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)

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)

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 Articles 5.1 and 34.1 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,

Having regard to the opinion of the European Commission[(2)],

Whereas:

(1) Granular credit and credit risk data (hereinafter 'credit data') comprise detailed and individual information about instruments giving rise to credit risk for deposit-taking corporations, financial corporations other than deposit-taking corporations or asset management vehicles, which are all engaged in lending on a significant scale. Such detailed information is necessary for the performance of the tasks of the Eurosystem, the European System of Central Banks (ESCB) and the European Systemic Risk Board, including monetary policy analysis and monetary policy operations, risk management, financial stability surveillance and macroprudential policy and research. These data will also be useful for banking supervision purposes in the context of the Single Supervisory Mechanism (SSM).

(2) Article 5.1 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB') specifies that the European Central Bank (ECB), assisted by the national central banks (NCBs) of the ESCB, collects the necessary statistical information, either from the competent national authorities or directly from economic agents, in order to carry out the tasks of the ESCB. Article 3 of Regulation (EC) No 2533/98 requires the ECB to specify the actual reporting population within the limits of the reference reporting population, and entitles it to fully or partly exempt specific classes of reporting agents from its statistical reporting requirements.

(3) Credit data will substantially contribute to improving existing and developing new ESCB statistics, since it provides important breakdowns and details not available from currently used data sources, such as information on the structure and risk patterns of credit granted by the financial sector. For example, credit data will significantly

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contribute to increasing the quality of statistics on: (a) loans according to the size of corporations; a key feature for assessing and monitoring the provision of credit to small and medium-sized enterprises; (b) credit lines broken down by counterparty sector; (c) loans to non-financial corporations broken down by economic activity; (d) loans backed by real estate collateral; and (e) cross-border loans and related income as part of the balance of payments statistics of Member States whose currency is the euro.

(4) The availability of credit data will improve the usability of the micro-level information currently collected on securities issues and holdings statistics, and contribute to monitoring and fostering financial integration and stability in the Union. Finally, credit data relating to branches that are resident outside the euro area, and whose head offices are resident in a reporting Member State are important for the performance of ESCB tasks, in particular for monetary policy analysis and financial stability tasks. In addition, the data can support macroprudential supervision tasks such as financial stability analyses, risk assessments and stress testing. Article 8(1)(d) and (4a) of Regulation (EC) No 2533/98 now specifically allow the use of statistical data collected under Article 5 of the Statute of the ESCB for supervisory purposes.

(5) A comprehensive set of harmonised analytical credit data should minimise the reporting burden by increasing the stability of the reporting requirements over time. This is important because incorporating changes into the highly automated data processing systems of reporting agents can be very costly. The harmonised set of credit data will also provide greater detail, thus minimising the need for any additional requests addressed to reporting agents.

(6) Decision ECB/2014/6[(3)] sets out the procedure for developing a long-term framework for the collection of granular credit data based on harmonised ECB statistical reporting requirements. It aims to ensure the establishment of: (a) national granular credit datasets operated by all Eurosystem NCBs in accordance with common minimum standards; and (b) a common granular analytical credit database (hereinafter 'AnaCredit'), shared between the Eurosystem members and comprising input data from all Member States whose currency is the euro.

(7) Recommendation ECB/2014/7[(4)] encourages NCBs of Member States whose currency is not the euro, but who are preparing to join the long-term framework, to apply the provisions of Decision ECB/2014/6. AnaCredit should be open, on a voluntary basis, to Member States outside the euro area, in particular those participating in the SSM, in order to broaden its geographical and data scope, and increase harmonisation across the Union.

(8) While the preparatory measures under Decision ECB/2014/6 aimed to define 'a core group of harmonised granular credit data sets that are to be provided to the ECB by the NCBs in the long term', the outcome of the merits and costs procedure showed very strong user requirements underlining the need not just for a 'core group of data sets', but also for a comprehensive list of data attributes and measures that characterise the instruments that generate credit risk for the reporting population. In addition, the resulting improved harmonisation should increase the comparability of the data across countries and across institutions, thereby ensuring a higher data quality for analysis.

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(9) AnaCredit aims to provide, in combination with other statistical frameworks collecting granular information, an analytical view of reporting agents' credit risk regardless of the financial instrument, type of exposure or accounting classification. In this respect, the requirements laid down in this Regulation aim to ensure that reporting agents report a common set of harmonised information to NCBs.

(10) AnaCredit should be established in stages, since the significant heterogeneity of the current credit data collection across participating countries can only be gradually harmonised. This step-by-step approach also takes into account the time needed for the reporting agents to comply with the various data requirements. Overall, the scope and content of the data to be collected during the different stages should be defined as early as possible, in order for all reporting agents to prepare for the use of a harmonised set of concepts and definitions. Hence, the Governing Council will take its decision on each subsequent stage at least two years prior to its implementation. With a view to minimising the costs and the workload for reporting agents, the provision of information on housing loans on the basis of sampling techniques will be explored at a subsequent stage.

(11) While one of AnaCredit's key long-term objectives is to harmonise reporting requirements and implementation practices, the heterogeneity of current data collection practices requires the preservation of NCB discretion in certain areas, for example with regard to NCB decisions on derogations for small resident reporting agents. These areas of NCB discretion should be reassessed at each future stage in order to determine whether further harmonisation across participating countries can be achieved.

