

## COUNCIL OF THE EUROPEAN UNION

**Brussels, 10 December 2008** 

17114/08

ECOFIN 610 STATIS 173 UEM 223

## NOTE

from:	The Presidency
to:	Working Party Group on Statistics
Subject:	Recommendation for a Council Regulation amending Council Regulation (EC) N°2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank - Presidency's proposal of changes in the ECB Recommendation

Delegations will find attached a Presidency note with suggestions for amendments to the ECB Recommendation.

## Presidency note Proposal of changes in the ECB Recommendation

This three columns document presents the three versions of the Regulation 2533/98:

- The first column is the text in force now;
- The second column is the text as amended by the Recommendation of ECB;
- In the third column is drafted the proposed Presidency text. Some of the proposed changes result from the negociation with the ECB. The revision marks allow to compare the Presidency text with the formulation of the ECB Recommendation.

The main changes adress the issues of:

- <u>Confidentiality</u>: a new Article 8a has been created, dealing separately with the exchange of information between the ESCB and the ESS.
- <u>Better mirroring the Regulation on European statistics</u> regarding provisions on the quality aspects (Article 3) and regarding the definition of European statistics produced by the ESCB (new Article 1.1a)
- The extension of the reference reporting population (Article 2)
- <u>The need of cooperation of the two systems</u>: proposal of a new recital 8a, proposal of a new Article 2a mirroring Article 8 in ES Regulation, modification of the Article 5(2).

## Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank

Text in force	ECB Recommandation	Presidency text
THE COUNCIL OF THE	THE COUNCIL OF THE	
EUROPEAN UNION,	EUROPEAN UNION,	
Having regard to the Protocol	Having regard to the Statute of	
(No 3) on the Statute of the	the European System of Central	
European System of Central	Banks and of the European	
Banks and of the European	Central Bank (hereinafter	
Central Bank (hereinafter	referred to as the 'Statute') and	
referred to as the 'Statute') and	in particular to Article 5.4	
in particular to Article 5.4	thereof,	
thereof,	Having regard to the	
Having regard to the	recommendation of the	
recommendation of the	European Central Bank (ECB),	
European Central Bank (the	Having regard to the opinion of	
'ECB`) (1),	the European Parliament,	
Having regard to the opinion of	Having regard to the opinion of	
the European Parliament (2),	the Commission,	
Having regard to the opinion of	Having regard to Regulation	
the Commission (3),	(EC) No [XX] of the European	
Acting in accordance with the	Parliament and of the Council	
procedure laid down in Article	on European Statistics,	
106(6) of the Treaty	Acting in accordance with the	
establishing the European	procedure laid down in Article	
Community and in Article 42	107(6) of the Treaty establishing	
of the Statute,	the European Community and in	
Whereas:	Article 42 of the Statute,	
	Whereas:	
	(1) Council Regulation (EC) No	
	2533/98 of 23 November 1998	
	concerning the collection of	
	statistical information by the	
	European Central Bank is a key	
	component in the legal	
	framework supporting the	
	statistical information collection	
	tasks of the ECB assisted by the	
	national central banks. The ECB	
	has consistently relied on it to	
	carry out and monitor the	
	coordinated collection of	
	statistical information necessary	
	to undertake the tasks of the	
	European System of Central	
	Banks (ESCB).	

Text in force	ECB Recommandation	Presidency text
	(2) In order to maintain	
	Regulation (EC) No 2533/98 as	
	an effective instrument for the	
	ECB to carry out the statistical	
	information collection tasks of	
	the ESCB and to guarantee the	
	continued availability to the	
	ECB of statistical information of	
	the necessary quality and	
	covering the entire range of	
	tasks of the ESCB it is essential	
	to review the scope of the	
	reporting requirements that this	
	Regulation imposes. In this	
	context, attention needs to be	
	paid not only to the performance	
	of the tasks of the ESCB and to	
	its independence, but also to the	
	statistical principles provided in	
	this Regulation.	
	(3) It is necessary to amend	
	Regulation (EC) No 2533/98 to	
	enable the ECB to collect the	
	statistical information needed to	
	undertake the ESCB's tasks	
	conferred by the Statute. In line	
	with this, the purposes for which	
	statistical information may be	
	collected need also to include	
	the compilation of the macro-	
	prudential statistics required for	
	the performance of the ESCB's	
	tasks under Article 105(5) of the	
	Treaty.	

Text in force	ECB Recommandation	Presidency text
	(4) The scope of the reporting	
	requirements necessary for the	
	performance of the ESCB tasks	
	should also take into account	
	structural financial markets	
	developments and address	
	related statistical information	
	requirements that were less	
	apparent at the time Regulation	
	(EC) No 2533/98 was adopted.	
	For that reason, it is necessary to	
	allow the collection of statistical	
	information from the entire	
	sector of financial corporations,	
	and in particular from the	
	insurance corporations and	
	pension funds, which represent	
	the second largest sub-sector of	
	financial corporations in the	
	euro area in terms of financial	
	assets.	
	(5) In order to allow for the	
	continued compilation of	
	balance of payments statistics of	
	sufficient quality, it is necessary	
	to clarify the reporting	
	requirements imposed in	
	connection with data on all	
	positions and transactions	
	between the residents of	
	participating Member States.	
	(6) Researchers increasingly	
	require access to confidential	
	statistical information which	
	does not allow direct	
	identification to analyse and	
	understand developments within	
	sectors and across countries.	
	Therefore, it is important to allow the ECB and the NCBs to	
	grant to scientific research	
	bodies access to such detailed	
	statistical information at the	
	ESCB level, while maintaining	
	strict confidentiality safeguards.	

