

Review of the ECB Regulation on supervisory fees

BANKENTOEZICHT

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Contents

1	Scope and rationale	2
2	Subject of the review	4
2.1	Key information on the ECB Regulation on supervisory fees	4
2.2	Criteria that will be used to support the analysis	8
3	ECB Regulation on supervisory fees	9

This consultation paper is intended to assist interested parties in understanding and assessing how to contribute to the review of the ECB Regulation on supervisory fees ECB/2014/41 (contained in Part 3 of this paper). The responses to this consultation paper will provide important guidance to the European Central Bank when preparing, if considered appropriate, a formal update to the ECB Regulation on supervisory fees. The review only covers the ECB supervisory fee framework, without prejudice to the supervisory fees of the national competent authorities. Furthermore, the review is without prejudice to changes in the wider legal framework governing the ECB annual supervisory fee, in particular the SSM Regulation. Therefore, this consultation paper has no interpretative value and is not legally binding.

Comments are only expected on Part 3 of the consultation paper, namely the ECB Regulation on supervisory fees, and, in particular, Part III (Determining the annual supervisory fee) and Part V (Invoicing) of the ECB Regulation.

1 Scope and rationale

1. Article 30 of Council Regulation (EU) No 1024/2013 (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”. The fee levied on a supervised entity is calculated in accordance with the arrangements established by the European Central Bank (ECB). It was decided that the arrangements for the calculation of the Single Supervisory Mechanism (SSM) fees should be established in the format of an ECB regulation – Regulation (EU) No 1163/2014 of the European Central Bank of 22 October 2014 on supervisory fees (ECB/2014/41) (hereinafter the “[ECB Regulation on supervisory fees](#)”) – laying down all the rules and procedures governing the supervisory fee process, with the aim of achieving cost efficiency and proportionality, in accordance with transparency standards.
2. In addition to the prevailing accountability and reporting requirements of the ECB for all tasks conferred under the SSM Regulation, Article 17 of the ECB Regulation on supervisory fees provides for a review of this Regulation by 2017.
3. This document launches an open consultation as preparation for the review of the ECB Regulation on supervisory fees. The intention is to gather feedback in order to assess possible improvements. The responses to this consultation paper will provide the ECB with important insights for preparing, if considered appropriate, a formal update to the ECB Regulation on supervisory fees. This consultation will be open to all interested parties. The ECB expects that such parties will comprise primarily the supervised entities subject to this Regulation.
4. The review will focus on the methodology and criteria for calculating the annual supervisory fee to be levied on each supervised entity and group. This particularly concerns the provisions of the ECB Regulation on supervisory fees that are relevant for defining the methodology by which the annual supervisory fee is calculated, allocated and levied, as contained in Part III (Determining the annual supervisory fee) and Part V (Invoicing) of the ECB Regulation on supervisory fees. The recovery of expenditure incurred by the ECB for the conduct of its supervisory-related tasks is provided for in Article 30 of the SSM Regulation and hence does not fall within the scope of the review of the ECB Regulation on Supervisory fees.
5. Overall, the implementation of the ECB Regulation on supervisory fees has yielded results consistent with the preliminary impact analysis published in the course of the public consultation in 2014. More information can be found in Part 2 of this consultation paper.
6. The consultation on the ECB Regulation on supervisory fees will be open from 2 June 2017 to 20 July 2017. Thereafter, the ECB will conduct its review of the ECB Regulation on supervisory fees taking into account the interested parties’

feedback received in this consultation. The ECB will consult the national competent authorities via its established fora, including the Supervisory Board. The outcome of the review will be published on the ECB's website in 2018.

7. More information on ECB supervisory fees and an explanation of how they are calculated is available in the [dedicated section on the ECB's Banking Supervision website](#). These pages are published in all EU languages and provide important information about the ECB supervisory fee, such as relevant legal acts and decisions, together with other practical information.

