

**COMMISSION DELEGATED REGULATION (EU) 2019/360****of 13 December 2018****supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to trade repositories****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 <sup>(1)</sup>, and in particular Article 11(2) thereof,

Whereas:

- (1) Article 62 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council <sup>(2)</sup> provides that the revenues of the European Securities and Markets Authority (ESMA) consist of fees paid to ESMA in the cases specified in Union legislation, together with contributions from national public authorities and a subsidy from the Union.
- (2) A registration fee should be charged to trade repositories established in the Union to cover ESMA's costs for processing the application for registration.
- (3) ESMA's costs for processing the application for registration will be higher where the trade repository provides ancillary services. The provision of such ancillary services is an indicator for high expected turnover and for increased costs associated with assessing the application for registration. Therefore, for the purpose of charging registration fees, trade repositories should be classified into two categories of expected total turnover, higher and lower expected turnover, to which different registration fees should apply, depending on whether they intend to provide ancillary services.
- (4) Where a trade repository already registered under Regulation (EU) No 648/2012 of the European Parliament and of the Council <sup>(3)</sup> applies for an extension of registration, the expenditure necessary to accurately assess and examine the application would be lower than for a new registration as ESMA is already in possession of pertinent information regarding the applicant trade repository. Therefore, the applicant trade repository should pay a reduced fee. Where a trade repository not already registered under Regulation (EU) No 648/2012 simultaneously submits applications for registration under both Regulation (EU) No 648/2012 and Regulation (EU) 2015/2365, the expenditure necessary to accurately assess and examine the applications would also be lower because of the synergies of reviewing once the same type of documents. In the case of simultaneous applications, the trade repository should pay the full registration fee due under Regulation (EU) No 648/2012, and the reduced fee for extension of registration due under Regulation (EU) 2015/2365.
- (5) If, after registration, a trade repository starts offering ancillary services and thereby falls into a higher category in terms of expected total turnover, the trade repository should pay the difference between the initial registration fee and the registration fee corresponding to the category of higher expected turnover. Conversely, where a trade repository stops offering ancillary services after registration, it should not be reimbursed by ESMA as the expenditure necessary to assess the application of a high turnover trade repository has effectively been spent during registration.
- (6) In order to discourage unfounded applications, registration fees should not be reimbursed if an applicant withdraws its application during the registration process, nor if registration is refused.

<sup>(1)</sup> OJ L 337, 23.12.2015, p. 1.