Text in force	ECB Recommandation	Presidency text
	(7) To minimise the reporting	
	burden on reporting agents and	
	to enable the efficient	
	development, production and	
	dissemination of high-quality	
	statistics, and the proper	
	performance of the ESCB tasks,	
	it is necessary to allow the	
	maximum use of existing	
	information to compile	
	statistics, including an exchange	
	of confidential statistical	
	information within the ESCB.	
		(7a) The decision on
		development, production and
		dissemination of European
		statistics should be based on
		cost-benefit analysis, including
		an assessment of the burden
		on respondents.
	(8) Furthermore, it is important	
	to ensure close cooperation	
	between the ESCB and the	
	European Statistical System	
	(ESS), notably to foster	
	exchange of confidential data	
	between the two systems for	
	statistical purposes, in the light	
	of Article 285 of the Treaty and	
	Article 5 of the Statute.	

Text in force	ECB Recommandation	Presidency text
		(8a) In line with Article 5.1 of
		the Statute, the ESCB and the
		ESS should cooperate closely
		in order to ensure the
		coherence necessary to
		develop, produce and
		disseminate European
		Statistics. In particular, the
		ESCB and the ESS should
		concert when updating their
		own statistical principles
		established in each separate
		legal framework, when
		designing their respective
		multiannual programmes, and
		when striving to reduce the
		overall response burden. To
		this end the availability of
		periodical reports of the ECB
		on the implementation of the
		ESCB multiannual
		programmes is of particular
		importance in order to
		maximise the benefits of a
	(9) European Statistics are and	good cooperation.
	will be developed, produced and	
	disseminated by both the ESCB	
	and the ESS but under separate	
	legal frameworks reflecting their	
	respective governance	
	structures. This Regulation	
	should therefore apply without	
	prejudice to Regulation (EC) No	
	[XX],	
		(10) Any confidential
		statistical data collected in the
		framework of Regulation (EC)
		No [XX] and supplied to a
		member of the ESCB by a
		member of the European
		<b>Statistical System must strictly</b>
		be used only for statistical
		purposes by the ESCB
		member receiving it and
		confidentiality provisions
		referred to in the Regulation
		(EC) No [XX] should apply.

Text in force	ECB Recommandation	Presidency text
(1) Whereas Article 5.1 of the		
Statute requires the ECB,		
assisted by the national central		
banks, to collect either from		
the competent national		
authorities or directly from		
economic agents the statistical		
information which is necessary		
for the tasks of the European		
System of Central Banks		
(hereinafter referred to as the		
'ESCB') to be performed;		
whereas, to facilitate the		
execution of these tasks, set		
out in Article 105 of the		
Treaty, and in particular the		
conduct of monetary policy,		
this statistical information is		
used primarily for the		
production of aggregated		
statistical information, for		
which the identity of individual		
economic agents is irrelevant,		
but may also be used at the		
level of individual economic		
agents; whereas Article 5.2 of		
the Statute requires the		
national central banks to carry		
out, to the extent possible, the		
tasks described in Article 5.1		
of the Statute; whereas Article		
5.4 of the Statute requires the		
Council to define the natural		
and legal persons subject to		
reporting requirements, the		
confidentiality regime and the		
appropriate provisions for		
enforcement; whereas the		
national central banks may		
cooperate with other competent		
authorities, including national		
statistical institutes and market		
regulators, for the purposes of		
Article 5.1 of the Statute;		

Text in force	ECB Recommandation	Presidency text
(2) Whereas, in order for		
statistical information to be		
effective as an instrument for		
the performance of the tasks of		
the ESCB, definitions and		
procedures for its collection		
need to be structured so that		
the ECB has the ability and		
flexibility to avail itself in a		
timely manner of high-quality		
statistics which reflect		
changing economic and		
financial conditions and take		
account of the burden imposed		
on reporting agents; whereas in		
so doing attention must be paid		
not only to the performance of		
the ESCB's tasks and its		
independence but also to		
keeping the burden placed on		
the reporting agents to a		
minimum;		
(3) Whereas it is therefore		
desirable to define a reference		
reporting population in terms		
of categories of economic units		
and statistical applications		
involved, to which the		
statistical powers of the ECB is		
confined and from which the		
ECB determines the actual		
reporting population through		
its regulatory power;		

Text in force	ECB Recommandation	Presidency text
(4) Whereas a homogeneous		
reporting population is		
necessary for the production of		
the consolidated balance sheet		
of the Monetary Financial		
Institutions sector of the		
participating Member States,		
the principal aim of which is to		
provide the ECB with a		
comprehensive statistical		
picture of monetary		
developments in the		
participating Member States,		
seen as one economic territory;		
whereas the ECB has		
established and maintains a		
List of Monetary Financial		
Institutions for statistical		
purposes based on a common		
definition of these institutions;		
(5) Whereas the said common		
definition for statistical		
purposes specifies that		
Monetary Financial Institutions		
comprise credit institutions as		
defined in Community law,		
and all other resident financial		
institutions whose business is		
to receive deposits and/or close		
substitutes for deposits from		
entities other than Monetary		
Financial Institutions and, for		
their own account (at least in		
economic terms), to grant		
credits and/or to make		
investments in securities;		