2 Subject of the review

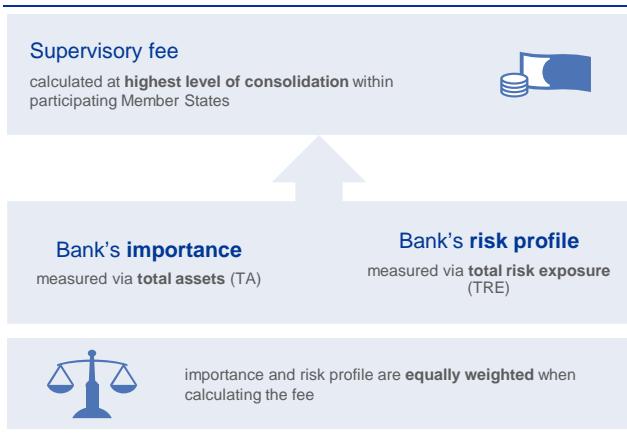
2.1 Key information on the ECB Regulation on supervisory fees

1. A simple, straightforward and cost-efficient solution: the simplicity, straightforwardness and cost efficiency of the mechanism for determining the annual supervisory fee aim at minimising the operational burden and providing consistency and transparency vis-à-vis the fee-paying entities and the general public.

What determines the variable fee component?

Figure 1

The variable fee component is determined by a bank's importance and its risk profile



The supervisory fee is set at the highest level of consolidation within Member States participating in the SSM.

It is the sum of a minimum fee component for all banks, based on 10% of the amount to be levied, and a variable fee component for the allocation of the balance of 90% of the amount to be levied.

For the calculation of the annual supervisory fees payable in respect of each supervised entity and each supervised group, the fee debtors shall submit by 1 July the information on their fee factors with a reference date of 31 December of the previous year.

The ECB makes the submitted fee factor data available to fee debtors and invites them to comment within five working days if they consider the data to be incorrect. Subsequently the ECB calculates the individual fee for each supervised entity or supervised group.

2. Results consistent with the preliminary impact analysis: the annual supervisory fees payable for the fee periods to date have been largely consistent with the provisional estimates provided by the ECB in the public consultation held in early 2014. In line with the preliminary impact analysis, for the 2015 annual fee period nearly 50% of the significant entities were required to pay an annual supervisory fee of between €700,000 and €2.0 million. Similarly, for the less significant institutions, the preliminary impact analysis indicated that nearly 75% were to pay a fee of less than €7,000; according to the 2015 annual fee calculation, 70% of supervised entities fell within this range. Although the total amount to be levied naturally increased as the ECB continued to build the capacity of its supervisory function, the proportional distribution remained relatively stable for the 2016 annual fee period. Within the category of less

significant institutions, a rationalisation of the number of supervised entities at the highest level of consolidation, such as the restructuring of existing credit institutions, for example, by a merger between banks or banking groups, took place in the first two supervisory fee periods. As a consequence, for some banks, the percentage increase in their individual supervisory fee payable in 2016, in particular the minimum fee component, was unavoidably higher than may have been expected based on the percentage change in the total amount to be levied for the fee period.

3. Reconciliation of supervisory fees: it is possible for a supervised entity to estimate the supervisory fee payable by it, within a reasonable margin, by using the information provided on the ECB's website, namely:
 - the annual ECB decision on the total amount to be levied via supervisory fees;
 - the current list of supervised entities;
 - the sum of all the supervised entities' total assets and the sum of all the supervised entities' total risk exposure applied for the current fee period at the highest level of consolidation.

The information provided cannot produce an exact reconciliation with the amount levied by the ECB, as stated in the supervisory fee notice, owing to the application of Articles 7 and 10(6) of the ECB Regulation on supervisory fees. These Articles deal respectively with changes in circumstances (authorisation and status) and the calculation of the minimum fee component of the supervisory fee.

4. Stability reflected in the choice of fee factors: the SSM Regulation specifies that supervisory fees must be based on objective criteria related to a supervised entity's importance and risk profile, including its risk-weighted assets. When selecting the best measures for these criteria, the ECB has sought to minimise the administrative and operational burden on all supervised entities. The measures chosen for total assets and total risk exposure are already part of the supervisory reporting framework, are well defined and, for the vast majority of supervised entities, audited. The main exception relates to branches established in a participating country by a parent bank established in a non-participating country, which are obliged to submit statistical data in accordance with the relevant financial reporting framework. Statistical data on branches are typically not required to be audited for other reporting purposes, but the auditor's verification is requested for fee factor data in order to ensure the integrity of the calculation.

