Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 1409/2013 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*

Regulation (EU) No 1409/2013 of the European Central Bank of 28 November 2013 on payments statistics (ECB/2013/43)

REGULATION (EU) No 1409/2013 OF THE EUROPEAN CENTRAL BANK

of 28 November 2013

on payments statistics

(ECB/2013/43)

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,

Having regard to the opinion of the European Commission,

Whereas:

(1) The European Central Bank (ECB) requires country-specific and comparative payments statistics to fulfill its tasks. Article 2(1) of Regulation (EC) No 2533/98 provides that information may be collected in the area of payments and payment systems statistics. These data are essential for identifying and monitoring developments in the payments markets within the Member States, and for assisting in the promotion of the smooth operation of payment systems.

(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') requires the ECB, assisted by the national central banks (NCBs), to collect the necessary statistical information either from the competent national authorities or directly from economic agents in order to undertake the tasks of the European System of Central Banks (ESCB). Article 5.2 of the Statute of the ESCB requires NCBs to carry out, to the extent possible, the tasks described in Article 5.1.

(3) The Eurosystem collects payments information pursuant to Guideline ECB/2007/9[(2)]. In the interest of increasing the quality and reliability of payments statistics and ensuring full coverage of the reporting population, the relevant information should be collected directly from reporting agents.

(4) The methodology according to which payments information is collected should take account of the developments in the legal framework for payments within the European Union, in particular, Directive 2007/64/EC of the European Parliament and of the Council[(3)], Directive 2009/110/EC of the European Parliament and of the Council[(4)] and Article 5 of of Regulation (EC) No 924/2009 of the European Parliament and of the Council[(5)].

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(5) It may be appropriate for NCBs to collect from the actual reporting population the statistical information necessary to fulfil the ECB's statistical requirements as part of a broader statistical reporting framework which the NCBs establish under their own responsibility in accordance with Union or national law or established practice and which also serves other statistical purposes, provided that the fulfilment of the ECB's statistical requirements is not jeopardised. This may also reduce the reporting burden. In order to foster transparency, it is appropriate, in these cases, to inform the reporting agents that data are also collected to fulfil other statistical purposes. In specific cases, the ECB may rely on statistical information collected for such other purposes to fulfil its requirements.

(6) While it is recognised that regulations adopted by the ECB under Article 34.1 of the Statute of the ESCB do not confer any rights or impose any obligations on Member States whose currency is not the euro (hereinafter the 'non-euro area Member States'), Article 5 of the Statute of the ESCB applies to both Member States whose currency is the euro (hereinafter the 'euro area Member States') and non-euro area Member States. Recital 17 of Regulation (EC) No 2533/98 refers to the fact that 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 non-euro area Member States consider appropriate in order to carry out the collection of the statistical information needed to fulfil the ECB's statistical reporting requirements and timely preparations in the field of statistics in order for them to become euro area Member States. Consequently, provisions of this Regulation may be extended to apply to the NCBs of non-euro area Member States by means of such NCBs cooperating with the Eurosystem on the basis of an ECB recommendation.

(7) The standards for the protection and use of confidential statistical information as laid down in Article 8 of Council Regulation (EC) No 2533/98 should apply.

(8) It is necessary to set up a procedure to carry out technical amendments to the annexes to this Regulation in an effective manner, provided that such amendments neither change the underlying conceptual framework nor affect the reporting burden. Account will be taken of the views of the Statistics Committee (STC) of the ESCB when following this procedure. NCBs and other ESCB Committees may propose such technical amendments to the annexes through the STC,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation:

(a) 'reporting agent' and 'resident' have the same meaning as defined in Article 1 of Regulation (EC) No 2533/98;

(b) 'payment service', 'payment service provider', 'payment institution' and 'payment system' have the same meaning as defined in Article 4 of Directive 2007/64/EC;

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(c) 'electronic money issuer' and 'electronic money institution' have the same meaning as defined in Article 2 of Directive 2009/110/EC;

(d) 'payment system operator' means a legal entity that is legally responsible for operating a payment system.

Article 2

Actual reporting population

1 The actual reporting population shall consist of payment service providers (including electronic money issuers) and/or payment system operators.

