

## III

*(Preparatory acts)*

## EUROPEAN CENTRAL BANK

## OPINION OF THE EUROPEAN CENTRAL BANK

of 19 October 2012

**on a proposal for a Commission regulation amending Regulation (EC) No 2214/96 concerning harmonised indices of consumer prices (HICP): transmission and dissemination of sub-indices of the HICP, as regards establishing harmonised indices of consumer prices at constant tax rates and on a proposal for a Commission regulation laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 concerning harmonised indices of consumer prices, as regards establishing owner-occupied housing price indices**

(CON/2012/77)

(2013/C 73/03)

**Introduction and legal basis**

On 27 August 2012, the European Central Bank (ECB) received a request from the European Commission for an opinion on (1) a proposal for a Commission Regulation amending Regulation (EC) No 2214/96 concerning harmonised indices of consumer prices (HICP): transmission and dissemination of sub-indices of the HICP, as regards establishing harmonised indices of consumer prices at constant tax rates (hereinafter the 'proposed HICP-CT regulation') and (2) a proposal for a Commission Regulation laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 concerning harmonised indices of consumer prices, as regards establishing owner-occupied housing price indices (hereinafter the 'proposed OOH regulation') (hereinafter collectively referred to as the 'proposed regulations').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and Article 5(3) of Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices<sup>(1)</sup>. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

**1. General observations**

The ECB supports the objectives of the proposed regulations related to: (a) the establishment, through the proposed HICP-CT regulation, of the regular production of harmonised indices of consumer prices at constant tax rates and the development of the related data and metadata requirements as well as relevant methodological guidelines, (b) the compilation, pursuant to the proposed OOH regulation, of price indices for dwellings and for housing expenditures incurred by owner-occupiers, including the development of the related coverage description, the methodological framework and the data requirements.

**2. Consultation of the ECB and its involvement in the preparatory and implementing work**

2.1. The ECB emphasises that, as required under Articles 127(4) and 282(5) of the Treaty and under Article 5(3) of Council Regulation (EC) No 2494/95, it needs to be consulted on any implementing measures within the HICP framework proposed by the Commission. The obligation to consult the ECB

<sup>(1)</sup> OJ L 257, 27.10.1995, p. 1.

is an important procedural requirement that should be consistently referred to in all legal instruments comprising the HICP legal framework. It will also continue to apply in relation to implementing and delegated acts which the Commission may be empowered to adopt under the reformed legal framework for the HICP, currently under preparation <sup>(1)</sup>.

- 2.2. In Case C-11/00, the Court of Justice clarified the obligation to consult the ECB with reference to the ECB's functions and expertise <sup>(2)</sup>. Harmonised indices of consumer prices 'serve as important indicators for the management of monetary policy' <sup>(3)</sup> and are, therefore, of crucial importance to the ECB's functions concerning the maintenance of the price stability as a primary objective of the European System of Central Banks (ESCB) <sup>(4)</sup>, as well as to the Eurosystem tasks of: (a) defining and implementing the monetary policy for the euro area, and (b) contributing to the policies relating to stability of the financial system <sup>(5)</sup>. As with the preamble to Council Regulation (EC) No 2494/95, which refers to the need for the monetary authorities of the Union to have access to appropriately calibrated consumer price indices <sup>(6)</sup>, the link between the HICP framework and the performance of the central bank tasks should be expressly stated in the recitals of the proposed regulations. Moreover, the ECB's expertise in relation to the HICP framework should be made use of, not only by formal consultation with the ECB on legal instruments proposed by the Commission, but also by appropriately involving the ECB in the preparatory and implementing work, in particular concerning the development of relevant methodological frameworks, as explained further below. In its contribution, the ECB may include appropriate expert input provided by other ESCB members.

