Regulation (EU) 2016/1384 of the European Central Bank of 2 August 2016 amending Regulation (EU) No 1011/2012 (ECB/2012/24) concerning statistics on holdings of securities (ECB/2016/22)

REGULATION (EU) 2016/1384 OF THE EUROPEAN CENTRAL BANK

of 2 August 2016

amending Regulation (EU) No 1011/2012 (ECB/2012/24) concerning statistics on holdings of securities (ECB/2016/22)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

Having regard to Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank[(1)], and in particular Articles 5(1) and 6(4) thereof,

After consulting the European Commission,

Whereas:

(1) Additional attributes of statistics on holdings of securities, which go beyond those currently required under Regulation (EU) No 1011/2012 of the European Central Bank (ECB/2012/24)[(2)], are necessary in order to ensure that the European System of Central Banks (ESCB) is provided with adequate information on the holdings of securities of banking groups. These additional attributes will allow a more thorough analysis of risks and exposures within the financial system to be carried out. This, in turn, will allow for a more in-depth analysis of the monetary policy transmission mechanism. Extending the scope of the credit risk and accounting information reported is particularly important in terms of financial stability analysis and such data will also be useful for prudential supervision purposes. It is also needed in order to be able to assess the Eurosystem's risk exposure in relation to counterparties in monetary policy operations. The structure of certain provisions of the Regulation should also be amended in order to clarify reporting agents' statistical reporting requirements for both sectoral and group data.

(2) Furthermore, the reporting requirements for custodians should be clarified to avoid double reporting of securities that could be reported by several custodians resident in the euro area, for example in the case of sub-custodians.

(3) Therefore, Regulation (EU) No 1011/2012 (ECB/2012/24) should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) 2016/1384 of the European Central Bank. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 1

Amendments

Regulation (EU) No 1011/2012 (ECB/2012/24) is amended as follows:

1. Article 1 is amended as follows:

(a) point 3 is replaced by the following:

3. "institution" has the same meaning as defined in point (3) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council[(3)];;

(b) the following points 3a to 3d are inserted:

3a. "parent undertaking" has the same meaning as defined in point (9) of Article 2 of Directive 2013/34/EU of the European Parliament and of the Council[(4)];

3b. "subsidiary" means:

(a) a subsidiary undertaking as defined in point (10) of Article 2 of Directive 2013/34/EU;

(b) any undertaking over which a parent undertaking effectively exercises a dominant influence.

Subsidiaries of subsidiaries shall also be considered to be subsidiaries of the undertaking that is their original parent undertaking;

3c. "financial institution" has the same meaning as defined in point (26) of Article 4(1) of Regulation (EU) No 575/2013;

3d. "branch of an insurance corporation" means an unincorporated agency or branch, but not the head office, of an insurance or reinsurance corporation;;

(c) point 4 is replaced by the following:

4. "banking group" means the undertakings included in the scope of the consolidation of the head of a banking group pursuant to Articles 18(1), 18(4), 18(8), 19(1), 19(3) and Article 23 of Regulation (EU) No 575/2013;;

(d) point 10 is replaced by the following:

10. "head of a banking group" means any of the following:

(a) an EU parent institution, within the meaning of point (29) of Article 4(1) of Regulation (EU) No 575/2013, with any reference to a Member State in that definition being understood as a reference to a participating Member State;

(b) an EU parent financial holding company within the meaning of point (31) of Article 4(1) of Regulation (EU) No 575/2013, with

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any reference to a Member State in that definition being understood as a reference to a participating Member State;

(c) an EU parent mixed financial holding company within the meaning of point (33) of Article 4(1) of Regulation (EU) No 575/2013, with any reference to a Member State in that definition being understood as a reference to a participating Member State;

(d) a central body, within the meaning of Article 10 of Regulation (EU) No 575/2013, in a participating Member State;;

(e) point 11 is deleted;

(f) point 13 is replaced by the following:

13. "securities held in custody" means securities which are held and administered by custodians directly, or indirectly via a client, on behalf of investors;;

(g) the following points 18 to 24 are added:

18. "legal entity" means any entity, other than a natural person, that has the status of a legal person under the national law of the country in which the entity is resident, allowing the entity to have legal rights and obligations under the national legal system of that country;

19. "sectoral data" means data reported pursuant to Article 3;

20. "group data" means data reported pursuant to Article 3a;

21. "participating Member State" has the same meaning as defined in Article 1(3) of Regulation (EC) No 2533/98;

22. "client" means a natural or legal person to whom a custodian provides safekeeping and related services, including another custodian;

23. "entity-by-entity basis" means the reported data refers to the holdings of securities of each individual legal entity of a banking group, i.e. the parent undertaking and each of its subsidiaries;

