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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 14 September 2017

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 14.9.2017 on the  
final system of contributions to the administrative expenditures of the  
Single Resolution Board

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Delegations will find attached document C(2017) 6047 final.

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Brussels, 14.9.2017  
C(2017) 6047 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 14.9.2017**

**on the final system of contributions to the administrative expenditures of the Single  
Resolution Board**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

Pursuant to Articles 57 to 59 of Regulation (EU) No 806/2014, the Single Resolution Board ('the Board') is responsible for devoting the necessary financial and human resources to the performance of the tasks conferred on it. To this end, it has an autonomous budget which is not part of the Union budget, including a part for its administration, consisting of the annual contributions necessary to cover the annual estimated administrative expenditure. Under Article 65 of Regulation (EU) No 806/2014, the Board should determine and raise the contributions from the entities to which that Regulation applies.

According to Article 65(5) of Regulation (EU) No 806/2014, the Commission is empowered to adopt delegated acts on contributions to the administrative expenditures of the Board in order to determine the type of contributions and the matters for which contributions are due, the manner in which the amount of the contributions is calculated, and the way in which they are to be paid; specify registration, accounting, reporting and other rules necessary to ensure that the contributions are paid fully and in a timely manner; determine the annual contributions necessary to cover the administrative expenditure of the Board before it becomes fully operational.

On 8 October 2014 the Commission adopted a Delegated Regulation on the provisional system of instalments on contributions to cover the administrative expenditures of the Board during the provisional period (Commission Delegated Regulation (EU) No 1310/2014), based on a simplified methodology and covering a limited subset of entities, in order to ensure sufficient funding for the establishment of the Board while minimizing the requirements placed on the Board's then limited infrastructure and operational capacity. That Regulation provided that the provisional system would continue applying until the entry into force of the final system and that any difference between the instalments paid on the basis of the provisional system and the contributions calculated in accordance with the final system should be settled upon the calculation of the contributions to cover the administrative expenditures of the Board for the financial year following the end of the provisional period.

As the Board took up full powers on 1 January 2016 and is scaling up its infrastructure and human resources, it is becoming fully operational. Therefore, it is important that the Commission exercises the delegation of powers conferred upon it by Article 65(5) of Regulation (EU) No 806/2014, subject the procedure laid down in Article 93 thereof, in order to adopt the final system, transition out of the provisional system and provide steady rules for the contributions to the administrative expenditures of the Board.

In order to draft this Regulation, the Commission took into account Regulation (EU) No 806/2014, and in particular Article 65 thereof, which establishes the obligation for entities falling under the scope of the Single Resolution Mechanism to contribute to the administrative expenditures of the Board, and Commission Delegated Regulation (EU) No 1310/2014, which defines the provisional system. The main elements of this Regulation were inspired from the legal framework for the ECB's supervisory fees, including Regulation (EU) No 1024/2013, Regulation (EU) No 1163/2014 and Decision (EU) 2015/530 of the ECB. The ECB has initiated a review of Regulation (EU) No 1163/2014, as mandated by Article 17 thereof, in particular regarding the methodology and criteria for calculating the annual supervisory fees

to be levied on each supervised entity and group. The Commission will review this Regulation if necessary.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

For the preparation of this Regulation the Commission consulted experts in the 40<sup>th</sup> meeting of its Expert Group on Banking, Payments and Insurance on 16 December 2015. This provided the foundation for developing this proposal. Among others, the role of this Expert Group is to provide the Commission with advice and expertise as regards the preparation of delegated acts. This Group includes members and observers from the European Parliament, the Member States, the ECB and the Board. The Expert Group generally welcomed the preparatory work of the Commission for this Regulation and provided constructive feedback.

The Expert Group discussed the allocation of contributions between the entities under the direct responsibility of the Board and those under the responsibility of the national resolution authorities, the criteria and methodology for the calculation, the data sources, and practical aspects such as timing of calculation and payment, rules for transition from the provisional regime, treatment of entries in and exits from the scope of contributing entities, and penalties. This draft takes the views of the Expert Group into account.

As regards the split between the funds to be provided by entities under the direct responsibility of the Board and those under the responsibility of national resolution authorities, experts assessed the impacts of different options on the basis of estimates and existing experience. A fixed split, subject to review, was preferred over a varying one for reasons of legal certainty and ease of implementation in order to minimize costs. The level of the split was determined taking into account existing practice with supervisory fees and the different composition of entities under direct responsibility of the Board as opposed to entities under the direct supervision of the ECB.