Text in force	ECB Recommandation	Presidency text
(6) Whereas those post office		
giro institutions which may not		
fulfil the common definition		
for statistical purposes of		
Monetary Financial Institutions		
may nevertheless need to be		
made subject to the ECB's		
statistical reporting		
requirements in the field of		
money and banking statistics		
and payment systems statistics		
because they may, to a		
significant extent, receive		
deposits and/or close		
substitutes for deposits and		
undertake payment systems		
business;		
(7) Whereas in the European		
System of National and		
Regional Accounts 1995 (4)		
(hereinafter referred to as the		
'ESA 95`), the Monetary		
Financial Institutions therefore		
comprise the sub-sectors 'the		
central bank` and 'other		
monetary financial institutions`		
and may be broadened solely		
through the inclusion of		
categories of institutions		
coming from the sub-sector		
'other financial intermediaries,		
except insurance corporations		
and pension funds`;		
(8) Whereas statistics on the		
balance of payments, the		
International Investment		
Position, securities, electronic		
money and payment systems		
are necessary to enable the		
ESCB to fulfil its tasks in an		
independent manner;		

Text in force	ECB Recommandation	Presidency text
(9) Whereas the use of the		
terms "legal and natural		
persons" in Article 5.4 of the		
Statute has to be construed in a		
manner that is consistent with		
the practices of Member States		
in the field of money and		
banking statistics and balance		
of payments statistics and		
therefore also encompasses		
entities that are neither legal		
persons nor natural persons		
under their respective national		
laws but still fall within the		
relevant sub-sectors of the		
ESA 95; whereas reporting		
requirements can therefore be		
imposed on entities such as		
partnerships, branches,		
undertakings for collective		
investments in transferable		
securities (UCITS) and funds		
that, under their respective		
laws, do not enjoy the status of		
a legal person; whereas in		
these cases the reporting		
obligation is imposed on those		
persons who, under the		
applicable national laws,		
legally represent the entities		
concerned;		
(10) Whereas the statistical		
balance sheet reports of		
institutions mentioned in		
Article 19.1 of the Statute may		
also be used to calculate the		
amount of minimum reserves		
which they may be obliged to		
hold;		

Text in force	ECB Recommandation	Presidency text
(11) Whereas it is the task of		
the Governing Council of the		
ECB to specify the division of		
tasks between the ECB and the		
national central banks		
concerning the collection and		
verification of statistical		
information and their		
enforcement, taking into		
account the principle laid down		
in Article 5.2 of the Statute, as		
well as the tasks which will be		
assumed by national authorities		
within the limits of their		
competence, for the purposes		
of obtaining statistics of a		
consistently high quality;		
(12) Whereas, in the early		
years of the single currency		
area, cost-effectiveness may		
require that the ECB's		
statistical reporting		
requirements be satisfied		
through transitional procedures		
due to existing constraints on		
the collection systems; whereas		
this may imply in particular		
that, in the case of the		
Financial Account of the		
balance of payments, data on		
cross-border positions or		
transactions of the participating		
Member States seen as one		
economic territory may in the		
early years of the single		
currency area be compiled		
using all positions or		
transactions between residents		
of a participating Member		
State and residents of other		
countries;		

Text in force	ECB Recommandation	Presidency text
(13) Whereas the limits within		
and the conditions under which		
the ECB is entitled to impose		
sanctions on undertakings for		
failure to comply with the		
obligations laid down in		
regulations and decisions of		
the ECB have been defined by		
Council Regulation (EC) No		
2532/98 of 23 November 1998,		
concerning the powers of the		
European Central Bank to		
impose sanctions (5), in		
accordance with Article 34.3 of		
the Statute; whereas in the		
event of a conflict between the		
provisions of the said		
Regulation and this Regulation		
enabling the ECB to impose		
sanctions, the provisions of this		
Regulation will prevail;		
whereas the sanctions for non-		
compliance with the		
obligations set out in this		
Regulation are without		
prejudice to the possibility of		
the ESCB establishing		
appropriate enforcement		
provisions in its relations with		
counterparties, including the		
partial or total exclusion of a		
reporting agent from monetary		
policy operations in the case of		
a serious infringement of		
statistical reporting		
requirements;		
(14) Whereas regulations made		
by the ECB under Article 34.1		
of the Statute do not confer any		
rights or impose any		
obligations on non-		
participating Member States;		

Text in force	ECB Recommandation	Presidency text
(15) Whereas Denmark,		
referring to paragraph 1 of the		
Protocol (No 12) on certain		
provisions relating to		
Denmark, has given		
notification, in the context of		
the Edinburgh Decision of 12		
December 1992, that it will not		
participate in the third stage of		
Economic and Monetary		
Union; whereas, therefore, in		
accordance with paragraph 2 of		
the said Protocol, all Articles		
and provisions of the Treaty		
and the Statute referring to a		
derogation will be applicable		
to Denmark;		
(16) Whereas under paragraph		
8 of the Protocol (No 11) on		
certain provisions relating to		
the United Kingdom of Great		
Britain and Northern Ireland,		
Article 34 of the Statute does		
not apply to the United		
Kingdom unless it participates		
in the third stage of Economic		
and Monetary Union;		