<sup>(2)</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

<sup>(3)</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

- (7) To ensure an efficient use of ESMA's budget and, at the same time, alleviate the financial burden on Member States and the Union, it is necessary to ensure that trade repositories pay at least all the costs related to their supervision. Supervisory fees should be set at a level such as to avoid a significant accumulation of deficit or surplus for activities related to trade repositories. Should deficits occur, ESMA should not recover the deficit from the trade repositories. Should the deficit be significant, ESMA should analyse the reasons and amend its pro-forma supervisory costs for the next budgeting period. With regard to surpluses, surpluses of fees should not be recovered by trade repositories.
- (8) In order to ensure a fair and clear allocation of fees which, at the same time, reflects the actual administrative effort devoted to each supervised entity, the supervisory fee should be calculated on the basis of the turnover generated by a trade repository's core activities and its ancillary services. For the purpose of calculating the applicable turnover, it is necessary to distinguish ancillary services directly related to the provision of the core services of centrally collecting and maintaining records of securities financing transactions (SFTs) under Regulation (EU) 2015/2365, such as agent lending and collateral management or services relating to centrally collecting and maintaining records of SFTs and derivatives, such as trade matching, trade confirmation/affirmation, collateral valuation, and third-party reporting. The supervisory fees charged to a trade repository should be proportionate to the activity of that individual trade repository compared to the total activity of all registered and supervised trade repositories within a given year. However, given that there are some fixed administrative costs for the supervision of trade repositories, a minimum annual supervisory fee should be established. This amount is not affected by payment of supervisory fees under Regulation (EU) No 648/2012.
- (9) Rules should be provided for fees to be charged to third country trade repositories that apply for recognition in the Union pursuant to Regulation (EU) 2015/2365, in order to cover recognition and annual supervisory administrative costs. In this regard, the recognition fee should include two components, the necessary expenditure relating to processing the application for recognition of such third-country trade repositories by ESMA pursuant to Article 19(4) of that Regulation and the necessary expenditure relating to the conclusion of cooperation arrangements with the competent authorities of the third country where the applicant trade repository is registered pursuant to Article 20 of that Regulation. The costs associated with the conclusion of cooperation arrangements should be shared among the trade repositories recognised from the same third country. Furthermore, third country trade repositories should be charged an annual supervisory fee.
- (10) Where a third-country trade repository already recognised under Regulation (EU) No 648/2012 applies for an extension of its registration of recognition, the costs of processing the application should be lower than the costs of processing a new application due to synergies between the regimes under Regulation (EU) No 648/2012 and Regulation (EU) 2015/2365. Therefore, the component of the recognition fee relating to processing the application should be reduced. On the other hand, the costs of concluding a cooperation agreement entail costs specific to compliance with Regulation (EU) 2015/2365. Therefore, the component of the recognition fee relating to cooperation agreements should be independent from the existence of cooperation agreements under Regulation (EU) No 648/2012.
- (11) The supervisory functions exercised by ESMA in respect of recognised third-country trade repositories mainly relate to the implementation of cooperation arrangements, including the effective exchange of data between relevant authorities. The cost of providing those functions should be covered by annual supervisory fees charged to recognised trade repositories. As those costs will be much lower than the costs incurred by ESMA for providing direct supervision of registered trade repositories in the Union, the supervisory fees for recognised trade repositories should be significantly lower than the minimum supervisory fee charged to registered trade repositories directly supervised by ESMA.
- (12) National competent authorities incur costs when carrying out work pursuant to Regulation (EU) 2015/2365 and as a result of any delegation of tasks by ESMA to national competent authorities pursuant to Article 74 of Regulation (EU) No 648/2010 and in accordance with Article 9(1) of Regulation (EU) 2015/2365. The fees charged by ESMA to trade repositories should also cover those costs. In order to avoid competent authorities incurring a loss or profit from carrying out delegated tasks or from assisting ESMA, ESMA should reimburse the actual costs incurred by that national competent authority.
- (13) As only limited data will be available regarding the activity of a trade repository in the year in which it is registered, an interim supervisory fee should be calculated on the basis of an estimate of the expenditure necessary for supervising that trade repository in its first year. The exact calculation of the fee should take into account the date of the registration of the trade repository and the date when the reporting obligation referred to in Article 4(1) of Regulation (EU) 2015/2365 starts so as to accurately reflect the level of supervision required from ESMA. If the regulatory reporting of a trade repository only starts in the year following its registration, the interim supervisory fee for the year of registration should be based on the registration fee. This is because

the expenditure necessary for the supervision of a trade repository not yet reporting is comparable to the expenditure necessary for assessing the application for registration. Depending on the time between registration and the end of the year, the amount is adjusted pro rata assuming that a standard registration process requires 150 working days. If the regulatory reporting of a trade repository starts in the first six months of the year of its registration, the interim supervisory fee should be calculated on the basis of the applicable turnover reflecting the trade repository's revenues for the first half year. If the regulatory reporting of a trade repository starts in the last six months of the year of its registration, the interim supervisory fee should be calculated on the basis of the level of the trade repository's registration fee. This is because there is only limited data available for the application of the applicable turnover.

