

DECISIONS

DECISION (EU) 2019/1348 OF THE EUROPEAN CENTRAL BANK

of 18 July 2019

on the procedure for recognising non-euro area Member States as reporting Member States under Regulation (EU) 2016/867 on the collection of granular credit and credit risk data (ECB/2019/20)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular, Article 127(2) and (5) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 5 and the second indent of Article 34.1,

Having regard to Regulation (EU) 2016/867 of the European Central Bank of 18 May 2016 on the collection of granular credit and credit risk data (ECB/2016/13) ⁽¹⁾, and in particular point (1) of Article 1 thereof,

Having regard to the contribution of the General Council of the European Central Bank,

Whereas:

- (1) Regulation (EU) 2016/867 (ECB/2016/13) sets out the general framework for the collection of granular credit and credit risk data (hereinafter 'credit data'). It is mentioned in that Regulation that Member States whose currency is not the euro (hereinafter 'non-euro area Member States') may decide to become a reporting Member State by incorporating the provisions of the Regulation into their national law or otherwise imposing relevant reporting requirements in accordance with their national law. This may include, in particular, Member States that participate in the Single Supervisory Mechanism (SSM) via close cooperation in accordance with Article 7 of Council Regulation (EU) No 1024/2013 ⁽²⁾.
- (2) Article 5 of the Statute of the European System of Central Banks and of the European Central Bank, together with Article 4(3) of the Treaty on European Union, implies an obligation to design and implement at national level all the measures that the non-euro area Member States consider appropriate to collect the statistical information needed to fulfil the statistical reporting requirements of the European Central Bank (ECB) and to make timely preparations in the field of statistics in order to become Member States whose currency is the euro (hereinafter 'euro area Member States').
- (3) As recognised in recital 7 of Regulation (EU) 2016/867 (ECB/2016/13), the common granular analytical credit data base (hereinafter 'AnaCredit') shared between the Eurosystem central banks should be open, on a voluntary basis, to non-euro area Member States, in particular those participating in the SSM, in order to broaden its geographical and data scope, and increase harmonisation across the Union. Several national central banks (NCBs) of non-euro area Member States (hereinafter 'non-euro area NCBs') are already cooperating with the ECB and NCBs of euro area Member States (hereinafter 'euro area NCBs') on the basis of Recommendation ECB/2014/7 ⁽³⁾, applying the preparatory measures for the collection of granular credit data in accordance with Decision ECB/2014/6 ⁽⁴⁾.

⁽¹⁾ OJ L 144, 1.6.2016, p. 44.

⁽²⁾ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

⁽³⁾ Recommendation ECB/2014/7 of 24 February 2014 on the organisation of preparatory measures for the collection of granular credit data by the European System of Central Banks (OJ C 103, 8.4.2014, p. 1).

⁽⁴⁾ Decision ECB/2014/6 of 24 February 2014 on the organisation of preparatory measures for the collection of granular credit data by the European System of Central Banks (OJ L 104, 8.4.2014, p. 72).

- (4) Non-euro area Member States that decide to become a reporting Member State under Regulation (EU) 2016/867 (ECB/2016/13) should notify their intention to do so to the ECB. The ECB should verify that they have incorporated the provisions of that Regulation into their national law or that they have imposed relevant reporting requirements in accordance with their national law and without prejudice to the constitutional order of the Member State concerned.
- (5) As mentioned in recital 4 of Guideline (EU) 2017/2335 of the European Central Bank (ECB/2017/38) ⁽⁵⁾, non-euro area Member States may also incorporate the provisions of that Guideline into national law or otherwise implement measures pursuant to their national law to ensure they fulfil equivalent obligations to transmit data to the ECB in a harmonised manner, including the requirements for registering counterparties in the Register of Institutions and Affiliates Data (RIAD) in accordance with Guideline (EU) 2018/876 of the European Central Bank (ECB/2018/16) ⁽⁶⁾. In this way, in line with recital 9 of Guideline (EU) 2018/876 (ECB/2018/16), the non-euro area Member States may contribute to the data reporting and validation in RIAD and, on a reciprocal basis, share data on their domestic entities and have access to the euro area dataset on the basis of Recommendation ECB/2018/36 ⁽⁷⁾.
- (6) It is therefore necessary to specify the procedures to be followed by the ECB relating to (a) expressions of interest by non-euro area Member States to become reporting Member States under Regulation (EU) 2016/867 (ECB/2016/13), (b) its assessment of these expressions of interest, and (c) its recognition of a non-euro area Member State as a reporting Member State. It is also necessary to provide for procedures relating to the potential suspension and termination of such a recognition of a non-euro area Member State as a reporting Member State.
- (7) The conditions for the access to and use of credit data collected by the ECB, euro area NCBs and non-euro area reporting Member States by non-euro area NCBs, and the access to and use by the ECB, euro area NCBs and NCBs of non-euro area reporting Member States of the data collected by non-euro area reporting Member States on the basis of their respective national laws, need to be established in a separate legally binding agreement. These conditions should be established taking into account the applicable provisions of Council Regulation (EC) No 2533/98 ⁽⁸⁾.
- (8) The decision to recognise a non-euro area Member State as a reporting Member State will therefore be dependent on the existence of a legally binding agreement governing the interaction between the non-euro area NCBs, the ECB and the euro area NCBs on the sharing of credit data and other relevant issues, including the protection of the confidentiality of the information and restrictions on the use or transmission of the credit data, such as in the context of any feedback loops established under Article 11 of Regulation (EU) 2016/867 (ECB/2016/13),