Text in force	ECB Recommandation	Presidency text
(17) Whereas, while it is		
recognised that the statistical		
information needed to fulfil the		
ECB's statistical reporting		
requirements is not the same		
for the participating as for the		
non-participating Member		
States, Article 5 of the Statute		
applies to both participating		
and non-participating Member		
States; whereas this fact,		
together with Article 5 of the		
Treaty, implies an obligation to		
design and implement at the		
national level all the measures		
that 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 the		
timely preparations in the field		
of statistics in order for them to		
become participating Member		
States;		
(18) Whereas confidential		
statistical information which		
the ECB and the national		
central banks must obtain for		
the performance of the tasks of		
the ESCB must be protected in		
order to gain and maintain the		
confidence of the reporting		
agents; whereas once this		
Regulation is adopted there		
will be no further cause to		
invoke provisions on		
confidentiality preventing the		
exchange of confidential		
statistical information relating		
to the tasks of the ESCB,		
subject to the provisions of		
Directive 95/46/EC of the		
European Parliament and of		
the Council of 24 October		
1995 on the protection of		
individuals with regard to the		
processing of personal data and		
on the free movement of such		
data (6);		
unin (0),		

Text in force	ECB Recommandation	Presidency text
(19) Whereas Article 38.1 of		
the Statute provides that		
members of the governing		
bodies and the staff of the ECB		
and the national central banks		
shall be required, even after		
their duties have ceased, not to		
disclose information of the		
kind covered by the obligation		
of professional secrecy and		
Article 38.2 of the Statute		
provides that persons having		
access to data covered by		
Community legislation		
imposing an obligation of		
secrecy shall be subject to such		
legislation;		
(20) Whereas any infringement		
of the rules binding members		
of the staff of the ECB,		
whether committed wilfully or		
through negligence, renders		
them liable to disciplinary		
sanctions and, if appropriate,		
legal penalties for the violation		
of professional secrecy, subject		
to the combined provisions of		
Articles 12 and 18 of the		
Protocol on the privileges and		
immunities of the European		
Communities;		

Text in force	ECB Recommandation	Presidency text
(21) Whereas the possible use		
of statistical information for		
the execution of the tasks to be		
carried out through the ESCB		
in accordance with Article 105		
of the Treaty, while reducing		
the overall reporting burden,		
implies that the confidentiality		
regime defined in this		
Regulation must differ to some		
extent from the general		
Community and international		
principles on statistical		
confidentiality, and in		
particular from the provisions		
on statistical confidentiality in		
Council Regulation (EC)		
No322/97 of 17 February 1997		
on Community Statistics (7);		
whereas, subject to this point,		
the ECB will take into account		
the principles underlying		
Community statistics set out in		
Article 10 of Regulation (EC)		
No 322/97;		
(22) Whereas the		
confidentiality regime defined		
in this Regulation applies only		
to confidential statistical		
information transmitted to the		
ECB for the performance of		
the tasks of the ESCB and does		
not affect special national or		
Community provisions relating		
to the transmission of other		
types of information to the ECB; whereas the rules on		
statistical confidentiality		
applied by the national		
statistical institutes and the		
Commission on the statistical		
information they collect on		
their own behalf must be		
respected;		
respected,		<u> </u>

Text in force	ECB Recommandation	Presidency text
(23) Whereas, for the purposes		
of Article 5.1 of the Statute,		
the ECB is required to		
cooperate in the field of		
statistics with the Community		
institutions or bodies and with		
the competent authorities of		
the Member States or third		
countries and with		
international organisations;		
whereas the ECB and the		
Commission will establish		
appropriate forms of		
cooperation in the field of		
statistics in order to carry out		
their tasks in the most efficient		
way, trying to minimise the		
burden on reporting agents;		
(24) Whereas the ESCB and		
ECB have been entrusted with		
the task of preparing the		
statistical reporting		
requirements for the euro area		
for their full operation in the		
third stage of Economic and		
Monetary Union (hereinafter		
referred to as 'Stage Three');		
whereas timely preparation in		
the statistical field is essential		
to enable the ESCB to fulfil its		
tasks in Stage Three; whereas		
an essential element of		
preparation is the adoption,		
ahead of Stage Three, of ECB		
statistical regulations; whereas it is desirable to inform market		
participants during 1998 of the detailed provisions the ECB		
may deem necessary to adopt		
for the implementation of its		
statistical reporting		
requirements; whereas it is		
therefore necessary to provide		
the ECB from the date of entry		
into force of this Regulation		
with a regulatory power;		

Text in force	ECB Recommandation	Presidency text
(25) Whereas the provisions of		
this Regulation can be		
effectively applied only if		
participating Member States in		
their entirety have adopted the		
necessary measures with a		
view to ensuring that their		
authorities have the powers to		
assist and collaborate fully		
with the ECB in carrying out		
the verification and		
compulsory collection of		
statistical information, in		
conformity with Article 5 of		
the Treaty,		
HAS ADOPTED THIS	HAS ADOPTED THIS	
REGULATION:	REGULATION:	

