Regulation (EU) No 469/2014 of the European Central Bank of 16 April 2014 amending Regulation (EC) No 2157/1999 on the powers of the European Central Bank to impose sanctions (ECB/1999/4) (ECB/2014/18)

[[X1]REGULATION (EU) No 469/2014 OF THE EUROPEAN CENTRAL BANK

of 16 April 2014

amending Regulation (EC) No 2157/1999 on the powers of the European Central Bank to impose sanctions (ECB/1999/4)

(ECB/2014/18)**]**

[[X1]THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 132(3) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 34.3 and 19.1 thereof,

Having regard to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions[(1)], and in particular Article 6(2) thereof,

Whereas:

(1) The European Central Bank (ECB) has applied Regulation (EC) No 2157/1999 of the European Central Bank (ECB/1999/4)[(2)] to impose sanctions in its various fields of competence, including in particular the implementation of the monetary policy of the Union, the operation of payment systems and the collection of statistical information.

(2) Council Regulation (EU) No 1024/2013[(3)] entitles the ECB to impose on the credit institutions it supervises administrative pecuniary penalties when these institutions breach a requirement under directly applicable Union law and sanctions in case of a breach of ECB regulations or decisions.

(3) The ECB has adopted Regulation (EU) No 468/2014 (ECB/2014/17)[(4)] to further specify the procedures governing the exercise by the ECB, national competent authorities and national designated authorities of their supervisory tasks under Regulation (EU) No 1024/2013. Regulation (EU) No 468/2014 (ECB/2014/17) contains provisions on the procedure for the imposition of administrative penalties by the ECB and national competent authorities in the supervisory field.

(4) In order to establish a consistent regime for the imposition of sanctions by the ECB in the exercise of its supervisory tasks under Regulation (EU) No 1024/2013 and Regulation (EU) No 468/2014 (ECB/2014/17), the ECB has adopted Recommendation ECB/2014/19[(5)].

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 469/2014 of the European Central Bank. (See end of Document for details)*

(5) Regulation (EC) No 2157/1999 should be clarified to the effect that it only applies to the imposition of sanctions by the ECB in the exercise of its non-supervisory central bank tasks, while Regulation (EU) No 468/2014 (ECB/2014/17) applies to the imposition of administrative penalties by the ECB in the exercise of its supervisory tasks.

(6) When further specifying the procedural rules applying to the initiation and conduct of the infringement procedure laid down in Regulation (EC) No 2532/98, the ECB should take into account the degree of severity of the envisaged sanction.

(7) Therefore, Regulation (EC) No 2157/1999 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Editorial Information

X1 Substituted by Corrigendum to Regulation (EU) No 469/2014 of the European Central Bank of 16 April 2014 amending Regulation (EC) No 2157/1999 on the powers of the European Central Bank to impose sanctions (ECB/1999/4) (ECB/2014/18) (Official Journal of the European Union L 141 of 14 May 2014).

Article 1

Amendments

Regulation (EC) No 2157/1999 is amended as follows:

1. a new Article 1a is inserted after Article 1:

Article 1a

Scope

This Regulation shall only apply to sanctions that may be imposed by the ECB in the exercise of its non-supervisory central bank tasks. It shall not apply to any administrative penalties that may be imposed by the ECB in the exercise of its supervisory tasks.;

2. a new Article 1b is inserted after Article 1a:

Article 1b

Independent investigating unit

1 For the purposes of deciding whether to initiate an infringement procedure pursuant to Article 2 and exercise the powers laid down in Article 3, the ECB shall establish an internal independent investigating unit (hereinafter "investigating unit") composed of investigating officers who shall perform their investigative functions independently from the Executive Board and the Governing Council, and shall not take part in the deliberations of the Executive Board and Governing Council.

2 Where the ECB considers that there is a reason to suspect that one or more infringements are being or have been committed, the matter shall be referred to the Executive Board.

3 Where the Executive Board considers that the applicable sanction could exceed the threshold provided for in Article 10(1), the simplified procedure set out in Article 10 shall not apply and the Executive Board shall refer the matter to the investigating unit. The investigating unit shall take a decision on whether or not to initiate an infringement procedure.

4 Any reference to the ECB in Articles 2 to 4, Article 5(1) to (3) and Article 6 shall be read as a reference to the investigating unit of the ECB or, where the simplified procedure under Article 10 applies, to the Executive Board.

5 The provisions of this Article shall be without prejudice to the competence of the competent national central bank to initiate an infringement procedure and conduct an inquiry in accordance with this Regulation.;

3. in Article 2, paragraph 1 is replaced by the following:

1. No more than one infringement procedure shall be initiated against the same undertaking based on the same facts. For this purpose, no decision on whether or not to initiate an infringement procedure shall be taken by the ECB or by the competent national central bank until they have informed and consulted with one another.;

4. in Article 2, paragraph 3 is replaced by the following:

3. Either the ECB or the competent national central bank, as the case may be, shall, upon request, be entitled to assist and cooperate with the other in carrying out the infringement procedure, in particular by transmitting any information that may be deemed relevant.;

5. a new Article 7a is inserted after Article 7:

Article 7a

Submission of a proposal to the Executive Board

1 If the investigating unit or the competent national central bank, as relevant, considers, after completion of the infringement procedure, that a sanction should be imposed on the undertaking concerned, it shall submit a proposal to the Executive Board determining that the undertaking concerned has committed an infringement and specifying the amount of the sanction to be imposed.

2 The investigating unit or the competent national central bank, as relevant, shall base its proposal only on facts and objections on which the undertaking concerned has had the opportunity to comment.

3 If the Executive Board considers that the file submitted by the investigating unit or the competent national central bank, as relevant, is incomplete, it may return the file, together with a reasoned request for additional information, to the investigating unit or the competent national central bank.

4 If the Executive Board, on the basis of a complete file, agrees with the proposal of the investigating unit or the competent national central bank, as relevant, to