



EVROPSKA CENTRALNA BANKA

EUROSISTEM



JAVNO POSVETOVANJE

osnutek uredbe Evropske centralne banke o nadomestilih za nadzor

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Namen tega dokumenta je zainteresiranim stranem pomagati pri razumevanju in ocenjevanju osnutka uredbe ECB o nadomestilih za nadzor (najdete ga v delu III). Ta dokument kot tak nima nobene razlagalne veljave in ne more biti pravno zavezujoč. Evropska centralna banka je tako upravičena, da lahko v dokončno sprejeti različici uredbe ECB o nadomestilih za nadzor zavzame stališče, ki je drugačno od stališča v tem dokumentu. Poleg tega lahko pravno zavezujočo razlago določb v zakonodaji EU poda samo Sodišče Evropske unije. Predvideno je, da se komentira samo del III v tem dokumentu.

Ta dokument ima tri dele:

- I. Področje uporabe in razlogi za uredbo ECB o nadomestilih za nadzor
- II. Vsebina osnutka uredbe o nadomestilih za nadzor
 1. Splošna načela okvira nadomestil
 2. Določitev skupnih nadomestil za nadzor
 3. Dejavniki nadomestil
 4. Metodologija za izračun posameznih nadomestil za nadzor
 5. Proceduralni vidiki izdajanja računov
 6. Sprememba statusa: novi nadzorovani subjekti, umik dovoljenja in spremembe v nadzornem statusu znotraj EMN
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 8. Sodelovanje s pristojnimi nacionalnimi organi
 9. Odgovornost in poročanje
- III. Osnutek uredbe o nadomestilih za nadzor

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Vse pravice so pridržane. Razmnoževanje v izobraževalne in nekomercialne namene je dovoljeno pod pogojem, da je naveden vir.

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 EVROPSKE CENTRALNE BANKE

z dne [dan mesec LLLL]

o nadomestilih za nadzor

([ECB/LLLL/XX])

SVET EVROPSKE CENTRALNE BANKE JE –

ob upoštevanju Uredbe Sveta (EU) št. 1024/2013 z dne 15. oktobra 2013 o prenosu posebnih nalog, ki se nanašajo na politike bonitetnega nadzora kreditnih institucij, na Evropsko centralno banko¹ in zlasti drugega pododstavka člena 4(3), člena 30 in drugega pododstavka člena 33(2) Uredbe,

ob upoštevanju javnega posvetovanja in preučitve, ki sta bila opravljena v skladu s členom 30(2) Uredbe (EU) št. 1024/2013,

ob upoštevanju naslednjega:

- (1) Uredba (EU) št. 1024/2013 vzpostavlja enotni mehanizem nadzora (EMN), ki ga sestavljajo Evropska centralna banka (ECB) in pristojni nacionalni organi.
- (2) ECB je odgovorna za učinkovito in skladno delovanje EMN za vse kreditne institucije, finančne holdinge in mešane finančne holdinge v vseh državah članicah euroobmočja in državah članicah zunaj euroobmočja, ki so vzpostavile tesno sodelovanje z ECB. Pravila in postopki, ki urejajo sodelovanje med ECB in pristojnimi nacionalnimi organi znotraj EMN in z imenovanimi nacionalnimi organi, so določeni v Uredbi (EU) št. 468/2014 (ECB/2014/17) Evropske centralne banke².
- (3) Člen 30 Uredbe (EU) št. 1024/2013 določa, da ECB kreditnim institucijam s sedežem v sodelujočih državah članicah in podružnicam, ki jih v sodelujoči državi članici ustanovi kreditna institucija s sedežem v nesodelujoči državi članici, zaračunava letno nadomestilo za nadzor. Nadomestila, ki jih zaračuna ECB, bi morala kriti izdatke ECB v zvezi z nalogami, ki so nanjo prenesene s členi 4 do 6 Uredbe (EU) št. 1024/2013, vendar pa jih ne bi smela presežati.
- (4) V skladu z Uredbo (EU) št. 1024/2013 je ECB odgovorna za učinkovito in skladno delovanje EMN. Letno nadomestilo za nadzor bi moralo temu ustrezno obsegati znesek, ki ga enkrat letno plačajo vse znotraj EMN nadzirane kreditne institucije s sedežem v sodelujočih državah članicah in podružnice, ki jih je v sodelujoči državi članici ustanovila kreditna institucija s sedežem v nesodelujoči državi članici.

