

III

(Preparatory acts)

EUROPEAN CENTRAL BANK

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OPINION OF THE EUROPEAN CENTRAL BANK

of 19 May 2011

on the proposal for a regulation of the European Parliament and of the Council on the European system of national and regional accounts in the European Union**(CON/2011/44)**

(2011/C 203/04)

Introduction and legal basis

On 3 February 2011, the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a regulation of the European Parliament and of the Council on the European system of national and regional accounts in the European Union ⁽¹⁾ (hereinafter the 'proposed regulation').

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, since the proposed regulation lies within the ECB's fields of competence. 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.

General observations

1. As a producer and user of European statistics, the ECB welcomes the proposed regulation as an important step towards further improving the quality of European statistics, in particular national accounts, by bringing them into line with the changes in the economic and financial environment and methodological progress. The European system of national and regional accounts forms the core of macroeconomic European statistics and is therefore vital for monetary policy purposes.
2. The ECB also welcomes the intended consistency of the statistical concepts and definitions described within the proposed regulation, among others, with the System of National Accounts (SNA 2008) adopted by the United Nations Statistical Commission, the sixth edition of the International Monetary Fund's Balance of Payments and International Investment Position Manual (BPM6), the fourth edition of the Organisation for Economic Co-operation and Development Benchmark Definition of Foreign Direct Investment and with the European industrial activity classification (NACE Rev.2). The proposed regulation has also benefited from the abovementioned instruments in terms of consistency and harmonised methodologies.

⁽¹⁾ COM(2010) 774 final.

Specific observations

3. Both the European System of Central Banks (ESCB) and the European Statistical System (ESS) have been assigned the task by the Treaty of developing, producing and disseminating European statistics, but under separate legal frameworks to reflect their respective governance structures. The proposed regulation impacts the statistics produced by these two systems. Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank ⁽¹⁾ entitles the ECB, assisted by the national central banks, to collect statistical information within the limits of the reference reporting population and of what is necessary to carry out the tasks of the ESCB. More specifically, the reference reporting population comprises legal and natural persons residing in a Member State and falling within the sector 'financial corporations' as defined in Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community ⁽²⁾ as well as legal and natural persons residing in a Member State, to the extent that they hold cross-border positions or have carried out cross-border transactions.
4. Ensuring close cooperation and appropriate coordination between the ESCB and the ESS minimises the reporting burden and guarantees the coherence necessary to produce European statistics. This need for close cooperation is also reflected in the Memorandum of Understanding on Economic and Financial Statistics of 10 March 2003 between the Directorate General Statistics of the European Central Bank (DG Statistics) and the Statistical Office of the European Communities (Eurostat) ⁽³⁾.
5. Given the close relationship in preparing the methodological framework of the proposed regulation, the ECB has agreed at Eurostat's request to draft various chapters of Annex A closely related to the ESCB statistical framework. In particular, the ECB has provided substantial input on the definition of the sector 'financial corporations' in terms of institutional units and subsectors as part of Chapter 2 and the description of financial assets and liabilities and their presentation in the sequence of accounts (Chapter 5 and parts of Chapters 6 and 7). Drafts were also provided on Chapter 17 (social insurance including pensions) and on parts of Chapter 21 (government accounts) and of Chapter 19 (European accounts).
6. Regarding the definition of the institutional sector 'financial corporations' and its subsectors (Annex A to the proposed regulation, Chapter 2), the ECB welcomes that the definition of the subsector monetary financial institutions follows the ECB definition in paragraph 2.67 of Annex A. The definitions of subsectors of 'other financial corporations' are consistent, to a large extent, with the approach used in ECB legal acts. To minimise the reporting burden and to guarantee the coherence necessary to produce European statistics, the ECB proposes further aligning the proposed definition of financial vehicle corporations engaged in securitisation transactions with Regulation ECB/2008/30 of 19 December 2008 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions ⁽⁴⁾.
7. Based on the above and given the interdependencies of the ESCB statistical framework and the ESS, the proposed regulation is highly relevant to ECB statistical reporting requirements, among others, in the fields of monetary, financial institutions and markets statistics, balance of payments and international investment position statistics, quarterly financial accounts and government finance statistics. In line with current practice and the need for close cooperation and appropriate coordination between the ESCB and the ESS, in amending the proposed regulation by means of delegated powers, the Commission should ensure the ECB's due involvement by preparing draft delegated acts in accordance with the proposed regulation.

