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DECISION OF THE EUROPEAN CENTRAL BANK
of 19 August 2010
on non-compliance with statistical reporting requirements
(ECB/2010/10)
(2010/469/EU)
(OJ L 226, 28.8.2010, p. 48)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Decision (EU) 2016/244 of the European Central Bank of 18 December 2015	L 45	13	20.2.2016
► <u>M2</u>	Decision (EU) 2017/468 of the European Central Bank of 26 January 2017	L 77	1	22.3.2017

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*Article 1***Definitions**

For the purposes of this Decision:

1. ‘reporting agent’ has the same meaning as in Article 1 of Regulation (EC) No 2533/98;

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2. ‘monetary financial institution’ (MFI) has the same meaning as defined in point (a) of Article 1 of Regulation (EU) No 1071/2013 of the European Central Bank (ECB/2013/33) ⁽¹⁾; and in relation to Regulation (EU) No 1333/2014 of the European Central Bank (ECB/2014/48) ⁽²⁾ shall be read to include all of the MFI’s Union and EFTA-located branches, unless explicitly provided otherwise in any provision of that Regulation;

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3. ‘infringement’ and ‘sanction’ have the same meaning as in Article 1 of Regulation (EC) No 2532/98;
4. ‘serious misconduct’ includes any of the following infringements of reporting requirements by reporting agents:
 - (a) systematic reporting of incorrect data;
 - (b) systematic failure to comply with the minimum standards for revisions;
 - (c) intentional incorrect, delayed or incomplete reporting;
 - (d) insufficient degree of diligence or cooperation with the relevant NCB or the ECB;
5. ‘competent national central bank’ (competent NCB) means the NCB of the Member State in whose jurisdiction the infringement occurred;

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6. ‘NCB deadline’ means the date and hour set by each NCB for receiving data from the reporting agents;

⁽¹⁾ Regulation (EU) No 1071/2013 of the European Central Bank of 24 September 2013 concerning the balance sheet of the monetary financial institutions sector (ECB/2013/33) (OJ L 297, 7.11.2013, p. 1).

⁽²⁾ Regulation (EU) No 1333/2014 of the European Central Bank of 26 November 2014 concerning statistics on the money market (ECB/2014/48) (OJ L 359, 16.12.2014, p. 97).

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7. ‘investment fund’ (IF) has the same meaning as in Article 1 of Regulation (EU) No 1073/2013 of the European Central Bank (ECB/2013/38) ⁽¹⁾;
8. ‘post office giro institution’ (POGI) has the same meaning as in Article 1 of Regulation (EU) No 1074/2013 of the European Central Bank (ECB/2013/39) ⁽²⁾;
9. ‘financial vehicle corporation engaged in securitisation transactions’ (FVC) has the same meaning as in Article 1 of Regulation (EU) No 1075/2013 of the European Central Bank (ECB/2013/40) ⁽³⁾;

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10. ‘branch’ means a place of business which forms a legally dependent part of an institution and which directly carries out all or some of the transactions inherent in the business of the institution;
11. ‘Union and EFTA-located branch’ means a branch located and registered in a Union Member State or in an EFTA country.

▼ B*Article 2***Scope of application****▼ M2**

1. The ECB and the NCBs shall monitor the compliance of reporting agents with the minimum standards required to meet their reporting obligations, as set out in Annex IV to Regulation (EU) No 1071/2013 (ECB/2013/33), Annex II to Regulation (EU) No 1072/2013 (ECB/2013/34) ⁽⁴⁾, Annex IV to Regulation (EU) No 1073/2013 (ECB/2013/38), Annex III to Regulation (EU) No 1074/2013 (ECB/2013/39), Annex III to Regulation (EU) No 1075/2013 (ECB/2013/40) and Annex IV to Regulation (EU) No 1333/2014 (ECB/2014/48). In the event of non-compliance, the ECB and the competent NCB may decide to conduct an assessment phase and/or initiate an infringement procedure as referred to in Article 3(1) and (2). Following an infringement procedure the ECB may impose sanctions in line with Article 7 of Regulation (EC) No 2533/98.

⁽¹⁾ Regulation (EU) No 1073/2013 of the European Central Bank of 18 October 2013 concerning statistics on the assets and liabilities of investment funds (ECB/2013/38) (OJ L 297, 7.11.2013, p. 73).