Furthermore, the Commission has gathered technical information from the ECB and the Board on the application of the current rules on supervisory fees and on the provisional system of instalments on contributions to cover the administrative expenditures of the Board, respectively.

A public consultation did not need to be conducted, for the following reasons. This Regulation does not involve new policy considerations beyond those of Regulation (EU) No 806/2014, which establishes that entities within the scope of the Single Resolution Mechanism should contribute to the administrative expenditures of the Board. In addition, when adopting the provisional system the Commission had already indicated that the delegated act setting out the final system of contributions to the administrative expenditures of the Board would be as closely coordinated as possible to the supervisory fee framework of the ECB in order to reduce complexity and minimize the administrative burden for the entities concerned (Commission Delegated Regulation of 8 October 2014 on the provisional system of instalments on contributions to cover the administrative expenditures of the Single Resolution Board during the provisional period (C(2014)7164)). The ECB publicly consulted from 27 May to 11 June 2014 on its Regulation on supervisory fees (Regulation of the ECB of 22 October 2014 on supervisory fees ((EU) No 1163/2014).

In order to ensure an efficient system for raising the administrative contributions from the institutions and entities referred to in Article 2 of Regulation (EU) No 806/2014, synergies should be exploited with the work of the ECB as supervisor. In that capacity, the ECB collects data on total assets and total risk exposure in order to calculate supervisory fees. The transmission of this data from the ECB to the Board does not therefore constitute a new obligation, but is a concretisation of the obligation of the Board and the ECB to cooperate closely in the exercise of their respective responsibilities under Article 30 of Regulation (EU) No 806/2014.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

A Regulation is the most appropriate instrument to lay down the rules for the calculation and payment of contributions to the administrative expenditures of the Board. The Board will need directly applicable rules in order to determine and raise the contributions in accordance with Article 65(3) of Regulation (EU) No 806/2014.

The final system of contributions to the administrative expenditures of the Board that this Regulation lays down requires banks to contribute in proportion to the resource requirements that they place on the Board, as approximated by observable data (on the size and risk of activities). Before contributions are individually allocated to banks, they are split between banks under direct responsibility of the Board and banks under the responsibility of national resolution authorities, with shares of 95% and 5%, respectively. In the case of the supervisory fees, this split is subject to a yearly decision by the ECB, 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. In order to avoid placing substantial additional requirements on the Board's internal reporting systems, the split should be fixed. The appropriateness of the split will be subject to review by the Commission based on reports by the Board and taking into account whether a trend can be observed for a number of consecutive reports. As regards the share, in its decision for 2017 (Decision (EU) 2017/760 of the European Central Bank of 24 April 2017 on the total amount of annual supervisory fees for 2017) the ECB allocated approximately 92% to significant supervised entities and approximately 8% to less significant supervised entities. Since a larger number of entities falls under the direct responsibility of the Board than the significant ones (i.e. also other cross-border groups fall under the direct responsibility of the Board, pursuant to Article 7(2)(b) of Regulation (EU) No 806/2014), it is proportionate that a higher share is allocated to them.

The final system is also cost-effective, because it provides the Board with a solution "off the shelf", which maximizes consistency, synergies and economies in the Banking Union, is ready to be used without the need for additional data collection and minimizes the number of invoices to be issued. This also avoids introducing or duplicating reporting requirements for entities, establishing a new calculation methodology, and placing additional operational and resource demands on the Board.

As a result, Article 5 of this Regulation provides that only one contribution per group should be calculated.

Article 3 determines the total amount to be raised in a given year by the Board as the size of the budget for the administrative expenditures of the Board adjusted for the difference between the budgeted and the actual administrative expenditures of the previous year.

Article 4 determines the division of the total amount of contributions between entities that are under the direct responsibility of the Board and those that are not, according to fixed percentages that are related to the different tasks that Regulation (EU) No 806/2014 confers upon the Board in respect of those two categories, ensuring a proportionate burden on the smaller entities. Article 4 also provides for a mechanism to monitor the appropriateness of this split. The most recent information currently available indicates that, as of 1 June 2016, the Board's direct responsibility covers a total of 142 banks, including 129 banking groups.