2 The reporting agents shall be subject to full statistical reporting requirements.

Article 3

Statistical reporting requirements

1 The actual reporting population shall report the statistical information to the NCB of the Member State in which the reporting agent is resident, as specified in Annex III and taking into consideration the clarifications and definitions provided in Annexes I and II.

2 The NCBs shall define and implement the reporting arrangements to be followed by the actual reporting population in accordance with national characteristics. The NCBs shall ensure that these reporting arrangements provide the statistical information required under this Regulation and allow accurate checking of compliance with the minimum standards for transmission, accuracy, compliance with concepts and revisions specified in Annex IV.

Article 4

Derogations

1 NCBs may grant derogations to reporting agents in respect of part or all of the reporting requirements set out in this Regulation:

a in the case of payment institutions, if they fulfil the conditions laid down in Article 26(1) and (2) of Directive 2007/64/EC;

b in the case of electronic money institutions, if they fulfil the conditions laid down in Article 9(1) and (2) of Directive 2009/110/EC;

c in the case of other payment service providers not mentioned in points (a) and (b), if they fulfil either the conditions laid down in Article 9(1) and (2) of Directive 2009/110/EC or in Article 26(1) and (2) of Directive 2007/64/EC.

2 NCBs may only grant derogations to reporting agents under paragraph 1 if these reporting agents do not contribute to a statistically significant coverage, at national level, of payment transactions for each type of payment service.

3 NCBs may grant derogations to reporting agents in respect of reporting transactions with non-MFIs, where: (a) the combined value of services specified in Table 4 of Annex III contributed by reporting agents benefiting from such derogation does not exceed 5 % at national level for each of such services; and (b) the reporting burden would otherwise be disproportionate in view of the size of such reporting agents.

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4 If an NCB grants a derogation pursuant to paragraph 1 or 3, it shall notify the ECB thereof at the same time as it reports information pursuant to Article 6(1).

5 The ECB shall publish a list of entities granted derogations by the NCBs.

Article 5

List of payment service providers and payment system operators for statistical purposes

1 The Executive Board shall establish and maintain a list of payment service providers, including electronic money issuers, and payment system operators subject to this Regulation. The list will be based on existing lists of supervised payment service providers and payment system operators established by national authorities, where such lists are available.

2 The NCBs and the ECB shall make the list referred to in paragraph 1, and its updates, accessible to the reporting agents concerned in an appropriate way, including by electronic means, via the Internet or, at the request of the reporting agents concerned, in paper form.

3 The list referred in paragraph 1 shall be for information only. However, in the event that the latest accessible electronic version of the list referred to in paragraph 1 is incorrect, the ECB shall not impose sanctions on any entity that did not properly fulfil its reporting requirements to the extent that it relied in good faith on the incorrect list.

Article 6

Timeliness

1 Statistical information, as specified in Annex III, shall be transmitted by the NCBs to the ECB on an annual basis by close of business on the last working day of May following the end of the year to which it relates.

2 NCBs shall decide when and with which periodicity they need to receive data from reporting agents in order to meet their reporting deadline to the ECB, and shall inform the reporting agents accordingly

Article 7

Verification and compulsory collection

The NCBs shall exercise the right to verify or to collect compulsorily the information which reporting agents are required to provide pursuant to this Regulation, without prejudice to the ECB's right to exercise this right itself. In particular, the NCBs shall exercise this right when a reporting agent does not fulfil the minimum standards for transmission, accuracy, compliance with concepts and revisions specified in Annex IV.

Article 8

First reporting

By way of derogation from Article 6, first reporting pursuant to this Regulation shall start in June 2015 with statistical information relating to the reference period of the second half of the calendar year 2014 (i.e. as of July 2014).

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Article 9

Simplified amendment procedure

Taking account of the STC's views, the Executive Board shall be entitled to make technical amendments to the annexes to this Regulation, provided that such amendments neither change the underlying conceptual framework nor affect the reporting burden. The Executive Board shall inform the Governing Council of any such amendment without undue delay.

Article 10

Final provision

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Frankfurt am Main, 28 November 2013.

For the Governing Council of the ECB

The President of the ECB

Mario DRAGHI