- (14) Trade repositories registered in 2019 will not start providing reporting services before the end of 2019 and their level of activity in 2019 is likely to be almost non-existent. Therefore, their annual supervisory fee for 2020 should be calculated on the basis of their applicable turnover during the first half of 2020.
- (15) This Regulation should form the basis for ESMA's right to charge fees to trade repositories,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### GENERAL PROVISIONS

##### *Article 1*

#### **Recovery of supervisory costs in full**

The fees charged to trade repositories shall cover:

- (a) all costs relating to the registration and supervision of trade repositories by ESMA in accordance with Regulation (EU) 2015/2365, including those costs resulting from the recognition of trade repositories as well as costs resulting from the extension of registration or extension of recognition for trade repositories that have already been registered or recognised under Regulation (EU) No 648/2012;
- (b) all costs for the reimbursement of competent authorities that have carried out work pursuant to Regulation (EU) 2015/2365, and as a result of any delegation of tasks pursuant to Article 74 of Regulation (EU) No 648/2012 and in accordance with Article 9 of Regulation (EC) No 2015/2365 (EU).

##### *Article 2*

#### **Applicable turnover**

1. Trade repositories registered under Regulation (EU) 2015/2365 only shall keep audited accounts for the purposes of this Regulation which distinguish between at least the following:

- (a) revenues generated from core functions of centrally collecting and maintaining records of SFTs under Regulation (EU) 2015/2365;
- (b) revenues generated from ancillary services that are directly related to centrally collecting and maintaining records of SFTs under Regulation (EU) 2015/2365.

The applicable revenues from ancillary services of the trade repository for a given year (n) shall be the revenues from the services determined under point (b).

2. Trade repositories registered under both Regulation (EU) 2015/2365 and Regulation (EU) No 648/2012 shall keep audited accounts for the purposes of this Regulation which distinguish between at least the following:

- (a) revenues generated from core functions of centrally collecting and maintaining records of SFTs under Regulation (EU) 2015/2365;
- (b) revenues generated from core functions of centrally collecting and maintaining records of derivatives under Regulation (EU) No 648/2012;

- (c) revenues generated from ancillary services that are directly related to centrally collecting and maintaining records of SFTs under Regulation (EU) 2015/2365;
- (d) revenues generated from ancillary services that are directly related to both centrally collecting and maintaining records of SFTs under Regulation (EU) 2015/2365 and centrally collecting and maintaining records of derivatives under Regulation (EU) No 648/2012.

The applicable revenues from ancillary services of the trade repository for a given year (n) shall be the sum of

- the revenues referred to in point (c) and
- a share of the revenues referred to in point (d).

The share of the revenues referred to in point (d) shall be equal to the revenues referred to in point (a), divided by the sum of

- the revenues referred to in point (a) and
- the revenues referred to in point (b).

3. The applicable turnover of a trade repository for a given year (n) shall be the sum of

- its revenues generated from the core functions of centrally collecting and maintaining records of SFTs under Regulation (EU) 2015/2365 on the basis of the audited accounts of the previous year (n – 1) and
- its applicable revenues from ancillary services determined according to paragraphs 1 and 2, as applicable, on the basis of the audited accounts of the previous year (n – 1)

divided by the sum of

- the total revenues of all registered trade repositories generated from the core functions of centrally collecting and maintaining records of SFTs under Regulation (EU) 2015/2365 on the basis of the audited accounts of the previous year (n – 1) and
- the total applicable revenues from ancillary services of all registered trade repositories determined according to paragraphs 1 and 2, as applicable, on the basis of the audited accounts of the previous year (n – 1).

The applicable turnover of a given trade repository ('TRi' in the formula below) shall hence be calculated as follows:

$$\frac{SFT\ revenue\ TR_i}{\sum SFT\ revenue\ all\ TR}$$

where SFT revenue = revenue core SFT services + applicable revenue ancillary services.

4. Where the trade repository did not operate during the full previous year (n – 1), its applicable turnover shall be estimated according to the formula set out in paragraph 3 by extrapolating, for the trade repository, the value calculated for the number of months during which the trade repository operated in year (n – 1) to the whole year (n – 1).

### Article 3

#### Adjustment of fees

Fees charged for ESMA's activities related to trade repositories shall be set at a level such as to avoid a significant accumulation of deficit or surplus.

Where there is a recurrent significant surplus or deficit, the Commission shall revise the level of fees.