The choice of fee factors has helped to create more predictability for fee debtors by limiting the potential for volatility in the annual supervisory fee, as shown in the stability of the value of fee factors applied in the first two supervisory fee periods (see the table below). For the purpose of the calculation

of the fee factors, supervised groups can exclude assets of subsidiaries located in non-participating Member States and third countries.

Table 1
Fee factor values

Fee factor values (EUR billions) reference date	31 December 2015	31 December 2014	% change
Significant entities or significant groups			
Total assets applied	20,233	20,527	-1%
Total risk exposure applied	6,773	6,811	-1%
Less significant entities or less significant groups			
Total assets applied	4,469	4,669	-4%
Total risk exposure applied	2,137	2,219	-4%

5. Proportionality for all supervised entities: Article 8 of the ECB Regulation on supervisory fees specifies that the annual amount to be recovered will be related to the status of the supervised entity, i.e. whether it is deemed significant or less significant in accordance with the SSM Regulation, thus reflecting the different degrees of supervisory scrutiny required from the ECB for each of these two categories of credit institution. The percentage changes in this split of costs is shown in the following table:

Table 2
Supervisory fees – split between significant institutions and less significant institutions

	Estimated fee income 2017	Actual fee income 2016	Actual fee income 2015	Actual fee income 2014 ¹	Preliminary impact analysis
Fees payable by significant institutions or significant groups	92%	88.6%	88.6%	85.5%	85%
Fees payable by less significant institutions or less significant groups	8%	11.4%	11.4%	14.5%	15%

6. Reasonableness for small significant supervised entities: given that the three largest credit institutions in each participating Member State are considered significant, even if they are very small, the ECB has inserted a special provision in Article 10(6) for significant institutions with total assets not exceeding €10 billion. They benefit from the halving of the minimum fee component, representing an average saving of around 35% of the annual supervisory fee for the individual supervised entity. This measure has had only a marginal impact on the distribution of costs across the other entities in the category of significant institutions, while ensuring the reasonableness of the annual supervisory fee to be levied on all the banks or banking groups concerned.

¹ For 2014 the ECB recovered via supervisory fees its banking supervision-related costs for the period commencing in November 2014, which is when it assumed its supervisory tasks.

7. Catering for changes in the situation of supervised entities: Article 7 of the ECB Regulation provides measures to ensure that each supervised entity is only obliged to pay a fee (i) for the part of the year during which it was supervised and (ii) that reflects its supervisory status, i.e. whether it is considered significant or less significant. These provisions help maintain the reasonableness and proportionality of the measures applicable to the supervised entities and facilitate the distribution of costs across entities within the same category. The number of supervisory fee decisions for which the Article 7 provisions were applied in the first two supervisory fee periods is shown in the table below:²

Table 3
Number of amendments under the terms of Article 7

	2016 annual fee period	2015 annual fee period
Newly supervised entities	19	37
Lapsing/mergers	155	113
Changes in supervisory status	1	3

8. Notification of fee notices: the ECB has implemented a cost-effective, real-time solution for the publication of fee factors (Article 10) and electronic issuance of fee notices (Article 13). At present only 0.01% of all fee debtors do not use the ECB portal. Standard correspondence concerning the supervisory fees is issued in English, including fee notices, with a translated version always provided in every official language of the Member States participating in the SSM.
9. Late payment interest: Article 14 of the ECB Regulation on supervisory fees defines the interest rate on late payments as the ECB's main refinancing rate plus 8 percentage points. The collection rate for the annual supervisory fee is close to 100%, with nearly two-thirds of fee debtors choosing to use the option of direct debit payment. In the first two supervisory fee periods, total interest of €0.07 million was collected. The ECB issued 77 interest notices with an average payment receivable of €945³. As provided for in Article 5 of the ECB Regulation on supervisory fees, the interest received by the ECB in this regard reduces the annual cost levied on supervised entities in the next fee period.