24. "group basis" means the reported data includes information on the holdings of securities of the banking group as a whole.;

2. Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. The actual reporting population shall consist of sectoral data reporting agents and group data reporting agents (hereinafter collectively referred to as "actual reporting agents").

a Sectoral data reporting agents shall be resident MFIs, IFs, FVCs, ICs and custodians.

b Group data reporting agents shall be:

(i) heads of banking groups; and

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(ii) institutions or financial institutions established in participating Member States and which are not part of a banking group;

where they have been identified by the Governing Council pursuant to paragraph 4 as part of the actual reporting population, and notified of their reporting obligations pursuant to paragraph 5.;

(b) paragraphs 3 to 8 are replaced by the following:

3. The actual reporting agents shall be subject to full reporting requirements unless any derogation granted pursuant to Articles 4, 4a or 4b applies.

4 The Governing Council may decide that a group data reporting agent is part of the actual reporting population if the value of the total balance sheet assets of the banking group referred to under paragraph 1(b)(i) or the institution or financial institution referred to under paragraph 1(b)(ii), is:

a greater than 0,5 % of the total consolidated balance sheet assets of the Union banking groups (hereinafter the "0,5 % threshold"), according to the most recent data available to the ECB, i.e.:

(i) data with reference to the end of December of the calendar year preceding notification pursuant to paragraph 5 or, if unavailable

(ii) data with reference to the end of December of the previous year;

or

b equal to or below the 0,5 % threshold, provided that the group data reporting agent meets certain quantitative or qualitative criteria that make it important for the stability and functioning of the financial system in the euro area, e.g. by virtue of its interconnectedness with other financial institutions in the euro area, cross-jurisdictional activity, lack of substitutability, complexity of the corporate structure; and/or in a given euro area Member State, e.g. by virtue of the relative importance of the group data reporting agent within a particular segment of the banking services market in one or more euro area Member State.

5 The relevant NCB shall notify the group data reporting agents of the Governing Council's decision pursuant to paragraph 4, and of their obligations under this Regulation.

6 Without prejudice to Article 10, any group data reporting agent that is notified in accordance with paragraph 5 after the first reporting under this Regulation has started, shall begin reporting data no later than 6 months after the date of notification.

7 A group data reporting agent notified in accordance with paragraph 5 shall inform the relevant NCB of changes to its name or legal form, of mergers or restructurings, and of any other event or circumstances affecting its reporting obligations, within 14 days of the occurrence of such event or circumstances.

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8 A group data reporting agent notified in accordance with paragraph 5 shall remain subject to the obligations set out in this Regulation until it receives notification to the contrary by the relevant NCB.;

3. Article 3 is amended as follows:

(a) the title is replaced by the following:
Statistical reporting requirements for sectoral data reporting agents;

(b) in paragraph 2, points (a), (b) and (c) are replaced by the following:

(a) securities they hold in custody for resident clients that do not report their own holdings pursuant to paragraph 1, in accordance with Part 3 of Chapter 1 of Annex I;

(b) securities they hold in custody for non-financial clients resident in other euro area Member States, in accordance with Part 4 of Chapter 1 of Annex I;

(c) securities issued by euro area entities they hold in custody for clients resident in non-euro area Member States and for clients resident outside the Union, in accordance with Part 5 of Chapter 1 of Annex I.;

(c) paragraphs 3 and 4 are deleted;

(d) paragraphs 5 and 6 are replaced by the following:

5. Sectoral data reporting agents shall, in accordance with instructions by the relevant NCB, report either (a) security-by-security data on monthly or quarterly financial transactions and, where requested by the relevant NCB, other changes in volume; or (b) the statistical information needed to derive financial transactions on the basis of one of the approaches specified in Part 1 of Chapter 1 of Annex I. Further requirements and guidelines regarding the compilation of transactions are laid down in Part 3 of Annex II.

6 Sectoral data reporting agents shall, if instructed by the relevant NCB, report on a quarterly or monthly basis data on end-of-quarter or end-of-month positions and, in accordance with paragraph 5, statistical information over the reference quarter or month, on holdings of securities without an ISIN code, in accordance with Part 7 of Chapter 1 of Annex I. This paragraph shall not apply to sectoral data reporting agents that are granted derogations under Articles 4 or 4b.;

(e) paragraphs 7 and 8 are deleted;

(f) the following paragraphs 12 and 13 are added:

12. The relevant NCB shall request that, when an MFI reports security-by-security data on own holdings of securities with an ISIN in accordance with Article 3(1), it reports the flag "security issued by the holder", as provided for in Part 2 of Chapter 1 of Annex I.

13 The relevant NCB may request that, when an MFI reports statistical information on own holdings of securities without an ISIN code in