

Ordinance No 40*
of the BNB
of 1 December 2020
on Determining the Amount of Fees to Cover
Administrative Costs of the Bulgarian National Bank
Arising from Supervisory and Resolution Functions

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effective as of 1 January 2021)

Chapter One
GENERAL PROVISIONS

Article 1. This Ordinance shall establish the terms and procedure for determining the fees to be collected by the Bulgarian National Bank (BNB) to cover administrative costs arising from supervisory and resolution functions.

Article 2. The Bulgarian National Bank shall collect a fee to cover the costs for performing the functions as:

1. a competent supervisory authority within the meaning of Article 4, paragraph 1, item 40 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ, L 176/1, 27 June 2013);

2. a resolution authority under Article 2, paragraph 1 of the Law on the Recovery and Resolution of Credit Institutions and Investment Firms (LRRCIIF), correspondingly the national resolution authority within the meaning of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ, L 225/1 of 30 July 2014), and managing the Bank Resolution Fund.

3. a payment oversight authority within the meaning of the Law on Payment Services and Payment Systems (LPSPS).

Article 3. The fees under Article 1 shall be set each calendar year.

Chapter Two
FEE DEBTORS

Article 4. The fees determined under this Ordinance shall be paid by fee debtors as follows:

* Unofficial translation provided for information purposes only. The Bulgarian National Bank bears no responsibility whatsoever as to the accuracy of the translation and is not bound by its contents.

1. banks, bank groups, financial holding companies, mixed financial holding companies, Member States bank branches and third country bank branches in relation to performing the function under Article 2, item 1;

2. entities under Article 1, paragraph 1 of the Law on the Recovery and Resolution of Credit Institutions and Investment Firms in respect of which the BNB is a resolution authority, correspondingly a national resolution authority, in relation to performing the function under Article 2, item 2;

3. banks licensed by the BNB and bank branches conducting the activity of providing payment services and/or issuing, distributing and redeeming electronic money on the territory of Bulgaria, payment institutions and electronic money institutions licensed by the BNB, account information service providers registered by the BNB, payment institutions licensed in other Member States and electronic money institutions and account information service providers registered in other Member States and operating on the territory of the Republic of Bulgaria through a branch or an agent, and operators of a payment system that have been granted a license under Article 138 of the Law on Payment Services and Payment Systems in relation to performing the function under Article 2, item 3.

Article 5. (1) Where a new fee debtor has emerged during the calendar year, for which the fees under Article 1 are set, the fees due by this fee debtor shall be calculated in accordance with the terms and time limits provided for in Articles 7 and 8 and the individual amount of fees for the year shall be evenly divided into four quarters and only the quarters during which the BNB has performed the functions under Article 2 in respect of the new fee debtor shall be taken into account. The remaining portion of the individual amount of fees for the year of the new fee debtor shall be distributed in accordance with the terms and time limits provided for in Articles 7 and 8 among the other fee debtors.

(2) In the event the BNB has ceased to perform the functions under Article 2 in respect of a fee debtor, the fees due by this fee debtor shall be calculated by dividing evenly the last individual amount of fees in four quarters and only the quarters during which the BNB has performed the functions under Article 2 in respect of the fee debtor, including for the preceding calendar year, shall be taken into account, provided no fees under Article 8 have been set by the time of cessation of the functions under Article 2.

(3) In the cases under paragraph 2, the fees due shall be determined by the time the functions under Article 2 have been ceased by the Deputy Governor in charge of the relevant function.

(4) The fee debtor shall pay the fees under paragraph 2 within 14 days from the date of receipt of the notification of the set amount.

(5) In the event that the BNB has ceased to perform the functions under Article 2 due to fee debtors' rights which have arisen from a succession, the fee payable by the transforming fee debtor shall be paid by the successor under the procedure and within the terms set out in Article 8.

*Chapter Three***DETERMINING THE AMOUNT OF COSTS AND FEES**

Article 6. (1) The amount of each fee under Article 1 shall be determined on the basis of the amount of administrative costs for performing the relevant function under Article 2.

(2) The costs under paragraph 1 shall include:

1. costs of BNB structural units whose activity is directly connected to the performance of the functions under Article 2;

2. a relevant portion of the operating costs of the structural units providing the administrative service of the units under item 1.

(3) The amount of the administrative costs under paragraph 2 shall be determined on the basis of a methodology set out in Appendix No 1.

Article 7. (1) The total amount of the fees under Article 1 for a calendar year shall be calculated on the basis of the costs generated in each of the functions under Article 2, as determined after the end of the calendar year under the procedure of Article 6.

(2) The individual amount of annual fees under Article 1 shall be determined by distributing the total amount to be levied for each of the functions under Article 2 among relevant fee debtors in accordance with methodologies under Appendices No 2 and No 3.

(3) For the purposes of determining the fee collected in relation to the function under Article 2, item 3, the fee debtors under items 1.2 and 1.4 of Appendix No 3 shall submit to the BNB by 30 June their audited financial statements for the previous year.

