

## III

(Preparatory acts)

## EUROPEAN CENTRAL BANK

## OPINION OF THE EUROPEAN CENTRAL BANK

of 5 December 2014

**on a proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 184/2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures**

(CON/2014/84)

(2015/C 31/04)

**Introduction and legal basis**

On 15 July 2014 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 amending Regulation (EC) No 184/2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures <sup>(1)</sup> (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 concerns the collection of balance of payments (BOP) statistics which is a European System of Central Banks (ESCB) task in line with Article 2 of Council Regulation (EC) No 2533/98 <sup>(2)</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**

- 1.1. European statistics are developed, produced and disseminated by both the European Statistical System (ESS) partnership and the ESCB and both operate under separate legal frameworks reflecting their respective governance structures <sup>(3)</sup>.
- 1.2. Article 2 of Regulation (EC) No 2533/98 allocates to the ECB, assisted by the national central banks (NCBs), the task to collect information on, inter alia, BOP and international investment position (IIP) statistics, either from the competent national authorities or directly from economic agents. The initial statistical reporting requirements of the ECB in the field of BOP and IIP statistics were specified by the Governing Council of the ECB in Guideline ECB/1998/17 <sup>(4)</sup> and recast on 9 December 2011 by Guideline ECB/2011/23.

<sup>(1)</sup> COM(2014) 379 final.

<sup>(2)</sup> 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); see also Recommendation ECB/2003/8 of 2 May 2003 on the statistical reporting requirements of the European Central Bank in the field of balance of payments and international investment position statistics, and the international reserves template (OJ C 126, 28.5.2003, p. 7) and Guideline ECB/2011/23 of 9 December 2011 on the statistical reporting requirements of the European Central Bank in the field of external statistics (OJ L 65, 3.3.2012, p. 1).

<sup>(3)</sup> See Article 338(1) of the Treaty, Article 5 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB') and recital 8 of Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

<sup>(4)</sup> Guideline ECB/1998/17 of 1 December 1998 on the statistical reporting requirements of the European Central Bank in the field of balance of payments and international investment position statistics (OJ L 115, 4.5.1999, p. 47).

- 1.3. BOP and IIP statistics are crucial datasets to support the ESCB in its tasks to define and implement the single monetary policy, potentially conduct foreign exchange operations and hold and manage official reserves. They also support the assessment of external vulnerabilities and interconnectedness for financial stability purposes, the 'risk dashboard' of the European Systemic Risk Board (ESRB) <sup>(1)</sup> as well as the 'scoreboard' of the macroeconomic imbalances procedure <sup>(2)</sup>. BOP and IIP statistics are part of the 'Special Data Dissemination Standard' and the 'Special Data Dissemination Standard Plus' of the International Monetary Fund (IMF) <sup>(3)</sup> and are required for IMF 'Article IV consultations' of the euro area and the Member States. The ECB and the NCBs publish BOP and IIP statistics on a monthly and quarterly basis.
- 1.4. On 12 January 2005, the European Parliament and the Council adopted Regulation (EC) No 184/2005 <sup>(4)</sup> establishing reporting requirements for the production of Union statistics on BOP, international trade in services and foreign direct investment. The Balance of Payments Committee (hereinafter the 'BOP Committee') established by the same Regulation <sup>(5)</sup>, on which Member States are mainly represented by NCBs, secures strong alignment of reporting requirements, methodology and quality assurance processes relating to BOP and IIP statistics.
- 1.5. NCBs, as members of the ESCB, produce European statistics under Articles 3 and 5 of the Statute of the ESCB, as further implemented in Regulation (EC) No 2533/98, and do not participate in the production of European statistics under Regulation (EC) No 223/2009 <sup>(6)</sup>. Therefore, following agreement between an NCB and the Commission (Eurostat), data produced by the NCB may be used directly or indirectly by the Commission (Eurostat) for the production of European statistics.
- 1.6. Since Regulation (EC) No 2533/98 has allocated the collection of information on BOP and IIP statistics to the ECB, with the assistance of NCBs, and in order to minimise the reporting burden and to guarantee the coherence necessary to produce European statistics the Commission is invited to make appropriate use of the BOP and IIP statistics provided by the ESCB.