Article 1 Definitions  For the purposes of this Regulation:  1. 'the ECB's statistical reporting requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  1. 'the ECB's statistical reporting requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  1a. European Statistics necessary to undertake the ESCB's tasks. They are
For the purposes of this Regulation:  1. 'the ECB's statistical reporting requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  For the purposes of this Regulation:  1. 'the ECB's statistical reporting requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  1a. European Statistics shal mean relevant statistics necessary to undertake the
Regulation:  1. 'the ECB's statistical reporting requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  Regulation:  1. 'the ECB's statistical reporting requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  1a. European Statistics shal mean relevant statistics necessary to undertake the
Regulation:  1. 'the ECB's statistical reporting requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  Regulation:  1. 'the ECB's statistical reporting requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  1a. European Statistics shal mean relevant statistics necessary to undertake the
reporting requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  1a. European Statistics shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  1a. European Statistics shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;
mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  1a. European Statistics shal mean relevant statistics necessary to undertake the
which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;  1a. European Statistics shal mean relevant statistics necessary to undertake the
required to provide and which is necessary for the tasks of the ESCB to be performed;  ESCB to be performed;  provide and which is necessary for the tasks of the ESCB to be performed;  1a. European Statistics shal mean relevant statistics necessary to undertake the
is necessary for the tasks of the ESCB to be performed;  for the tasks of the ESCB to be performed;  1a. European Statistics shal mean relevant statistics necessary to undertake the
ESCB to be performed;  performed;  1a. European Statistics shale mean relevant statistics necessary to undertake the
1a. European Statistics shal mean relevant statistics necessary to undertake the
mean relevant statistics necessary to undertake the
necessary to undertake the
ESCB's tasks. They are
compiled from the statistica
information collected by the
ECB, assisted by the NCBs,
either from the competent
national authorities or direct
form reporting agents. They
are determined in the ESCE
statistical programme.
They shall be developed,
produced and disseminated
according to the statistical
principles referred to in
Article 3.
2. 'reporting agents' shall mean 2. 'reporting agents' shall mean
the legal and natural persons the legal and natural persons and
and the entities referred to in the entities referred to in Article
Article 2(3) which are subject 2(3) which are subject to the
to the ECB's statistical ECB's statistical reporting
reporting requirements; requirements;
3. 'participating Member State' 3. 'participating Member State'
shall mean a Member State shall mean a Member State
which has adopted the single which has adopted the single
currency in accordance with currency in accordance with the
the Treaty; Treaty;

Text in force	ECB Recommandation	Presidency text
4. 'resident' and 'residing' shall	4. 'resident' and 'residing' shall	•
mean having a centre of	mean having a centre of	
economic interest in the	economic interest in the	
economic territory of a country	economic territory of a country	
as described in Annex A; in	as described in [] Council	
this context, 'cross-border	Regulation (EC) n°2223/96 of	
positions' and 'cross-border	25 June 1996 on the European	
transactions' shall mean	system of national and	
respectively positions and	regional accounts in the	
transactions in the assets	Community; in this context,	
and/or liabilities of residents of	'cross-border positions' and	
participating Member States	'cross-border transactions' shall	
seen as one economic territory	mean respectively positions and	
vis-a-vis residents of non-	transactions in the assets and/or	
participating Member States	liabilities of residents of	
and/or residents of third	participating Member States	
countries;	seen as one economic territory	
	vis-a-vis residents of non-	
	participating Member States	
	and/or residents of third	
	countries;	
5. 'International Investment	5. 'International Investment	
Position' shall mean the	Position' shall mean the balance	
balance sheet of the stock of	sheet of the stock of cross-	
cross-border financial assets	border financial assets and	
and liabilities;	liabilities;	
6. 'electronic money' shall	6. 'electronic money' shall mean	
mean an electronic store of	an electronic store of monetary	
monetary value on a technical	value on a technical device,	
device, including prepaid	including prepaid cards, that	
cards, that may be widely used	may be widely used for making	
for making payments to	payments to entities other than	
entities other than the issuer	the issuer without necessarily	
without necessarily involving	involving bank accounts in the	
bank accounts in the	transaction, but acting as a	
transaction, but acting as a	prepaid bearer instrument.	
prepaid bearer instrument.		
		Presidency Note:
		The Presidency is of the opinion
		that the text would be improved
		if are inserted here definitions of
		« development » « production »,
		and « disssemination » of
		statistics mirroring the
		definitions included in the
A (2.1. 2	A 4:1: A	European Statistics Regulation.
Article 2	Article 2	
Reference reporting	Reference reporting	
population	population	

Text in force	ECB Recommandation	Presidency text
1. For the fulfilment of the	For the fulfilment of the ECB's	1.For the fulfilment of the
ECB's statistical reporting	statistical reporting	ECB's statistical reporting
requirements, the ECB,	requirements, the ECB, assisted	requirements and for the
assisted by the national central	by the national central banks in	development, production and
banks in accordance with	accordance with Article 5.2 of	dissemination of European
Article 5.2 of the Statute, shall	the Statute, shall have the right	<b>Statistics</b> , the ECB, assisted by
have the right to collect	to collect statistical information	the national central banks in
statistical information within	for the development,	accordance with Article 5.2 of
the limits of the reference	production and dissemination	the Statute, shall have the right
reporting population and of	of European Statistics within	to collect statistical information
what is necessary to carry out	the limits of the reference	[] within the limits of the
the tasks of the ESCB.	reporting population and of	reference reporting population
	what is necessary to carry out	and of what is necessary to carry
	the tasks of the ESCB. <u>In</u>	out the tasks of the ESCB. []
	particular, information may	<b>Such statistical</b> information
	be collected to fulfil the ECB's	may be collected to fulfil the
	statistical reporting	ECB's statistical reporting
	requirements including in the	requirements [] in the area of
	area of monetary and	monetary and financial statistics,
	financial statistics, payments	payments and payment systems
	and payment systems	statistics, financial stability
	statistics, financial stability	statistics, balance of payments
	statistics, balance of payments	and international investment
	and international investment	position statistics.
	position statistics.	
2. The reference reporting	2. To the extent that the	<b>2. In this respect,</b> [] the
population shall comprise the	statistical information to be	reference reporting population
following reporting agents:	provided is necessary to fulfil	shall comprise the following
	the ECB's statistical reporting	reporting agents
	<u>requirements</u> , the reference	
	reporting population shall	
	comprise the following	
	reporting agents:	
(a) legal and natural persons	(a) legal and natural persons	
falling within the sub-sectors	residing in a Member State	
'central bank', 'other monetary	and falling within [] the	
financial institutions' and	sector 'financial corporations'	
'other financial intermediaries,	as defined in ESA 95;	
except insurance corporations		
and pension funds' as		
described in Annex B and		
residing in a Member State, to		
the extent necessary to fulfil		
the ECB's statistical reporting		
requirements in the field of		
money and banking statistics		
and payment systems statistics;		