¹ UL L 287, 29.10.2013, str. 63.

² Uredba (EU) št. 468/2014 Evropske centralne banke z dne 16. aprila 2014 o vzpostavitvi okvira za sodelovanje znotraj enotnega mehanizma nadzora med Evropsko centralno banko in pristojnimi nacionalnimi organi ter z imenovanimi nacionalnimi organi (okvirna uredba o EMN) (ECB/2014/17) (UL L 141, 14.5.2014, str. 1).

- (5) Znotraj EMN se nadzorne odgovornosti ECB in vsakega pristojnega nacionalnega organa dodelijo na podlagi pomembnosti nadzorovanih subjektov.
- (6) ECB je pristojna za neposredni nadzor v zvezi s pomembnimi kreditnimi institucijami, finančnimi holdingi, mešanimi finančnimi holdingi s sedežem v sodelujočih državah članicah in podružnicami, ki se nahajajo v sodelujočih državah članicah in so jih ustanovile pomembne kreditne institucije s sedežem v nesodelujočih državah članicah.
- (7) ECB tudi nadzira delovanje EMN, kar vključuje vse kreditne institucije, bodisi pomembne bodisi manj pomembne. ECB je v zvezi z vsemi kreditnimi institucijami s sedežem v sodelujočih državah članicah izključno pristojna, da subjektom izda dovoljenje za opravljanje dejavnosti kreditne institucije, da odvzame dovoljenja ter oceni pridobitve in odsvojitve kvalificiranih deležev.
- (8) Pristojni nacionalni organi so odgovorni za neposredni nadzor nad manj pomembnimi nadzorovanimi subjekti, ne da bi to posegalo v pravico ECB, da v posameznih primerih sama izvaja neposredni nadzor, če je to potrebno za skladno uporabo visokih nadzornih standardov. Ta delitev nadzornih odgovornosti znotraj EMN in s tem povezani izdatki ECB se upoštevajo pri razdelitvi zneska, ki se povrne preko nadomestil za nadzor, med kategoriji pomembnih nadzorovanih subjektov in manj pomembnih nadzorovanih subjektov.
- (9) Člen 33(2) Uredbe (EU) št. 1024/2013 določa, da ECB v uredbah in sklepih objavi podrobno operativno ureditev za izvajanje nalog, ki se nanjo prenesejo z Uredbo (EU) št. 1024/2013.
- (10) Uredba se splošno uporablja, je v celoti zavezujoča in se neposredno uporablja v vseh državah članicah euroobmočja. Zato je ustrezni pravni instrument za določitev praktične ureditve za izvajanje člena 30 Uredbe (EU) št. 1024/2013.
- (11) Ta uredba določa ureditev, po kateri ECB zaračunava in pobira letno nadomestilo za nadzor, ki je povezano z nadzorniškimi nalogami ECB, zlasti metodologijo in merila, ob upoštevanju katerih se (a) določi skupni znesek letnih nadomestil za nadzor in (b) izračuna posamezni znesek, ki ga plačata vsak nadzorovani subjekt in skupina.
- (12) V skladu s členom 30(5) Uredbe (EU) št. 1024/2013 ta uredba ne posega v pravico pristojnih nacionalnih organov, da zaračunajo nadomestila v skladu z nacionalnim pravom [vključno v zvezi s stroški, nastalimi pri sodelovanju z ECB in zagotavljanju pomoči ECB] –

SPREJEL NASLEDNJO UREDBO:

DEL I

SPLOŠNE DOLOČBE

Naslov 1

Vsebina in področje uporabe

Člen 1

Vsebina

Ta uredba določa:

- (a) metodologijo za izračun skupnega zneska letnih nadomestil za nadzor, ki se zaračunajo nadzorovanim subjektom;
- (b) metodologijo in merila za izračun letnega nadomestila za nadzor, ki se zaračuna vsakemu nadzorovanemu subjektu in skupini;
- (c) postopek, po katerem ECB pobira letno nadomestilo za nadzor;
- (d) ureditev, ki se nanaša na sodelovanje med ECB in pristojnimi nacionalnimi organi v zvezi s členom 30 Uredbe (EU) št. 1024/2013.