## CHAPTER II

### FEES

#### Article 4

#### Types of fees

1. Trade repositories established in the Union that apply for registration in accordance with Article 5(1) of Regulation (EU) 2015/2365 shall be charged the following types of fees:

- (a) registration and extension of registration fees in accordance with Article 5;
- (b) annual supervisory fees in accordance with Article 6.

2. Trade repositories established in third countries that apply for recognition in accordance with Article 19(4) of Regulation (EU) 2015/2365 shall be charged the following types of fees:

- (a) recognition or extension of registration fees in accordance with paragraphs 1 and 2 of Article 7;
- (b) annual supervisory fees for recognised trade repositories in accordance with Article 7(3).

#### Article 5

##### **Registration fee and extension of registration fee**

1. The registration fee to be paid by individual applicant trade repositories shall reflect the expenditure necessary to accurately assess and examine the application for registration or extension of registration, taking into account the services to be provided by the trade repository, including any ancillary services.

2. A trade repository shall be deemed to offer ancillary services in any of the following situations:

- (a) where it directly provides ancillary services;
- (b) where an entity belonging to the same group as the trade repository provides ancillary services;
- (c) where an entity with which the trade repository has concluded an agreement in the context of the trading or post-trading chain or business line to cooperate in the provision of services provides the ancillary services.

3. Where a trade repository does not provide ancillary services as referred to in paragraph 2, the trade repository concerned is deemed to have a low expected total turnover and shall pay a registration fee of EUR 65 000.

4. Where a trade repository provides ancillary services as referred to in paragraph 2, the trade repository is deemed to have a high expected total turnover and shall pay a registration fee of EUR 100 000.

5. Where a trade repository is applying for registration and has already been registered under Title VI, Chapter 1 of Regulation (EU) No 648/2012, the trade repository shall pay an extension of registration fee of:

- (a) EUR 50 000 for trade repositories that provide ancillary services as referred to in paragraph 2;
- (b) EUR 32 500 for low expected turnover trade repositories that do not provide ancillary services as referred to in paragraph 2.

6. Where a trade repository not already registered under Regulation (EU) No 648/2012 simultaneously submits applications for registration under both Regulation (EU) No 648/2012 and Regulation (EU) 2015/2365, the trade repository shall pay the full registration fee due under Regulation (EU) No 648/2012, and the fee for extension of registration pursuant to paragraph 5.

7. In case of a material change to the conditions for registration as referred to in Article 5(4) of Regulation (EU) 2015/2365, as a consequence of which the trade repository owes a higher registration fee pursuant to paragraphs 3, 4 and 5 than the registration fee paid initially, the trade repository shall be charged the difference between the initially paid registration fee and the higher applicable registration fee resulting from that material change.

#### Article 6

##### **Annual supervisory fees for registered trade repositories and trade repositories that have extended their registration**

1. A registered trade repository shall be charged an annual supervisory fee.

2. The total annual supervisory fee and the annual supervisory fee for a given trade repository for a given year (n) shall be calculated as follows:

- (a) the total annual supervisory fee for a given year (n) shall be the estimate of expenditure relating to the supervision of trade repositories' activities under Regulation (EU) 2015/2365 as included in the ESMA's budget for that year;
- (b) a trade repository's annual supervisory fee for a given year (n) shall be the total annual supervisory fee determined pursuant to point (a), divided between all trade repositories registered in year n – 1, in proportion to their applicable turnover calculated pursuant to Article 2(3).

3. In no case shall a trade repository applying for registration or an extension of registration under Article 5(5) of Regulation (EU) 2015/2365 pay an annual supervisory fee of less than EUR 30 000.

#### *Article 7*

##### **Fees for third country trade repositories**

1. A trade repository applying for recognition under Article 19(4)(a) of Regulation (EU) 2015/2365 shall pay a recognition fee calculated as the sum of the following:

(a) EUR 20 000;

(b) the amount resulting from dividing EUR 35 000 among the total number of trade repositories from the same third country that are either recognised by ESMA, or that have applied for recognition but have not been yet recognised.