Text in force	ECB Recommandation	Presidency text
(b) post office giro institutions, to the extent necessary to fulfil	(b) post office giro institutions [];	
the ECB's statistical reporting		
requirements in the field of		
money and banking statistics		
and payment systems statistics;		
(c) legal and natural persons residing in a Member State, to the extent that they hold cross-	(c) legal and natural persons residing in a Member State, to the extent that they hold cross-	(c) legal and natural persons residing in a Member State, to the extent that they hold cross-
border positions or carry out	border positions or carry out	border positions or carry out
cross-border transactions and	cross-border transactions [];	cross-border transactions and
that statistical information relating to such positions or		that statistical information relating to such positions or
transactions is necessary to		transactions is necessary to
fulfil the ECB's statistical		fulfill the ECB's statistical
reporting requirements in the		requirements in the field of
field of balance of payments		external statistics or financial
statistics or the International		stability statistics; This
Investment Position;		provision does not forbid
		further use of the data collected to undertake the
		ESCB's tasks;
		ESCD'S tasks,
		Presidency Note: Presidency suggests to take on board the reformulation proposed by the ECB (replacing "Balance of Payments and International investment position statistics" by "external statistics or financial stability statistics"), but proposes that consequently a definition of "external statistics" be added in Article 1.
(d) legal and natural persons	(d) legal and natural persons	
residing in a Member State, to	residing in a Member State, to	
the extent that statistical	the extent that [] they have	
information relating to the	issued securities or electronic	
securities or the electronic money issued by them is	money [] <u>;</u>	
necessary to fulfil the ECB's		
statistical reporting		
requirements.		

Text in force	ECB Recommandation	Presidency text
[]	(e) legal and natural persons	(e) legal and natural persons
	residing in a Member State, to	residing in a Member State, to
	the extent that they hold	the extent that they hold
	financial positions vis-à-vis	financial positions vis-à-vis
	residents of other participating	residents of other participating
	<b>Member States or have</b>	Member States or have carried
	carried out financial	out financial transactions with
	transactions with other	other residents of other
	residents of other	participating Member States
	participating Member States.	and that statistical
		information relating to such
		positions or transactions is
		necessary to fulfill the ECB's
		statistical requirements in the
		field of external statistics or
		<u>financial stability statistics</u> ;
		This provision does not forbid
		further use of the data
		collected to undertake the
		ESCB's tasks;.
		<u>Presidency Note</u> :
		See the note above for
		paragraph (c).

Text in force	ECB Recommandation	Presidency text
3. An entity that would	3. An entity that would	
otherwise be covered by the	otherwise be covered by the	
definition in paragraph 2, but	definition in paragraph 2, but	
which according to the national	which according to the national	
law of its country of residence	law of its country of residence is	
is neither a legal person nor a	neither a legal person nor a	
collection of natural persons,	collection of natural persons,	
while it can be the subject of	while it can be the subject of	
rights and obligations, shall be a reporting agent. The	rights and obligations, shall be a reporting agent. The reporting	
reporting obligation of such an	obligation of such an entity shall	
entity shall be fulfilled by the	be fulfilled by the persons	
persons legally representing it.	legally representing it.	
Where a legal person,	Where a legal person, collection	
collection of natural persons or	of natural persons or an entity as	
an entity as referred to in the	referred to in the first	
first subparagraph has a branch	subparagraph has a branch	
resident in another country, the	resident in another country, the	
branch shall be a reporting	branch shall be a reporting agent	
agent in its own right	in its own right irrespective of	
irrespective of where the head	where the head office is located	
office is located insofar as the	insofar as the branch satisfies	
branch satisfies the conditions	the conditions defined in	
defined in paragraph 2, with	paragraph 2, with the exception	
the exception of the need to	of the need to possess separate	
possess separate legal personality. Any number of	legal personality. Any number of branches set up in the same	
branches set up in the same	Member State shall be regarded	
Member State shall be	as a single branch when they	
regarded as a single branch	belong to the same sub-sector of	
when they belong to the same	the economy. The reporting	
sub-sector of the economy. The		
reporting obligation of a	fulfilled by the persons legally	
branch shall be fulfilled by the	representing it.	
persons legally representing it.		
		1.1.1.1. Article 2a
		Cooperation with the ESS
		TD
		To minimize reporting burden
		and guarantee the coherence necessary to produce
		European Statistics, the ESCB
		and the ESS shall cooperate
		closely, while complying with
		the statistical principles laid
		down in Article 3.