² All amendments under the provisions of Article 7 refer to cases in which a change occurs during the fee period: new supervised entities are formed or entities cease to exist, i.e. they are supervised for only part of the fee period (less than 12 months); and entities change their supervisory status, i.e. for part of the fee period the entity is a less significant institution, and for the rest of the period a significant institution, or vice versa.

³ The ECB has received interest with a total value of €823 transferred by the supervised entities although not invoiced by the ECB. The value of this voluntary interest is included in the total value of interest.

2.2

Criteria that will be used to support the analysis

When considering the responses received as part of this consultation, the ECB will conduct an analysis of the costs and benefits involved, taking account of the following factors:

- (a) Meeting legal requirements: in establishing the fee arrangements, the ECB implemented the provisions of the SSM Regulation that set out the main parameters of the annual supervisory fee. In this respect, compliance with the SSM Regulation and other relevant provisions of EU law, ECB Regulations, ECB Decisions and supervisory standards must continue to be ensured.
- (b) Impact of the fee allocation: in assessing the potential measures, two particular points have to be considered: (i) the number of supervised entities directly affected by the provision analysed, and (ii) the impact on the distribution of costs across other entities within the same category.
- (c) Administrative impact on supervised entities: costs arising from a potential additional administrative burden for the supervised entities and the avoidance of unnecessary duplications in data reporting will be taken into account.
- (d) Limiting the volatility of the annual fee: the extent to which stability for the supervised entities is ensured will be assessed, in order to minimise unexpected variations in the annual supervisory fee.
- (e) Financial cost to be included in the supervisory fee: the additional effort required by the ECB to implement and maintain the annual supervisory fee mechanism will be considered as additional costs and will have to be included in the total amount to be levied on supervised entities.

**REGULATION (EU) No 1163/2014 OF THE EUROPEAN CENTRAL BANK
of 22 October 2014
on supervisory fees
(ECB/2014/41)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

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

Whereas:

- (1) Regulation (EU) No 1024/2013 establishes a Single Supervisory Mechanism (SSM) composed of the European Central Bank (ECB) and national competent authorities (NCAs).
- (2) Pursuant to Regulation (EU) No 1024/2013, the ECB is responsible for the effective and consistent functioning of the SSM for all credit institutions, financial holding companies and mixed financial holding companies in all euro area Member States as well as in non-euro area Member States which enter into close cooperation with the ECB. The rules and procedures governing the cooperation between the ECB and NCAs within the SSM and with national designated authorities are laid down in Regulation (EU) No 468/2014 of the European Central Bank (ECB/2014/17)⁽²⁾.
- (3) Article 30 of Regulation (EU) No 1024/2013 provides for the levying of an annual supervisory fee by the ECB on credit institutions established in the participating Member States and on branches established in a participating Member State by a credit institution established in a non-participating Member State. The fees levied by the ECB should cover, and not exceed, expenditure incurred by the ECB in relation to the tasks conferred on it under Articles 4 to 6 of Regulation (EU) No 1024/2013.
- (4) The annual supervisory fee should comprise an amount to be paid annually by all 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 that are supervised within the SSM.
- (5) Within the SSM, the supervisory responsibilities of the ECB and each NCA are allocated on the basis of the significance of the supervised entities.
- (6) The ECB has direct supervisory competence in respect of significant credit institutions, financial holding companies, mixed financial holding companies established in participating Member States, and branches located in participating Member States of significant credit institutions established in non-participating Member States.
- (7) The ECB also oversees the functioning of the SSM, which includes all credit institutions, whether significant or less significant. The ECB is exclusively competent in relation to all credit institutions established in the participating Member States to authorise entities to take up the business of a credit institution, to withdraw authorisations and to assess acquisitions and disposals of qualifying holdings.
- (8) The NCAs are responsible for the direct supervision of less significant supervised entities, without prejudice to the ECB's power to exercise direct supervision in specific cases where this is necessary for the consistent application of high supervisory standards. When allocating the amount to be recovered via supervisory fees between the categories of significant supervised entities and less significant supervised entities, this sharing of supervisory responsibilities within the SSM and the related expenditure incurred by the ECB is taken into account.

⁽¹⁾ OJ L 287, 29.10.2013, p. 63.