## 2. Specific observations

- 2.1. *Implementation of a new system of adopting delegated and implementing acts in the area of BOP and IIP statistics*
  - 2.1.1. The proposed regulation implements a new system for the adoption of delegated and implementing acts, under Articles 290 and 291 of the Treaty, in the area of BOP and IIP statistics. Article 1(1) of the proposed regulation aims to empower the Commission to adopt delegated acts to amend the data requirements for BOP and IIP, including the revision, extension and elimination of data flows, and submission deadlines. Likewise, Article 1(2) proposes to confer upon the Commission implementing powers to adopt the quality standards and the content and periodicity of the quality reports for BOP and IIP statistics.
  - 2.1.2. Data requirements, submission deadlines and quality assurance standards are essential elements of Regulation (EC) No 184/2005 and have a direct impact on the reporting burden of data compilers and reporting agents. As the ESCB has been allocated the task, by the Council, of collecting BOP and IIP statistics either from the competent national authorities or directly from economic agents since 1998, close cooperation between the ESCB and the ESS must be ensured when defining, amending or updating such statistics. Otherwise, European BOP and IIP statistics produced by the ESS and the ESCB may unnecessarily diverge or be inconsistent.

<sup>(1)</sup> Addressed in a separate legal act.

<sup>(2)</sup> See Article 4 of Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances (OJ L 306, 23.11.2011, p. 25).

<sup>(3)</sup> See IMF Policy Papers, 'Revisions to the Special Data Dissemination Standard and Establishment of the Special Data Dissemination Standard Plus—Proposed Decisions', 4 October 2012, and 'Modifications to the Special Data Dissemination Standard Plus', 19 March 2014, available on the IMF's website at [www.imf.org](http://www.imf.org)

<sup>(4)</sup> Regulation (EC) No 184/2005 of the European Parliament and of the Council of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment (OJ L 35, 8.2.2005, p. 23).

<sup>(5)</sup> See Article 11(1) of Regulation (EC) No 184/2005.

<sup>(6)</sup> See recital 9 thereof.

- 2.1.3. Divergent or inconsistent BOP statistical reporting requirements not only increase the reporting burden for respondents such as small and medium-sized enterprises, they may also result in different BOP statistics depending on the purpose for which the data are used. Such differences would not be in line with the principles of data relevance, cost effectiveness and minimisation of the reporting burden laid down in Regulation (EC) No 223/2009 and Regulation (EC) No 2533/98.
- 2.1.4. Hence, the ECB does not support the proposal in Article 1(1) of the proposed regulation to delegate powers to the Commission to amend the data requirements for BOP and IIP, including those relating to submission deadlines, revisions, extensions and eliminations of data flows. Articles 1(1) and 1(3) of the proposed regulation should be deleted accordingly.
- 2.2. *The role of the Committee on Monetary, Financial and Balance of Payments Statistics*
- 2.2.1. The proposed regulation abolishes the BOP Committee and transfers all comitology powers to the European Statistical System Committee, on which members of the ESCB are not represented<sup>(1)</sup>. Moreover, NCBs, as members of the ESCB, produce European statistics under Articles 3 and 5 of the Statute of the ESCB, as further implemented in Regulation (EC) No 2533/98, and do not participate in the production of European statistics under Regulation (EC) No 223/2009.
- 2.2.2. In order to ensure continued close cooperation in this field, the Committee on Monetary, Financial and Balance of Payments Statistics (CMFB)<sup>(2)</sup> should be at the centre of mutual cooperation on BOP and related statistics (e.g. international trade in goods, international trade in services, foreign direct investment, foreign affiliates statistics) and would need to be consulted on proposals for new legal acts, including amending legal acts, on BOP and related statistics.
- 2.2.3. Therefore, appropriate wording should be inserted in Articles 1(2) and 1(4) of the proposed regulation obliging the Commission to request the opinion of the CMFB before proposing amendments to essential elements of Regulation (EC) No 184/2005. In particular, this should apply to amendments relating to: (a) the data requirements, including submission deadlines as well as revisions, extensions and eliminations of data flows; (b) updating the definitions set out in Annex II to Regulation (EC) No 184/2005; and (c) the common quality standards as well as the content and periodicity of the quality reports.