2. A trade repository applying for extension of registration under Article 19(4)(b) of Regulation (EU) 2015/2365 shall pay a recognition fee calculated as the sum of EUR 10 000 and the amount calculated in accordance with paragraph 1(b).

3. A trade repository recognised in accordance with Article 19(3) of Regulation (EU) 2015/2365 shall pay an annual supervisory fee of EUR 5 000.

#### CHAPTER III

##### **PAYMENT AND REIMBURSEMENT CONDITIONS**

#### *Article 8*

##### **General payment modalities**

1. All fees shall be payable in euros. They shall be paid as specified in Articles 9, 10 and 11.

2. Any late payments shall incur a daily penalty equal to 0,1 % of the amount due.

#### *Article 9*

##### **Payment of registration fees**

1. The registration fee referred to in Article 5 shall be paid in full at the time the trade repository submits its application for registration under Article 5(5) of Regulation (EU) 2015/2365.

2. Registration fees shall not be reimbursed if a trade repository withdraws its application for registration before ESMA adopts the reasoned decision to register or refuse registration, or if registration is refused.

#### *Article 10*

##### **Payment of annual supervisory fees**

1. The annual supervisory fee referred to in Article 6 for a given year shall be paid in two instalments.

The first instalment shall be due on 28 February of that year and shall amount to five sixths of the estimated annual supervisory fee. If the applicable turnover calculated pursuant to Article 2 is not yet available at that time, the calculation on the turnover shall be based on the last applicable turnover available pursuant to Article 2.

The second instalment shall be due on 31 October. The amount of the second instalment shall be the annual supervisory fee calculated according to Article 6 minus the amount of the first instalment.

2. ESMA shall send the invoices for the instalments to the trade repositories at least 30 days before the respective payment date.

*Article 11***Payment of fees for third country trade repositories**

1. The recognition fees referred to in Articles 7(1) and 7(2) shall be payable in full at the time the trade repository submits its application for recognition under Article 19(4) of Regulation (EU) 2015/2365. They shall not be reimbursed.

2. Each time a new application for recognition of a third country trade repository is submitted under Article 19(4) of Regulation (EU) 2015/2365, ESMA shall recalculate the amount referred to in Article 7(1)(b).

ESMA shall reimburse the difference between the amount charged pursuant to Article 7(1)(b) and the amount resulting from the recalculation equally among the trade repositories already recognised from the same third country. That difference shall be reimbursed either through direct payment or through reduction of the fees charged the subsequent year.

3. The annual supervisory fee for a recognised trade repository shall be due by the end of February each year. ESMA shall send a payment invoice to a recognised trade repository at least 30 days before that date.

*Article 12***Reimbursement of competent authorities**

1. Only ESMA shall charge fees to trade repositories for their registration, extension of registration, supervision and recognition pursuant to this Regulation.

2. ESMA shall reimburse a competent authority for the actual costs incurred as a result of carrying out tasks pursuant to Regulation (EU) 2015/2365 and as a result of any delegation of tasks pursuant to Article 74 of Regulation (EU) No 648/2012 and in accordance with Article 9(1) of Regulation (EU) 2015/2365.

## CHAPTER IV

**TRANSITIONAL AND FINAL PROVISIONS***Article 13***Calculation of interim supervisory fees**

1. Where the reporting obligation referred to in Article 4(1) of Regulation (EU) 2015/2365 in accordance with Article 33(2)(a) of that Regulation starts in the year following a trade repository's registration under Article 5(5) of Regulation (EU) 2015/2365, the trade repository shall pay, in the year of its registration, an interim supervisory fee calculated in accordance with Part 1 of the Annex.

2. Where the reporting obligation referred to in Article 4(1) of Regulation (EU) 2015/2365 in accordance with Article 33(2)(a) of that Regulation starts in the first six months of the year of a trade repository's registration under Article 5(5) of Regulation (EU) 2015/2365, the trade repository shall pay, in the year of its registration, an interim supervisory fee calculated in accordance with Part 2 of the Annex.

