Regulation (EU) 2016/1013 of the European Parliament and of the Council of 8 June 2016 amending Regulation (EC) No 184/2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment (Text with EEA relevance)

REGULATION (EU) 2016/1013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 8 June 2016

amending Regulation (EC) No 184/2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) As a consequence of the entry into force of the Treaty of Lisbon, the powers conferred on the Commission under Regulation (EC) No 184/2005 of the European Parliament and of the Council[(3)] should be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).

(2) Balance of payments, international trade in services and foreign direct investment (FDI) statistics of high quality and comparability are essential for those responsible for public policy in the Union, researchers and all European citizens. The Commission (Eurostat) should take all necessary measures to allow easy and user-friendly online access to data series as well as to provide users with an intuitive presentation of the data.

(3) European statistics concerning the balance of payments, international trade in services and FDI are of vital importance in ensuring informed economic policymaking and accurate economic forecasting.

(4) In light of the adoption of Regulation (EU) No 182/2011 of the European Parliament and of the Council[(4)], the Commission has committed itself, by means of a Statement[(5)], to reviewing, in light of the criteria laid down in the TFEU, legislative acts which currently contain references to the regulatory procedure with scrutiny.

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(5) Regulation (EC) No 184/2005 contains references to the regulatory procedure with scrutiny and should therefore be reviewed in light of the criteria laid down in the TFEU.

(6) In order to align Regulation (EC) No 184/2005 with Articles 290 and 291 TFEU, implementing powers conferred on the Commission by that Regulation should be replaced by powers to adopt delegated and implementing acts.

(7) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission when, as a result of economic or technical changes, the geographical breakdown levels, institutional sector breakdown levels and economic activity breakdown levels set out in Tables 6, 7 and 8 of Annex I to Regulation (EC) No 184/2005 need to be updated, provided that such updates neither affect the reporting burden nor modify the applicable underlying conceptual framework. The power to adopt acts in accordance with Article 290 TFEU should also be delegated to the Commission whenever certain requirements of data flows in Annex I to that Regulation need to be eliminated or reduced, provided that such elimination or reduction does not reduce the quality of the statistics produced in accordance with this Regulation. Such delegated acts should also cover the extension of the deadline for the report on the findings of the studies on FDI statistics based on the ultimate ownership concept and FDI statistics distinguishing greenfield FDI transactions from takeovers. The Commission should ensure that those delegated acts do not impose a significant additional burden on Member States or on the respondent units, exceeding what is necessary for the purposes of this Regulation, nor modify the applicable underlying conceptual framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[(6)]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(8) In order to ensure uniform conditions for the implementation of Regulation (EC) No 184/2005, implementing powers should be conferred on the Commission with a view to harmonising the modalities, structure and periodicity of the quality reports. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(9) The Balance of Payments Committee referred to in Article 11 of Regulation (EC) No 184/2005 has provided advice to and assisted the Commission in the exercise of its implementing powers. Under the strategy for a new European statistical system (ESS) structure aimed at improving coordination and partnership in a clear pyramid structure within the ESS, the European Statistical System Committee (ESSC), established by Regulation (EC) No 223/2009 of the European Parliament and of the Council[(7)], should have an advisory role and assist the Commission in exercising its implementing powers. To that effect, Regulation (EC) No 184/2005 should be amended by replacing the references to the Balance of Payments Committee with references to the ESSC.

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(10) The existing good operative cooperation between the national central banks (NCBs) and the national statistical institutes (NSIs), and between Eurostat and the European Central Bank (ECB), is an asset that should be preserved and further developed with a view to improving the overall consistency and quality of macroeconomic statistics, such as balance of payments statistics, financial statistics, government finance statistics and national accounts. The NCBs and NSIs are to continue to be closely involved in the preparation of all the decisions related to balance of payments, international trade in services and FDI statistics via their participation in the relevant expert groups responsible for balance of payments, international trade in services and FDI statistics. The cooperation between the ESS and the European System of Central Banks (ESCB) is coordinated at strategic level within the European Statistical Forum, established pursuant to a Memorandum of Understanding on the cooperation between the members of the European Statistical System and the members of the European System of Central Banks signed on 24 April 2013.

(11) In order to further strengthen cooperation between the ESS and the ESCB, the Commission should request the opinion of the Committee on Monetary, Financial and Balance of Payments Statistics (CMFB), set up by Council Decision 2006/856/EC[(8)], on all matters falling within its competences as referred to in that Decision.

(12) Pursuant to Articles 127(4) and 282(5) TFEU, the ECB should be consulted on any proposed Union act in its fields of competence.

(13) Member States should provide the data required to produce European statistics in a timely manner, in the appropriate form and of the requisite quality with regard to balance of payments, international trade in services and FDI.