⁽²⁾ Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17) (OJ L 141, 14.5.2014, p. 1).

- (9) Article 33(2) of Regulation (EU) No 1024/2013 requires the ECB to publish by means of regulations and decisions the detailed operational arrangements for the implementation of the tasks conferred upon it by Regulation (EU) No 1024/2013.
- (10) According to Article 30(3) of Regulation (EU) No 1024/2013 the fees are to be based on objective criteria relating to the importance and risk profile of the credit institutions concerned, including risk weighted assets.
- (11) The fees are to be calculated at the highest level of consolidation within participating Member States. This means that when credit institutions are part of a supervised group established in the participating Member States, one fee shall be calculated and paid at group level.
- (12) In calculating the annual supervisory fee, subsidiaries established in non-participating Member States should not be taken into account. In this respect, and in order to determine the relevant fee factors of a supervised group, sub-consolidated data for all subsidiaries and operations controlled by the parent undertaking in the participating Member States should be provided. However, the costs of producing such sub-consolidated data may be high and, for this reason, supervised entities should be able to opt for a fee calculated on the basis of data provided at the highest level of consolidation within the participating Member States including subsidiaries established in non-participating Member States, even if this might result in a higher fee.
- (13) The institutions referred to in Article 2(5) of Directive 2013/36/EU of the European Parliament and of the Council (¹) are excluded from the supervisory tasks conferred on the ECB in accordance with Regulation (EU) No 1024/2013 and, therefore, the ECB will not levy fees on them.
- (14) A regulation has general application, is binding in its entirety and directly applicable in all euro area Member States. It is thus the appropriate legal instrument to lay down the practical arrangements for the implementation of Article 30 of Regulation (EU) No 1024/2013.
- (15) In line with Article 30(5) of Regulation (EU) No 1024/2013, this Regulation is without prejudice to the right of NCAs to levy fees in accordance with national law and, to the extent supervisory tasks have not been conferred on the ECB, or in respect of costs of cooperating with and assisting the ECB and acting on its instructions, in accordance with relevant Union law and subject to the arrangements made for the implementation of Regulation (EU) No 1024/2013, including Articles 6 and 12 thereof,

HAS ADOPTED THIS REGULATION:

PART I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation lays down:
 - (a) the arrangements for calculating the total amount of the annual supervisory fees to be levied in respect of supervised entities and supervised groups;
 - (b) the methodology and criteria for calculating the annual supervisory fee to be borne by each supervised entity and each supervised group;
 - (c) the procedure for the collection by the ECB of the annual supervisory fees.

(¹) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

2. The total amount of the annual supervisory fees shall encompass the annual supervisory fee in respect of each significant supervised entity or group and each less significant supervised entity or group and shall be calculated by the ECB at the highest level of consolidation within the participating Member States.

Article 2

Definitions

For the purposes of this Regulation, the definitions contained in Regulation (EU) No 1024/2013 and Regulation (EU) No 468/2014 (ECB/2014/17) shall apply, unless otherwise provided for, together with the following definitions:

1. ‘annual supervisory fee’ means the fee payable in respect of each supervised entity and each supervised group as calculated in accordance with the arrangements set out in Article 10(6);
2. ‘annual costs’ means the amount, as determined in accordance with the provisions of Article 5, to be recovered by the ECB via the annual supervisory fees for a specific fee period;
3. ‘fee debtor’ means the fee-paying credit institution or fee-paying branch determined in accordance with Article 4 and to which the fee notice is addressed;
4. ‘fee factors’ means the data related to a supervised entity or a supervised group defined in Article 10(3)(a) which are used to calculate the annual supervisory fee;
5. ‘fee notice’ means a notice specifying the annual supervisory fee payable by and issued to the relevant fee debtor in accordance with this Regulation;
6. ‘fee-paying credit institution’ means a credit institution established in a participating Member State;
7. ‘fee-paying branch’ means a branch established in a participating Member State by a credit institution established in a non-participating Member State;
8. ‘fee period’ means a calendar year;
9. ‘first fee period’ means the period of time between the date on which the ECB assumes the tasks conferred on it under Regulation (EU) No 1024/2013 and the end of the calendar year in which the ECB assumes these tasks;
10. ‘group of fee-paying entities’ means (i) a supervised group and (ii) a number of fee-paying branches that are deemed to be one branch in accordance with Article 3(3);
11. ‘Member State’ means a Member State of the Union;
12. ‘total assets’ means the total value of assets as determined in accordance with Article 51 of Regulation (EU) No 468/2014 (ECB/2014/17). In the case of a group of fee-paying entities, total assets excludes subsidiaries established in non-participating Member States and third countries;
13. ‘total risk exposure’ means, with reference to a group of fee-paying entities and to a fee-paying credit institution that is not part of a group of fee-paying entities, the amount determined at the highest level of consolidation within the participating Member States and calculated by application of Article 92(3) of Regulation (EU) No 575/2013 of the European Parliament and of the Council (¹).