3. Where the reporting obligation referred to in Article 4(1) of Regulation (EU) 2015/2365 in accordance with Article 33(2)(a) of that Regulation starts in the last six months of the year of a trade repository's registration under Article 5(5) of Regulation (EU) 2015/2365, the trade repository shall pay, in the year of its registration, an interim supervisory fee calculated in accordance with Part 3 of the Annex.

*Article 14***Payment of registration fees and fees for third country trade repositories in 2019**

1. Trade repositories which apply for registration under Article 5(5) of Regulation (EU) 2015/2365 in 2019 shall pay the registration fee referred to in Article 6 in full 30 days after the entry into force of this Regulation or at the date of submission of the application for registration, whichever is the later.

2. Third country trade repositories which apply for recognition under Article 19(4) of Regulation (EU) 2015/2365 in 2019 shall pay the recognition fee referred to in Article 7(1) or 7(2), as applicable, in full 30 days after the entry into force of this Regulation or at the date of submission of the application, whichever is the later.

3. Third country trade repositories recognised in 2019 under Article 19(3) of Regulation (EU) 2015/2365 shall pay an annual supervisory fee for 2019 in accordance with Article 7(3) in full 60 days after the entry into force of this Regulation or 30 days after ESMA informing the trade repository of the decision on recognition referred to in Article 19(7) of Regulation (EU) 2015/2365, whichever is the later.

#### Article 15

##### **Annual supervisory fee for 2020 for trade repositories registered or having extended their registration in 2019**

1. The trade repository's supervisory fee for 2020 shall be the total annual supervisory fee determined pursuant to Article 6(2)(a) divided between all trade repositories registered in 2019, in proportion to the applicable turnover calculated pursuant to paragraph 2.

2. For the purposes of calculating the annual supervisory fee for 2020 in accordance with Article 6 for a trade repository registered in 2019 under Article 5(5) of Regulation (EU) 2015/2365, the applicable turnover of the trade repository shall be the sum of

- the revenues generated from the core functions of centrally collecting and maintaining records of SFTs during the period from 1 January 2020 to 30 June 2020 and
- the applicable revenues from ancillary services of the trade repository in accordance with paragraphs 1 and 2 of Article 2 during the period from 1 January 2020 to 30 June 2020

divided by the sum of

- the total revenues generated from the core functions of centrally collecting and maintaining records of SFTs during the period from 1 January 2020 to 30 June 2020 of all registered trade repositories and
- the applicable revenues from ancillary services in accordance with paragraphs 1 and 2 of Article 2 during the period from 1 January 2020 to 30 June 2020 of all registered trade repositories.

3. The annual supervisory fee for 2020 for trade repositories registered in 2019 shall be paid in two instalments.

The first instalment shall be due on 28 February 2020 and shall amount to the registration fee paid by the trade repository in 2019 pursuant to Article 5.

The second instalment shall be due on 31 October 2020. The amount of the second instalment shall be the annual supervisory fee calculated according to paragraph 1 minus the amount of the first instalment.

Where the amount paid by a trade repository in the first instalment is higher than the annual supervisory fee calculated according to paragraph 1, ESMA shall reimburse the trade repository the difference between the amount paid in the first instalment and the annual supervisory fee calculated according to paragraph 1.

4. ESMA shall send the invoices for the instalments of the annual supervisory fee for 2020 to the trade repositories registered in 2019 at least 30 days before the payment date.

5. When the audited accounts for 2020 become available, trade repositories registered in 2019 shall report to ESMA any change in the applicable turnover calculated in accordance with paragraph 2, stemming from the difference between the final data for the period from 1 January 2020 to 30 June 2020 and the provisional data used for the calculation pursuant to paragraph 2.

Trade repositories will be charged the difference between the annual supervisory fee for 2020 actually paid pursuant to paragraph 1 and the annual supervisory fee for 2020 to be paid as a consequence of any change to the applicable turnover referred to in the first subparagraph.

ESMA shall send the invoice for any additional payment referred to in the previous subparagraph at least 30 days before the respective payment date.