⁽¹⁾ OJ L 318, 27.11.1998, p. 8.

⁽²⁾ OJ L 310, 30.11.1996, p. 1.

⁽³⁾ Available on the ECB's website at <http://www.ecb.europa.eu>

⁽⁴⁾ OJ L 15, 20.1.2009, p. 1.

8. Furthermore, having regard to the importance of delegated acts adopted under Article 290 of the Treaty, the ECB makes the following observations with regard to the exercise of its own advisory role under Articles 127(4) and 282(5) of the Treaty.

First, Commission draft delegated acts qualify as 'proposed Union acts' within the meaning of the first indent of Articles 127(4) and 282(5) of the Treaty⁽¹⁾. Delegated acts constitute legal acts of the Union⁽²⁾. Significantly, the majority of the language versions of Article 282(5) of the Treaty refers to 'draft' Union legal acts on which the ECB is required to be consulted⁽³⁾. Therefore, the scope of the duty to consult the ECB cannot be confined only to those draft acts based on a Commission proposal.

Second, in the OLAF judgment⁽⁴⁾, 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'.

Against this backdrop, in order to deploy the full benefits of the exercise by the ECB of its advisory role, the ECB should be consulted in due time on any draft Union acts, including draft delegated acts, falling within its fields of competence. The ECB will exercise its advisory role taking into utmost account the timelines for adopting these acts.

9. Due to its monetary policy related tasks, the ECB's statistical focus is on European aggregates. The ECB attaches importance to the quarterly integrated euro area accounts by institutional sector. For that purpose, sufficient data coverage in terms of the provision of national contributions is required in time for monetary policy decisions.
10. The collection of data for individual Member States has gained further importance in view of the new statistical demands for financial stability and macro-prudential purposes, particularly in connection with the recent establishment of the European Systemic Risk Board and its responsibility for the macro-prudential oversight of the financial system within the Union. Timely and reliable national accounts statistics for individual Member States are also needed to support the goals promoted by the Euro Plus Pact and for the purposes of the European Stability Mechanism.
11. From a monetary policy and financial stability perspective, the ECB attaches high priority to timely quarterly data of sufficient reliability which takes precedence over detailed annual or lower frequency data. Moreover, the compilation of a full set of tables for recent years should have priority over long series of detailed backdata.

⁽¹⁾ The first indent of Article 127(4) of the Treaty provides that the ECB shall be consulted 'on any proposed Union act in its fields of competence'. Article 282(5) of the Treaty provides that: 'Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts'.

⁽²⁾ Article 290 of the Treaty belongs to Part Six, Chapter 2, Section 1 entitled 'The legal acts of the Union'.

⁽³⁾ Article 282(5) of the Treaty refers to draft Union acts in the following language versions: Bulgarian ('проект на акт на Съюза'); Spanish ('proyecto de acto de la Unión'); Danish ('udkast'); German ('Entwürfen für Rechtsakte der Union'); Estonian ('ettepanekute'); Greek ('προτεινόμενη πράξη της Ένωσης'); French ('projet d'acte de l'Union'); Italian ('progetto di atto dell'Unione'); Latvian ('projektiem'); Lithuanian ('Sąjungos akty projektų'); Dutch ('ontwerp van een handeling van de Unie'); Portuguese ('projectos de acto da União'); Romanian ('proiect de act al Uniunii'); Slovak ('navrhovaných aktov Unie'); Slovenian ('osnutki aktov Unije'); Finnish ('esityksistä'); Swedish ('utkast'). The Irish version reads 'gníomh Aontais arna bheartu', which corresponds to the concept of 'planned' Union acts.

⁽⁴⁾ Case C-11/00 *Commission of the European Communities v European Central Bank* [2003] ECR I-7147, in particular paragraphs 110 and 111.