Article 5 determines how, for the purposes of this Regulation, the Board should apply the relevant parts of the methodology for the calculation of the ECB supervisory fees. This is achieved by reference to Article 10 of Regulation (EU) No 1163/2014, which sets out the steps for the calculation of annual supervisory fees payable in respect of supervised entities or supervised groups. Furthermore, Article 5 specifies how errors in the calculation procedure should be dealt with.

Article 6 describes the characteristics of the data to be used for the calculation and raising of contributions and provides the Board with powers to address missing data so that the Board is not prevented from determining and raising the contributions due by each entity, as provided by Article 65(3) of Regulation (EU) No 806/2014.

Article 7 addresses situations in which the relevant characteristics of an entity change and how such change is reflected in the contribution. The Article sets out how the contribution of such entity is recalculated, how the difference with respect to the original contribution is reimbursed or invoiced, and when.

Articles 8 and 9 contain provisions concerning the notification of the contributions, the payment arrangements and enforcement, and the interest applicable in the event of late payment.

Article 10 lays down the arrangements for the settlement of any difference between the instalments paid in advance by the significant entities on the basis of the provisional system and the contributions calculated in accordance with the final system. This Article is based on the relevant provision on settlements of the provisional system (Article 6 of Commission Delegated Regulation (EU) No 1310/2014).

Article 11 introduces one-off obligations related to data that are needed in the first year of application of the final system in order to perform the first calculations and to settle the differences with the provisional system.

Since the Commission recognizes that certain tasks of a highly standardized nature, such as the material production and notification of invoices, could entail very high fixed costs for the Board and therefore make them too costly to conduct in-house, Article 12 introduces a framework for outsourcing that limits the type of activities that can be performed by an external service provider and standards to ensure adequate quality and control.

Finally, Article 13 provides for the possibility by the Board to request the assistance of national resolution authorities for the raising of contributions.

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 14.9.2017**

**on the final system of contributions to the administrative expenditures of the Single Resolution Board**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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<sup>1</sup>, and in particular Article 65(5) thereof,

Whereas:

- (1) The provisional system of instalments on contributions to the administrative expenditures of the the Board, laid down in Commission Delegated Regulation (EU) No 1310/2014<sup>2</sup>, was based on a simplified methodology and covered only a limited subset of entities, namely the entities which are considered significant by the European Central Bank (ECB) ('significant entities'). That provisional system was introduced in order to ensure sufficient funding for the establishment of the Board while minimizing the administrative burden for the Board, which at the time had only a limited structure and operational capacity. The provisional system was intended to apply until the Commission would adopt a final system for the determination and raising of the contributions to administrative expenditures.
- (2) As the Board has acquired a more stable structure and operational capacity, it is now appropriate to establish the final system of annual contributions to the administrative expenditures of the Board. A final system should replace the provisional system laid down in Delegated Regulation (EU) No 1310/2014.
- (3) Such a final system should provide for the determination and raising of administrative contributions not only for significant entities, but for all entities that are subject to the Single Resolution Mechanism. The contributions should be calculated at the highest level of consolidation of those entities within the participating Member States, since all subsidiaries of a group inside the perimeter of consolidation fall within the scope of the decision-making powers of the Board when adopting group resolution plans, carrying out the assessment of resolvability of groups and adopting resolution

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<sup>1</sup> OJ L 225, 30.7.2014, p. 1.

<sup>2</sup> Commission Delegated Regulation (EU) No 1310/2014 of 8 October 2014 on the provisional system of instalments on contributions to cover the administrative expenditures of the Single Resolution Board during the provisional period (OJ L 354, 11.12.2014, p.1).

decisions for groups. The exercise of those tasks implies expenditures for the Board for collecting and analysing information and data related to each subsidiary included in the perimeter of consolidation. Since those are expenditures related to the services provided by the Board to the entities that are subject to the Single Resolution Mechanism, they should be paid by those entities and therefore the administrative contributions should be calculated on the basis of their consolidated accounts at the highest level of consolidation within the participating Member States and only one contribution per group should be calculated.