Člen 2

Področje uporabe

1. Ta uredba se uporablja za:
 - (a) kreditne institucije s sedežem v sodelujočih državah članicah;
 - (b) podružnice, ki jih je v sodelujočih državah članicah ustanovila kreditna institucija s sedežem v nesodelujoči državi članici.
2. Skupni znesek letnih nadomestil za nadzor obsega letno nadomestilo za nadzor v zvezi z vsakim pomembnim nadzorovanim subjektom in vsakim manj pomembnim nadzorovanim subjektom ter ga izračuna ECB na najvišji ravni konsolidacije v sodelujočih državah članicah.

Naslov 2

Opredelitev pojmov

Člen 3

Opredelitev pojmov

V tej uredbi se uporabljajo opredelitve pojmov, ki so vsebovane v Uredbi (EU) št. 1024/2013, razen če je v tej uredbi določeno drugače in skupaj z naslednjimi opredelitvami pojmov:

1. »letno nadomestilo za nadzor« pomeni nadomestilo, ki se plača v zvezi z vsakim nadzorovanim subjektom in kot se izračuna v skladu z metodologijo, določeno v členu 10(5) za pomembne nadzorovane subjekte in manj pomembne nadzorovane subjekte;
2. »letni stroški« pomenijo znesek, kot se določi v skladu z določbami člena 6 in ki se povrne ECB prek letnih nadomestil za nadzor za določeno obdobje zaračunavanja nadomestila;
3. »podružnica« pomeni podružnico, kot je opredeljena v točki 17 člena 4(1) Uredbe (EU) št. 575/2013 Evropskega parlamenta in Sveta³;
4. »država članica euroobmočja« pomeni državo članico, katere valuta je euro;
5. »zavezanec za plačilo nadomestila« pomeni kreditno institucijo, ki je plačnica nadomestila, ali podružnico, ki je plačnica nadomestila, kot se določi v skladu s členom 5 in na katero se naslovi obvestilo o nadomestilu;
6. »faktorji za izračun nadomestila« pomenijo podatke v zvezi z nadzorovanim subjektom, ki so opredeljeni v členu 10(3)(a) in se uporabijo za izračun letnega nadomestila za nadzor;
7. »obvestilo o nadomestilu« pomeni obvestilo, v katerem je določeno letno nadomestilo za nadzor, ki ga plača zadevni zavezanec za plačilo nadomestila, in ki se izda zadevnemu zavezancu za plačilo nadomestila v skladu s to uredbo;
8. »kreditna institucija, ki je plačnica nadomestila« pomeni kreditno institucijo s sedežem v sodelujoči državi članici;
9. »podružnica, ki je plačnica nadomestila« pomeni podružnico, ki jo v sodelujoči državi članici ustanovi kreditna institucija s sedežem v nesodelujoči državi članici;
10. »obdobje zaračunavanja nadomestila« pomeni koledarsko leto;

3 Uredba (EU) št. 575/2013 Evropskega parlamenta in Sveta z dne 26. junija 2013 o bonitetnih zahtevah za kreditne institucije in investicijska podjetja ter o spremembi Uredbe (EU) št. 648/2012 (UL L 176, 27.6.2013, str. 1).