12. The ECB generally agrees with the transmission programme (Annex B to the proposed regulation). However, the transmission programme should take account of the collection of statistics by the ECB, assisted by national central banks, and should reflect priorities developed between users and data compilers.
13. The ECB welcomes the improvement in the timeliness of the quarterly items 1-12, 27 and 28 in Table 1 on Main aggregates — quarterly and annual exercise to $t + 2$ months. However, the ECB objects to the proposed differentiated reporting between larger and smaller Member States referred to in footnotes 4 and 7 of the 'Overview of the tables' and footnote 10 in 'Table 1', and the related deterioration in timeliness for smaller Member States to $t + 80$ days for the main aggregates. At present, 17 Member States would be covered by the differentiated reporting, and as a result of the enlargement of the Union an increasing number of Member States will fall below the proposed differentiated reporting threshold. As a consequence, the quality of both the European aggregates and statistical information for smaller Member States will deteriorate.
14. The ECOFIN Council endorsed in September 2000 the EMU Action Plan on Statistical Requirements and set the target time for quarterly integrated euro area accounts by institutional sector at $t + 90$ days after the reference quarter to meet the ECB's monetary policy needs. This implied that Eurostat and the ECB would have to collect the respective national data at $t + 82$ days. Due to the envisaged schedule of the ECB Governing Council meetings in 2015 and 2016, a reduction in the time lag to $t + 85$ would suffice for 2015 to 2016. Accordingly, the ECB supports advancing the reporting deadlines for the quarterly sector accounts under the ESA transmission programme to $t + 85$ days by 2014, aiming at $t + 82$ days by 2017 to support the compilation of full quarterly integrated euro area accounts at $t + 90$ days. This is also in line with the G-20 data gaps initiative which identifies sector accounts as one of the priorities in closing data gaps as a follow-up to the financial crisis. In the ESA 2010 transmission programme, this affects Table 801.
15. Furthermore, the ECB favours a consistent transmission deadline for all quarterly and annual national data regarding general government, implying a synchronisation of quarterly data on general government to the timeliness targets set for Table 801, affecting also Tables 27 and 28, and, similarly, the reporting deadlines for Table 2 and the excessive deficit procedure (EDP) data. Therefore, the ECB supports advancing the reporting deadlines for the quarterly government accounts under the ESA transmission programme and the EDP data to $t + 85$ by 2014 and aiming at $t + 82$ by 2017 to support the compilation of full quarterly integrated euro area accounts at $t + 90$.
16. In Opinion CON/2010/28 of 31 March 2010 on a proposal for a Council Regulation amending Regulation (EC) No 479/2009 as regards the quality of statistical data in the context of the excessive deficit procedure⁽¹⁾, the ECB also supported improving the transparency of the reporting process by using the national accounts deficit (B.9) for the EDP. By excluding settlements under swaps arrangements and forward rate agreements from the deficit used for the EDP, the deficit figures become less susceptible to manipulations by complex financial transactions. In this context, the ECB welcomes that Annex A to the proposed regulation would no longer define EDP_B.9 and EDP_D.41. This however also implies that all references to these two variables should be eliminated from Table 2 in Annex B. As a consequence, Regulation (EC) No 479/2009 will have to be amended to reflect the fact that the national accounts deficit (B.9) will have to be used for the EDP and to reflect the definition of nominal value in the proposed regulation.
17. In order to meet the public and policy needs for the measurement of compensation per employee and per hour in the general government sector, focusing on a better understanding of wage dynamics and potential spillover effects between the public and private sectors, the ECB suggests including in Table

⁽¹⁾ OJ C 103, 22.4.2010, p. 1.

801 for the general government sector quarterly data on the number of employees and hours worked, with the compensation of employees in the general government sector already included in the transmission programme.

Where the ECB recommends that the proposed regulation is amended, a specific drafting proposal is set out in the Annex accompanied by explanatory text to this effect.

Done at Frankfurt am Main, 19 May 2011.

The President of the ECB

Jean-Claude TRICHET

ANNEX

Drafting proposals

Text proposed by the Commission	Amendments proposed by the ECB ⁽¹⁾
Amendment 1	
Article 2(2)	
<p>'2. The Commission may adopt, by means of delegated acts in accordance with Articles 7, 8 and 9, amendments to the ESA 2010 methodology which are intended to specify and improve its content provided that they do not change its underlying concepts, do not require additional resources for their implementation and do not cause an increase in own resources.'</p>	<p>'2. The Commission may adopt, by means of delegated acts in accordance with Articles 7, 8 and 9, amendments to the ESA 2010 methodology which are intended to specify and improve its content provided that they do not change its underlying concepts, do not require additional resources for their implementation and do not cause an increase in own resources. The Commission shall prepare draft delegated acts in close cooperation with the European Central Bank.</p>

Explanation

The legal basis for the adoption of the proposed regulation is Article 338(1) of the Treaty, which expressly clarifies that the adoption of measures under Article 338(1) is 'without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank' (hereinafter the 'Statute of the ESCB'). In turn, Article 5.3 of the Statute of the ESCB provides that the ECB 'shall contribute to the harmonisation, where necessary, of the rules and practices governing the collection, compilation and distribution of statistics in the areas within its fields of competence'. Against the background of these specific Treaty provisions, the Commission, when exercising its delegated powers under the proposed regulation, should prepare the draft delegated acts in close cooperation with the ECB so as to ensure, inter alia, the consistency and quality of the data and minimising the reporting burden.

