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COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMISSION OPINION

**on the Recommendation of the European Central Bank for a Council Regulation
amending Regulation (EC) No 2533/98 concerning the collection of statistical
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1. INTRODUCTION

- 1.1. On 15 September 2008, the European Central Bank (ECB) adopted a Recommendation¹ (hereinafter the “Recommendation”) for a Council Regulation amending Regulation (EC) No 2533/98 concerning the collection of statistical information by the European Central Bank (hereinafter the “Regulation”).
- 1.2. On 13 October 2008, the Council decided to consult the Commission and invited the Commission to issue its opinion on the Recommendation as soon as possible.

2. GENERAL REFERENCE TO THE ESCB’S TASKS

- 2.1. The Commission welcomes the Recommendation’s objective of minimising the overall reporting burden and, in particular, the burden on the reference reporting population, both present and future. In this respect, the ECB’s mandate to impose statistical reporting requirements on the reference reporting population remains generally limited by, *inter alia*, the EC Treaty and Article 5 of Protocol (No 18) on the Statute of the European System of Central Banks (ESCB) and of the ECB.
- 2.2. However, in view of the fact that the Recommendation does not specify what kind of “information”, as referred to in Article 2(1) of the Regulation, may be collected by the ECB from the reference reporting population, it should be noted that such “information” may be collected by the ECB within its competence as laid down in the EC Treaty to the extent strictly necessary to carry out the tasks of the ESCB.
- 2.3. The term “European Statistics”, as used in the recommended Regulation, is not defined. In addition, the recommended Regulation could also refer, without affecting the remits of the statistical systems, to “euro area statistics”. In this connection, a definition of “European Statistics” and the “euro area statistics” might be included in the text of the recommended Regulation which, while taking into account the respective fields of competence, mirrors that which appears in the forthcoming Regulation on European Statistics, specifically in the use of the ESCB statistical work programmes to determine the content of European Statistics.
- 2.4. Effective cooperation between the European Statistical System (ESS) and the ESCB is necessary in order to ensure a coordinated approach across areas of European statistics, *inter alia*, within the framework of the European System of Accounts, and to avoid potential overlaps of statistical work at European level, particularly, in the

¹ OJ C 251, 3.10.2008, p. 1.

fields of balance of payments statistics, financial accounts and business statistics. In that respect, it is important that the newly established ESS Committee be appropriately involved in the preparation process of the ESCB statistical work programmes. A coordinated approach would equally be beneficial in view of minimisation of the overall reporting burden on the respondents. Furthermore, cooperation of the ESS and the ESCB is also to be addressed on the operational level through working arrangements.

- 2.5. In view of the importance of a coordinated approach across areas of European statistics and the need to reduce the reporting burden on the reference reporting population, additional clarity in the recommended Regulation might be needed with respect to the data to be collected and compiled, *inter alia*, in the area of financial stability statistics and macro-prudential indicators, so as to enable timely identification of potential risks across borders and across sectors. For that purpose and to ensure efficiency in the use of the data collected from the reference reporting population on the basis of the recommended Regulation, a coordinated exchange of information between the ESS and the ESCB is necessary to specifically provide the Commission on a regular basis with the statistical data, including country-by-country data, necessary for the effective performance of the activities of the Community, as laid down in Article 285(1) of the EC Treaty and for the fulfilment of other tasks linked to the policy making process. To that extent, the recommended Regulation could contain specific provisions that would ensure transmission of respective data from the ESCB to the ESS.

3. ADJUSTMENT OF THE REFERENCE REPORTING POPULATION

- 3.1. The Commission recognises the need expressed in the Recommendation to adjust the scope of the reference reporting population and, in particular, the ECB's need to be able to collect the necessary statistical information from different types of financial corporations, including insurance corporations and pension funds, without extending the scope of the reference reporting population excessively. Collection of the statistical information by the ESCB would generally require that the relevant information is not already being collected by other bodies, including the ESS institutions, and that the benefits outweigh the cost of doing so.
- 3.2. It may be noted that "post office giro institutions" referred to in Article 2(2)(b) of the recommended Regulation belong to the category "Other monetary financial institutions" and are covered by the "financial corporations" sector referred to in Article 2(2)(a) of the recommended Regulation.
- 3.3. Furthermore, Article 2(2)(d) of the recommended Regulation could be more specific in referring to "electronic money institutions", as defined in Article 1(3)(a) of Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions (hereinafter the "E-money Directive").
- 3.4. Since the terms "cross-border positions", "cross-border transactions", "financial position" and "financial transactions" used in Article 2(2)(c), (d) and (e) of the recommended Regulation are neither explicitly defined nor sufficiently precise to delineate categories of the reference reporting population, additional clarity could be

introduced by specifying the reporting agents comprising the reference reporting population referred to in Article 2(2)(c), (d) and (e) of the recommended Regulation.