(12) In terms of scope, the first stage of reporting under AnaCredit should include credit granted by credit institutions to legal entities. Deposit-taking corporations other than credit institutions, asset management vehicles and other financial corporations, all engaged in lending, as well as foreign subsidiaries of these entities, may be included in the actual reporting population in a subsequent stage. As regards instruments, the scope of granular reporting may be extended to derivatives, other accounts receivable, off-balance-sheet items (such as financial guarantees) and credit extended to persons other than legal persons, including to sole proprietors. No personal data, as defined by applicable data protection rules, should be collected in the first stage, including for multi-debtor credits involving natural persons as debtors, or when natural persons are affiliated to instruments reported to AnaCredit. Should the scope of reporting be extended to include such personal data in subsequent stages, the protection of the rights of natural persons with regard to the collection and processing of their personal data should be ensured. Moreover, subsequent stages may incorporate reporting requirements on a consolidated basis. Any extension of the reporting population should take into account the NCBs' right to grant derogations to small reporting agents, and should be adopted at least two years prior to its introduction to allow sufficient time for implementation by reporting agents and NCBs.

(13) In preparing for future stages, an extension of the reporting population as well as an introduction of additional reporting requirements should be based on an analysis by the Statistics Committee of the ESCB (hereinafter the ‘STC’), taking into account the

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users' needs, reporting agents' and NCBs' estimated costs, market developments and the experience gained in preparing for the first stage.

(14) The reporting obligations on credit data should be defined taking into account the principle of proportionality, to avoid imposing an undue reporting burden in particular on small reporting agents with limited total credit exposure. For the same reason, NCBs should have the right to grant derogations to small reporting agents.

(15) With a view to ensuring efficient reporting and adequate interoperability with other existing or new reporting frameworks, NCBs should be allowed to collect the information to be transmitted to the ECB as a part of a broader national reporting framework and to extend the reporting of credit data beyond the scope outlined in this Regulation, for their own statutory purposes, in line with relevant national law.

(16) To contribute to AnaCredit, NCBs should be allowed to use their own databases, data received from reporting agents and any other sources, including relevant reference databases. NCBs should have the discretion to decide whether they enter into cooperation arrangements with national statistical institutes (NSIs), or national competent authorities (NCAs) for the supervision of reporting agents, or any other national authorities, as long as the data provided meet the quality standards set out in this Regulation. Due to the different national arrangements currently in place, and in order to minimise the reporting burden under this Regulation, effective and efficient collaboration with NSIs, NCAs and other national authorities is encouraged.

(17) The framework for the collection of credit data should be set up with a view to ensuring interoperability with central credit registers (CCRs) and other relevant credit data sets established by public sector entities, including databases on securities statistics as well as the ESCB Register of Institutions and Affiliates Dataset.

(18) NCBs should be allowed to use the multi-purpose shared analytical granular credit data set to establish feedback loops with reporting agents or to enrich existing feedback loops and other information services from CCRs to reporting agents. These feedback loops will enhance the ESCB's contribution to the stability of the financial system in line with its statutory mandate according to Article 127(5) of the Treaty on the Functioning of the European Union. The feedback loops will provide reporting agents with a broader basis for their creditworthiness assessments, in particular with regard to cross-border debtors, and enable the harmonisation of definitions and data attributes throughout their lending practices. They will improve credit institutions' and other lenders' credit risk management. In particular, they will support credit institutions in avoiding undue reliance on external credit ratings for assessing creditworthiness. A feedback loop should follow best practices and ensure minimum data quality standards. The subset of analytical credit data that may be shared between NCBs, for the purposes of the feedback loops, should be defined taking into account the specific confidentiality level of the relevant data attributes and the corresponding confidentiality protection requirements, as well as the time needed for implementation. Further details on the scope and implementation of the feedback loops may be laid down in a separate legal act and NCBs may enter into Memoranda of Understanding, based on the applicable legal frameworks, regarding their respective cooperation in the feedback loops. While

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some NCBs that operate CCRs already share granular cross-border credit and credit risk data with each other on a bilateral basis[(5)], others may, for legal reasons, require a certain time period to implement cross-border information sharing in order to pass such data on to financial institutions reporting to them. The set-up and implementation of feedback loops should take into account national legal provisions on the handling of confidential statistical information.

(19) For the purposes of this Regulation the standards for the protection and use of confidential statistical information as laid down in Articles 8 to 8c of Regulation (EC) No 2533/98 should apply.

(20) Article 7(1) of Regulation (EC) No 2533/98 provides that the ECB has the power to impose sanctions on reporting agents that fail to comply with statistical reporting requirements defined or imposed in ECB regulations or decisions. This sanctioning power is independent of NCBs' right to sanction reporting agents who do not comply with statistical or other reporting obligations that apply to them under the respective national legal framework.

(21) It is necessary to establish a procedure for making technical amendments to the annexes to this Regulation in an effective manner, provided they neither change the underlying conceptual framework nor affect the reporting burden on reporting agents in Member States. This procedure needs to allow the views of the ESCB Statistics Committee to be taken into account.

(22) Article 5 of the Statute of the ESCB, 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 Member States whose currency is not the euro consider appropriate: (a) for carrying out the collection of the statistical information needed to fulfil the ECB's statistical reporting requirements; and (b) for timely preparations in the field of statistics in order for such Member States to become Member States whose currency is the euro.

(23) This Regulation should apply without prejudice to the collection of credit data under the legal framework of the SSM,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation:

(1) ‘reporting Member State’ means a Member State whose currency is the euro; Member States whose currency is not the euro may decide to become a reporting Member State by incorporating the provisions of this 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 SSM via close cooperation in accordance with Article 7 of Council Regulation (EU) No 1024/2013[(6)];

(2) ‘resident’ has the same meaning as defined in Article 1(4) of Regulation (EC) No 2533/98;