



**EUROPEAN CENTRAL BANK**  
BANKING SUPERVISION

## Template for comments

### Public consultation on amendments to the supervisory fees framework (2019)

**Institution/Company**

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**General comments**

ESBG highly appreciates the ECB's proposal for a transition from ex-ante to ex-post calculation of annual fees. We expect this to enhance supervised entities' planning and budgeting confidence, while reducing the need for accounting adjustments to reflect actually incurred SSM fees

ESBG is surprised that the ECB is not offering a public hearing as part of this consultation. As hearings allow for a direct dialogue between stakeholders and ECB representatives, they offer a more productive discussion of feedback than a written statement alone. This benefit is usually acknowledged by the ECB and public hearings are a regular part of SSM consultations. It is hard to see why ...stakeholders should not be provided with the opportunity of voicing their suggestions and concerns verbally in this case

## Template for comments

### Public consultation on amendments to the supervisory fees framework (2019)

Please enter all your feedback in this list.

When entering feedback, please make sure that:

- each comment deals with a single issue only;
- you indicate the relevant article/chapter/paragraph, where appropriate;
- you indicate whether your comment is a proposed amendment, clarification or deletion.

Deadline:	6 June 2019
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ID	Article of the Regulation	Page	Type of comment	Detailed comment	Concise statement as to why your comment should be taken on board	Name of commenter	Personal data
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1	1 3	Amendment	<p>The current Regulation does not comprise any provisions on how to include the fee-paying entities in the review of costs. Thus, ESBG believes that establishing a committee that verifies that the fee level is reasonable and that the supervisory fees are spent in a proper and cost-effective manner should be considered. Bearing in mind that 100% of the funds are provided by the supervised entities, we believe that representatives thereof should be members of this committee.</p> <p>Hence, ESBG would like to propose to establish such a (supervisory) committee to monitor fees/budget in the future. The institutions should be represented here too. Previous ECB references to the budget responsibility of the ECB Council and the Budget Committee (BUCOM) are, in our view, insufficient, since these processes do not ensure any effective budget control involving external stakeholders. At present, external auditors and the European Court of Auditors become involved only for the downstream audit of the ECB budget. We do not agree with the ECB's hitherto objection that a supervisory board filled with representatives from the institutions contradicts Recital 75 SSM Regulation. An involvement of stakeholders exclusively in the budget and fee assessment does not mean any actual restriction of independence from the influence of the industry.</p> <p>Furthermore, it should be added that the two following principles regarding the calculation of the fees to be levied on institutions are of central importance: first, costs must be allocated fairly, based on who causes them to be incurred. Second, the principle of proportionality must be respected.</p>		Carriou, Dominique	Publish
2 4(3)	7	Amendment	<p>Pursuant to Article 4(3), the right to determine the fee debtor is to be reserved to the ECB without prejudice to Article 4(2). We believe that if the group is to nominate and notify the fee debtor according to the criteria set out in Article 4(2), there will be no need for the ECB to determine the debtor. Therefore, ESBG suggests amending Article 4(3) by providing that the ECB reserves the right to determine the fee debtor only if the group of fee-paying entities has not nominated and/or notified a debtor pursuant to Article 4(2) of the Regulation.</p>		Carriou, Dominique	Publish

3	5(1)	7	Amendment	<p>"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."</p> <p>We would like to point out that since November 2014 the ECB supervisory fees have meant an additional cost factor for all institutions. The supervisory costs attributable to, and distributable among, significant institutions have, when comparing fee periods, risen by approximately 35.4% in 2015/16 (calculated on a 12-month basis) and by about 9.5% between 2016/17. Because of the persistent low-interest rates environment, the regulators keep asking the institutions about securing alternative income sources and/or business models. Based on these considerations, we believe that the supervisory authorities could also consider making their contribution to positive business performance by moderating their own costs, now that the SSM structures have been established.</p>		Carriou, Dominique	Publish
4	5(3)(a)	7	Clarification	<p>Article 5(3)(a) states that the ECB shall take into account any fee amounts related to previous fee periods that were not collectible when determining the annual costs. However, this provision should not lead to the result that (partially) outstanding supervisory fees of institutions of the previous fee period would be invoiced to all institutions in the following fee period.</p>		Carriou, Dominique	Publish
5	6(a)(1)	7	Amendment	<p>The merger of Articles 5, 6 and 9 has led to the omission of Article 6(a)(1) regarding the ECB's forecast of supervisory cost for the next period currently taking place at the end of the previous year.</p> <p>While ESBG appreciates the ECB's voluntary commitment to continue publishing an estimate of annual supervisory costs as part of the ECB Annual Report on Supervisory Activities (cf. No. 28 of the ECB Feedback Statement), we would welcome a corresponding and binding amendment to the SSM fees regulation. This would significantly enhance the visibility of the ECB's intention to publish cost estimates, while not creating any additional burden for the ECB.</p>		Carriou, Dominique	Publish

