajiet organizzattivi tal-BĊE li jwettqu s-supervizjoni diretta ta' entitajiet sinifikanti taht supervizjoni u s-supervizjoni indiretta ta' entitajiet inqas sinifikanti taht supervizjoni.

## *Artikolu 10*

### **Tariffa supervizorja annwali li tithallas fir-rigward tal-entitajiet taht supervizjoni individwali jew gruppi taht supervizjoni**

1. It-tariffa supervizorja annwali li tithallas fir-rigward ta' kull entità sinifikanti taht supervizjoni jew grupp sinifikanti taht supervizjoni għandha tiġi ddeterminata bl-allokkazzjoni tal-kosti annwali ta' entitajiet sinifikanti taht supervizjoni lill-entitajiet sinifikanti taht supervizjoni individwali jew gruppi sinifikanti taht supervizjoni fuq il-bażi tal-fatturi tariffarji.
2. It-tariffa supervizorja annwali li tithallas fir-rigward ta' kull entità inqas sinifikanti taht supervizjoni jew grupp inqas sinifikanti taht supervizjoni għandha tiġi ddeterminata bl-allokkazzjoni tal-kosti annwali ta' entitajiet inqas sinifikanti taht supervizjoni lill-entitajiet inqas sinifikanti taht supervizjoni individwali jew gruppi inqas sinifikanti taht supervizjoni fuq il-bażi tal-fatturi tariffarji.
3. Il-fatturi tariffarji fl-ogħla livell ta' konsolidazzjoni ġewwa Stati Membri partecipanti għandhom jiġu kkalkulati fuq il-bażi li ġejja.
  - (a) Il-fatturi tariffarji użati għad-determinazzjoni tat-tariffa supervizorja annwali individwali li tithallas fir-rigward ta' kull entità taht supervizjoni għandhom ikunu l-ammont fl-ahhar tas-sena kalendarja ta':
    - (i) assi totali;
    - (ii) espozizzjoni totali għar-riskju. F'każ ta' fergħa li thallas tariffa, l-espozizzjoni totali tar-riskju titqies bħala zero.

Id-dejta dwar il-fatturi tariffarji għandha tkun iddeterminata u migbura skont il-metodologija u l-proċeduri kif stabbiliti mill-BĊE u kif ippubblikati fis-sit elettroniku tiegħu.

(b) Il-ponderazzjoni relattiva użata fir-rigward tal-fatturi tariffarji għandha tkun:

- (i) assi totali: 50 %;
- (ii) espożizzjoni totali għar-riskju: 50 %.

Is-somma tal-assi totali tad-debituri tariffarji kollha u s-somma tal-espożizzjoni totali għar-riskju tad-debituri tariffarji kollha għandhom jiġu ppubblikati fis-sit elettroniku tal-BĊE.

4. L-entitajiet taht superviżjoni għandhom jipprovdu fatturi tariffarji b'data ta' referenza tal-31 ta' Diċembru tas-sena ta' qabel u jissottomettu d-dejta meħtieġa lill-NCA kkonċernata għall-kalkolu tat-tariffi superviżorji annwali sal-hin tal-gheluq tan-negożju fl-1 ta' Marzu tas-sena ta' wara d-data ta' referenza msemmija jew fil-jum tan-negożju li jmiss jekk l-1 ta' Marzu ma jkunx jum ta' negożju. L-NCAs għandhom jissottomettu din id-dejta kollha lill-BĊE skont il-proċeduri li għandhom jiġu stabbiliti mill-BĊE. Fejn entita' taht superviżjoni għandha bżonn tirrevedi d-dejta pprezentata fir-rigward tal-kalkolu tat-tariffa, id-dejta aġġornata għandha tiġi pprezentata mingħajr dewmiem żejjed u sa mhux aktar tard mill-15 ta' Marzu.
5. Il-kalkolu tat-tariffa superviżorja annwali għal kull debitur tariffarju għandu jsir kif spjegat hawn isfel.
  - (a) It-tariffa superviżorja annwali hija s-somma tal-komponent tat-tariffa minima u l-komponent tat-tariffa varjabbli.
  - (b) Il-komponent tat-tariffa minima huwa kkalkolat bhala perċentwali fissa tal-ammont totali tal-kosti annwali ta' kull kategorija ta' entitajiet taht superviżjoni skont l-Artikolu 9. Għall-kategorija ta' entitajiet sinifikanti taht superviżjoni, il-perċentwali fissa hija ta' 10%. Dan l-ammont jinqasam ugwalment fost id-debituri tariffarji kollha. Għal entitajiet importanti taht superviżjoni b'assi totali ta' EUR 10 biljun jew inqas, il-komponent tat-tariffa minima jinżel bin-nofs. Għall-kategorija ta' entitajiet inqas sinifikanti taht superviżjoni, il-perċentwali fissa hija ta' 10%. Dan l-ammont jinqasam b'mod indaqs fost d-debituri tariffari kollha. Il-komponent tat-tariffa minima jirrapprezenta l-limitu iktar baxx tat-tariffa superviżorja annwali għal kull debitur tariffarju.
  - (c) Il-komponent tat-tariffa varjabbli huwa d-differenza bejn l-ammont totali tal-kosti annwali ta' kull kategorija ta' entitajiet taht superviżjoni skont l-Artikolu 9 u l-komponent tat-tariffa minima tal-istess kategorija. Il-komponent tat-tariffa varjabbli huwa allokat lil debituri tariffarji individwali ta' kull kategorija skont is-sehem ta' kull debitur tariffarju fit-total tal-fatturi tariffarji pponderati tad-debituri tariffarji kif iddeterminat bis-saħħa tal-paragrafu 3.