Article 3

General obligation to pay the annual supervisory fee

1. The ECB shall levy an annual supervisory fee in respect of each supervised entity and each supervised group for each fee period.

(¹) 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).

2. The annual supervisory fee for each supervised entity and supervised group will be specified in a fee notice issued to and payable by the fee debtor. The fee debtor will be the addressee of the fee notice and of any notice or communication from the ECB with regard to supervisory fees. The fee debtor will be responsible for paying the annual supervisory fee.

3. Two or more fee-paying branches established by the same credit institution in the same participating Member State are deemed to be one branch. Fee-paying branches of the same credit institution established in different participating Member States are not deemed to be one branch.

4. Fee-paying branches shall be deemed to be separate from subsidiaries of the same credit institution established in the same participating Member State for the purposes of this Regulation.

Article 4

Fee debtor

1. The fee debtor in respect of the annual supervisory fee is:

- (a) the fee-paying credit institution, in the case of a fee-paying credit institution that is not part of a supervised group;
- (b) the fee-paying branch, in the case of a fee-paying branch that is not combined with another fee-paying branch;
- (c) determined in accordance with the provisions of paragraph 2, in the case of a supervised group of fee-paying entities.

2. Without prejudice to the arrangements within a group of fee-paying entities with respect to the allocation of costs, a group of fee-paying entities shall be treated as one unit. Each group of fee-paying entities shall nominate the fee debtor for the whole group and shall notify the identity of the fee debtor to the ECB. The fee debtor shall be established in a participating Member State. Such notification shall be considered valid only if:

- (a) it states the names of all supervised entities of the group covered by the notification;
- (b) it is signed on behalf of all supervised entities of the group;
- (c) it reaches the ECB by 1 July of each year at the latest, in order to be taken into account for the issuance of the fee notice in respect of the following fee period.

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

3. Without prejudice to paragraph 2, the ECB reserves the right to determine the fee debtor.

PART II

EXPENDITURE AND COSTS

Article 5

Annual costs

1. The annual costs shall be the basis for determining the annual supervisory fees and they shall be recovered via the payment of such annual supervisory fees.

2. The amount of the annual costs shall be determined on the basis of the amount of the annual expenditure consisting of any expenses incurred by the ECB in the relevant fee period that are directly or indirectly related to its supervisory tasks.

The total amount of the annual supervisory fees shall cover, but not exceed, the expenditure incurred by the ECB in relation to its supervisory tasks in the relevant fee period.

3. When determining the annual costs, the ECB shall take into account:
 - (a) any fee amounts related to previous fee periods that were not collectible;
 - (b) any interest payments received in accordance with Article 14;
 - (c) any amounts received or refunded in accordance with Article 7(3).

Article 6

Estimating and determining the annual costs

1. Without prejudice to its reporting obligations under Regulation (EU) No 1024/2013, the ECB shall by the end of each calendar year calculate the estimated annual costs in respect of the fee period for the following calendar year.
2. Within four months after the end of each fee period the ECB shall determine the actual annual costs for that fee period.
3. The estimated annual costs and actual annual costs shall serve as a basis for the calculation of the total amount of the annual supervisory fees referred to in Article 9(1).