- (4) Pursuant to Article 65(3) of Regulation (EU) No 806/2014 the Board is to determine and raise contributions as well as to ensure that they are fully and timely paid. In order to enable the Board to meet those requirements, an efficient system for raising the administrative contributions from the institutions and entities referred to in Article 2 of Regulation (EU) No 806/2014 should be ensured. Those institutions and entities are already subject to numerous reporting obligations set out in Union legislation. More specifically, pursuant to Regulation (EU) 1163/2014 of the European Central Bank<sup>3</sup>, the ECB collects data on total assets and total risk exposure for the purposes of calculating supervisory fees. The data collected in accordance with Regulation (EU) 1163/2014 can be meaningfully used for the calculation of the administrative contributions to the Board. Pursuant to Article 30(2) of Regulation (EU) No 806/2014, the Board and the ECB are to cooperate closely in the exercise of their respective responsibilities under that Regulation and, in particular, provide each other with all the information necessary for the performance of their tasks. It is more efficient to request the ECB to transmit data it received and verified in the exercise of its tasks and powers conferred on it by Regulation (EU) 1024/2013 to the Board, than to duplicate the reporting burden for the institutions and entities concerned. Data sharing between the ECB and the Board would also allow avoiding duplication of the data verification process by the Board and builds on the obligation of the Board and the ECB to cooperate closely in the exercise of their respective responsibilities under Regulation (EU) No 806/2014. Any duplication of the data reporting and verification processes would inevitably require more time for the calculation and raising of contributions and would lead to a less efficient system. It follows that, as a part of the cooperation obligation, the ECB should be required to transmit to the Board the data received from the institutions and entities concerned for the purpose of calculating contributions to the Board. The Board should rely to the greatest extent possible on the data collected by the ECB. The Board should have access to the aforementioned data to the extent necessary for the fulfilment of its tasks under this Regulation.
- (5) The allocation of contributions should reflect the difference in the workload and related expenditures for the entities under the Board's direct responsibility as opposed to those under the responsibility of national resolution authorities. Therefore, this Regulation should determine how the contributions should be split between those two groups of entities. Within those two groups, the final system established by this Regulation should require entities to contribute in proportion to the resource requirements that they individually place on the Board, as approximated by observable data.

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<sup>3</sup> Regulation (EU) No 1163/2014 of the European Central Bank of 22 October 2014 on supervisory fees (ECB/2014/41) (OJ L 311, 31.10.2014, p. 23).



- (6) In order to provide certainty, both to the Board and to the entities concerned, on how individual annual contributions are to be adjusted in the case of an error in the calculation or changes to the underlying data, this Regulation should lay down specific rules in that respect. Where the Board makes an error in the calculation of the annual contribution, it should be required to rectify that error. Such a requirement should apply as regards errors that occur because the Board applies incorrectly the methodology for calculating the individual annual contributions. In such cases, all contributions should be amended. On the contrary, cases where the input data used in the calculation of individual annual contributions is not correct or is subject to a change after the calculation was performed should not be considered errors in the calculation and should therefore be treated differently. In such cases, only the contributions of the entities whose data was not correct or was subject to a change should be amended.
- (7) In accordance with Article 3 of Council Regulation No 1<sup>4</sup> the contribution notice and any further communications by the Board should be in the language of the Member State in which the recipient institution is established.
- (8) The payments of the annual contributions should be enforceable and interest on late payment should apply in the event of partial payment, non-payment or non-compliance with the conditions for payment specified in the contribution notice, in order to ensure the full and timely payment of the contributions.
- (9) The contributions of significant entities covered by the provisional system should be reassessed to take into account the amounts paid by them under that provisional system. Any difference between the instalments paid on the basis of the provisional system and the contributions calculated in accordance with the final system should be settled in the calculation of the contributions to the administrative expenditures of the Board for the year following the end of the provisional period.
- (10) Since this Regulation introduces the final system of contributions to the administrative expenditures of the Board, the Regulation on the provisional system is no longer necessary and should be repealed,

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### **Subject matter**

This Regulation lays down rules to determine:

1. the final system for the calculation of the contributions to the administrative expenditures of the Single Resolution Board ("the Board") due by the entities referred to in Article 2 of Regulation (EU) No 806/2014;
2. the way in which the contributions are to be paid;

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<sup>4</sup> Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

3. the registration, accounting, reporting and other rules necessary to ensure that the contributions are paid fully and in a timely manner;
4. the methodology for the recalculation and adjustment of the contributions due for the provisional period.