### *Artikolu 11*

#### **Imghax fil-każ li ma jsirx hlas**

Minghajr preġudizzju għal kull rimedju ieħor disponibbli għall-BĊE, fil-każ ta' hlas parzjali, nuqqas ta' hlas jew nuqqas ta' konformità mal-kundizzjonijiet għall-hlas speċifikati fl-avviż tariffarju, l-imghax għandu jakkumula fuq bażi ta' kuljum fuq l-ammont pendenti tat-tariffa superviżorja annwali b'rata ta' imghax tar-rata ta' finznjament ewlenija tal-BĊE miżjuda bi 8 punti perċentwali mid-data meta kien dovut il-hlas.

### **PARTI IV**

#### **KOOPERAZZJONI MA' NCAS**

### *Artikolu 12*

#### **Kooperazzjoni mal-NCAs**

1. Il-BĊE għandu jikkomunika mal-NCAs qabel ma jiġi deċiż il-livell tat-tariffa finali biex jiġi żgurat li s-superviżjoni tibqa' effettiva meta mqabbla mal-kost u raġonevoli għall-istituzzjonijiet ta' kreditu kollha u l-friegħi kkonċernati. Għal dan l-iskop, il-BĊE għandu jiżviluppa u jimplimenta kanal ta' komunikazzjoni xieraq f'kooperazzjoni mal-NCAs.
2. L-NCAs għandhom jassistu lill-BĊE fl-impożizzjoni ta' tariffi jekk il-BĊE jitlob hekk.
3. Fil-każ ta' istituzzjonijiet ta' kreditu fi Stat Membru partecipanti li mhuwiex taż-żona tal-euro li l-kooperazzjoni mill-qrib tagħhom mal-BĊE la hija sospiza u lanqas mitmuma, il-BĊE għandu johroġ struzzjonijiet lill-NCA ta' dak l-Istat Membru dwar il-ġbir ta' fatturi tariffarji u l-hruġ ta' fatturi tat-tariffa superviżorja annwali.

### **PARTI V**

#### **HRUĠ TA' FATTURI**

### *Artikolu 13*

#### **Ammont li għandu jiġi impost**

1. L-ammont totali tat-tariffa superviżorja annwali li għandha tigi imposta mill-BĊE għandu jkun is-somma ta':
  - (a) il-kosti annwali għall-perijodu tariffarju kurrenti kkalkulati fuq il-baży tal-baġit appruvat għall-perijodu tariffarju;

- (b) kull surplus jew defiċit mill-perijodu tariffarju preċedenti ddeterminat bit-tnaqqis tal-kosti annwali attwali magħmulin fir-rigward tal-perijodu tariffarju preċedenti mill-istima ta' kosti annwali miġbura fil-perijodu tariffarju ta' qabel skont il-paragrafu 1(a).

Il-BĊE għandu jiddeċiedi l-ammont totali tat-tariffa superviżorja annwali li għandha tiġi imposta, li għandu jiġi ppubblikat fis-sit elettroniku tiegħu.

2. Il-kalkolu tat-tariffa superviżorja annwali li għandha tiġi imposta fuq kull debitur tariffarju għandu jsir fuq il-bażi tal-fatturi tariffarji dwar it-tmiem tas-sena kalendarja li tiġi qabel il-perijodu tariffarju rilevanti u li għandu jkun disponibbli fil-bidu tal-perijodu tariffarju, skont l-Artikolu 10(4).