11. »prvo obdobje zaračunavanja nadomestila« pomeni časovno obdobje med datumom, na katerega ECB prevzame naloge, ki so nanjo prenesene z Uredbo (EU) št. 1024/2013, in koncem koledarskega leta, v katerem ECB prevzame te naloge;
12. »skupina subjektov, ki so plačniki nadomestila« pomeni več nadzorovanih subjektov, ki ECB zagotovijo konsolidirane informacije o svojih faktorjih za izračun nadomestila;
13. »skupina« pomeni skupino, kot je opredeljena v točki 5 člena 2 okvirne uredbe o EMN;
14. »država članica« pomeni državo članico Unije;
15. »država članica zunaj euroobmočja« pomeni državo članico, katere valuta ni euro;
16. »sodelujoča država članica« pomeni (a) državo članico euroobmočja in (b) državo članico zunaj euroobmočja, ki je vzpostavila tesno sodelovanje z ECB v skladu s členom 7 Uredbe (EU) št. 1024/2013;
17. »nesodelujoča država članica« pomeni državo članico, ki ni sodelujoča država članica;
18. »nadzorovani subjekt« pomeni kar koli od naslednjega: (a) kreditno institucijo s sedežem v sodelujoči državi članici; (b) finančni holding s sedežem v sodelujoči državi članici; (c) mešani finančni holding s sedežem v sodelujoči državi članici; (d) podružnico, ki jo v sodelujoči državi članici ustanovi kreditna institucija s sedežem v nesodelujoči državi članici;
19. »nadzorniške naloge« pomenijo naloge, prenesene na ECB s členi 4 do 6 Uredbe (EU) 1024/2013;
20. »pomemben nadzorovani subjekt« pomeni pomemben nadzorovani subjekt, kot je opredeljen v točki 16 člena 2 okvirne uredbe o EMN;
21. »manj pomemben nadzorovani subjekt« pomeni manj pomemben nadzorovani subjekt, kot je opredeljen v točki 7 člena 2 okvirne uredbe o EMN;
22. »skupna sredstva« pomenijo skupno vrednost sredstev, izpeljano iz vrstice »skupna sredstva« v bilanci stanja skupine subjektov, ki so plačniki nadomestila, kreditne institucije, ki je plačnica nadomestila in ni del skupine, ali podružnice, ki je plačnica nadomestila, v skladu z metodologijo in postopki, ki jih določi in objavi ECB po členu 10(3). V primeru skupine subjektov, ki so plačniki nadomestila, skupna sredstva ne vključujejo podrejenih družb s sedežem v nesodelujočih državah članicah in tretjih državah;
23. »skupna izpostavljenost tveganju« pomeni v zvezi s skupino subjektov, ki so plačniki nadomestila, in kreditno institucijo, ki je plačnica nadomestila in ni del skupine subjektov, ki so plačniki nadomestila, znesek, ki se izračuna z uporabo člena 92(3) Uredbe (EU) št. 575/2013. V primeru skupine subjektov, ki so plačniki nadomestila, skupna izpostavljenost tveganju ne vključuje prispevka podrejenih družb s sedežem v nesodelujočih državah članicah in tretjih državah k skupni izpostavljenosti tveganju.

Naslov 3

Splošna obveznost

Člen 4

Splošna obveznost plačila letnega nadomestila za nadzor

1. ECB zaračuna letno nadomestilo za nadzor vsaki kreditni instituciji, ki je plačnica nadomestila, in vsaki podružnici, ki je plačnica nadomestila, v zvezi z vsakokratnim obdobjem zaračunavanja nadomestila.
2. Skupni znesek letnih nadomestil za nadzor krije izdatke ECB v zvezi z njenimi nadzorniškimi nalogami v zadevnem obdobju zaračunavanja nadomestila, vendar pa jih ne presega.

Člen 5

Zavezanec za plačilo nadomestila

1. Zavezanec za plačilo letnega nadomestila za nadzor je:
 - (a) kreditna institucija v primeru kreditne institucije, ki je plačnica nadomestila in ni del skupine;
 - (b) podružnica, ki je plačnica nadomestila, v primeru podružnice, ki je plačnica nadomestila in se ne združi z drugo podružnico, ki je plačnica nadomestila;
 - (c) določen v skladu z določbami odstavka 2 v primeru skupine subjektov, ki so plačniki nadomestila.
 2. Brez poseganja v ureditev znotraj skupine subjektov, ki so plačniki nadomestila, glede razdelitve stroškov se skupina subjektov, ki so plačniki nadomestila, obravnava kot en zavezanec za plačilo nadomestila. Vsaka skupina subjektov, ki so plačniki nadomestila, imenuje zavezanca za plačilo nadomestila za celotno skupino in o njegovi identiteti uradno obvesti ECB. To uradno obvestilo se šteje za veljavno samo, če:
 - (a) so v njem navedena imena vseh subjektov v skupini, ki so plačniki nadomestila in na katere se nanaša uradno obvestilo;
 - (b) je podpisano v imenu vseh subjektov, ki so plačniki nadomestila, v skupini;
 - (c) ga ECB prejme najpozneje do 1. marca v vsakokratnem letu, da se lahko upošteva pri izdaji obvestila o nadomestilu v zvezi z naslednjim obdobjem zaračunavanja nadomestila.
- Če ECB ne prejme uradnega obvestila o identiteti zavezanca za plačilo nadomestila do 1. marca, zavezanca za plačilo nadomestila določi sama.