Text in force	ECB Recommandation	Presidency text
Article 3	Article 3	
<b>Modalities for the definition</b>	Modalities for the definition of	
of statistical reporting	statistical reporting	
requirements	requirements	
[]	The principles of impartiality,	The principles of impartiality,
	objectivity, professional	objectivity, professional
	independence, cost-	independence, cost-
	effectiveness, statistical	effectiveness, statistical
	confidentiality, alongside the	confidentiality, alongside the
	principles of minimisation of	principles of minimisation of
	reporting burden and high	reporting burden and high
	output quality shall govern the	output quality <u>including</u>
	development, production and	<u>reliability</u> shall govern the
	dissemination of statistics by	development, production and
	the ESCB.	dissemination of statistics by the
		ESCB.
		<u>Presidency Note</u> :
		Presidency proposes to include
		here definitions of these
		principles. As an alternative, a
		reference to the European
		Statistics Code of Practice or to
		the ESCB statistical quality
		framework (to be established) or
		to the ESCB public commitment
		(also to be established) could be
		inserted.
In defining and imposing its	In defining and imposing its	
statistical reporting	statistical reporting	
requirements, the ECB shall	requirements, the ECB shall	
specify the actual reporting	specify the actual reporting	
population within the limits of	population within the limits of	
the reference reporting	the reference reporting	
population as defined in	population as defined in Article	
Article 2. Without prejudice to	2. Without prejudice to the	
the fulfilment of its statistical	fulfilment of its statistical	
reporting requirements, the	reporting requirements, the	
ECB:	ECB:	
(a) shall minimise the reporting	(a) shall [] <u>use</u> existing	
burden involved, including by	statistics as far as possible;	
using existing statistics as far		
as possible;	(b) aball take into account	
(b) shall take into account	(b) shall take into account	
Community and international	Community and international	
statistical standards;	statistical standards;	
(c) may fully or partly exempt	(c) may fully or partly exempt	
specific classes of reporting	specific classes of reporting	
agents from its statistical	agents from its statistical	
reporting requirements.	reporting requirements.	

		Т
Text in force	ECB Recommandation	Presidency text
		The development, production
		and dissemination of
		<b>European Statistics shall take</b>
		into account international
		recommendations and best
		practice.
Article 4	Article 4	
Obligations of Member	<b>Obligations of Member States</b>	
States		
Member States shall organise	Member States shall organise	
themselves in the field of	themselves in the field of	
statistics and shall fully	statistics and shall fully	
cooperate with the ESCB in	cooperate with the ESCB in	
order to ensure the fulfilment	order to ensure the fulfilment of	
of the obligations arising out of	the obligations arising out of	
Article 5 of the Statute.	Article 5 of the Statute.	
Article 5	Article 5	
Regulatory power of the	Regulatory power of the ECB	
ECB		
1. The ECB may adopt	1. The ECB may adopt	
regulations for the definition	regulations for the definition	
and imposition of its statistical	and imposition of its statistical	
reporting requirements on the	reporting requirements on the	
actual reporting population of	actual reporting population of	
participating Member States.	participating Member States.	

Text in force	ECB Recommandation	Presidency text
2. To guarantee the coherence	2. To guarantee the coherence	2. To guarantee the coherence
necessary to produce statistics	necessary to produce statistics	necessary to produce statistics
meeting their respective	meeting their respective	meeting their respective
information requirements, the	information requirements, the	information requirements, the
ECB shall consult the	ECB shall consult the	ECB shall consult the
Commission on draft	Commission on draft regulations	Commission on draft regulations
regulations whenever links	whenever links with the	whenever links with the
with the statistical	statistical requirements of the	statistical requirements of the
requirements of the	Commission exist. The	[] <u>Community</u> exist. []
Commission exist. The	Committee on Monetary,	The Council shall take part,
Committee on Monetary,	Financial and Balance of	within the limits of [] <u>its</u>
Financial and Balance of	Payments Statistics shall take	competence, in the process of
Payments Statistics shall take	part, within the limits of its	[] concertation between the
part, within the limits of its	competence, in the process of	Commission and the ECB.
competence, in the process of	cooperation between the	D. M.
cooperation between the	Commission and the ECB.	Presidency Note:
Commission and the ECB.		This change is motivated by the necessity to adapt the provisions in
		the field of cooperation, taking into
		consideration the new governance
		structure of the ESS, and the
		requirement for transparency.
		Since the Council takes decisions
		committing both the ESS and the
		ESCB statistical sytem (like
		reducing the burden on businesses), it is advisable that the
		same institution plays part in the
		necessary cooperation between the
		two systems, to guarantee the
		transparency of the programming
		of statistical activities and avoid
		any duplication of data collection.
		Since the Recommendation
		proposes to extend the scope of the statistics collected by the ESCB, the
		Council is the adequate institution
		to deliver an opinion and to play
		part in the overall statistical
		cooperation.
		The Council takes part in the
		establishment of the ESS statistical
		programme since it is adopted in a
		co-decision legal act. Without mirroring this provision in the ECB
		statistics Regulation, the
		Presidency is of the opinion that
		the Council should also play a role
		in this domain. This change is in
		line with the other changes
		proposed in the Recommendation
		and is meant to improve
		consistency and coherence in the text.
		ieai.