2.3. *Consultation of the ECB*

Implementing acts of the Commission qualify as proposed Union acts within the meaning of the first indent of Article 127(4) and Article 282(5) of the Treaty<sup>(3)</sup>. The ECB therefore needs to be consulted, separately from the CMFB, on any draft implementing acts that fall within its fields of competence. This consultation process will enable the ECB to contribute with the full benefit of its long-standing experience and expertise in BOP statistics.

Done at Frankfurt am Main, 5 December 2014.

*The President of the ECB*

Mario DRAGHI

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<sup>(1)</sup> See Article 7(2) of Regulation (EC) No 223/2009.

<sup>(2)</sup> See Article 9 of Regulation (EC) No 223/2009. The CMFB was established by Council Decision 2006/856/EC of 13 November 2006 establishing a Committee on monetary, financial and balance of payments statistics (OJ L 332, 30.11.2006, p. 21).

<sup>(3)</sup> 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'.





**Technical working document**  
**produced in connection with ECB Opinion CON/2014/84**  
**Drafting proposals**

<b>Text proposed by the Commission</b>	<b>Amendments proposed by the ECB</b>
Amendment 1	
Preamble	
<p>‘Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,</p> <p>Having regard to the proposal from the European Commission,</p> <p>After transmission of the draft legislative act to the national Parliaments,</p> <p>Acting in accordance with the ordinary legislative procedure,</p> <p>Whereas:</p> <p>[...]</p>	<p>‘Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,</p> <p>Having regard to the proposal from the European Commission,</p> <p><b>Having regard to the opinion of the European Central Bank (*)</b></p> <p>After transmission of the draft legislative act to the national Parliaments,</p> <p>Acting in accordance with the ordinary legislative procedure,</p> <p>Whereas:</p> <p>[...]</p>
<i>Explanation</i>	
<p><i>The obligation to consult the European Central Bank (ECB) is a procedural requirement, defined in Article 4 of the Statute of the European System of Central Banks and of the European Central Bank and Articles 127(4) and 282(5) of the Treaty, that should be consistently referred to in the preambles of all Union acts falling within the ECB’s field of competence.</i></p>	
Amendment 2	
Preamble	
No text	<p><b>‘(12a) The Committee on Monetary, Financial and Balance of Payments Statistics, established</b></p>

Text proposed by the Commission	Amendments proposed by the ECB
	<p>by Council Decision 2006/856/EC<sup>1</sup>, should ensure close cooperation between the European Statistical System and the European System of Central Banks to define, amend and update the following: reporting requirements, submission deadlines and quality assurance processes in respect of balance of payments and related statistics, namely international trade in services and foreign direct investment, covered by this Regulation.’</p>
<p style="text-align: center;"><u>Explanation</u></p> <p><i>See paragraphs 2.2.1 to 2.2.3 of this Opinion. The proposed regulation has the aim of abolishing the Balance of Payments Committee established by Article 11 of Regulation (EC) No 184/2005 of the European Parliament and of the Council<sup>2</sup> and transferring all comitology powers to the European Statistical System Committee, on which the ECB and national central banks (NCBs) are not represented. Close cooperation between the European Statistical System (ESS) and the European System of Central Banks (ESCB) in the field of balance of payments (BOP) and international investment position (IIP) statistics should be ensured through the Committee on Monetary, Financial and Balance of Payments Statistics (CMFB). In particular, the opinion of the CMFB could be requested on proposals for new legal acts, including amending legal acts, on BOP and related statistics.</i></p>	
<p style="text-align: center;">Amendment 3</p> <p style="text-align: center;">Article 1(1)</p>	
<p>‘(1) In Article 2, the following paragraph is added:</p> <p>“3. The Commission shall be empowered to adopt delegated acts in accordance with Article 10, when, for reasons of economic and technical changes, data requirements need to be updated, including submission deadlines as well as revisions, extensions and eliminations of data flows set out in</p>	<p><del>‘(1) In Article 2, the following paragraph is added:</del></p> <p><del>“3. The Commission shall be empowered to adopt delegated acts in accordance with Article 10, when, for reasons of economic and technical changes, data requirements need to be updated, including submission deadlines as well as revisions, extensions and eliminations of data flows set out in</del></p>