6	10(4) Sentence 3 and (6)(c)	10	Amendment	<p>"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." [...]</p> <p>The variable fee component is allocated to individual fee debtors in each category according to each fee debtor's share of the sum the weighted fee factors of all fee debtors as determined pursuant to paragraph 3.</p> <p>Experience has shown that the ECB has posted the sum of all fee debtors' assets and the sum of the total risk exposure of all fee debtors initially on the English website and later dates on the other websites.</p> <p>We suggest posting the information on the respective sites at the same time and/or cross-referencing them.</p>		Carriou, Dominique	Publish
7	10(4)	11	Amendment	<p>Article 10(4) has been deleted but does not define any new deadline for the respective transmission of the fee factor by the fee debtor. ESBG is concerned that any reporting deadline could become an early reporting deadline. It should be considered that the transmission of the fee factors to the ECB at an earlier deadline would most likely be counterproductive as any data approval by external audit companies is usually not ready before June in the year following the period to be approved. Hence, an early reporting deadline should be avoided as supervisory fees should be calculated on approved data only which on the other side enables a level playing field to all respective entities.</p>		Carriou, Dominique	Publish
8	10(6)(b)(ii)	11	Amendment	<p>We consider the proposed threshold of EUR 500mn too low for less significant supervised entities. Instead of increasing complexity by introducing another regulatory asset threshold, we would suggest making use of a readily existing threshold, such as the EUR 1bn threshold (SRF), the EUR 5bn threshold (CRR II), or the EUR 3bn threshold (SSM Data Points Reporting).</p>		Carriou, Dominique	Publish
9	10(6)(b)(i)	11	Clarification	<p>"[...] For significant supervised entities and significant supervised groups with total assets of EUR 10 billion or less, the minimum fee component is halved."</p> <p>It would be reasonable to assume that the remaining 50% will increase/make the basis of assessment more expensive for the variable fee component. If this is the case, clarification would be desirable at this point.</p>		Carriou, Dominique	Publish

10	10(6)(b)(i)	11	Clarification	<p>"[...] 10 %. This amount is split equally among all fee debtors..."</p> <p>To estimate the ECB supervisory fee for the factor "all fee debtors", the ECB advises referring to the current list of supervised institutions. With regard to the determination of the ECB supervisory fee, it is not transparent what number of institutions on which reference date (31 December of the preceding year analogous to the assets/risk exposure or 1 July according to the current fee debtor return or a yearly average) the ECB uses as a basis to determine the ECB supervisory fee. ESBG would appreciate if this could be clarified.</p>		Carriou, Dominique	Publish
11	12(1)	12	Clarification	<p>"A fee notice shall be issued annually by the ECB to each fee debtor."</p> <p>The ECB's notice contains information on:</p> <ul style="list-style-type: none"> <li>- the level of the minimum fee component,</li> <li>- the level of the variable fee component,</li> <li>- the fee period,</li> <li>- the category "significant" or "less significant",</li> <li>- a reference to the location showing all the supervisory fees to be levied,</li> <li>- the total assets and the total risk exposure.</li> </ul> <p>The notice contains no enclosures/detailed explanations of the calculation/determination (analogous to tax notices or contributions to the resolution fund). In ESBG's opinion, there is a lack of transparent derivation/transition to the fee components with due regard to information on the number of supervised institutions (minimum fee component), the basis of assessment for determining the variable fee components [cf. remarks on Article 10(4)], and the total assets of subsidiaries in non-participating Member States and third countries that were definitively excluded.</p>		Carriou, Dominique	Publish
12		15 13	Clarification	<p>In ESBG's opinion any proceeds from penalties imposed by the ECB pursuant to this Regulation should only go into the budget of the SSM and not into the general ECB budget.</p>		Carriou, Dominique	Publish
13						Carriou, Dominique	Publish
14						Carriou, Dominique	Publish