PART III

DETERMINING THE ANNUAL SUPERVISORY FEE

Article 7

New supervised entities or change of status

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

Article 8

Split of annual costs between significant and less significant supervised entities

1. In order to calculate the annual supervisory fee payable in respect of each supervised entity and supervised group the annual costs shall be split into two parts, one for each category of supervised entities and supervised groups, as follows:
 - (a) the annual costs to be recovered from significant supervised entities;
 - (b) the annual costs to be recovered from less significant supervised entities.
2. The split of the annual costs in accordance with paragraph 1 shall be made on the basis of the costs allocated to the relevant functions which perform the direct supervision of significant supervised entities and the indirect supervision of less significant supervised entities.

Article 9**Amount to be levied**

1. The total amount of the annual supervisory fees to be levied by the ECB shall be the sum of:
 - (a) the estimated annual costs for the current fee period based on the approved budget for the fee period;
 - (b) any surplus or deficit from the previous fee period determined by deducting the actual annual costs incurred in respect of the previous fee period from estimated annual costs levied for the previous fee period.
2. For each category of supervised entities and supervised groups, the ECB shall decide the total amount to be levied via the annual supervisory fees, which shall be published on its website by 30 April of the relevant fee period.

Article 10**Annual supervisory fee payable in respect of supervised entities or supervised groups**

1. The annual supervisory fee payable in respect of each significant supervised entity or significant supervised group shall be determined by allocating the amount to be levied on the category of significant supervised entities and significant supervised groups to the individual significant supervised entities and significant supervised groups on the basis of their fee factors.
2. The annual supervisory fee payable in respect of each less significant supervised entity or less significant supervised group shall be determined by allocating the amount to be levied on the category of less significant supervised entities and less significant supervised groups to the individual less significant supervised entities and less significant supervised groups on the basis of their fee factors.
3. The fee factors at the highest level of consolidation within the participating Member States shall be calculated on the following basis.
 - (a) The fee factors used to determine the annual supervisory fee payable in respect of each supervised entity or supervised group shall be the amount at the reference date of:
 - (i) total assets;
 - (ii) total risk exposure. In the case of a fee-paying branch, total risk exposure is considered zero.
 - (b) The data regarding the fee factors shall be determined and collected in accordance with an ECB decision outlining the applicable methodology and procedures. This decision shall be published on the ECB website.
 - (c) For the purpose of the calculation of fee factors, supervised groups should — as a rule — exclude assets of subsidiaries located in non-participating Member States and third countries. Supervised groups may decide not to exclude such assets for the determination of fee factors.
 - (d) For supervised entities or supervised groups classified as less significant on the basis of Article 6(4) of Regulation (EU) No 1024/2013, the fee factor of total assets shall not exceed EUR 30 billion.
 - (e) The relative weighting used in respect of the fee factors shall be:
 - (i) total assets: 50 %;
 - (ii) total risk exposure: 50 %.

4. The fee debtors shall provide the fee factors with a reference date of 31 December of the preceding year and submit the required data to the NCA concerned for the calculation of the annual supervisory fees by the ECB by close of business on 1 July of the year following the said reference date or on the next business day if 1 July is not a business day. Where supervised entities prepare their annual accounts based on an accounting year-end which deviates from the calendar year, the fee debtors may provide fee factors with a reference date of their accounting year-end. NCAs shall submit these data to the ECB in accordance with procedures to be established by the ECB. The sum of all fee debtors' total assets and the sum of all fee debtors' total risk exposure shall be published on the ECB's website.

5. In the event that a fee debtor fails to provide the fee factors, the ECB shall determine the fee factors in accordance with the methodology set out in the ECB decision. Failure to provide the fee factors as provided in paragraph 4 of this Article shall be considered as a breach of this Regulation.

6. The calculation of the annual supervisory fee payable by each fee debtor shall be performed as outlined below.

(a) The annual supervisory fee is the sum of the minimum fee component and the variable fee component.

(b) The minimum fee component is calculated as a fixed percentage of the total amount of the annual supervisory fees for each category of supervised entities and supervised groups, as determined in accordance with Articles 8 and 9. For the category of significant supervised entities and significant supervised groups, the fixed percentage is 10 %. This amount is split equally among all fee debtors. For significant supervised entities and significant supervised groups with total assets of EUR 10 billion or less, the minimum fee component is halved. For the category of less significant supervised entities and less significant supervised groups, the fixed percentage is 10 %. This amount is split equally among all fee debtors. The minimum fee component represents the lower limit of the annual supervisory fee per fee debtor.