Če ECB pravočasno prejme več kakor eno uradno obvestilo za skupino subjektov, ki so plačniki nadomestila, prevlada tisto uradno obvestilo, ki ga ECB prejme najbližje roku, vendar pred iztekom tega roka.

3. Dve ali več podružnic, ki so plačnice nadomestila ter pripadajo isti kreditni instituciji in so v isti sodelujoči državi članici se štejejo kot ena podružnica. Podružnice iste kreditne institucije v različnih sodelujočih državah članicah se ne štejejo kot ena podružnica.
4. Podružnica, ki je plačnica nadomestila, in podrejena družba kreditne institucije, ki je plačnica nadomestila, s sedežem v isti sodelujoči državi članici se ne smeta združiti za namene te uredbe.
5. Pri izračunu letnega nadomestila za nadzor se podrejene družbe s sedežem v nesodelujočih državah članicah ne upoštevajo. V tej zvezi in zaradi določitve faktorjev za izračun nadomestila za skupino subjektov, ki so plačniki nadomestila, skupina zagotovi podatke na podkonsolidirani osnovi za vse podrejene družbe in posle, ki jih nadzira nadrejena družba v sodelujočih državah članicah.
6. Brez poseganja v odstavek 2 obdrži ECB pravico, da določi zavezanca za plačilo nadomestila.

DEL II

IZDATKI IN STROŠKI

Člen 6

Letni stroški

1. Letni stroški so osnova za določitev letnega nadomestila za nadzor in se povrnejo prek plačila tega letnega nadomestila za nadzor.
2. Znesek letnih stroškov se določi na osnovi zneska letnih izdatkov, ki obsegajo:
 - (a) vse stroške, ki nastanejo ECB v zadevnem obdobju zaračunavanja nadomestila in so neposredno ali posredno povezani z njenimi nadzorniškimi nalogami;
 - (b) [vso škodo, ki nastane v zadevnem obdobju zaračunavanja nadomestila in se plača tretji osebi za izgubo, ki jo je neposredno ali posredno povzročila ECB pri opravljanju svojih nadzorniških nalog].
3. Pri določitvi letnih stroškov ECB upošteva:
 - (a) vse zneske nadomestil, ki se nanašajo na pretekla obdobja zaračunavanja nadomestila in jih ni bilo mogoče pobrati;
 - (b) vsa plačila obresti, prejeta v skladu s členom 11;
 - (c) vse zneske, prejete ali vrnjene v skladu s členom 8(3).

Člen 7

Ocenitev in določitev letnih stroškov

1. Brez poseganja v obveznosti glede poročanja po Uredbi (EU) št. 1024/2013 ECB do konca vsakokratnega koledarskega leta izračuna ocenjene letne stroške v zvezi z obdobjem zaračunavanja nadomestila za naslednje koledarsko leto. Ocenjeni letni stroški služijo kot osnova za izračun, naveden v členu 13(1)(a).
2. V štirih mesecih po koncu vsakokratnega obdobja zaračunavanja nadomestila ECB določi dejanske letne stroške za to obdobje zaračunavanja nadomestila. Dejanski letni stroški služijo kot osnova za izračun, naveden v členu 13(1)(b).