### 3. *Development of HICP methodological frameworks and their incorporation in legal instruments*

- 3.1. The proposed regulations provide for the development by the Commission, in close cooperation with Member States, of methodological frameworks for the computation of the indices and sub-indices introduced by the proposed regulations <sup>(7)</sup>. While supporting the development of such methodological frameworks, the ECB considers that it should be involved by the Commission alongside the Member States in their development. Such involvement of the ECB, which may also include appropriate expert input provided by other ESCB members, will be an appropriate solution taking account of the importance of the relevant indices to the ESCB's objectives and the expertise of the ECB and of other ESCB members in relation to the HICP framework.
- 3.2. Moreover, Article 12(2) of Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics <sup>(8)</sup> specifies that in applying the quality criteria under this Regulation to the data covered by sectoral legislation in specific statistical domains, the modalities, structure and periodicity of quality reports shall be defined by the Commission in accordance with the regulatory procedure referred to in Article 27(2) of this Regulation <sup>(9)</sup>. Against this background, the ECB considers that the development of methodological frameworks for the

<sup>(1)</sup> See the Commission (Eurostat) '2011 Annual Activity Report', p. 30, available on the Commission's website at <http://www.ec.europa.eu>. See also paragraph 5 of Opinion CON/2012/5 available on the ECB's website at <http://www.ecb.europa.eu>

<sup>(2)</sup> Judgment of 10 July 2003 in Case C-11/00 *Commission of the European Communities v European Central Bank* (2003) ECR 2003, I-7147, in particular paragraphs 110 and 111. The Court of Justice clarified that the obligation to consult the ECB is intended 'essentially to ensure that the legislature adopts the act only when the body has been heard, which, by virtue of the specific functions that it exercises in the Community framework in the area concerned and by virtue of the high degree of expertise that it enjoys, is particularly well placed to play a useful role in the legislative process envisaged'.

<sup>(3)</sup> See first recital of Commission Regulation (EU) No 1114/2010 of 1 December 2010 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the quality of HICP weightings and repealing Commission Regulation (EC) No 2454/97 (OJ L 316, 2.12.2010, p. 4).

<sup>(4)</sup> See Article 127(1) of the Treaty and Article 2, first sentence of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB').

<sup>(5)</sup> See Article 127(2), first indent and Article 127(5) in conjunction with Article 139(2)(c) of the Treaty and Article 3.1, first indent and Article 3.3, in conjunction with Article 42.1 of the Statute of the ESCB.

<sup>(6)</sup> See third recital of Council Regulation (EC) No 2494/95.

<sup>(7)</sup> See Article 3 of Regulation (EC) No 2214/96 of 20 November 1996 concerning harmonized indices of consumer prices: transmission and dissemination of sub-indices of the HICP (OJ L 296, 21.11.1996, p. 8) as amended by Article 1(2) of the proposed HICP-CT regulation and Article 4(1) of the proposed OOH regulation.

<sup>(8)</sup> OJ L 87, 31.3.2009, p. 164.

<sup>(9)</sup> Currently in accordance with Articles 5 or 5a, in conjunction with Article 7, of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23). Under the future framework introduced by the amendments to Regulation (EC) No 223/2009 proposed by the Commission on 17 April 2012 (COM(2012) 167 final) the Commission will act in accordance with Article 5 of Regulation (EU) No 182/2011 of the European Parliament and the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing power (OJ L 55, 28.2.2011, p. 13).

computation of the indices and sub-indices introduced by the proposed regulations should lead to the incorporation of key constructive elements and minimum quality standards of such methodological frameworks within Union law. In the interests of legal certainty, transparency and accountability, manuals, guidelines or other non-legal instruments may complement but should not replace legal provisions.

Where the ECB recommends that the proposed regulations are amended, specific drafting proposals are set out in the Annex accompanied by explanatory text to this effect.

Done at Frankfurt am Main, 19 October 2012.