HAS ADOPTED THIS DECISION:

Article 1

Scope and objectives

This Decision establishes the procedures to be followed by the ECB to recognise non-euro area Member States as reporting Member States under Regulation (EU) 2016/867 (ECB/2016/13).

Article 2

Definitions

The terms used in this Decision have the same meaning as in Regulation (EU) 2016/867 (ECB/2016/13), unless otherwise provided.

⁽⁵⁾ Guideline (EU) 2017/2335 of the European Central Bank of 23 November 2017 on the procedures for the collection of granular credit and credit risk data (ECB/2017/38) (OJ L 333, 15.12.2017, p. 66).

⁽⁶⁾ Guideline (EU) 2018/876 of the European Central Bank of 1 June 2018 on the Register of Institutions and Affiliates Data (ECB/2018/16) (OJ L 154, 18.6.2018, p. 3).

⁽⁷⁾ Recommendation ECB/2018/36 of 7 December 2018 on the Register of Institutions and Affiliates Data (OJ C 21, 17.1.2019, p. 1).

⁽⁸⁾ Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank (OJ L 318, 27.11.1998, p. 8).

For the purposes of this Decision, 'reporting agent' means either a legal entity or a foreign branch that is resident in the relevant non-euro area Member State and that is subject to reporting requirements which are the same as or relevant to the reporting requirements of Regulation (EU) 2016/867 (ECB/2016/13).

Article 3

Criteria to qualify as a reporting Member State

1. The ECB may only recognise a non-euro area Member State as a reporting Member State under Regulation (EU) 2016/867 (ECB/2016/13) if it is satisfied that the non-euro area Member State has incorporated the provisions of Regulation (EU) 2016/867 (ECB/2016/13) and Guideline (EU) 2017/2335 (ECB/2017/38) into its national law or otherwise imposed relevant reporting requirements in accordance with its national law.

2. For the purposes of paragraph 1, the ECB shall consider if the NCB of the non-euro area Member State, in cooperation with other relevant national authorities where necessary under applicable national law, has been empowered, at a minimum:

- (a) to identify and review the actual reporting population as defined in Article 3(1) of Regulation (EU) 2016/867 (ECB/2016/13);
- (b) to collect credit data sourced from the actual reporting population as defined in Article 3(1) of Regulation (EU) 2016/867 (ECB/2016/13), without prejudice to the application of the provisions of Article 8(4) and (5) of that Regulation or of equivalent provisions in its national law;
- (c) to identify counterparties in the manner described in Article 9 of Regulation (EU) 2016/867 (ECB/2016/13);
- (d) to impose on the reporting agents identified in point (a) the same or equivalent statistical reporting requirements to those set out in Articles 4 to 8, and 13 to 15 of Regulation (EU) 2016/867 (ECB/2016/13);
- (e) to grant derogations to small reporting agents as set out in Article 16 of Regulation (EU) 2016/867 (ECB/2016/13);
- (f) to verify and carry out the compulsory collection of the information when a reporting agent does not fulfil the minimum standards for transmission, accuracy, compliance with concepts and revisions pursuant to Article 17 of Regulation (EU) 2016/867 (ECB/2016/13); and
- (g) to impose sanctions on reporting agents as prescribed in Article 18 of Regulation (EU) 2016/867 (ECB/2016/13).