Amendment 2

Paragraph 2.21. of Annex A

<p>'2.21. A holding company that simply owns the assets of subsidiaries is one example of a captive financial institution. Other units that are also treated as captive financial institutions are units with the characteristics of SPEs as described above including investment and pension funds and units used for holding and managing wealth for individuals or families, holding assets for securitisation, issuing debt securities on behalf of related companies (such a company may be called a conduit), securitisation vehicles and to carry out other financial functions.'</p>	<p>'2.21. A holding company that simply owns the assets of subsidiaries is one example of a captive financial institution. Other units that are also treated as captive financial institutions are units with the characteristics of SPEs as described above including investment and pension funds and units used for holding and managing wealth for individuals or families, holding assets for securitisation, issuing debt securities on behalf of related companies (such a company may be called a conduit), securitisation vehicles and to carry out other financial functions.'</p>
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Explanation

Financial vehicle corporations engaged in securitisation transactions in any form cannot be treated as akin to captive financial institutions — in particular, they are not consolidated with the originator, irrespective of 'independence' criteria. They are classified as other financial intermediaries (S.125). See Article 1 of Regulation ECB/2008/30 of 19 December 2008 concerning the assets and liabilities of financial vehicle corporations engaged in securitisation transactions ⁽²⁾.

Amendment 3

Paragraph 2.75. of Annex A

<p>'2.75. Definition: The subsector deposit-taking corporations except the central bank (S.122) includes all financial corporations and quasi-corporations, except those classified in the central bank and in the MMF subsectors, which are principally engaged in financial intermediation and whose business is to receive deposits from institutional units, and, for their own account, to grant loans and/or to make investments in securities.'</p>	<p>'2.75. Definition: The subsector deposit-taking corporations except the central bank (S.122) includes all financial corporations and quasi-corporations, except those classified in the central bank and in the MMF subsectors, which are principally engaged in financial intermediation and whose business is to receive deposits and/or close substitutes for deposits from institutional units other than MFIs, and, for their own account, to grant loans and/or to make investments in securities.'</p>
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Text proposed by the Commission	Amendments proposed by the ECB (1)
<i>Explanation</i>	
<i>The text needs to be aligned with the definition of 'other MFIs' in Article 1 of Regulation ECB/2008/32 of 19 December 2008 concerning the balance sheet of the monetary financial institutions sector (Recast) (3). Similar wording is also included in the SNA 2008.</i>	
Amendment 4	
Paragraph 2.90. of Annex A	
'2.90. Definition: Financial vehicle corporations engaged in securitisation transactions (FVC) are undertakings carrying out securitisation transactions. FVC that satisfy the criteria of an institutional unit are classified in S.125, otherwise they are treated as an integral part of the parent.'	'2.90. Definition: Financial vehicle corporations engaged in securitisation transactions (FVC) are undertakings carrying out securitisation transactions. FVC that satisfy the criteria of an institutional unit are classified in S.125, otherwise they are treated as an integral part of the parent. '
<i>Explanation</i>	
<i>FVCs should be treated as separate institutional units independently of criteria such as 'degree of independence from its parent' (see paragraph 2.22). See Article 1 of Regulation ECB/2008/30.</i>	
Amendment 5	
Paragraph 5.108. of Annex A	
'5.108. It is essential to establish ... classified as captive financial institutions.'	' 5.108. It is essential to establish ... classified as captive financial institutions. '
<i>Explanation</i>	
<i>This paragraph should be deleted since it is not consistent with the definitions and criteria applicable to securitisation vehicles. Its application could result in a consolidation of resident vehicles with resident 'parent' units, given that securitisation vehicles typically do not meet the proposed criteria of bearing market and credit risk (see also amendment 4).</i>	
Amendment 6	
Paragraph 5.111. of Annex A	
'5.111. Covered bonds are debt securities issued by a financial corporation, or fully guaranteed by a financial corporation. In case of default of the issuing or guarantor financial corporation, bond holders have a priority claim on the cover pool, in addition to their ordinary claim on the financial corporation.'	'5.111. Covered bonds are debt securities issued by a financial corporation, or fully guaranteed by a financial corporation. In case of default of the issuing or guarantor financial corporation, bond holders have a priority claim on the cover pool, in addition to their ordinary claim on the financial corporation. Covered bonds are different from asset-backed securities issued in a securitisation in that the issuer/owner of the assets assumes an unconditional obligation to repay principal and interest irrespective of the performance of the assets. The assets function simply as collateral pledged for the benefit of the bondholders in case those obligations are not fulfilled. '
<i>Explanation</i>	
<i>Without explaining the difference between covered bonds and asset-backed securities, it is unclear why the securitisation section refers to covered bonds. Alternatively, any reference to covered bonds could be deleted, since covered bonds are not linked to securitisation.</i>	
Amendment 7	
Transmission Programme of National Accounts Data	
Overview of the tables (Annex B)	
Third column 'Deadline t + months (days where specified)' of Tables 2, 801, 27, 28 and new footnote	
2/Main aggregates general government — annual/3/9	2/Main aggregates general government — annual/ 3/9 85 days (*) /85 days in the third quarter