*The President of the ECB*

Mario DRAGHI

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## ANNEX

## Drafting proposals of the proposed HICP-CT regulation

Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
<b>Amendment 1</b>	
Preamble to the proposed HICP-CT regulation	
<p>'Having regard to the Treaty on the Functioning of the European Union,</p> <p>Having regard to Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices ( ), and in particular the third paragraph of Article 4 and Article 5(3) thereof,</p> <p>Whereas:</p> <p>[...]</p> <p>(3) For inflation analysis and for convergence assessment in EU Member States, it is necessary to collect information on the impact of tax changes on inflation. To this end, HICPs should additionally be calculated on the basis of constant tax rate prices instead of observed prices in the form of harmonised indices of consumer prices at constant tax rates (HICP-CT).</p> <p>[...]</p> <p>(6) The European Central Bank has been consulted in accordance with Article 5(3) of Regulation (EC) No 2494/95.</p>	<p>'Having regard to the Treaty on the Functioning of the European Union,</p> <p>Having regard to Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices ( ), and in particular the third paragraph of Article 4 and Article 5(3) thereof,</p> <p><b>Having regard to the opinion of the European Central Bank (*),</b></p> <p>Whereas:</p> <p>[...]</p> <p>(3) For inflation analysis, <b>for monetary and financial policies</b> and for convergence assessment in EU Member States, it is necessary to collect information on the impact of tax changes on inflation. To this end, HICPs should additionally be calculated on the basis of constant tax rate prices instead of observed prices in the form of harmonised indices of consumer prices at constant tax rates (HICP-CT).</p> <p>[...]</p> <p><del>(6) The European Central Bank has been consulted in accordance with Article 5(3) of Regulation (EC) No 2494/95.</del></p> <p>(*) OJ C x, xx.xx.2012, p. xx'</p>

## Explanation

The obligation to consult the ECB is a procedural requirement that should be consistently referred to in the preambles to all legal instruments comprising the HICP legal framework. In addition, as with the preamble to Council Regulation (EC) No 2494/95, the link between the HICP framework and the central banks' tasks should be expressly stated in a recital of the proposed HICP-CT regulation.

## Amendment 2

## Article 1(2) of the proposed HICP-CT regulation

'(2) Article 3 is replaced by the following:	'(2) Article 3 is replaced by the following:
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Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
<p>“Article 3</p> <p><b>Production and provision of sub-indices</b></p> <p>Member States shall produce and provide to the Commission (Eurostat) each month all sub-indices (Annex I) which have a weight accounting for more than one part in a thousand of the total expenditure covered by the HICP. Together with the index for January each year, Member States shall provide corresponding weighting information to the Commission (Eurostat).</p> <p>In addition, Member States shall produce and provide to the Commission (Eurostat) each month the same sub-indices computed at constant tax rates (HICP-CT). The Commission (Eurostat), in close cooperation with the Member States, shall establish guidelines that provide a methodological framework for the computation of the HICP-CT index and sub-indices. When duly justified, the Commission (Eurostat) shall update the reference methodology, in accordance with procedural arrangements approved by the European Statistical System Committee.”</p>	<p>“Article 3</p> <p><b>Production and provision of sub-indices</b></p> <p>Member States shall produce and provide to the Commission (Eurostat) each month all sub-indices (Annex I) which have a weight accounting for more than one part in a thousand of the total expenditure covered by the HICP. Together with the index for January each year, Member States shall provide corresponding weighting information to the Commission (Eurostat).</p> <p>In addition, Member States shall produce and provide to the Commission (Eurostat) each month the same sub-indices computed at constant tax rates (HICP-CT). The Commission (Eurostat), in close cooperation with the Member States <b>and the European Central Bank</b>, shall establish guidelines that provide a methodological framework for the computation of the HICP-CT index and sub-indices. When duly justified, the Commission (Eurostat) shall update the reference methodology, in accordance with procedural arrangements approved by the European Statistical System Committee.”</p>

*Explanation*

*The ECB should be involved in preparing and implementing the proposed HICP-CT regulation, and, in particular, in developing relevant methodological framework. Such involvement of the ECB, which may also include appropriate expert input provided by other ESCB members, is a necessary step, additional to the obligation to consult the ECB on the proposed legal instruments comprising the HICP framework. The reasons for this are: (a) the ECB's expertise related to the HICP framework, and (b) the importance of the HICP framework to the effective performance of central bank functions, in particular to the ESCB's achievement of its price stability objective, and to the Eurosystem tasks of defining and implementing monetary policy for the euro area and contributing to the policies relating to the stability of the financial system.*