## *Article 2*

### **Definitions**

For the purposes of this Regulation, the definitions set out in Regulation (EU) No 1163/2014 shall apply. The following definitions shall also apply:

1. ‘administrative expenditures of the Board’ means the expenditure of part I of the budget of the Board, as referred to in Article 59(2) of Regulation (EU) No 806/2014;
2. ‘annual contribution’ means the contribution to be collected by the Board for a given financial year in accordance with this Regulation in order to cover the administrative expenditures of the Board;
3. ‘contribution debtor’ means the fee debtor determined in accordance with Article 4 of Regulation (EU) No 1163/2014 for the purposes of collecting the supervisory fee and falling under the scope of Article 2 of Regulation (EU) No 806/2014;
4. ‘provisional period’ means the period beginning on 19 August 2014 and ending on 31 December 2017.

## *Article 3*

### **Determination of total amount of annual contributions to be raised**

The total amount of annual contributions to be raised for a given financial year shall be calculated on the basis of part I of the budget adopted by the Board for that financial year in accordance with Article 61 of Regulation (EU) No 806/2014, adjusted by the result of the budget of the latest financial year for which the final accounts have been published in accordance with Article 63(7) of that Regulation.

The Board shall determine the total amount of annual contributions so that part I of the budget of the Board is balanced.

## *Article 4*

### **Allocation of total amount of annual contributions**

1. The total amount to be raised in accordance with Article 3 shall be allocated as follows:
  - (a) 95% to the following entities and groups:

- (i) entities and groups referred to in Article 7(2) of Regulation (EU) No 806/2014;
  - (ii) entities and groups with regard to which the Board has decided to exercise powers under Regulation (EU) No 806/2014 pursuant to Article 7(4)(b) of that Regulation;
  - (iii) entities and groups in relation to which participating Member States have decided in accordance with Article 7(5) of Regulation (EU) No 806/2014 that the Board exercise powers and responsibilities conferred to it by that Regulation;
- (b) 5% to entities and groups referred to in Article 7(3) of Regulation (EU) No 806/2014.
2. Without prejudice to Article 7, the Board shall assign entities and groups to one of the two categories laid down in paragraph 1 based on the data which the ECB provides to the Board in accordance with Article 6(1) or Article 11, as applicable.
  3. Where an entity falls under the scope of paragraph 1(a), all the entities that are part of the same group shall be assigned to the same category.
  4. The Board shall report yearly to the Commission on the appropriateness of the allocation laid down in paragraph 1, in the light of the changing composition of the two categories of entities and groups.

#### *Article 5*

#### **Calculation of the individual annual contributions**

1. The Board shall calculate the individual annual contributions due for each financial year on the basis of the data received in accordance with Article 6 and the total amount of annual contributions as determined in accordance with Article 3.
2. For the purposes of calculating the individual annual contributions, the Board shall apply the provisions laid down in Article 10(1), (2) and (3) and Article 10(6)(a), (b) and (c) of Regulation (EU) No 1163/2014.
3. For the purpose of applying the provisions referred to in paragraph 2:
  - (a) "annual supervisory fee" means individual annual contribution;
  - (b) "significant supervised entity" or "significant supervised group" means an entity or group as referred to in Article 4(1)(a);
  - (c) "less significant supervised entity" or "less significant supervised group" means an entity or group as referred to in Article 4(1)(b);
  - (d) "supervised entity" or "supervised group" means any entity or group;
  - (e) "fee debtor" means contribution debtor.

4. The annual contribution due by the entities referred to in Article 2 of Regulation (EU) No 806/2014 that are members of the same group shall be calculated as a single contribution.
5. Where the Board makes an error in the calculation of an individual annual contribution, it shall rectify the error by recalculating the individual annual contribution of each affected entity. The Board shall settle any difference between the individual annual contribution paid and the recalculated amount by increasing or decreasing the individual annual contribution calculated in the financial year following the recalculation.

However, no recalculation shall be performed where the Board becomes aware of an error more than five years after the end of the financial year in which the error occurred.