For the avoidance of doubt, the requirements with respect to the implementation stages and first reporting as specified in Article 2 of Regulation (EU) 2016/867 (ECB/2016/13) do not need to be incorporated into national law.

3. For the purposes of paragraph 1, the ECB shall also consider whether, without prejudice to paragraph 2, national laws contain provisions incorporating Articles 7 and 8 of Regulation (EC) No 2533/98.

Article 4

Expression of interest

1. A non-euro area Member State wishing to become a reporting Member State pursuant to Regulation (EU) 2016/867 (ECB/2016/13) may submit to the ECB an official expression of interest to become a reporting Member State (hereinafter 'interested Member State'), using the template provided in Annex I.

2. In order for the ECB to consider the expression of interest referred to in paragraph 1, it must be accompanied by the implementing documentation for the purposes of the verification referred to in Article 5(3), including, but not limited to the following:

- (a) a completed correlation table, using the template provided in the Appendix to Annex I;
- (b) a copy of the relevant national legislation together with an English translation thereof;
- (c) a legal opinion, issued by an external independent third party or the legal services of the relevant national authority, satisfactory to the ECB confirming that:
 - (i) the national legislation will be binding and enforceable in the interested Member State, and
 - (ii) the NCB of the interested Member State is obliged to follow the ECB's specific guidelines, requests and measures issued in relation to Regulation (EU) 2016/867 (ECB/2016/13), within the timeframe laid down by the ECB, where specified.

3. Such expression of interest must be received by the ECB at least nine months before the date of the first transmission of credit data, as set out in Article 6, as indicated by the interested Member State in its expression of interest, and must specify the reporting reference dates and reference periods which shall be covered from the first transmission.

Article 5

Verification procedure

1. The ECB shall acknowledge in writing receipt of an expression of interest by an interested Member State to that Member State within 20 days.

2. The ECB may request additional information or documentation to that specified in Article 4(2) that it considers appropriate for the purposes of assessing the interested Member State's expression of interest. The ECB shall promptly acknowledge in writing receipt of any such additional information or documentation to the interested Member State.

3. The ECB shall verify that the interested Member State has incorporated the provisions of Regulation (EU) 2016/867 (ECB/2016/13) and Guideline (EU) 2017/2335 (ECB/2017/38) into its national law, or otherwise imposed relevant reporting requirements in accordance with its national law.

4. For the purpose of the verification referred to in paragraph 3, the ECB shall mandate the European System of Central Banks Statistics Committee (STC) to coordinate the process and to mandate the Legal Committee (LEGCO) to prepare a verification report. The verification report shall assess:

- (a) the extent to which those provisions of Regulation (EU) 2016/867 (ECB/2016/13) specified in Article 3(2) have been implemented in national law and,
- (b) where the provisions referred to in point (a) have not been implemented, the reason for such non-implementation.

5. Where, on the basis of the complete documentation submitted by the interested Member State the ECB is satisfied that the criteria set out in Article 3 have been fulfilled, it shall decide to recognise that the interested Member State qualifies as a reporting Member State under Regulation (EU) 2016/867 (ECB/2016/13). The decision shall specify the date from which the recognition applies, the reporting reference dates and reference periods which shall be covered from the first transmission, and the relevant date for the first reporting, which shall be no earlier than the date indicated by the interested Member State in its expression of interest.

6. The decision referred to in paragraph 5 shall be subject to the NCB of the interested Member State entering into an agreement in the form set out in Annex II, governing its interaction with the ECB, the euro area NCBs and NCBs of non-euro area Member States that have been recognised as reporting Member States on the credit data sharing and related issues.

Taking into account the provisions of Regulation (EC) No 2533/98, this agreement shall establish the conditions for: (a) the access to and use of credit data collected by the ECB, euro area NCBs and non-euro area reporting Member States by non-euro area NCBs, and (b) the access to and use by the ECB, euro area NCBs and NCBs of non-euro area reporting Member States of the data collected by non-euro area reporting Member States on the basis of their respective national laws.

Any such agreement entered into by the NCB of an interested Member State may not be amended in a manner which is inconsistent with the form set out in Annex II.