<sup>1</sup> Council Decision 2006/856/EC of 13 November 2006 establishing a Committee on monetary, financial and balance of payments statistics (OJ L 332, 30.11.2006, p. 21).

<sup>2</sup> Regulation (EC) No 184/2005 of the European Parliament and of the Council of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment (OJ L 35, 8.2.2005, p. 23).

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Text proposed by the Commission	Amendments proposed by the ECB
Annex I, and when the definitions set out in Annex II need to be updated.”	<del>Annex I, and when the definitions set out in Annex II need to be updated.”</del>
<p><i>Explanation</i></p> <p><i>See paragraphs 2.1.1 to 2.1.4 of this Opinion. Data requirements including submission deadlines as well as revisions, extensions and eliminations of data flows and definitions are essential elements of Regulation (EC) No 184/2005 as they have a direct impact on the reporting burden of data compilers and reporting agents. As Council Regulation (EC) No 2533/98<sup>3</sup> allocates to the ECB, assisted by the NCBs, the task to collect information on, inter alia, BOP and IIP statistics, data requirements including submission deadlines as well as revisions, extensions and eliminations of data flows should be introduced by a regulation of the European Parliament and of the Council.</i></p>	
<p>Amendment 4</p> <p>Article 1(2)</p>	
<p>‘(2) In Article 4, paragraph 3 is replaced by the following:</p> <p>“3. The Commission shall adopt, by means of implementing acts, the common quality standards, as well as the content and periodicity of the quality reports, taking into account the implications as regards the cost of collecting and compiling the data as well as important changes concerning data collection.</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).</p> <p>[...]”</p>	<p>‘(2) In Article 4, paragraph 3 is replaced by the following:</p> <p>‘3. The Commission shall adopt, by means of implementing acts <b>and following the consultation of the European Central Bank and the Committee on Monetary, Financial and Balance of Payments Statistics established by Decision 2006/856/EC</b>, the common quality standards, as well as the content and periodicity of the quality reports, taking into account the implications as regards the cost of collecting and compiling the data as well as important changes concerning data collection.</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).</p> <p>[...]”</p>

<sup>3</sup> 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).

