Decision (EU) 2020/1631 of the European Central Bank of 22 October 2020 on the delegation of decision-making powers in relation to the transmission of confidential statistical information on economic and financial statistics to the Statistical Office of the European Union (Eurostat) (ECB/2020/53)

DECISION (EU) 2020/1631 OF THE EUROPEAN CENTRAL BANK

of 22 October 2020

on the delegation of decision-making powers in relation to the transmission of confidential statistical information on economic and financial statistics to the Statistical Office of the European Union (Eurostat) (ECB/2020/53)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 12.1 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 Article 8a thereof,

Whereas:

(1) Pursuant to Article 8a(1) of Regulation (EC) No 2533/98, the transmission of confidential statistical information between a member of the European System of Central Banks (ESCB) that collected the information and an authority of the European Statistical System (ESS) may take place provided that this transmission is necessary for the efficient development, production or dissemination, or for increasing the quality, of European statistics within the respective spheres of competence of the ESS and the ESCB and that this necessity has been justified.

(2) Article 8a of Regulation (EC) No 2533/98 requires further safeguards to be put in place upon exchange of confidential statistical information between the ESCB and the ESS, namely that any further transmission beyond the first transmission must be explicitly authorised by the authority that collected the information and that confidential statistical information may not be used for purposes other than statistical, such as for administrative or tax purposes or legal proceedings.

(3) Pursuant to Article 20(2) of Regulation (EC) No 223/2009 of the European Parliament and of the Council[(2)], confidential data obtained exclusively for the production of European statistics are to be used by the Statistical Office of the European Union (Eurostat) exclusively for statistical purposes unless the statistical unit has unambiguously given its consent to use for any other purposes. Moreover, pursuant to Article 20(4) of Regulation (EC) No 223/2009, Eurostat is to take all the necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of confidential data. On this basis, Eurostat has confirmed to the

Changes to legislation: *There are outstanding changes not yet made to Decision (EU) 2020/1631 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*

European Central Bank (ECB) that it will ensure the confidentiality of the transmitted statistical information, which shall be used solely for statistical purposes and which shall not be further disclosed. Hence, the Governing Council of the ECB has assessed that Eurostat has the necessary measures in place to safeguard the confidentiality of the confidential statistical information on economic and financial statistics transmitted by the ECB.

(4) In March 2003 the ECB and Eurostat concluded a Memorandum of Understanding on economic and financial statistics[(3)] (hereinafter referred to as the 'MoU on economic and financial statistics') to provide, inter alia, a framework for the exchange and reproduction of data. Section G of that MoU provides that agreed arrangements for the timely exchange of data will be set out in a Service Level Agreement which also deals with the exchange of confidential statistical data. Accordingly, the Service Level Agreement (SLA) on Data Exchanges[(4)], set out in Annex 2 to the MoU on economic and financial statistics and concluded in February 2008, describes the respective responsibilities, modalities and means for data exchanges between the Directorate-General Statistics of the ECB and Eurostat. Appendix 1 to that SLA specifically lays down the statistical information to be shared between Eurostat and the ECB. That statistical information includes, but is not limited to: quarterly financial accounts statistics; balance sheet item statistics of monetary financial institutions (MFIs); interest rates statistics of MFIs; and external statistics collected on the basis of Guideline ECB/2013/24[(5)], Regulation (EU) No 1071/2013 of the European Central Bank (ECB/2013/33)[(6)], Regulation (EU) No 1072/2013 of the European Central Bank (ECB/2013/34)[(7)] and Guideline ECB/2011/23[(8)], respectively.

(5) In order to facilitate the ECB's decision-making process in relation to decisions on the transmission of confidential economic and financial statistical information to Eurostat for the purposes of the MoU on economic and financial statistics, and decisions on any amendments to the SLA on Data Exchanges that may be needed for the transmission to Eurostat of confidential statistical information, it is necessary to allow delegation of certain decision-making powers, as laid down in this delegation decision. The delegated decision on the transmission of confidential economic and financial statistical information to Eurostat includes information at EU, euro area and national level, as well as national contributions pursuant to ECB legal acts.

(6) In accordance with Article 12.1 of the Statute of the European System of Central Banks and of the European Central Bank, the Governing Council may decide to delegate certain powers to the Executive Board.

(7) In accordance with the general principles on delegation as developed and confirmed by the Court of Justice of the European Union, delegation of decision-making powers should be limited, proportionate and based on specified criteria. In light of the conditions set out in Article 8a of Regulation (EC) No 2533/98 that apply for each transmission of confidential statistical information to Eurostat and the limitation of this Decision to transmissions of confidential statistical information for the purposes of the MoU on economic and financial statistics, the delegated decisions to be taken are of

***Changes to legislation:** There are outstanding changes not yet made to Decision (EU) 2020/1631 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*

technical rather than a political nature which means that the criteria for the delegation should remain relatively general.

(8) Where criteria for the adoption of a delegated decision are not met, decisions on the transmission of confidential statistical information to Eurostat should be adopted by the Governing Council upon proposal by the Executive Board,

HAS ADOPTED THIS DECISION:

Article 1

Definitions

For the purposes of this Decision, the following definitions shall apply:

1. ‘confidential statistical information’ means confidential statistical information as defined in point 12 of Article 1 of Regulation (EC) No 2533/98;

2. ‘delegated decision’ means a decision taken on the basis of a delegation of powers by the Governing Council pursuant to this Decision;

3. ‘MoU on economic and financial statistics’ means the Memorandum of Understanding on economic and financial statistics between the Directorate-General Statistics of the European Central Bank (DG Statistics) and the Statistical Office of the European Communities (Eurostat), concluded on 10 March 2003;

4. ‘SLA on Data Exchanges’ means the Service Level Agreement (SLA) on Data Exchanges between the European Central Bank (DG Statistics) and the Statistical Office of the European Communities (Eurostat), concluded in February 2008, as amended from time to time in accordance with its terms, which forms Annex 2 to the MoU on economic and financial statistics.

Article 2

Transmission of confidential statistical information to Eurostat

1 The Governing Council hereby delegates to the Executive Board the power to decide on the transmission to Eurostat of confidential statistical information within the scope of the MoU on economic and financial statistics.

2 A decision on the transmission of confidential statistical information by the ECB to Eurostat as described in paragraph 1 shall only be adopted by means of a delegated decision if the criteria for the adoption of delegated decisions as set out in Article 4 are fulfilled.

Article 3

Amendments to the SLA on Data Exchanges

1 The Governing Council hereby delegates to the Executive Board the power to decide on amendments to the SLA on Data Exchanges to the extent necessary for the transmission to Eurostat of the confidential statistical information referred to in Article 2(1).