Text proposed by the Commission	Amendments proposed by the ECB ⁽¹⁾
801/Non-financial accounts by sector — quarterly/85 days	801/Non-financial accounts by sector — quarterly/85 days (*)
27/Financial accounts for general government — quarterly/85 days	27/Financial accounts for general government — quarterly/85 days (*)
28/Government debt — quarterly/3	28/Government debt — quarterly/ 3 85 days (*)
	(*) 82 days from 2017.

Explanation

The ECOFIN Council endorsed in September 2000 the EMU Action Plan on Statistical Requirements and set the target time for quarterly integrated euro area accounts by institutional sector at t+90 days following the reference quarter to meet the ECB's monetary policy needs. This implied that Eurostat and the ECB would have to collect the respective national data at t+82 days. Due to the envisaged schedule for ECB Governing Council meetings in 2015 and 2016, a reduction in the time lag to t+85 would suffice for 2015 to 2016. Accordingly, the ECB supports advancing the reporting deadlines for the quarterly sector accounts under the ESA transmission programme to t+85 days by 2014, aiming at t+82 days by 2017 to support the compilation of full quarterly integrated euro area accounts at t+90 days.

Furthermore, the ECB favours a consistent transmission deadline for all quarterly and annual national data regarding general government, implying a synchronisation of quarterly data on general government to the timeliness targets set for Table 801, affecting also Tables 27 and 28, and, similarly, the reporting deadlines for Table 2 and the excessive deficit procedure (EDP) data. Therefore, the ECB supports advancing the reporting deadlines for the quarterly government accounts under the ESA transmission programme and the EDP data to t+85 by 2014 and aiming at t+82 by 2017 to support the compilation of full quarterly integrated euro area accounts at t+90.

Amendment 8

End of Table 2 of Annex B — Main aggregates of general government

EDP_D.41	Interest including flows on swaps and FRAs ⁽¹⁾ ⁽⁴⁾	S.13, S.1311, S.1312, S.1313, S.1314	EDP_D.41	Interest including flows on swaps and FRAs ⁽¹⁾ ⁽⁴⁾	S.13, S.1311, S.1312, S.1313, S.1314
EDP_B.9	Net lending (+)/Net borrowing (-) under the Excessive Deficit Procedure (EDP) ⁽⁴⁾	S.13, S.1311, S.1312, S.1313, S.1314	EDP_B.9	Net lending (+)/Net borrowing (-) under the Excessive Deficit Procedure (EDP) ⁽⁴⁾	S.13, S.1311, S.1312, S.1313, S.1314

Explanation

Annex A of the proposed regulation no longer defines EDP_D.41 and EDP_B.9. This implies that all references to these two variables should be eliminated from Table 2 in Annex B. This also refers to footnote 4 of Table 2.

Amendment 9

End of Column S.13 in Table 801 — Non-financial accounts by sector — quarterly

OTE Total general government expenditure/x OTR Total general government revenue/x	OTE Total general government expenditure/x OTR Total general government revenue/x EMH Hours worked/x EMP Persons employed/x
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Explanation

To meet the public and policy needs for the measurement of compensation per employee and per hour in the general government sector, the transmission programme (Table 801) should be supplemented with data on the number of employees and hours worked for the general government sector quarterly.

⁽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.

⁽²⁾ OJ L 15, 20.1.2009, p. 1.

⁽³⁾ OJ L 15, 20.1.2009, p. 14.