Fairer Fees? ECB-SSM's 2019 consultation on supervisory fees and 2018 SREP findings present issues

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On April 11, 2019, the European Central Bank (ECB), operating in its role at the head of the Banking Union’s Single Supervisory Mechanism (SSM) announced its public consultation on proposed changes to the ECB Regulation on supervisory fees. The consultation closes midnight CET on June 6, 2019.

This brief snapshot assesses the key changes in a consultation that also provides the ECB-SSM’s feedback on the first 2017 consultation as well as building on input from feedback from national competent authorities. What is welcome is that the ECB-SSM shows the proposed amendments to the ECB Regulation on supervisory fees as a “consolidated version” i.e., in track changes in a PDF deltaview. The proposed changes to the fees should be considered in conjunction with outcomes from the ECB-SSM’s administered Supervisory Review and Evaluation Process (SREP) and key findings discussed herein.

What is being proposed?

The ECB-SSM’s consultation and the proposed amendments aim to simplify the SSM’s supervisory fee calculation process for Banking Union Supervised Institutions (BUSIs) by relying on data the SSM already has and at the same time by changing the timing for fee calculation and collection. If approved, the ECB-SSM would calculate fees based on supervisory costs actually incurred and would levy these at the end of the fee cycle.

Fee paying branches (ECB-SSM estimates this to be six percent of the current fee-paying population) will no longer be required to provide an auditor verification of total assets of the branch and instead can submit a management letter signing of their fee factor. Overall, these changes move the spectrum from projected supervised cost to actually supervised costs and ultimately lowers the ECB-SSM’s administrative costs. Fees would be levied at the end of the feeing cycle.

For those SSM-indirectly supervised BUSIs i.e. less significant institutions (LSIs), the ECB-SSM’s announcements to the consultation anticipates that these BUSIs may receive fee reductions. The ECB-SSM anticipates that of the LSIs supervised 50 percent i.e. those that are “smaller LSIs” i.e. less than €500 million total assets, would receive an effective fee reduction of between 7-50 percent. For those LSIs that do not receive a reduction, their annual supervisory fees would increase by three percent. Overall, the proposed changes also aim to limit the volatility in variations of the annual supervisory fee for all BUSIs. Moreover, the ECB-SSM plans to provide the opportunity to receive the fee notice in the language of the Member State in which the BUSI is established. This may benefit a certain population of BUSIs but risks in translation accuracy could still present themselves.

If approved, the amendments to the ECB Regulation on supervisory fees would begin to apply for the 2020 fee period. Non-legal operational changes that are not linked to the change in methodology would apply over a staggered period over fee cycles beyond the 2020 “transitional year.” As the reference date will remain December 31 of the year.
Proposed impacts and SREP 2018 takeaways for 2019

The exact impact of the proposed changes on BUSIs are dependent on a range of factors including total assets, total risk exposure and legal entity structure that determines what this compliance cost will amount to or the level of fee reduction. What these proposed changes do not do is create any corresponding form of harmonized approach to supervisory fees payable to the national competent authorities within the SSM or greater form of data aggregation/reuse.

In addition to consulting on changes in the way SSM fees are calculated the ECB-SSM published on April 11, 2019 its publication of supervisory banking statistics for fourth quarter 2018 and equally a document dated April 8, 2019 detailing the 2018 SREP outcome and 2019 Decisions. For many BUSIs, the depth and level of effort to undertake the remedial action may require dedicated internal and external resources. Amongst the remedial actions the SSM noted that Common Equity Tier 1 (CET1) demands were increasing as a result of consistently worse overall SREP scores and thus higher Pillar 1 plus Pillar 2 Requirements as well as the impact of the capital conservation buffer.

Further concerns included profitability outlooks, high level of non-performing exposures and a need for further improvement on capital adequacy and liquidity planning measures in the ICAAP and ILAAP. This fits in with the ECB-SSM’s supervisory priorities for 2019 through to 2021. This is an area for redress by affected BUSIs but also something that may affect fees after the 2020 supervisory cycle. Notably, the ECB-SSM found the following deficiencies on top of supervisory actions addressed to BUSIs as part of operational acts or follow-up letters to on-going reviews, such as the Interest Rate Risk on the Banking Book (IRRBB) reviews:

- 45 BUSIs were found to have liquidity related measures for improvement identified including 42 BUSIs which have qualitative deficiencies needing improvement and one with both quantitative and qualitative and 2 BUSIs with only quantitative liquidity SREP requirements; and
- 84 BUSIs were found to have weaknesses regarding internal governance, risk management (including ICAAP and ILAAP issues) as well as non-performing exposure IT and data quality issues.

With the SSM’s conclusions that BUSIs are worsening the management of weaknesses, the proposal to simplify fees amongst the wider BUSI community and make fee calculation and collection smarter, possibly fairer, is of course welcome, but this should not be seen as constituting any lessening of compliance challenges nor less supervisory scrutiny, especially given the increase in deficiencies amongst those supervised.

If you would like to receive further analysis on the proposed changes, assistance with lobbying or any related issues to ECB-SSM supervisory interface and engagement, please contact one of our Eurozone Hub key contacts to the right.

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1. See the following landing page available here.
2. The public consultation document can be accessed here.
3. See the proposed consolidated version here.
4. See publication here.
5. See the SSM SREP Methodology Booklet – 2018 SREP decisions applicable in 2019 available here, and press release here.
6. For a review of how this fits into the wider picture of supervisory reform across the EU please see our Navigating 2019 Regulatory Outlook available here. 

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