7. The ECB shall decide that the interested Member State does not qualify as a reporting Member State under Regulation (EU) 2016/867 (ECB/2016/13) in any of the following cases:

- (a) where, on the basis of the complete documentation submitted by the interested Member State, the ECB concludes that it does not meet the criteria to qualify as a reporting Member State pursuant to Article 3;
- (b) where the ECB does not receive the information necessary to perform its assessment within one year from the receipt of an expression of interest by the interested Member State;
- (c) where the agreement referred to in paragraph 6 has not been entered into.

8. At the latest six months following the ECB's date of acknowledgement of receipt of the documentation in accordance with paragraph 1, or, where applicable, paragraph 2, the ECB shall notify the interested Member State of its decision as referred to in paragraphs 5 and 7. Such notification shall include the reasons on which the decision is based. However, the ECB and the interested Member State may agree to extend the period during which the ECB shall notify the interested Member State of its decision.

9. The ECB shall consider a request for review of the decision referred to in paragraph 7 by the interested Member State provided that it:

- (a) is received within 30 days from the date of the notification of the decision;
- (b) specifies the grounds for the request for review; and
- (c) includes all supporting information.

Upon receipt of a request for review, the ECB shall review its decision and may provide the interested Member State with the opportunity to put in place the necessary arrangements that would enable it to be recognised as a reporting Member State. The ECB reserves the right to request the submission of a new legal opinion, issued by an external independent third party or the legal services of the relevant national authority, confirming the validity and applicability of these arrangements.

Article 6

First transmission of credit data

1. Following the notification of the ECB's decision recognising that an interested Member State qualifies as a reporting Member State under Regulation (EU) 2016/867 (ECB/2016/13), and subject to the entry into force of the agreement referred to in Article 5(6), the ECB shall request the NCB of the interested Member State to identify and review the actual reporting population in accordance with Article 5 of Guideline (EU) 2017/2335 (ECB/2017/38).

2. If the interested Member State has been recognised as a reporting Member State under Regulation (EU) 2016/867 (ECB/2016/13) and such recognition applies from a date which prevents the NCB of that Member State from identifying and reviewing the actual reporting population in the first quarter of the first year in which it shall start reporting, then the actual reporting population shall be identified by the other reporting Member States, in line with Article 5 of Guideline (EU) 2017/2335 (ECB/2017/38) in that year.

3. The first transmission of credit data may only take place after the ECB has established that the NCB of the interested Member State has developed an IT system interoperable with the ECB technical infrastructure.

4. The first monthly and quarterly transmission shall start on the date indicated by the ECB in its decision as referred to in Article 5(5).

Article 7

Suspension or termination

1. The ECB may decide to suspend or terminate its recognition of a non-euro area Member State as a reporting Member State if it has grounds to believe that the relevant Member State no longer meets the criteria to qualify as a reporting Member State pursuant to Article 3. In the event of a termination of the recognition of a non-euro area Member State as a reporting Member State, the agreement entered into pursuant to Article 5(6) shall be automatically terminated.

2. In any decision under paragraph 1, the ECB shall state the reasons for the suspension or termination, specify the effect of the decision and indicate the date from which the suspension or termination shall apply and the duration of the period of suspension. A suspension shall be for a maximum period of six months. The ECB may extend the period of the suspension in exceptional circumstances, but only once. Where the reasons for the suspension are not remedied within the prescribed period, the ECB shall terminate the recognition of the relevant non-euro area Member State as a reporting Member State.

3. The ECB and the NCB of a non-euro area reporting Member State may terminate the agreement referred to in Article 5(6) in accordance with the provisions thereof. In such a case, the recognition of the non-euro area Member State as a reporting Member State shall be automatically terminated and cease to have effect.

*Article 8***Entry into force**

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Frankfurt am Main, 18 July 2019.