Text proposed by the Commission	Amendments proposed by the ECB
<p style="text-align: center;"><u>Explanation</u></p> <p><i>See paragraphs 2.2.1 to 2.2.3 of this Opinion. Quality standards and quality reports are essential elements of Regulation (EC) No 184/2005 as they have a direct impact on the reporting burden of data compilers and reporting agents. Regulation (EC) No 2533/98 has allocated to the ECB, assisted by NCBs, the task of collecting BOP and IIP statistics, and close cooperation between the ESCB and the ESS in setting the common quality standards, as well as the content and periodicity of the quality reports, must be ensured. Divergent or inconsistent quality assurance frameworks will not only increase the reporting burden for respondents, such as small and medium-sized enterprises, but will also result in divergent or inconsistent BOP and IIP statistics. Therefore, the Commission should consult the CMFB before adopting, by means of implementing acts, the common quality standards, as well as the content and periodicity of the quality reports.</i></p> <p><i>The obligation to consult the ECB on draft implementing acts that fall within its field of competence is established by Articles 127(4) and 282(5) of the Treaty.</i></p>	
<p style="text-align: center;">Amendment 5</p> <p style="text-align: center;">Article 1(3)</p>	
<p>‘(3) Article 10 is replaced by the following:</p> <p style="text-align: center;"><i>“Article 10</i></p> <p style="text-align: center;"><b>Exercise of delegated powers</b></p> <p>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</p> <p>2. When exercising the powers delegated in Article 2(3), the Commission shall ensure that the delegated acts do not impose a significant additional administrative burden on Member States and on the respondents.</p> <p>3. The power to adopt delegated acts referred to in Article 2(3) shall be conferred on the Commission for an indeterminate period of time from [Publication office: please insert the exact date of the entry into force of the amending Regulation].</p> <p>4. The delegation of power referred to in Article 2(3), may be revoked at any time by the European</p>	<p><del>‘(3) Article 10 is replaced by the following:</del></p> <p style="text-align: center;"><del><i>“Article 10</i></del></p> <p style="text-align: center;"><del><b>Exercise of delegated powers</b></del></p> <p><del>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</del></p> <p><del>2. When exercising the powers delegated in Article 2(3), the Commission shall ensure that the delegated acts do not impose a significant additional administrative burden on Member States and on the respondents.</del></p> <p><del>3. The power to adopt delegated acts referred to in Article 2(3) shall be conferred on the Commission for an indeterminate period of time from [Publication office: please insert the exact date of the entry into force of the amending Regulation].</del></p> <p><del>4. The delegation of power referred to in Article 2(3), may be revoked at any time by the European</del></p>

Text proposed by the Commission	Amendments proposed by the ECB
<p>Parliament or by the Council.</p> <p>A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</p> <p>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p> <p>6. A delegated act adopted pursuant to Article 2(3), shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. The period shall be extended by two months at the initiative of the European Parliament or the Council.”</p>	<p><del>Parliament or by the Council.</del></p> <p><del>A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</del></p> <p><del>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</del></p> <p><del>6. A delegated act adopted pursuant to Article 2(3), shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. The period shall be extended by two months at the initiative of the European Parliament or the Council.”</del></p>
<p><u>Explanation</u></p> <p><i>See paragraph 2.1.4 of this Opinion. The sole purpose of the amendment in Article 1(3) is to set out the conditions to which the Commission’s power to adopt delegated acts, conferred by Article 1(1), will be subject. As the ECB does not support conferral of the power to adopt delegated acts on the Commission under Regulation (EC) No 184/2005, as provided by Article 1(1) of the proposed regulation, the ECB is of the view that Article 1(3) of the proposed regulation should be deleted.</i></p>	
<p>Amendment 6</p> <p>Article 1(4)</p>	
<p>‘(4) Article 11 is replaced by the following:</p> <p style="text-align: center;"><i>“Article 11</i></p> <p style="text-align: center;"><b>Committee</b></p>	<p>‘(4) Article 11 is replaced by the following:</p> <p style="text-align: center;"><i>“Article 11</i></p> <p style="text-align: center;"><b>Committee</b></p>

Text proposed by the Commission	Amendments proposed by the ECB
<p>1. The Commission shall be assisted by the European Statistical System Committee established by Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics(*). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers(**).</p> <p>2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.”</p>	<p>1. The Commission shall be assisted by the European Statistical System Committee established by Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics(*). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers(**).</p> <p>2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</p> <p><b>3. The Commission shall request the opinion of the Committee on Monetary, Financial and Balance of Payments Statistics, established by Decision 2006/856/EC in accordance with Article 2 of that Decision, in the following circumstances: (a) when data requirements need to be updated by the European Parliament and the Council due to economic and technical changes, including submission deadlines as well as revisions, extensions and eliminations of the data flows set out in Annex I; and (b) when the definitions set out in Annex II need to be updated.”</b></p>
<p style="text-align: center;"><u>Explanation</u></p> <p><i>See the explanation of Amendment 2.</i></p>	