**Amendment 3**

Article 1a (new) of the proposed HICP-CT regulation

<p>No text</p>	<p><b>Article 1a</b></p> <p><b>Transitional measures</b></p> <p><b>The Commission (Eurostat), with the contribution of the European Central Bank, shall, within two years of the date of entry into force of this Regulation, prepare a report to: (i) assess the effectiveness of the methodological framework for the computation of the HICP-CT index and sub-indices established under amended Article 3(2) of Regulation (EC) No 2214/96, and (ii) recommend key constructive elements and minimum quality standards of such a methodological framework that should be set out in Union law through appropriate amendments to HICP legal framework.'</b></p>
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Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
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*Explanation*

The ECB considers that the development of methodological frameworks for the computation of the indices and sub-indices introduced by the proposed HICP-CT regulation should ensure the inclusion of key constructive elements and minimum quality standards for such frameworks within the relevant instruments of Union law. Manuals, guidelines or other non-legal instruments may complement but in the interests of legal certainty, transparency and accountability, should not replace legal provisions. The ECB should be involved in preparing the relevant Commission's legislative proposals for the reasons indicated under amendment 2 above. In its contribution, the ECB may include appropriate expert input provided by other ESCB members.

(1) Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

**Drafting proposals of the proposed OOH regulation**

Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
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**Amendment 1**

Preamble to the proposed OOH regulation

<p>'Having regard to the Treaty on the Functioning of the European Union,</p> <p>Having regard to Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices, and in particular the third paragraph of Article 4 and Article 5(3) thereof,</p> <p>Whereas:</p> <p>[...]</p> <p>(3) With a view to compiling owner-occupied housing indices it is necessary to produce house price indices. House price indices are also important indicators in their own right.</p> <p>[...]</p> <p>(5) The European Central Bank has been consulted... '</p>	<p>'Having regard to the Treaty on the Functioning of the European Union,</p> <p>Having regard to Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices, and in particular the third paragraph of Article 4 and Article 5(3) thereof,</p> <p><b>Having regard to the opinion of the European Central Bank (*),</b></p> <p>Whereas:</p> <p>[...]</p> <p>(3) With a view to compiling owner-occupied housing indices it is necessary to produce house price indices. House price indices are also important <del>indicators</del> in their own right <b>and for monetary and financial policies.</b></p> <p>[...]</p> <p><del>(5) The European Central Bank has been consulted...</del></p> <p><b>(* ) OJ C x, xx.xx.2012, p. xx'</b></p>
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*Explanation*

The obligation to consult the ECB is a procedural requirement that should be consistently referred to in the preambles to all legal instruments comprising the HICP legal framework. In addition, as with the preamble to Council Regulation (EC) No 2494/95, the link between the HICP framework and the central banks' tasks should be expressly stated in a recital of the proposed OOH regulation.

Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
<b>Amendment 2</b>	
Article 2(2) of the proposed OOH regulation	
<p>'2. "house price index" means an index that measures the changes in the transaction prices of dwellings purchased by households.'</p>	<p>'2. "house price index" means an index that measures the changes in the transaction prices of dwellings purchased by households, <b>including any land component.</b>'</p>

*Explanation*

*The ECB considers that land prices are a key component in the house price index as they play a crucial role in financial stability and economic analysis, particularly in the detection of possible price bubbles. Therefore, the inclusion of land prices should be provided for in the OOH regulation rather than in the methodological manual.*