The President of the ECB
Mario DRAGHI

ANNEX I

TEMPLATE

EXPRESSION OF INTEREST PURSUANT TO ARTICLE 4 OF DECISION (EU) 2019/1348 (ECB/2019/20)

By

[National central bank or relevant national authority of requesting Member State]

Notification to the European Central Bank of an expression of interest pursuant to Article 4 of Decision (EU) 2019/1348 (ECB/2019/20)

1. The [requesting Member State] hereby expresses its interest in becoming a reporting Member State pursuant to Regulation (EU) 2016/867 of the European Central Bank (ECB/2016/13) ⁽¹⁾.
2. The [requesting Member State] hereby confirms that it complies with the provisions of Decision (EU) 2019/1348 of the European Central Bank (ECB/2019/20) ⁽²⁾. In particular, the [requesting Member State] confirms that it has incorporated the provisions of Regulation (EU) 2016/867 (ECB/2016/13) and Guideline (EU) 2017/2335 of the European Central Bank (ECB/2017/38) ⁽³⁾ into its national law or that it has imposed relevant reporting requirements in accordance with its national law, and that it has developed an IT system interoperable with the ECB technical infrastructure.
3. The [requesting Member State] hereby submits to the ECB the documentation evidencing the abovementioned undertaking, including the following:
 - (a) a copy of the implementing national legislation, together with an English translation thereof;
 - (b) a legal opinion[, issued by an external independent third party or the legal services of the relevant national authority,] satisfactory to the ECB confirming that the national legislation will be binding and enforceable in [the requesting Member State] and that the national central bank of [the requesting Member State] is obliged to follow the ECB's specific guidelines, requests and measures for the purposes of Regulation (EU) 2016/867 (ECB/2016/13), within the timeframe laid down by the ECB, where specified; and
 - (c) a copy of the correlation table contained in the Appendix.
4. The [requesting Member State] hereby states that it will be able to transmit the first set of credit data, as defined in Regulation (EU) 2016/867 (ECB/2016/13), from [insert date].

[National central bank or relevant national authority]

For [the Member State]

[Signature]

[Date]

⁽¹⁾ Regulation (EU) 2016/867 of the European Central Bank of 18 May 2016 on the collection of granular credit and credit risk data (ECB/2016/13) (OJ L 144, 1.6.2016, p. 44).

⁽²⁾ Decision (EU) 2019/1348 of the European Central Bank of 18 July 2019 on the procedure for recognising non-euro area Member States as reporting Member States under Regulation (EU) 2016/867 on the collection of granular credit and credit risk data (ECB/2019/20) (OJ L 214, 16.8.2019, p. 3).

⁽³⁾ Guideline (EU) 2017/2335 of the European Central Bank of 23 November 2017 on the procedures for the collection of granular credit and credit risk data (ECB/2017/38) (OJ L 333, 15.12.2017, p. 66).

*Appendix***Verification of the implementation of Regulation (EU) 2016/867 of the European Central Bank of 18 May 2016 on the collection of granular credit and credit risk data (ECB/2016/13)****CORRELATION TABLE****[name of the national central bank or relevant national authority]**

Regulation (EU) 2016/867 (ECB/2016/13)	Manner of implementation	If not implemented, reasons for non-implementation
Article 3		
Article 4		
Article 5		
Article 6		
Article 7		
Article 8		
Article 9		
Article 10		
Article 12		
Article 13		
Article 14		
Article 15		
Article 16		
Article 17		
Article 18		

ANNEX II

TEMPLATE

AGREEMENT

OF [DAY MONTH YEAR]

BETWEEN THE [INSERT NAME OF NON-EUROSISTEM NCB] AND THE EUROPEAN CENTRAL BANK ON
THE TRANSMISSION OF GRANULAR CREDIT AND CREDIT RISK DATA

[Insert ECB and address],

(hereinafter referred to as the 'ECB')

and

[Insert name and address of non-Eurosystem NCB]

(hereinafter referred to as the 'non-Eurosystem NCB')

The parties to this Agreement are referred to collectively as the 'Parties' or individually as a 'Party'.

Whereas:

- (1) Regulation (EU) 2016/867 of the European Central Bank (ECB/2016/13) ⁽¹⁾ sets out the general framework for the collection of granular credit and credit risk data (hereinafter 'credit data'). Regulation (EU) 2016/867 (ECB/2016/13) specifies that Member States whose currency is not the euro (hereinafter 'non-euro area Member States') may decide to become reporting Member States by incorporating the provisions of Regulation (EU) 2016/867 (ECB/2016/13) into their national law or otherwise imposing relevant reporting requirements in accordance with their national law. This may include, in particular, Member States that participate in the Single Supervisory Mechanism (SSM) via close cooperation in accordance with Article 7 of Council Regulation (EU) No 1024/2013 ⁽²⁾.
- (2) Article 5 of the Statute of the European System of Central Banks and of the European Central Bank, together with Article 4(3) of the Treaty on European Union, implies an obligation to design and implement at national level all the measures that the non-euro area Member States consider appropriate to collect the statistical information needed to fulfil the ECB's statistical reporting requirements and to make timely preparations in the field of statistics in order to become Member States whose currency is the euro (hereinafter 'euro area Member States').
- (3) Article 8(3) of Council Regulation (EC) No 2533/98 ⁽³⁾ requires the European System of Central Banks (ESCB) members to take all the necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of confidential statistical information and requires the ECB to define common rules and implement minimum standards to prevent unlawful disclosure and unauthorised use of confidential statistical information.
- (4) Guideline ECB/1998/NP28 ⁽⁴⁾ (hereinafter the 'Confidentiality Guideline') establishes the common rules and minimum standards required to ensure a basic level of protection of confidential statistical information collected by the ECB assisted by the Eurosystem NCBs.

⁽¹⁾ Regulation (EU) 2016/867 of the European Central Bank of 18 May 2016 on the collection of granular credit and credit risk data (ECB/2016/13) (OJ L 144, 1.6.2016, p. 44).

⁽²⁾ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

⁽³⁾ Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank (OJ L 318, 27.11.1998, p. 8).

⁽⁴⁾ Guideline ECB/1998/NP28 of 22 December 1998 concerning common rules and minimum standards to protect the confidentiality of the individual statistical information collected by the ECB assisted by NCBs, as published in Annex III to Decision ECB/2000/12 of the European Central Bank on the publication of certain legal acts and instruments of the European Central Bank (OJ L 55, 24.2.2001, p. 72).

- (5) The Governing Council recommended ⁽⁵⁾ to the national central banks of the Member States whose currency is not the euro (hereinafter the 'non-Eurosystem NCBs') to apply the provisions of the Confidentiality Guideline in relation to confidential statistical information received from the ECB assisted by the NCBs and to confirm this by way of an agreement entered into with the ECB and the NCBs. As a result, the non-Eurosystem NCBs have confirmed by way of agreement that they abide by the Confidentiality Guideline in relation to confidential statistical information received from the ECB assisted by the NCBs.
- (6) Decision ECB/2014/6 ⁽⁶⁾ sets out the procedure for developing a long-term framework for the collection of granular credit data based on harmonised ECB statistical reporting requirements. Recommendation ECB/2014/7 ⁽⁷⁾ encourages non-Eurosystem NCBs that are preparing to join the long-term framework to apply the provisions of Decision ECB/2014/6. Several non-Eurosystem NCBs cooperate with the Eurosystem NCBs in line with Recommendation ECB/2014/7.
- (7) Non-euro area Member States may wish to become reporting Member States under Regulation (EU) 2016/867 (ECB/2016/13). For this purpose, Decision (EU) 2019/1348 of the European Central Bank (ECB/2019/20) ⁽⁸⁾ (hereinafter the 'Decision') lays down the procedures relating to (a) expressions of interest by non-euro area Member States to become reporting Member States under Regulation (EU) 2016/867 (ECB/2016/13), (b) the assessment of these expressions of interest by the ECB and (c) the ECB's recognition of a non-euro area Member State as a reporting Member State.
- (8) This Agreement establishes the conditions for the access to and use of credit data collected by the ECB, Eurosystem NCBs and non-euro area reporting Member States by non-Eurosystem NCBs, and the access to and use by the ECB, Eurosystem NCBs and NCBs of non-euro area reporting Member States of the data collected by non-euro area reporting Member States on the basis of their respective national laws.
- (9) This Agreement should therefore be read in conjunction with the Decision,

HAVE AGREED AS FOLLOWS:

Article 1

Access to and use of the AnaCredit dataset

1. Upon the execution of this Agreement, the ECB shall grant the non-Eurosystem NCB access to the credit data and counterparty reference data (together referred to as the 'AnaCredit dataset') collected pursuant to Regulation (EU) 2016/867 (ECB/2016/13), in accordance with the provisions of Guideline (EU) 2017/2335 of the European Central Bank (ECB/2017/38) ⁽⁹⁾ and of this Agreement.
2. Credit data collected by the non-Eurosystem NCB shall be accessed via the shared IT platform and may be accessed by the ECB, Eurosystem NCBs and NCBs of non-euro area reporting Member States in accordance with the provisions of Regulation (EU) 2016/867 (ECB/2016/13) and of this Agreement. The non-Eurosystem NCB hereby confirms that the sharing of credit data collected by it with the ECB, Eurosystem NCBs and the NCBs of non-euro area reporting Member States is permitted by the applicable national regime.
3. The Parties agree that the AnaCredit dataset, including credit data collected by non-Eurosystem NCBs, shall only be used to the extent and for the purposes defined in Regulation (EC) No 2533/98. Credit data may not be used for the purposes of the monetary policy tasks of the non-Eurosystem NCBs. This is without prejudice to the use by a non-Eurosystem NCB of credit data it has collected under national law for the purposes of its monetary policy tasks.

⁽⁵⁾ Recommendation ECB/2014/14 of 27 March 2014 concerning the common rules and minimum standards to protect the confidentiality of the statistical information collected by the European Central Bank assisted by the national central banks (OJ C 186, 18.6.2014, p. 1).

⁽⁶⁾ Decision ECB/2014/6 of 24 February 2014 on the organisation of preparatory measures for the collection of granular credit data by the European System of Central Banks (OJ L 104, 8.4.2014, p. 72).

⁽⁷⁾ Recommendation ECB/2014/7 of 24 February 2014 on the organisation of preparatory measures for the collection of granular credit data by the European System of Central Banks (OJ C 103, 8.4.2014, p. 1).

⁽⁸⁾ Decision (EU) 2019/1348 of the European Central Bank of 18 July 2019 on the procedure for recognising non-euro area Member States as reporting Member States under Regulation (EU) 2016/867 on the collection of granular credit and credit risk data (ECB/2019/20) (OJ L 214, 16.8.2019, p. 3).

⁽⁹⁾ Guideline (EU) 2017/2335 of the European Central Bank of 23 November 2017 on the procedures for the collection of granular credit and credit risk data (ECB/2017/38) (OJ L 333, 15.12.2017, p. 66).

4. The Parties further agree that access to the AnaCredit dataset by the non-Eurosystem NCB's individual users or organisational units for non-statistical purposes shall only be permitted following prior approval by the Governing Council, or by the Executive Board by delegation from the Governing Council. For this purpose, the non-Eurosystem NCB agrees to submit a request, which must clearly specify:

- (a) the requested data;
- (b) the reasons why access to such data is necessary for the individual users or organisational units for the performance of their specific tasks; and
- (c) the measures that will be implemented to ensure the protection of the confidentiality of the data as described in Article 2(1).

The request should be addressed to the European System of Central Banks Statistics Committee (STC) for its preliminary assessment and further transmission for approval to the Governing Council, or where applicable, the Executive Board.

5. Following the STC's assessment of the request for access and subject to the Governing Council's, or, where applicable, the Executive Board's, approval thereof, the non-Eurosystem NCB shall implement an authorisation procedure prior to granting access to an individual user or organisational unit of the non-Eurosystem NCB. This must ensure that:

- (a) individual users and organisational units of the non-Eurosystem NCB must submit a request via their line manager to the ECB which must check the compliance of such requests with the Decision; and
- (b) the access requests must also be approved by the respective 'system owner', i.e. the managers of the non-Eurosystem NCB whose unit operates or manages the system containing the AnaCredit dataset.

6. The non-Eurosystem NCB shall ensure that the overall process for granting access is set up in line with the procedure set out in this Article and that its STC member shall inform the STC, at least on a yearly basis, of the access granted to the AnaCredit dataset, as well as of any failure to comply with the confidentiality protection measures set out in the report referred to in Article 2(2). The non-Eurosystem NCB further agrees that detailed information on access granted and any other access issues shall be made available on request to the ECB.

7. Any further transmission of the AnaCredit dataset must be explicitly authorised in advance by the ESCB member that collected the relevant data, and comply with applicable Union and national law.

8. The non-Eurosystem NCB hereby authorises the further transmission of data that it has collected to other non-Eurosystem NCBs of the Member States recognised as reporting Member States, provided that access is granted in accordance with the terms set out in this Agreement and applicable Union and national law.

9. The Parties further agree that the AnaCredit dataset is not required and may not be used by any non-Eurosystem NCB for the purposes of establishing and maintaining a feedback loop pursuant to Regulation (EU) 2016/867 (ECB/2016/13) unless such use has been regulated in a binding legal framework established by the ECB.