### *Article 6*

#### **Data necessary for the calculation of individual annual contributions**

1. Each year, within 5 working days of the issuance of fee notices in accordance with Article 12(1) of Regulation (EU) 1163/2014, and in any case no later than 31 December of the year for which the fee notices are issued, the ECB shall provide the Board with data on each contribution debtor as collected by the ECB in that year and used to determine the supervisory fees in accordance with Regulation (EU) No 1163/2014.
2. The data shall contain at least the following elements:
  - (a) the identity and contact details of each contribution debtor as determined in accordance with Article 4 of Regulation (EU) No 1163/2014 for the purpose of the supervisory fees;
  - (b) the fee factors determined in accordance with Article 10 of Regulation (EU) No 1163/2014;
  - (c) whether a contribution debtor is significant in accordance with Article 6(4) of Regulation (EU) No 1024/2013 or is an entity or group in relation to which the ECB has decided in accordance with Article 6(5)(b) of Regulation (EU) No 1024/2013 to exercise directly all of the relevant powers;
  - (d) any data that the ECB has determined in the absence of reporting from a contribution debtor, in accordance with Article 10(5) of Regulation (EU) No 1163/2014;
  - (e) the validity date underlying the fee calculation of each contribution debtor determining the duration the contribution debtor was subject to the supervisory fee and any change of status in accordance with Article 7(2) of Regulation (EU) No 1163/2014 in the given fee period.
3. For the purposes of point (a) of paragraph 2, the identity and contact details of each contribution debtor shall include any personal data within the meaning of Regulation (EC) No 45/2001 that is collected by the ECB for the purposes of carrying out its

tasks under Regulation (EU) No 1163/2014 and that is necessary for the fulfilment of the tasks under this Regulation by the Board.

4. Where, for the purposes of this Regulation, the Board needs to identify whether an entity is part of the group that has nominated a given contribution debtor, the ECB, national resolution authorities and national competent authorities shall assist the Board with all relevant information.
5. In case the ECB issues additional invoices or recalculates the annual supervisory fee in accordance with Article 7 of Regulation (EU) No 1163/2014, the ECB shall communicate to the Board the new data within 5 days of the issuance of fee notices.
6. For the calculation of the individual annual contributions to be collected in a given financial year, the Board shall use the data collected by the ECB in the previous financial year in accordance with Regulation (EU) No 1163/2014 and provided to the Board in accordance with this Article or Article 11, as applicable.
7. Where the ECB, in a given financial year, has not provided the Board within the periods laid down in this Article with the data necessary for the calculation of the annual contributions, the Board may use the latest available data provided to it by the ECB for the purposes of that calculation.
8. In case no data provided by the ECB is available, the relevant national competent authority shall upon request provide the Board with the data at its disposal.
9. In case no data provided by the national competent authority is available, the contribution debtor shall upon request provide the Board with the necessary data within a deadline set by the Board. In the absence of a reply by the contribution debtor within the deadline set by the Board, the Board may determine the data on the basis of reasonable assumptions.
10. The Board shall use the data specified in this Article only for the purposes of and in accordance with this Regulation.

#### *Article 7*

#### **Change in scope, status or other data**

1. Where an entity or a group falls under the scope of Article 2 of Regulation (EU) No 806/2014 only for part of the financial year, its individual annual contribution for that financial year shall be calculated by reference to the number of full months during which it falls under the scope of that Article.
2. Where the status of an entity or a group changes between the categories specified in Article 4(1) during a financial year, its individual annual contribution for that financial year shall be calculated on the basis of the number of months for which the entity or a group fell under the respective category at the last day of the month.
3. Where other changes to the data of an entity or a group that were used to calculate its individual annual contribution for a financial year occur, the individual annual

contribution of that entity or group for that financial year shall be calculated on the basis of the updated data.