⁽²⁾ Regulation (EU) No 1074/2013 of the European Central Bank of 18 October 2013 on statistical reporting requirements for post office giro institutions that receive deposits from non-monetary financial institution euro area residents (ECB/2013/39) (OJ L 297, 7.11.2013, p. 94).

⁽³⁾ Regulation (EU) No 1075/2013 of the European Central Bank of 18 October 2013 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions (ECB/2013/40) (OJ L 297, 7.11.2013, p. 107).

⁽⁴⁾ Regulation (EU) No 1072/2013 of the European Central Bank of 24 September 2013 concerning statistics on interest rates applied by monetary financial institutions (ECB/2013/34) (OJ L 297, 7.11.2013, p. 51).

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2. Sanctions may be imposed following an infringement procedure in the event of failure to comply with minimum standards for transmission (in relation to timeliness and technical reporting requirements), accuracy (in relation to linear constraints and data consistency across frequencies) and conceptual compliance (in relation to definitions and classifications). Sanctions are also applied in the case of serious misconduct.

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3. This Decision is without prejudice to the ECB's power to impose sanctions pursuant to Article 7 of Regulation (EC) No 2533/98.

▼B*Article 3***Assessment phase and infringement procedure**

1. Prior to the initiation of an infringement procedure under Regulation (EC) No 2532/98 and Regulation (EC) No 2157/1999 (ECB/1999/4):

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(a) the ECB or the competent NCB may, where it has logged non-compliance with the reporting requirements, give a warning to the reporting agent concerned informing it of the nature of the non-compliance logged, and recommend corrective measures to be taken in order to avoid repetition of the non-compliance;

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(b) the ECB or the competent NCB may ask the reporting agent concerned for any information relating to the non-compliance pursuant to Article 2(2) of Regulation (EC) No 2157/1999 (ECB/1999/4);

(c) the reporting agent concerned shall be given an opportunity to provide explanations if it considers that the non-compliance was due to circumstances beyond its control.

2. Either the ECB or the competent NCB may initiate an infringement procedure in line with Article 3 of Regulation (EC) No 2532/98 and Article 5 of Regulation (EC) No 2157/1999 (ECB/1999/4). The following rules shall also apply:

(a) an infringement procedure shall be initiated, without any assessment phase, in the case of serious misconduct;

(b) without prejudice to point (a), an infringement procedure shall be initiated after repeated non-compliance has been logged by the competent NCB, unless:

(i) the ECB or the competent NCB consider that no infringement procedure should be initiated as one or more of the logged cases of non-compliance is beyond the reporting agent's control; or

(ii) the potential fine would not reach the minimum threshold for the imposition of a sanction.

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3. If the ECB or the competent NCB initiates an infringement procedure, the procedure shall be carried out in accordance with Article 3 of Regulation (EC) No 2532/98, including the issuing of a written notification and the adoption of a reasoned decision by the ECB.

*Article 4***Application of sanctions**

1. Sanctions shall be calculated following a two-stage procedure. First a baseline amount is calculated which reflects quantitative aspects. The circumstances of the case as referred to in Article 2(3) of Regulation (EC) No 2532/98 are then taken into account and may affect the actual amount of the sanction.

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2. In the case of infringements relating to timeliness, the seriousness of the infringement shall depend on the number of working days or hours of delay vis-à-vis the ECB deadline or the NCB deadline.

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3. In the case of infringements relating to inaccuracy and/or conceptual compliance, the seriousness of the infringement shall depend on the size of the error. The ECB shall not take into account errors of a rounding nature or negligible errors. In addition, as regards conceptual compliance, ordinary revisions, i.e. non-systematic revisions to the series reported within the period (month or quarter) following the initial reporting, shall not be considered as cases of conceptual non-compliance.

4. Article 7(4) of Regulation (EC) No 2533/98 sets forth the maximum sanctions which the ECB may impose on reporting agents.

5. If an infringement of statistical reporting requirements also results in an infringement of minimum reserve requirements, no sanction shall be imposed for the infringement of the statistical reporting requirements.

▼ M2*Article 4a***Response to queries**

Reporting agents shall respond to questions concerning possible cases of non-compliance with statistical reporting requirements within the timeframe set by the ECB or by the relevant NCB.

▼ B*Article 5***Final provision**

This Decision shall enter into force on 1 September 2010. It shall apply from the reference period December 2010 for monthly and annual reporting requirements and the fourth quarter 2010 for quarterly reporting requirements.