DEL III

DOLOČITEV LETNEGA NADOMESTILA ZA NADZOR

Člen 8

Novi nadzorovani subjekti ali sprememba statusa

1. Če ima nadzorovani subjekt status nadzorovanega subjekta samo v delu obdobja zaračunavanja nadomestila, se letno nadomestilo za nadzor izračuna z upoštevanjem števila polnih mesecev v obdobju zaračunavanja nadomestila, v katerih ima kreditna institucija ali podružnica status nadzorovanega subjekta.
2. Če se na podlagi odločitve ECB status nadzorovanega subjekta spremeni iz pomembnega v manj pomembnega ali obratno, se letno nadomestilo za nadzor izračuna na podlagi števila mesecev, v katerih je imel nadzorovani subjekt status pomembnega ali manj pomembnega subjekta na zadnji dan v mesecu.
3. Če znesek zaračunanega letnega nadomestila za nadzor odstopa od zneska nadomestila, izračunanega v skladu z odstavkom 1 ali 2, ECB izplača nadzorovanemu subjektu povračilo ali mu izda račun.

Člen 9

Razdelitev letnih stroškov med pomembnimi in manj pomembnimi nadzorovanimi subjekti

1. Da bi se lahko izračunalo letno nadomestilo za nadzor, ki se plača v zvezi z vsakim nadzorovanim subjektom, se letni stroški razdelijo na dva dela, in sicer eden za vsako kategorijo nadzorovanih subjektov, na naslednji način:
 - (a) letni stroški, ki se povrnejo od pomembnih nadzorovanih subjektov;

- (b) letni stroški, ki se povrnejo od manj pomembnih nadzorovanih subjektov.
2. Razdelitev letnih stroškov v skladu z odstavkom 1 se opravi na podlagi stroškov, dodeljenih organizacijskim enotam ECB, ki opravljajo neposredni nadzor nad pomembnimi nadzorovanimi subjekti in posredni nadzor nad manj pomembnimi nadzorovanimi subjekti.

Člen 10

Letno nadomestilo za nadzor, ki se plača v zvezi s posameznimi nadzorovanimi subjekti ali nadzorovanimi skupinami

1. Letno nadomestilo za nadzor, ki se plača v zvezi z vsakim pomembnim nadzorovanim subjektom ali pomembno nadzorovano skupino, se določi tako, da se letni stroški pomembnih nadzorovanih subjektov dodelijo posameznim pomembnim nadzorovanim subjektom ali pomembnim nadzorovanim skupinam na podlagi faktorjev za izračun nadomestila.
2. Letno nadomestilo za nadzor, ki se plača v zvezi z vsakim manj pomembnim nadzorovanim subjektom ali manj pomembno nadzorovano skupino, se določi tako, da se letni stroški manj pomembnih nadzorovanih subjektov dodelijo posameznim manj pomembnim nadzorovanim subjektom ali manj pomembnim nadzorovanim skupinam na podlagi faktorjev za izračun nadomestila.
3. Faktorji za izračun nadomestila na najvišji ravni konsolidacije v sodelujočih državah članicah se izračunajo na naslednji podlagi.
 - (a) Faktorji za izračun nadomestila, ki se uporabijo za določitev posameznega letnega nadomestila za nadzor, ki se plača v zvezi z vsakim nadzorovanim subjektom, so znesek ob koncu koledarskega leta:
 - (i) skupnih sredstev;
 - (ii) skupne izpostavljenosti tveganju. V primeru podružnice, ki je plačnica nadomestila, se šteje, da je skupna izpostavljenost tveganju enaka nič.

Podatki o faktorjih za izračun nadomestila se določijo in zberejo v skladu z metodologijo in postopki, ki jih določi ECB in se objavijo na njeni spletni strani.

- (b) Relativno ponderiranje, ki se uporabi v zvezi s faktorji za izračun nadomestila, je naslednje:
 - (i) skupna sredstva: 50 %;
 - (ii) skupna izpostavljenost tveganju: 50 %.

Vsota skupnih sredstev vseh zavezancev za plačilo nadomestila in vsota skupne izpostavljenosti tveganju vseh zavezancev za plačilo nadomestila se objavita na spletni strani ECB.