Article 8. (1) The individual amount of the fees under Article 1 for each fee debtor shall be determined by the BNB Governing Council by 31 July of the year following the calendar year for which they are due.

(2) Within seven days, with effect from the date of the decision under paragraph 1, the BNB shall notify fee debtors of the fees to be paid.

(3) Fee debtors shall pay the fees due within 14 days from the date of receipt of the notification under paragraph 2.

(4) If a fee debtor fails to pay a fee, an interest shall be charged on the due amount for the period of delay to the amount of the statutory interest rate.

Article 9. By the end of October of the current year, the BNB shall submit to the fee debtors under Article 4 an estimated amount of its costs for the current year for performing the functions under Article 2.

TRANSITIONAL AND FINAL PROVISIONS

§ 1. This Ordinance is issued on the grounds of Article 59a, paragraph 2 of the Law on the Bulgarian National Bank and adopted by Resolution No 418 of the Governing Council of the Bulgarian National Bank of 1 December 2020.

§ 2. This Ordinance shall come into force on 1 January 2021.

§ 3. The first fee setting and payment under the procedure and within the terms of Articles 7 and 8 shall take place in 2021 to cover the administrative costs of the BNB for 2020 arising from supervisory and resolution functions.

§ 4. Fee debtors in respect of whom the BNB has ceased to perform the functions under Article 2 prior to the first fee setting under § 3 shall not be charged any fees under this Ordinance.

METHODOLOGY
for Determining the Amount of the Costs Arising
from the BNB Functions under Article 2

1. The fees under Article 1 shall be determined on the basis of clearly defined annual costs based on the Report on BNB Budget Implementation to be recovered *via* the payment of these fees.

2. The costs of the units under Article 6, paragraph 2 whereon the fees are determined shall be, as follows:

- 2.1. expenditure on materials;
- 2.2. expenditure on outsourced services, staff costs, social expenditure, voluntary pension insurance;
- 2.3. other administrative costs (including BNB expenditure on membership in the ESCB, European supervisory authorities and resolution authorities);
- 2.4. property and refuse collection levies, property insurance and other fees;
- 2.5. depreciation expenses;
- 2.6. contributions to international organisations directly connected to BNB functions under Article 2;
- 2.7. expenditure on support functions as:
 - 2.7.1. structural units to the Governor of the BNB;
 - 2.7.2. structural units to the Secretary General of the BNB;
 - 2.7.3. General Accounting Directorate.

3. The amount of the costs under item 2.7 shall be determined in proportion to the number of actually employed persons in structural units whose activity is directly connected to the performance of the functions under Article 2.

4. Revenue earned from performing BNB supervisory and resolution functions, including received licence fees, shall be deducted from the costs incurred.

5. The Governing Council shall determine the procedure and manner of calculating the amount of the costs arising from the BNB functions under Article 2.

Appendix 2
to Article 7, paragraph 2

METHODOLOGY
for Distributing the Fees to Cover Administrative Costs Arising
from the BNB Functions under Article 2, items 1 and 2

1. The total amount of the annual supervisory fee to cover administrative costs arising from the functions under Article 2, items 1 and 2 shall be distributed by fee debtor categories, as follows:

- 1.1. banks, bank groups, financial holding companies and mixed financial holding companies;
- 1.2. EU Member States bank branches;
- 1.3. third-country bank branches.

2. The amount under item 1 shall be distributed among fee debtors whereby an individual annual supervisory fee is set.

3. The individual annual supervisory fee due by each fee debtor shall be the sum of a fixed component and a variable component of the fee, as follows:

- 3.1. fixed component: fixed percentage equal to 10 per cent of the amount under item 1, with the obtained amount evenly distributed among fee debtors;
- 3.2. variable component: the remaining 90 per cent of the amount under item 1, distributed as follows:

3.2.1. for each fee debtor, the individual amount of the variable component shall be calculated as a ratio between Total Assets and Total Risk Exposures and the respective total sum of these indicators for all fee debtors; equal relative weights of 50 per cent each shall be applied to these indicators;

3.2.2. for a fee debtor, which is a branch of a Member State or third country's bank branch, Total Risk Exposures shall be considered to be zero; the variable fee component shall be determined on the basis of the ratio between the respective branch's Total Assets and the total of this indicator for all fee debtors;

3.2.3. for Total Assets and Total Risk Exposures, the BNB shall use the supervisory reports submitted by the fee debtors for banking supervision purposes with a reporting date 31 December of the previous year and date of submission under Commission Implementing Regulation (EU) No 680/2014.

4. Where a fee debtor submits consolidated statements for the purposes of banking supervision, the amount of the fee due by this debtor shall be determined on a consolidated basis.

5. The annual fee to cover administrative costs arising from the function under Article 2, item 2 shall be determined only for EU Member States bank branches that are significant within the meaning of Article 87a or 87b of the Law on Credit Institutions.