4. Where a change as referred to in paragraphs 1 and 2 has been reported by the ECB or a change as referred to in paragraph 3 occurred, the Board shall recalculate only the individual annual contribution of that entity or group for the financial years concerned. Where changes as referred to in paragraphs 1, 2 or 3 have occurred in relation to several entities or groups during the same financial year, the Board shall only take into account the changes concerning an individual entity or group for the purposes of recalculating the individual annual contribution of that entity or group.
5. Where the amount of an individual annual contribution paid is higher than the amount recalculated in accordance with paragraph 4, the Board shall refund the difference to the entity or group concerned. Where the amount of an individual annual contribution paid is lower than the amount recalculated in accordance with paragraph 4, the entity or group concerned shall pay the difference to the Board. For the purposes of refunding or collecting an amount due in accordance with this paragraph, the Board shall decrease or increase the individual annual contribution of the entity or group concerned in the financial year following the recalculation pursuant to paragraph 4.
6. The individual annual contributions of entities or groups that are not subject to changes as referred to in paragraphs 1, 2 or 3 shall not be adjusted.
7. The Board shall apply the aggregate surplus or deficit resulting from all the adjustments made in accordance with paragraph 5 to the total amount of annual contributions to be determined in accordance with Article 3 for the financial year following the financial year in which the adjustments are applied.
8. In line with the principle of sound management of its budget, the Board shall take any decisions deemed necessary in order to implement the provisions laid down in this Article, including as regards the timing of the refunds by the Board and of the additional payments to be collected from the entities.

#### *Article 8*

#### **Contribution notice, communications, payments and interest for late payment**

1. A contribution notice shall be issued by the Board to the contribution debtors.
2. The Board shall notify the contribution 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 of receipt;
  - (e) by service or delivery by hand.

The contribution notice shall be valid without signature.

3. The contribution notice shall specify the amount of the annual contribution and the way in which the annual contribution shall be paid. It shall be duly reasoned with regard to the factual and legal aspects of the individual contribution decision.
4. The Board shall address any other communication with regard to the annual contribution, including any settlement decision in accordance with Article 10(8), to the contribution debtor.
5. The contribution shall be payable in euros.
6. The contribution debtor shall pay the amount of the annual contribution within 35 calendar days of the issuance of the contribution notice. The contribution debtor shall comply with the requirements set out in the contribution notice with respect to the payment of the annual contribution. The date of payment shall be the date on which the Board's account is credited.
7. The annual contribution due by the entities referred to in Article 2 of Regulation (EU) No 806/2014 that are members of the same group shall be collected from the contribution debtor of that group.
8. Without prejudice to any other remedy available to the Board, in the event of partial payment, non-payment or non-compliance with the conditions for payment specified in the contribution notice, interest shall accrue on a daily basis on the outstanding amount of the annual contribution at an interest rate of the ECB's main refinancing rate plus 8 percentage points from the date on which the payment was due.
9. In the event of any partial payment, non-payment or non-compliance with the conditions for payment specified in the contribution notice by the contribution debtor, the Board shall inform the national resolution authority of the participating Member State in which the contribution debtor is established.

#### *Article 9*

#### **Enforcement**

1. The payments of the annual contributions due and any interest for late payment pursuant to Article 8(8) shall be enforceable.
2. Enforcement shall be governed by the procedural rules applicable in the participating Member State in whose territory it is carried out.
3. The government of each participating Member State shall designate and notify to the Board and to the Court of Justice of the European Union an authority for the purposes of verifying the authenticity of individual contribution decisions.
4. An order for enforcement shall be appended to each individual contribution decision. The enforcement shall not be subject to any formality other than the verification of the authenticity of the decision by the authority designated pursuant to paragraph 3.

5. National resolution authorities shall assist the Board in the enforcement procedure governed by the applicable procedural rules in the participating Member State.

#### *Article 10*

### **Recalculation and settlement of contributions due for the provisional period**

1. For the purposes of the recalculation and settlement of contributions due for the provisional period, the months of November and December 2014 shall be considered part of the financial year 2015.
2. The Board shall recalculate, in accordance with the provisions laid down in this Regulation, the amount of contributions due by each entity referred to in Article 2 of Regulation (EU) No 806/2014 to cover the administrative expenditures of the Board during the provisional period.
3. Without prejudice to Article 6(4), for the recalculation of the amount of contributions due by each entity in the financial years belonging to the provisional period, the Board shall use the data collected by the ECB in those financial years in accordance with Regulation (EU) No 1163/2014 and provided to the Board in accordance with Article 11.
4. Any difference between the instalments paid by significant entities on the basis of the provisional system laid down in Delegated Regulation (EU) No 1310/2014 and the contributions referred to in paragraph 2 shall be settled in the calculation of the annual contributions due for the financial year which follows the end of the provisional period. That settlement shall be made by decreasing or increasing the annual contributions due for that financial year.
5. Entities referred to in Article 2 of Regulation (EU) No 806/2014 for which the calculation and collection of contributions was deferred in the provisional period shall pay contributions calculated in accordance with paragraph 2 for the years belonging to the provisional period. Those contributions shall increase the annual contributions due for the financial year which follows the end of the provisional period.
6. For the purposes of paragraph 4 ‘significant entities’ shall mean the entities that have been notified by the ECB, at the highest level of consolidation within the participating Member States, of the ECB's decision to consider them significant within the meaning of Article 6(4) of Regulation (EU) No 1024/2013 and in accordance with Article 147(1) of Regulation (EU) No 468/2014, and which are mentioned in the list published on the ECB's website on 4 September 2014, but excluding those significant entities, which are subsidiaries of a group, that is already taken into account in this definition, and branches, which are established in participating Member States, of credit institutions established in non-participating Member States.
7. Where the difference referred to in paragraph 4 or the contributions for the years belonging to the provisional period referred to in paragraph 5 are higher than the