4. Nadzorovani subjekti zagotovijo faktorje za izračun nadomestila na referenčni datum 31. december preteklega leta in predložijo zahtevane podatke zadevnemu pristojnemu nacionalnemu organu zaradi izračuna letnih nadomestil za nadzor do zaključka poslovanja na dan 1. marec v letu po navedenem referenčnem datumu ali na naslednji delovni dan, če 1. marec ni delovni dan. Pristojni nacionalni organi predložijo vse te podatke ECB v skladu s postopki, ki jih določi ECB. Kadar mora nadzorovani subjekt spremeniti podatke, predložene v zvezi z izračunom zanj veljavnega nadomestila, mora posodobljene podatke predložiti brez nepotrebnega odlašanja in najkasneje do 15. marca.
5. Izračun letnega nadomestila za nadzor za posameznega zavezanca za plačilo nadomestila se opravi, kot je opisano v nadaljevanju.
 - (a) Letno nadomestilo za nadzor je vsota minimalnega dela nadomestila in spremenljivega dela nadomestila.
 - (b) Minimalni del nadomestila se izračuna kot fiksni odstotek skupnega zneska letnih stroškov za vsako kategorijo nadzorovanih subjektov v skladu s členom 9. Za kategorijo pomembnih nadzorovanih subjektov znaša fiksni odstotek 10 %. Ta znesek se enako razdeli med vse zavezance za plačilo nadomestila. Za pomembne nadzorovane subjekte, ki imajo skupna sredstva v višini 10 milijard EUR ali manj, se minimalni del nadomestila prepolovi. Za kategorijo manj pomembnih nadzorovanih subjektov znaša fiksni odstotek 10 %. Ta znesek se enako razdeli med vse zavezance za plačilo nadomestila. Minimalni del nadomestila pomeni spodnjo mejo letnega nadomestila za nadzor za posameznega zavezanca za plačilo nadomestila.
 - (c) Spremenljivi del nadomestila je razlika med skupnim zneskom letnih stroškov za vsako kategorijo nadzorovanih subjektov v skladu s členom 9 in minimalnim delom nadomestila za isto kategorijo. Spremenljivi del nadomestila se posameznim zavezancem za plačilo nadomestila v vsaki kategoriji dodeli glede na delež vsakega zavezanca za plačilo nadomestila v vsoti ponderiranih faktorjev za izračun nadomestila za vse zavezance za plačilo nadomestila, kot se določijo po odstavku 3.

Člen 11

Obresti v primeru neplačila

Brez poseganja v katero koli drugo pravno sredstvo, ki ga ima na voljo ECB, se v primeru delnega plačila, neplačila ali neizpolnjevanja pogojev za plačilo, določenih v obvestilu o nadomestilu, na

neporavnani znesek letnega nadomestila za nadzor dnevno natečejo obresti po obrestni meri ECB za operacije glavnega refinanciranja, povečani za osem odstotnih točk, od datuma zapadlosti plačila.

DEL IV

SODELOVANJE S PRISTOJNIMI NACIONALNIMI ORGANI

Člen 12

Sodelovanje s pristojnimi nacionalnimi organi

1. ECB pred odločitvijo o dokončni višini nadomestila komunicira s pristojnimi nacionalnimi organi, da zagotovi, da nadzor ostane stroškovno učinkovit in razumen za vse zadevne kreditne institucije in podružnice. Za ta namen ECB oblikuje in uvede ustrezne komunikacijske poti v sodelovanju s pristojnimi nacionalnimi organi.
2. Pristojni nacionalni organi pomagajo ECB pri zaračunavanju nadomestil, če ECB tako zahteva.
3. V primeru kreditnih institucij v sodelujoči državi članici zunaj euroobmočja, s katero tesno sodelovanje z ECB ni bilo niti začasno niti dokončno prekinjeno, ECB izda navodila pristojnemu nacionalnemu organu te države članice v zvezi z zbiranjem podatkov o faktorjih za izračun nadomestila in izdajanjem računov za letno nadomestilo za nadzor.

DEL V

IZDAJANJE RAČUNOV

Člen 13

Znesek, ki se zaračuna

1. Skupni znesek letnih nadomestil za nadzor, ki jih zaračuna ECB, je vsota:
 - (a) letnih stroškov za tekoče obdobje zaračunavanja nadomestila, izračunanih na podlagi odobrenega proračuna za obdobje zaračunavanja nadomestila;
 - (b) presežka ali primanjkljaja iz preteklega obdobja zaračunavanja nadomestila, ki se določi tako, da se dejanski letni stroški, nastali v preteklem obdobju zaračunavanja nadomestila, odštejejo od ocene letnih stroškov, pobranih v preteklem obdobju zaračunavanja nadomestila v skladu z odstavkom 1(a).