METHODOLOGY
for Distributing the Fees to Cover Administrative Costs Arising
from the BNB Functions under Article 2, item 3

1. The total amount of the annual supervisory fee to cover administrative costs arising from the function under Article 2, item 3 shall be distributed by fee debtor categories, as follows:

- 1.1. banks licensed by the BNB and bank branches conducting the activity of providing payment services and/or issuing, distributing and redeeming electronic money on the territory of Bulgaria;
- 1.2. payment institutions and electronic money institutions licensed by the BNB and account information service providers registered by the BNB;
- 1.3. payment institutions and electronic money institutions licensed in other Member States and account information service providers registered in other Member States and operating on the territory of the Republic of Bulgaria through a branch or an agent; and
- 1.4. payment system operators licensed under Article 138 of LPSPS.

2. The amount under item 1 shall be distributed among fee debtors whereby the individual annual supervisory fee due by each fee debtor is set.

3. The individual annual supervisory fee due by each fee debtor shall be the sum of a fixed component and a variable component of the fee, as follows:

- 3.1. fixed component: fixed percentage equal to 10 per cent of the amount under item 1, with the obtained amount evenly distributed among fee debtors;
- 3.2. variable component: the remaining 90 per cent of the amount under item 1, proportionally distributed, as follows:
 - 3.2.1. a ratio between Number of Performed Activities by the respective fee debtor (activity of providing payment services and/or issuing, distributing and redeeming electronic money; activity of providing any payment services under Article 4 of the LPSPS for each payment service; and activity related to payment system operation for each payment system) and the total of the number of activities performed by all fee debtors; a relative weight of 50 per cent shall be applied to this indicator,
 - 3.2.2. a ratio between Total Assets of the respective fee debtor and the total of this indicator for all fee debtors; a relative weight of 45 per cent shall be applied to this indicator;
 - 3.2.3. a ratio between Number of Representatives of the respective fee debtor and the total of this indicator for all fee debtors; a relative weight of 5 per cent shall be applied to this indicator;
 - 3.2.4. for payment institutions and electronic money institutions licensed in other Member States and account information service providers reg-

- istered in other Member States, operating on the territory of the Republic of Bulgaria through a branch or an agent Total Assets shall be considered to be zero, the variable fee component being determined only on the basis of the ratio between Number of Performed Activities and Number of Representatives of the respective payment institution, electronic money institution or account information service provider, and the respective total of these indicators for all fee debtors to which they are applicable;
- 3.2.5. for banks licensed by the BNB and bank branches providing payment services and/or issuing, distributing and redeeming electronic money and for payment system operators licensed under Article 138 of LPSPS, Total Representatives shall be considered to be zero, the variable fee component being determined only on the basis of the ratio between Number of Performed Activities and Total Assets of the respective bank, branch of a bank or payment system operator, and the respective total of these indicators for all fee debtors to which they are applicable;
- 3.2.6. for the indicator under item 3.2.1:
- with respect to banks licensed by the BNB, and bank branches operating on the territory of the Republic of Bulgaria, activity of providing all payment services under Article 4 of the Law on Payment Services and Payment Systems shall be considered to be carried out, and with respect to the activity of issuing, distributing and redeeming electronic money, the supervisory information available in the BNB shall be taken into account;
 - with respect to payment institutions and electronic money institutions licensed by the BNB, and account information service providers registered by the BNB, the information on the services provided contained in the Register kept by the BNB pursuant to Article 19 of the LPSPS shall be taken into account;
 - with respect to payment institutions and electronic money institutions licensed in other Member States, and account information service providers registered in other Member States, operating on the territory of the Republic of Bulgaria, information received with the notifications under Article 33 of the LPAPS from the relevant competent authorities shall be taken into account;
 - with respect to payment system operators licensed under Article 138 of the LPSPS, the information contained in the Register kept by the BNB pursuant to Article 139 of the LPSPS shall be taken into account;
- 3.2.7. for the indicator under item 3.2.2, with respect to payment institutions and electronic money institutions licensed by the BNB, account information service providers registered by the BNB, and payment system operators licensed under Article 138 of the LPSPS, the BNB shall use data from the audited annual accounts of the respective fee debtors pro-

vided for supervisory purposes, with reference date 31 December of the previous year, and with respect to banks licensed by the BNB and bank branches providing payment services and/or issuing, distributing and redeeming electronic money on the territory of the Republic of Bulgaria, the supervisory information available in the BNB shall be taken into account;

- 3.2.8. for the indicator under item 3.2.3, with respect to payment institutions and electronic money institutions licensed by the BNB, and account information service providers registered by the BNB, the information contained in the Register kept by the BNB pursuant to Article 19 of the LPSPS shall be taken into account, and with respect to payment institutions and electronic money institutions licensed in other Member States, and account information service providers registered in other Member States, operating on the territory of the Republic of Bulgaria, information received with the notifications under Article 33 of the LPSPS from the relevant competent authorities shall be taken into account;
- 3.2.9. for the indicators under items 3.2.1, 3.2.2 and 3.2.3 the information as of 31 December of the previous year shall be taken into account.