#### *Artikolu 14*

##### **Avviż tariffarju**

1. Avviż tariffarju għandu jinhareġ kull sena mill-BĊE għal kull debitur tariffarju, mhux aktar kmieni mill-1 ta' Ġunju u mhux aktar tard mill-31 ta' Awwissu tas-sena kalendarja.
2. L-avviż tariffarju għandu jispeċifika l-mezzi li bihom għandha tithallas it-tariffa superviżorja annwali. Id-debitur tariffarju għandu jikkonforma mar-rekwiziti stabbiliti fl-avviż tariffarju fir-rigward tal-hlas tat-tariffa superviżorja annwali.
3. L-ammont dovut skont l-avviż tariffarju għandu jithallas mid-debitur tariffarju fi żmien 30 jum mid-data tal-hruġ tal-avviż tariffarju.

#### *Artikolu 15*

##### **Notifika tal-avviż tariffarju**

1. Sal-1 ta' Marzu ta' kull perijodu tariffarju, id-debitur tariffarju għandu jikkomunika lill-BĊE d-dettalji ta' kuntatt (jiġifieri l-isem, il-funzjoni, l-unità organizzattiva, l-indirizz u l-indirizz elettroniku, in-numru tat-telefon, in-numru tal-fax) tal-persuna li fil-konfront tagħha għandu jinhareġ l-avviż tariffarju.
2. Il-BĊE għandu jinnotifika l-avviż tariffarju lill-persuna identifikata skont il-paragrafu 1 b'xi mezz minn dawn: (a) elettronikament jew b'mezzi ta' komunikazzjoni paragonabbli ohrajn, b) bil-fax, (c) bis-servizz ta' express courier, (d) bil-posta reġistrata b'forma ta' rikonossiment, (e) billi jinnotifika jew jikkonsenja bl-id.

## **PARTI VI**

### **DISPOŻIZZJONIJIET FINALI**

#### *Artikolu 16*

#### **Sanzjonijiet**

Fil-każ li jkun hemm ksur ta' dan ir-Regolament, il-BĊE jista' jimponi sanzjonijiet fuq entitajiet taht supervizjoni skont ir-Regolament tal-Kunsill (KE) Nru 2532/98<sup>4</sup>.

#### *Artikolu 17*

#### **Dispożizzjonijiet tranzitorji**

1. L-avviż tariffarju għall-ewwel perijodu tariffarju għandu jinhareġ flimkien mal-avviż tariffarju għall-perijodu tariffarju tal-2015.
2. Sabiex il-BĊE jkun jista' jibda jimponi t-tariffa supervizorja annwali, kull grupp ta' entitajiet li jhallsu tariffa għandu jinnomina d-debitur tariffarju għall-grupp u għandu jinnotifika l-identità tad-debitur tariffarju lill-BĊE sal-31 ta' Diċembru 2014, skont l-Artikolu 5(2).

#### *Artikolu 18*

#### **Rapport u rieżami**

1. Skont l-Artikolu 20(2) tar-Regolament (UE) Nru 1024/2013, il-BĊE għandu jissottometti rapport fuq l-evoluzzjoni prevista tal-istruttura u l-ammont tat-tariffi supervizorji annwali kull sena lill-Parlament Ewropew, lill-Kunsill, lill-Kummissjoni u lill-Eurogrupp.
2. Il-BĊE għandu jagħmel rieżami ta' dan ir-regolament, b'mod partikolari, fir-rigward tal-metodoloġija u l-kriterji għall-kalkolu tat-tariffi supervizorji annwali li għandhom jiġu imposti fuq kull entità u grupp supervizorju sal-2017.

#### *Artikolu 19*

#### **Dhul fis-sehh**

Dan ir-Regolament għandu jidhol fis-sehh fil-hames jum wara dak tal-pubblikazzjoni tiegħu f' *Il-Gurnal Uffiċjali tal-Unjoni Ewropea*.

[Għandu japplika minn [data Xahar SSSS].

<sup>4</sup> Regolament tal-Kunsill (KE) Nru 2532/98 tat-23 ta' Novembru 1998, dwar il-poter tal-Bank Ċentrali Ewropew li jimponi sanzjonijiet (ĠU Edizzjoni Speċjali bil-Malti, Kapitolu 1, Vol.3, p.19-22).

Dan ir-Regolament għandu jorbot fl-intier tiegħu u japplika direttament fl-Istati Membri skont it-Trattati.

Magħmul fi Frankfurt am Main, [data Xahar SSSS].

*Għall-Kunsill Governattiv tal-BĊE*

*Il-President tal-BĊE*

Mario DRAGHI