<b>Amendment 3</b>	
Article 4(1) of the proposed OOH regulation	
<p>'1. The Commission (Eurostat), in close cooperation with the Member States, shall establish a manual which provides a methodological framework for owner-occupied housing and house price indices produced pursuant to this Regulation (hereinafter referred to as the "OOH-HPI manual"). When duly justified, the Commission (Eurostat) shall update the manual, in accordance with procedural arrangements approved by the ESS Committee.'</p>	<p>'1. The Commission (Eurostat), in close cooperation with the Member States <b>and the European Central Bank</b>, shall establish a manual which provides a methodological framework for owner-occupied housing and house price indices produced pursuant to this Regulation (hereinafter referred to as the "OOH-HPI manual"). When duly justified, the Commission (Eurostat) shall update the manual, in accordance with procedural arrangements approved by the ESS Committee.'</p>

*Explanation*

*The ECB should be involved in preparing and implementing the proposed OOH regulation, and, in particular, in developing a relevant methodological framework. Such involvement of the ECB, which may also include appropriate expert input provided by other ESCB members, is a necessary step which is additional to the obligation to consult the ECB on the proposed legal instruments comprising the HICP framework. The reasons for this are: (a) the ECB's expertise related to the HICP framework, and (b) the importance of the HICP framework to the effective performance of central bank functions, in particular to the ESCB's achievement of its price stability objective, and to the Eurosystem tasks of defining and implementing monetary policy for the euro area and contributing to the policies relating to the stability of the financial system.*

<b>Amendment 4</b>	
Article 6 of the proposed OOH regulation	
<p>'1. One years and three years respectively after the date of entry into force of this Regulation, Member States shall provide the Commission (Eurostat) with reports on the quality of the data, on the basis of the standards defined within the European Statistical System and in the OOH-HPI manual.</p>	<p>'1. One <del>years</del> and three years respectively after the date of entry into force of this Regulation, Member States shall provide the Commission (Eurostat) <b>and the European Central Bank</b> with reports on the quality of the data, on the basis of the standards defined within the European Statistical System and in the OOH-HPI manual.</p>

Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
<p>2. The Commission (Eurostat) shall, within five years of the date of entry into force of this Regulation, prepare a report on the indices established pursuant to this Regulation and in particular on their degree of compliance with Commission Regulation (EC) No 1749/96 <sup>(5)</sup> and Commission Regulation (EU) No 1114/2010 <sup>(6)</sup>. The report shall also address the suitability of the owner-occupied housing indices for integration into HICP coverage.</p>	<p>2. The Commission (Eurostat), <b>with the contribution of the European Central Bank</b>, shall, within five years of the date of entry into force of this Regulation, prepare a report <b>to: <del>on</del> (i) assess</b> the indices established pursuant to this Regulation and in particular <del>on</del> their degree of compliance with Commission Regulation (EC) No 1749/96 <sup>(5)</sup> and Commission Regulation (EU) No 1114/2010 <sup>(6)</sup>, <b>(ii) The report shall also</b> address the suitability of the owner-occupied housing indices for integration into HICP coverage, <b>and (iii) recommend key constructive elements and minimum quality standards of the methodological framework for owner-occupied housing and house price indices that should be set out in Union law through appropriate amendments to HICP legal framework.</b></p>
<p><sup>(5)</sup> OJ L 229, 10.9.1996, p. 3.  <sup>(6)</sup> OJ L 316, 2.12.2010, p. 4.'</p>	<p><sup>(5)</sup> OJ L 229, 10.9.1996, p. 3.  <sup>(6)</sup> OJ L 316, 2.12.2010, p. 4.'</p>

#### Explanation

The ECB considers that the development of methodological framework for the computation of the indices and sub-indices introduced by the proposed OOH regulation should ensure the inclusion of key constructive elements and minimum quality standards for such frameworks within the relevant instruments of Union law. Manuals, guidelines or other non-legal instruments may complement but in the interests of legal certainty, transparency and accountability, should not replace legal provisions. The ECB should be involved in the preparing of the relevant Commission's legislative proposals for the reasons indicated under amendment 3 above. In its contribution, the ECB may include appropriate expert input provided by other ESCB members.

<sup>(1)</sup> Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.