contributions due for the financial year which follows the end of the provisional period, the adjustment shall continue in the subsequent financial years.

8. Where two or more entities within a group are subject to settlements pursuant to paragraphs 4 or 5, the Board may set off contributions due against reimbursements with respect to entities of that group.

#### *Article 11*

#### **Data necessary for the purposes of recalculating the contributions for financial years belonging to the provisional period**

Within 30 days of the entry into force of this Regulation, the ECB shall provide the Board with the data as specified in Article 6 and collected by the ECB in accordance with Regulation (EU) No 1163/2014 in financial years belonging to the provisional period.

#### *Article 12*

#### **Outsourcing**

1. The Board may decide on the full or partial outsourcing of specific tasks provided for in this Regulation.
2. The Board shall restrict any outsourcing to technical tasks which are related to the raising of contributions and do not involve the exercise of its powers as regards the determination of contributions.
3. Any mandate given to a service provider for the purposes of outsourcing tasks shall clearly state the duration of the mandate and the specific tasks that are outsourced and establish a framework for regular reporting by the service provider to the Board.
4. Any contract between the Board and a service provider for the purposes of outsourcing tasks in accordance with paragraph 1 shall include clauses governing the Board's cancellation rights, rights relating to further subcontracting and non-performance by the service provider.
5. Where the Board fully or partially outsources tasks in accordance with paragraph 1, it shall remain fully responsible for discharging all of its obligations under Regulation (EU) No 806/2014 and this Regulation.
6. Where the Board fully or partially outsources tasks in accordance with paragraph 1, it shall ensure at all times that:
  - (a) any contract concluded for the purposes of the outsourcing does not provide for the delegation of the Board's responsibility;
  - (b) any contract concluded for the purposes of the outsourcing does not provide for an exclusion of the Board's accountability under Article 45 and Article 46(1) of Regulation (EU) No 806/2014, or of its independence under Article 47 of that Regulation;

- (c) the outsourcing does not result in depriving the Board from the necessary systems and controls to manage the risks it faces;
  - (d) the service provider implements business continuity arrangements equivalent to those of the Board;
  - (e) the Board retains the necessary expertise and resources to evaluate the quality of the services provided and the organisational adequacy of the service provider; the Board supervises the outsourced functions effectively and manages the risks associated with the outsourcing on an ongoing basis;
  - (f) the Board has direct access to the relevant information allowing it to exercise the necessary control on the outsourced tasks.
7. Where the Board fully or partially outsources tasks in accordance with paragraph 1, it shall ensure that the service provider is obliged to comply with the Board's internal legal requirements and principles concerning security and confidentiality. Any confidential information relating to the Board and accessible to the service provider shall be used only to the extent necessary for the fulfilment of the mandate conferred by the Board.
8. Before taking any decision on outsourcing, the Board shall obtain the consent of the ECB to share the data provided by the ECB with a service provider, in accordance with applicable confidentiality provisions.

### *Article 13*

#### **Assistance by national resolution authorities**

The Board may request the national resolution authorities to assist in the process of raising annual contributions where such request is justified by the circumstances of the individual case.

### *Article 14*

#### **Repeal**

Delegated Regulation (EU) No 1310/2014 is repealed.

### *Article 15*

#### **Entry into force**

This Regulation shall enter into force on the twentieth 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 all Member States.

Done at Brussels, 14.9.2017

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*