#### Article 16

##### **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 the Member States.

Done at Brussels, 13 December 2018.

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

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## ANNEX

## FIRST YEAR INTERIM FEES

**Part 1**

*Interim supervisory fee for the year of a trade repository's registration where the reporting obligation starts in the following year*

1. The trade repository's interim supervisory fee shall be the lower of the following:
  - (a) the trade repository's registration fee due in accordance with Article 5 of the present Regulation;
  - (b) the trade repository's registration fee due in accordance with Article 5 of the present Regulation multiplied by the ratio between the working days from its date of registration until the end of the year and 150 working days.

This calculation shall be made as follows:

$TR \text{ interim supervisory fee} = \text{Min} (\text{Registration fee}, \text{Registration fee} * \text{Coefficient})$

$$\text{Coefficient} = \frac{\text{Supervisory working days in year 1}}{150}$$

2. The interim supervisory fee shall be paid in full 60 days after the entry into force of this Regulation or 30 days after the notification referred to in Article 8(1) of Regulation (EU) 2015/2365, whichever is the later.

**Part 2**

*Interim supervisory fee for the year of a trade repository's registration where the reporting obligation starts in the first six months of the same year*

1. The trade repository's interim supervisory fee shall be the total annual supervisory fee determined pursuant to Article 6(2)(a) of the present Regulation divided between all trade repositories registered in that year, in proportion to the applicable turnover calculated pursuant to paragraph 2.
2. For the purposes of calculating the interim supervisory fee the applicable turnover of a trade repository shall be the sum of
  - the revenues generated from the core functions of centrally collecting and maintaining records of SFTs during the period from 1 January to 30 June of the year during which the trade repository was registered and
  - the applicable revenues from ancillary services of the trade repository in accordance with paragraphs 1 and 2 of Article 2 of the present Regulation, as applicable, during the period from 1 January to 30 June of the year during which the trade repository was registered

divided by the total revenues generated from the core functions of centrally collecting and maintaining records of SFTs and the applicable revenues from ancillary services of all registered trade repositories in accordance with paragraphs 1 and 2 of Article 2 of the present Regulation, as applicable, during the period from 1 January to 30 June of that year.

3. The interim supervisory fee shall be paid in two instalments.

The first instalment shall be due 30 days after the notification referred to in Article 8(1) of Regulation (EU) 2015/2365 and shall amount to the trade repository's registration fee pursuant to Article 5 of the present Regulation.

The second instalment shall be due on 31 October. The amount of the second instalment shall be the interim supervisory fee calculated according to paragraph 1 minus the amount of the first instalment.

Where the amount paid by a trade repository in the first instalment is higher than the interim supervisory fee calculated according to paragraph 1, ESMA shall reimburse the difference between the amount paid in the first instalment and the interim supervisory fee calculated according to paragraph 1 to the trade repository.

4. When the audited accounts for the year of registration become available, trade repositories shall report to ESMA any change in the applicable turnover calculated in accordance with paragraph 1, stemming from the difference between the final data for the period from 1 January to 30 June and the provisional data used for the calculation pursuant to paragraph 1.

Trade repositories will be charged the difference between the annual supervisory fee for the year of registration actually paid pursuant to paragraph 3 and the annual supervisory fee for the year of registration to be paid as a consequence of any change to the applicable turnover referred to in the first subparagraph.

5. Without prejudice to paragraphs 1 and 4, the interim supervisory fee shall not be lower than 15 000 euros.

### **Part 3**

*Interim supervisory fee for the year of a trade repository's registration where the reporting obligation starts in the last six months of the same year*

1. The trade repository's interim supervisory fee shall be the total supervisory fee determined pursuant to Article 6(2)(a) of the present Regulation, divided between all trade repositories, in proportion to the ratio of the trade repository's registration fee paid to ESMA to the total of all registration fees paid by trade repositories to ESMA in that year.
  2. The fee determined pursuant to paragraph 1 shall be due 30 days after the notification referred to in Article 8(1) of Regulation (EU) 2015/2365.
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