- 3.5. Should adjustment of the reference reporting population in the Recommendation result in a significant increase in the burden for statistical respondents, further justification must be provided as such adjustment may also have an impact on the collection of statistical data by the ESS. The recommended Regulation should therefore provide assurance, for example, that duplication of data collection by the ESS and the ESCB will be avoided.
- 3.6. Regulation (EC) No 177/2008 of the European Parliament and of the Council establishing a common framework for business registers for statistical purposes requires national authorities to report on multinational enterprise groups and their constituent units to the Commission (Eurostat), which will set up a network of registers on multinational enterprise groups. In this connection, since the national central banks (NCBs) and the ECB may participate in this network, the ESCB could be invited to use this network to the fullest possible extent.

4. STATISTICAL PRINCIPLES

- 4.1. The Commission welcomes the ECB's proposal to include a reference in the Regulation to the statistical principles governing the development, production and dissemination of statistics by the ESCB.
- 4.2. In view of the fact that the ESS and the ESCB are organised on the basis of two parallel systems and governance structures, and since the statistical principles governing the ESS might not completely coincide with those governing the ESCB, it might be advisable to define the statistical principles governing the development, production and dissemination of statistics by the ESCB.
- 4.3. In particular, the Commission welcomes the reference in the Recommendation to the statistical principles which would enhance data transparency by virtue of rendering publicly available the information on the methods and procedures used by the ESCB.

5. CONFIDENTIALITY REGIME

- 5.1. The Commission generally welcomes the introduction into the recommended Regulation of confidentiality provisions governing the exchange of confidential information in the ESCB and between an ESCB institution and an ESS institution, together with provisions mirroring the forthcoming Regulation on European Statistics to govern the transmission of confidential information by an ESS institution to an ESCB institution. However, the recommended Regulation could distinguish more clearly between these two regimes in order to avoid possible misinterpretation.
- 5.2. The parallel co-existence of two confidentiality regimes — that of the ESS and that of the ESCB — may give rise to difficulties in operational management, as well as potential misunderstandings among respondents.
- 5.3. To ensure, *inter alia*, confidence in the protection of confidential information among the reference reporting population, the ESCB confidentiality regime should mirror

that of the ESS to the fullest possible extent, especially in cases where the data has been collected not in the field of prudential supervision but for the purpose of statistical reporting, since in that case the NCBs institutions are acting as statistical organisations and are perceived as such by the respondents.

- 5.4. Additional clarity on the confidentiality regime in the recommended Regulation could also help ensure that information transmitted by an ESS institution to an ESCB institution is not used for any purposes other than statistical purposes.

6. MISCELLANEOUS

- 6.1. With regard to Article 1(4) of the recommended Regulation, Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community is defined as “ESA 95” (in Recital (7) of the Regulation). To ensure uniformity of terminology used in the Regulation, one might therefore consider replacing the words “in Annex A” in Article 1(4) of the recommended Regulation with the words “in ESA 95”.
- 6.2. It might also be advisable to update the definition of “electronic money” in Article 1(6) of the Regulation by reference to the definition of “electronic money” provided for in Article 1(3)(b) of the E-money Directive.

7. CONCLUSION

- 7.1. The recommended Regulation may, in general, be welcomed insofar as it contributes to the efficient cooperation between the ESS and the ESCB in the collection and exchange of statistical information and the promotion of high-quality, consistent statistics at European level. It should nevertheless be pointed out that the recommended Regulation could be more specific on the issues relating to the reference reporting population in line with the tasks of the ESCB and on the confidentiality regime.
- 7.2. Transparency of the data collected by the ESCB from the financial corporation sector should be guaranteed to the maximum extent possible. To enhance transparency, the collected data, including the derived aggregated statistical information, should be made publicly available. While introducing additional transparency in the Regulation, the need to maintain a high level of data protection and confidentiality, which would not allow for the identification of the economic agents or prejudice the stability of the sector, should be taken into account. Based on that, it can be proposed to introduce in the Regulation provisions ensuring transparency and public availability of data collected by the ESCB from the financial corporations sector whilst preserving a high level of data protection.
- 7.3. Finally, the forthcoming Regulation of the European Parliament and of the Council on European Statistics and the intended revision of Council Regulation (EC) No 2533/98 could also provide new impetus to the relationship between the ESCB and the ESS through, for instance, renewed efforts towards common programming and strategic objectives for the production, development and dissemination of European Statistics.