10. The non-Eurosystem NCB undertakes that, in the event that the ECB amends the framework governing AnaCredit, it shall either implement the amendments in its national law or initiate the withdrawal from the project in accordance with Article 6(4).

Article 2

Confidentiality protection

1. The non-Eurosystem NCB undertakes to comply with the provisions of the Confidentiality Guideline in relation to the AnaCredit dataset received from the ECB. In particular, it shall put in place all necessary regulatory, administrative, technical and organisational measures to ensure the logical and physical protection of the confidential statistical information.

2. In accordance with Article 7 of the Confidentiality Guideline, the non-Eurosystem NCB shall inform the ECB at least once a year of any problems experienced in the last period, the actions taken in response to these and the planned improvements with regard to the protection of the confidentiality of credit data. The STC shall draw up the corresponding report. The non-Eurosystem NCB shall notify the ECB in the event of an amendment of its national laws which may affect the confidentiality protection afforded to the AnaCredit dataset in this Article.
3. The ECB may require the non-Eurosystem NCB to take additional measures, or impose further conditions after duly notifying the non-Eurosystem NCB, with regard to its access to and use of the AnaCredit dataset.

Article 3

Reporting of breaches and suspension of access

1. If the AnaCredit dataset including credit data collected by non-Eurosystem NCBs is handled in breach of confidentiality, data protection or other requirements imposed by Union law, in the case of any of the Parties, and/or by national law, in the case of the non-Eurosystem NCB, the Parties shall take appropriate measures in order to remedy this breach and prevent its re-occurrence. The Parties shall comply with any obligations imposed by applicable law, including notification requirements where applicable.
2. The ECB may suspend the non-Eurosystem NCB's access to the AnaCredit dataset and request the non-Eurosystem NCB to erase any internally stored sets of such data with immediate effect if the ECB determines that this is necessary in order to prevent a material breach of this Agreement or to ensure compliance with any provision of law applicable to the Parties, or in the event of suspension of recognition of the non-euro area Member State as a reporting Member State in accordance with Article 7 of the Decision. The erasure of data shall take place in accordance with applicable requirements of national law.

Article 4

Dispute resolution

Without prejudice to the Governing Council's rights and prerogatives, any operational or technical disputes arising between the Parties in connection with this Agreement that cannot be settled by agreement shall be settled in accordance with the Memorandum of Understanding on an Intra-ESCB Dispute Settlement Procedure of 26 April 2007, or any subsequent revision or replacement thereof.

Article 5

Non-assignability

Neither this Agreement, nor any interest or obligation in or under it, may be transferred without the prior written consent of the ECB.

Article 6

Effective date, amendment and termination

1. The ECB and the non-Eurosystem NCB only become Parties to this Agreement by duly signing and executing the Agreement. The Agreement shall become effective from the date specified by the Governing Council, and after prior communication to the non-Eurosystem NCB. Unless otherwise agreed by the Parties and without prejudice to the Governing Council's rights and prerogatives, this Agreement shall remain effective for as long as the non-Eurosystem NCB is a Party to this Agreement.
2. This Agreement may only be amended in writing in a manner which is consistent with the form of the template agreement set out in Annex II to the Decision.
3. This Agreement shall be automatically terminated if the ECB decides to terminate its recognition of the non-euro area Member State as a reporting Member State under Article 7 of the Decision.
4. The non-Eurosystem NCB and the ECB may terminate this Agreement upon no less than [thirty/sixty] days prior written notice to each other. Any termination of this Agreement shall not prejudice the continuation and survival of any of the rights and obligations of each of the Parties existing at or prior to the date that such termination takes effect. The rules set out in Article 1(3), (4) and (5) and Article 2(1) and (3) concerning the conditions for use and transmission of credit data and confidentiality protection shall continue to apply after the termination of this Agreement in relation to any credit data, including credit data collected by the non-Eurosystem NCB, which were made available before the date of termination.

*Article 7***Counterparts**

This Agreement may be executed in counterparts in the English language, but the original instrument shall be considered the one deposited at the ECB. Each Party will receive a certified copy thereof.

[This Agreement is signed and executed by the Parties' duly authorised representatives.]

[Done at [Frankfurt am Main] on [date Month YYYY]]

[Insert signature pages for the ECB and the non-Eurosystem NCB]
