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DEPARTMENT Integrated Supervision
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(To be quoted in further correspondence)

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VIENNA, 06.06.2019

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

Dear Sir or Madam,

Thank you for providing us with the opportunity to comment publicly on the proposed amendments of the Regulation (EU) No 1163/2014 of the European Central Bank on supervisory fees and related issues. We generally welcome the aim to not only focus on the methodology and criteria for calculating the annual supervisory fees but also to include further clarifications where beneficial.

We would like to draw your attention to the following divergence in the definition of expenditure incurred by the ECB in Regulation (EU) No 1163/2014 with Article 30 paragraph 1 of the Council Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions ('SSM Regulation'). The SSM Regulation covers all expenditure incurred by the ECB "*in relation to the tasks conferred on it under Articles 4 to 6 of this Regulation*" including tasks resulting from the ECB's responsibility for the effective and consistent functioning of the SSM. Art. 5 paragraph 2 of Regulation (EU) No 1163/2014 refers to expenditure incurred by the ECB "*that are directly or indirectly related to its supervisory tasks*". This wording could be read too restrictive and excluding expenditure in relation to the tasks resulting from the ECB's responsibility for the effective and consistent functioning of the SSM. We recommend replacing the current wording in the Regulation (EU) No 1163/2014 by the wording of the SSM Regulation, preferably followed by the clarification that all expenditure related to the ECB's responsibility as direct supervisor, as indirect supervisor and for ensuring the effective and consistent functioning of the SSM is covered by supervisory fees.

To this end we provide you with our comments using the attached form as required.


Financial Market Authority
Department Integrated Supervision

On behalf of the Executive Board

Christoph Kapfer

Christoph Seggermann

signed electronically

Signaturwert	o3pNCsKTi1ZMKcA4/5AqN28vtzcR1fLNnQ5/SMA6VvHkn3QpNEwXchpIfDlcfNVdNRZSf1Idq+Cos6pLnE2uCBHJmkhZWuinDG/3NsCDQ1P04+0iT70iOtSP5mJtq0aeTV0uTiIyMxduvdpdq19FJdcw3y040ZwN0vE+Mz0zoVMVoOuBprS7B2gtxIS7yopI+9XOWEAExUnqgMENhWDMObKMDIGR0FT8ZgnrNmVgtTHjrb1SyA5jUr6RwEuI1CpCPx/qJU+8uD8rVR67QWJ91JhFFhYEMxo+EBMGeaHUOTKRTd/h84Q2mdeurm8gMX/tDkTm8LU4fcXTG0V8xMdaCwg==	
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	Datum/Zeit-UTC	2019-06-06T12:26:34Z
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Prüfinformation	Informationen zur Prüfung des elektronischen Siegels bzw. der elektronischen Signatur finden Sie unter: http://www.signaturpruefung.gv.at	
Hinweis	Dieses Dokument wurde amtssigniert. Auch ein Ausdruck dieses Dokuments hat gemäß § 20 E-Government-Gesetz die Beweiskraft einer öffentlichen Urkunde.	

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

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
1	5 para 2 first sentence	4	Clarification	We recommend to replace the phrase 'that are directly or indirectly related to its supervisory tasks' by the phrase 'in relation to tasks conferred on it under Articles 4 to 6 of the Regulation (EU) No 1024/2013', preferably followed by the clause 'irrespective of its responsibility as direct supervisor, as indirect supervisor or for ensuring the effective and consistent functioning of the SSM'.	We believe that 'expenditure incurred by the ECB in relation to the tasks that are directly or indirectly related to its supervisory tasks' of the supervisory fee regulation could be read limited to supervisory tasks not covering the overall responsibility of the ECB for the effective and consistent functioning of the SSM as stated in Article 6 para 1 of the Regulation (EU) No 1024/2013.	Seggermann, Christoph	Publish

	2 resp. ID 1				<p>In order to align Article 5 para 2 of supervisory fee regulation to Article 30 para 1 of the Regulation (EU) No 1024/2013 the phrase relating the ECB's tasks should be reframed including a reference to Articles 4 to 6 of the Regulation (EU) No 1024/2013. This alignment would dispel any doubts that the supervisory fee regulation may limit the duty of cost-sharing by supervisory fees according to Article 30 para 1 of the Regulation (EU) No 1024/2013. This is due to the fact that provisions modifying and limiting Article 30 para 1 of the Regulation (EU) No 1024/2013 can be based neither on Article 4 para 3 nor Article 30 nor Article 33 para 2 of the Regulation (EU) No 1024/2013.</p>	Seggermann, Christoph	Publish
	3 resp. ID 1				<p>In order to improve clarity an amendment regarding the roles of the ECB resulting in expenditure which has to be recovered by supervisory fees could be beneficial. The duty of cost-sharing by supervisory fees according to Article 30 para 1 of the Regulation (EU) No 1024/2013 refers to the tasks conferred to the ECB under Articles 4 to 6 of the Regulation (EU) No 1024/2013. There are three substantial roles of the ECB stemming from tasks according to Article 4 to 6 of the Regulation (EU) No 1024/2013: The ECB directly supervises significant credit institutions, indirectly supervises less significant credit institutions and ensures the effective and consistent functioning of the SSM.</p>	Seggermann, Christoph	Publish

4	resp. ID 1				<p>In this context, we would like to stress the potential risk of creating an unlevel playing field. As already mentioned 'expenditure incurred by the ECB in relation to the tasks that are directly or indirectly related to its supervisory tasks' could be read limited to supervisory tasks not covering the overall responsibility of the ECB for the effective and consistent functioning of the SSM. If so, there is the risk of redefining the overall responsibility for the effective and consistent functioning of the SSM as a task which has to be levied by the NCA according to Article 30 para 5 of the SSM-Regulation. However, the cost allocation of the NCAs differs significantly. As a result credit institutions across Europe would contribute to costs for the effective and consistent functioning of the SSM differently just depending on the national framework of cost allocation. For this reason the already mentioned interpretation would lead to an unlevel playing field both between credit institutions and NCAs within the SSM.</p>	Seggermann, Christoph	Publish
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