ECB določi skupni znesek letnih nadomestil za nadzor, ki jih zaračuna, in ga objavi na svoji spletni strani.

2. Izračun letnega nadomestila za nadzor, ki se zaračuna vsakemu zavezancu za plačilo nadomestila, se opravi na podlagi faktorjev za izračun nadomestila, ki se nanašajo na konec koledarskega leta pred zadevnim obdobjem zaračunavanja nadomestila in se dajo na voljo na začetku obdobja zaračunavanja v skladu s členom 10(4).

Člen 14

Obvestilo o nadomestilu

1. ECB izda obvestilo o nadomestilu vsakemu zavezancu za plačilo nadomestila enkrat letno, in sicer najprej 1. junija in najkasneje 31. avgusta v koledarskem letu.
2. V obvestilu o nadomestilu se navedejo načini plačila letnega nadomestila za nadzor. Zavezanec za plačilo nadomestila mora izpolniti zahteve, ki so v zvezi s plačilom letnega nadomestila za nadzor določene v obvestilu o nadomestilu.
3. Zavezanec za plačilo nadomestila mora zapadli znesek po obvestilu o nadomestilu plačati v 30 dneh od dneva izdaje obvestila o nadomestilu.

Člen 15

Uradno pošiljanje obvestila o nadomestilu

1. Zavezanec za plačilo nadomestila do 1. marca v vsakokratnem obdobju zaračunavanja nadomestila sporoči ECB kontaktne podatke (tj. ime, funkcija, organizacijska enota, naslov, elektronski naslov, telefonska številka, številka telefaksa) o osebi, kateri je treba izdati obvestilo o nadomestilu.
2. ECB uradno pošlje obvestilo o nadomestilu osebi, identificirani v skladu z odstavkom 1, na enega od naslednjih načinov: (a) elektronsko ali z drugim primerljivim komunikacijskim sredstvom, (b) po telefaksu, (c) s hitro kurirsko službo, (d) s priporočeno pošto s povratnico, (e) z vročitvijo ali osebno dostavo.

DEL VI KONČNE DOLOČBE

Člen 16

Sankcije

V primeru kršitve te uredbe lahko ECB naloži nadzorovanim subjektom sankcije v skladu z Uredbo Sveta (ES) št. 2532/98⁴.

Člen 17

Prehodni določbi

1. Obvestilo o nadomestilu za prvo obdobje zaračunavanja nadomestila se izda skupaj z obvestilom o nadomestilu za obdobje zaračunavanja nadomestila v letu 2015.
2. Da se ECB omogoči začetek zaračunavanja letnega nadomestila za nadzor, mora vsaka skupina subjektov, ki so plačniki nadomestila, imenovati zavezanca za plačilo nadomestila za skupino in o njegovi identiteti uradno obvestiti ECB do 31. decembra 2014 v skladu s členom 5(2).

Člen 18

Poročilo in pregled

1. V skladu s členom 20(2) Uredbe (EU) št. 1024/2013 ECB vsako leto predloži Evropskemu parlamentu, Svetu, Komisiji in Euroskupini poročilo o predvideni sestavi in znesku letnih nadomestil za nadzor.
2. ECB do leta 2017 pregleda to uredbo, zlasti v zvezi z metodologijo in merili za izračun letnih nadomestil za nadzor, ki se zaračunajo vsakemu nadzorovanemu subjektu in skupini.

Člen 19

Začetek veljavnosti

Ta uredba začne veljati peti dan po objavi v *Uradnem listu Evropske unije*.

[Uporablja se od [dan mesec LLLL]].

⁴ Uredba Sveta (ES) št. 2532/98 z dne 23. novembra 1998 o pooblastilih Evropske centralne banke za nalaganje sankcij (UL L 318, 27.11.1998, str. 4).

Ta uredba je v celoti zavezujoča in se neposredno uporablja v vseh državah članicah v skladu s pogodbami.

V Frankfurtu na Majni, [dan mesec LLLL]

Za Svet ECB

Predsednik ECB

Mario DRAGHI