(c) The variable fee component is the difference between the total amount of the annual supervisory fees for each category of supervised entities, as determined in accordance with Articles 8 and 9, and the minimum fee component for the same category. The variable fee component is allocated to individual fee debtors in each category according to each fee debtor's share in the sum of all fee debtors' weighted fee factors as determined pursuant to paragraph 3.

On the basis of the calculation performed in accordance with the preceding paragraphs and of the fee factors provided in accordance with paragraph 4 of this Article, the ECB shall decide on the annual supervisory fee to be paid by each fee debtor. The annual supervisory fee to be paid will be communicated to the fee debtor via the fee notice.

PART IV

COOPERATION WITH NCAS

Article 11

Cooperation with NCAs

1. The ECB shall communicate with the NCAs before deciding on the final fee level to ensure that supervision remains cost-effective and reasonable for all credit institutions and branches concerned. For this purpose, the ECB shall develop and implement an appropriate channel of communication in cooperation with the NCAs.

2. NCAs shall assist the ECB in levying fees if the ECB so requests.

3. In the case of credit institutions in a participating non-euro area Member State whose close cooperation with the ECB is neither suspended nor terminated, the ECB shall issue instructions to the NCA of that Member State regarding the collection of fee factors and invoicing of the annual supervisory fee.

PART V

INVOICING

Article 12

Fee notice

1. A fee notice shall be issued annually by the ECB to each fee debtor.

2. The fee notice shall specify the means by which the annual supervisory fee shall be paid. The fee debtor shall comply with the requirements set out in the fee notice with respect to the payment of the annual supervisory fee.

3. The amount due under the fee notice shall be paid by the fee debtor within 35 days of the date of issuance of the fee notice.

Article 13

Notification of the fee notice

1. The fee debtor is responsible for keeping the contact details for the submission of the fee notice up to date and shall communicate to the ECB any changes in the contact details (i.e. name, function, organisational unit, address, e-mail address, telephone number, fax number). The fee debtor shall communicate any changes to the contact details to the ECB by 1 July of each fee period at the latest. These contact details shall refer to a natural person or preferably to a function within the fee debtor organisation.

2. The ECB shall notify the fee notice through any of the following means: (a) electronically or by other comparable means of communication, (b) by fax, (c) by express courier service, (d) by registered mail with a form for acknowledgement, (e) by service or delivery by hand. The fee notice is valid without signature.

Article 14

Interest in case of non-payment

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

PART VI

FINAL PROVISIONS

Article 15

Sanctions

In the event of a breach of this Regulation, the ECB may impose sanctions on supervised entities in accordance with Council Regulation (EC) No 2532/98⁽¹⁾ complemented by Regulation (EU) No 468/2014 (ECB/2014/17).

Article 16

Transitional provisions

1. The fee notice for the first fee period shall be issued together with the fee notice for the 2015 fee period.
2. To enable the ECB to start levying the annual supervisory fee, each group of fee-paying entities shall nominate the fee debtor for the group and shall notify the identity of the fee debtor to the ECB by 31 December 2014, in accordance with Article 4(2).
3. The fee debtor shall submit the data mentioned in Article 13(1) for the first time by 1 March 2015.

Article 17

Report and review

1. In accordance with Article 20(2) of Regulation (EU) No 1024/2013, the ECB shall submit a report on the envisaged evolution of the structure and amount of the annual supervisory fees each year to the European Parliament, the Council of the European Union, the European Commission and the Euro Group.
2. The ECB shall conduct a review of this Regulation, in particular regarding the methodology and criteria for calculating the annual supervisory fees to be levied on each supervised entity and group, by 2017.

⁽¹⁾ 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).

*Article 18***Entry into force**

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

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

Done at Frankfurt am Main, 22 October 2014.

For the Governing Council of the ECB

The President of the ECB

Mario DRAGHI