(14) Since the adoption of Regulation (EC) No 184/2005, international capital flows have both intensified and become more complex. The increased use of special purpose vehicles and legal constructions for channelling capital flows have made it more difficult to monitor such flows so as to ensure their traceability and to avoid double or multiple accounting.

(15) Regulation (EC) No 184/2005 should therefore be updated so as to improve transparency and granularity concerning balance of payments, international trade in services and FDI.

(16) In order to collect the appropriate information required pursuant to this Regulation, Member States should use all relevant and appropriate sources, including administrative data sources such as business registers or the EuroGroups Register. Transparency could also be enhanced by taking advantage of recent innovations, such as the global legal entity identifier, as well as the registries of beneficial ownership established in the framework of Directive (EU) 2015/849 of the European Parliament and of the Council[(9)].

(17) In order to develop FDI statistics based on the ultimate ownership concept and FDI statistics distinguishing greenfield FDI transactions from FDI resulting in takeovers, which for a given period, generally, do not lead to an increase in the gross capital formation in the Member States, the appropriate methodology for those domains

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should be developed and enhanced. This should be done in collaboration with relevant stakeholders such as the Organisation for Economic Cooperation and Development, the International Monetary Fund and the United Nations Conference on Trade and Development.

(18) Pilot studies should establish the conditions, including the methodological framework to introduce new data collections on annual FDI statistics, and assess the costs of the related data collections, the quality of the statistics, as well as the cross-country comparability. The results of those studies should be the subject of a report prepared by the Commission and submitted to the European Parliament and to the Council.

(19) In order to ensure the quality of statistical data submitted by Member States, the Commission should use the appropriate prerogatives and powers provided for in Article 12 of Regulation (EC) No 223/2009.

(20) Regulation (EC) No 184/2005 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 184/2005 is amended as follows:

(1) In Article 2, the following paragraph is added:

3. The Commission is empowered to adopt delegated acts in accordance with Article 10 when, as a result of economic or technical changes, the geographical breakdown levels, institutional sector breakdown levels and economic activity breakdown levels set out in Tables 6, 7 and 8 of Annex I need to be updated, provided that such updates neither affect the reporting burden nor modify the applicable underlying conceptual framework.

The Commission is empowered to adopt delegated acts in accordance with Article 10 whenever certain requirements of data flows in Annex I need to be eliminated or reduced, provided that such elimination or reduction does not reduce the quality of the statistics produced in accordance with this Regulation.

When exercising these powers, the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States or on the respondents.

Furthermore, the Commission shall duly justify the actions provided for in those delegated acts, considering, where appropriate, cost-effectiveness, including the burden on respondents and the production costs in accordance with Article 14(3) of Regulation (EC) No 223/2009 of the European Parliament and of the Council[10]..

(2) Article 4 is replaced by the following:

Article 4

Quality criteria and reports

1 For the purpose of this Regulation, the quality criteria set out in Article 12(1) of Regulation (EC) No 223/2009 shall apply to the data to be transmitted in accordance with Article 5 of this Regulation.

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2 Member States shall provide the Commission (Eurostat) with a report on the quality of the data transmitted ("quality report").

3 In applying the quality criteria referred to in paragraph 1 to the data covered by this Regulation, the modalities, structure and periodicity of the quality reports shall be defined by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

4 The Commission (Eurostat) shall assess the quality of the data transmitted on the basis of an appropriate analysis of the quality reports, with the assistance of the European Statistical System Committee referred to in Article 11(1), and shall prepare and publish a report on the quality of European statistics covered by this Regulation. That report shall be submitted to the European Parliament and to the Council for information purposes.

5 Member States shall communicate to the Commission (Eurostat) any major methodological or other type of changes that would influence the data transmitted, no later than three months after any such change becomes applicable. The Commission shall notify the European Parliament and the other Member States of any such communication..

(3) Article 5 is replaced by the following:

Article 5

Data Flows

1 The statistics to be produced shall be grouped for transmission to the Commission (Eurostat) in accordance with the following data flows:

a balance of payments monthly statistics;

b balance of payments quarterly statistics;

c international trade in services;

d FDI flows;

e FDI positions.

2 The Commission (Eurostat) and Member States, in cooperation with the relevant international partners, shall develop the appropriate methodology for compiling FDI statistics based on the ultimate ownership concept in addition to the immediate counterpart principle and FDI statistics distinguishing greenfield FDI transactions from takeovers.

3 By 20 July 2018, the Commission (Eurostat) shall institute pilot studies to be carried out by Member States relating to annual FDI statistics based on the ultimate ownership concept and FDI statistics distinguishing greenfield FDI transactions from takeovers. The purpose of such studies shall be to establish the conditions, including the methodological framework, to introduce new data collections on annual FDI statistics and to assess the costs of the related data collections, the implied statistical quality, as well as the cross-country comparability.

4 In order to facilitate carrying out the studies referred to in paragraph 3, the Union may provide financial support to the Member States in the form of grants in