Text in force	ECB Recommandation	Presidency text
Article 6	Article 6	
Right of verification and	Right of verification and	
compulsory collection of	compulsory collection of	
statistical information	statistical information	
1. If a reporting agent residing	1. If a reporting agent residing	
in a participating Member	in a participating Member State	
State is suspected of an	is suspected of an infringement,	
infringement, as set out in	as set out in Article 7(2), of the	
Article 7(2), of the ECB's	ECB's statistical reporting	
statistical reporting	requirements, the ECB and, in	
requirements, the ECB and, in	accordance with Article 5.2 of	
accordance with Article 5.2 of	the Statute, the national central	
the Statute, the national central	bank of the participating	
bank of the participating	Member State concerned shall	
Member State concerned shall	have the right to verify the	
have the right to verify the	accuracy and quality of the	
accuracy and quality of the	statistical information and to	
statistical information and to	carry out its compulsory	
carry out its compulsory	collection. However, should the	
collection. However, should	statistical information concerned	
the statistical information	be necessary in order to	
concerned be necessary in	demonstrate compliance with	
order to demonstrate	minimum reserve requirements,	
compliance with minimum	the verification should be	
reserve requirements, the	carried out in accordance with	
verification should be carried	Article 6 of Council Regulation	
out in accordance with Article	(EC) No 2531/98 of 23	
6 of Council Regulation (EC)	November 1998 concerning the	
No 2531/98 of 23 November	application of minimum	
1998 concerning the	reserves by the European	
application of minimum	Central Bank (8). The right to	
reserves by the European	verify statistical information or	
Central Bank (8). The right to	to carry out compulsory	
verify statistical information or	collection thereof shall comprise	
to carry out compulsory	the right to:	
collection thereof shall	(a) require submission of	
comprise the right to:	documents;	
(a) require submission of	(b) examine the books and	
documents;	records of the reporting agents;	
(b) examine the books and	(c) take copies or extracts from	
records of the reporting agents;	such books and records; and	
(c) take copies or extracts from	(d) obtain written or oral	
such books and records; and	explanations.	
(d) obtain written or oral		
explanations.		

Text in force	ECB Recommandation	Presidency text
2. The ECB or the competent	2. The ECB or the competent	
national central bank shall	national central bank shall	
notify the reporting agent in	notify the reporting agent in	
writing of its decision to verify	writing of its decision to verify	
statistical information or to	statistical information or to	
collect it compulsorily,	collect it compulsorily,	
specifying the time limit for	specifying the time limit for	
compliance with the	compliance with the verification	
verification request, the	request, the sanctions applicable	
sanctions applicable in the case	in the case of non-compliance	
of non-compliance and the	and the right to review. The	
right to review. The ECB and	ECB and the national central	
the national central bank	bank concerned shall inform	
concerned shall inform each	each other of such verification	
other of such verification	requests.	
requests.		
3. For the verification and the	3. For the verification and the	
compulsory collection of	compulsory collection of	
statistical information, national	statistical information, national	
procedures shall be followed.	procedures shall be followed.	
The costs of the procedure	The costs of the procedure shall	
shall be borne by the reporting	be borne by the reporting agent	
agent concerned if it is	concerned if it is established that	
established that the reporting	the reporting agent has breached	
agent has breached statistical	statistical reporting	
reporting requirements.	requirements.	
4. The ECB may adopt	4. The ECB may adopt	
regulations specifying the	regulations specifying the	
conditions under which the	conditions under which the right	
right to verify or to carry out	to verify or to carry out the	
the compulsory collection of	compulsory collection of	
statistical information may be	statistical information may be	
exercised.	exercised.	
5. Within the limits of their	5. Within the limits of their	
competence, national	competence, national authorities	
authorities of participating	of participating Member States	
Member States shall give the	shall give the necessary	
necessary assistance to the	assistance to the ECB and	
ECB and national central	national central banks in the	
banks in the exercise of the	exercise of the powers provided	
powers provided for in this	for in this Article.	
Article.		

Text in force	ECB Recommandation	Presidency text
6. When a reporting agent	6. When a reporting agent	
opposes or obstructs the	opposes or obstructs the	
verification process or the	verification process or the	
compulsory collection of the	compulsory collection of the	
required statistical information,	required statistical information,	
the participating Member State	the participating Member State	
in which the reporting agent's	in which the reporting agent's	
premises are located shall	premises are located shall afford	
afford the necessary assistance,	the necessary assistance,	
including ensuring access to	including ensuring access to the	
the reporting agent's premises	reporting agent's premises by	
by the ECB or the national	the ECB or the national central	
central bank so that the rights	bank so that the rights	
mentioned in paragraph 1 can	mentioned in paragraph 1 can be	
be exercised.	exercised.	

Text in force	ECB Recommandation	Presidency text
Article 7	Article 7	
Imposition of sanctions	Imposition of sanctions	
1. The ECB shall have the	1. The ECB shall have the	
power to impose the sanctions	power to impose the sanctions	
set out in this Article on	set out in this Article on	
reporting agents which are	reporting agents which are	
subject to reporting	subject to reporting	
requirements and residing in a	requirements and residing in a	
participating Member State and	participating Member State and	
which fail to comply with the	which fail to comply with the	
obligations resulting from this	obligations resulting from this	
Regulation or from ECB	Regulation or from ECB	
regulations or decisions	regulations or decisions defining	
defining and imposing the	and imposing the ECB's	
ECB's statistical reporting	statistical reporting	
requirements.	requirements.	
2. The obligation to transmit	2. The obligation to transmit	
certain statistical information	certain statistical information to	
to the ECB or to the national	the ECB or to the national	
central banks shall be deemed	central banks shall be deemed to	
to have been infringed if:	have been infringed if:	
(a) no statistical information is	(a) no statistical information is	
received by the ECB or	received by the ECB or national	
national central bank by the	central bank by the established	
established deadline; or	deadline; or	
(b) the statistical information is	(b) the statistical information is	
incorrect, incomplete or in a	incorrect, incomplete or in a	
form not complying with the	form not complying with the	
requirement.	requirement.	
3. The obligation to allow the	3. The obligation to allow the	
ECB and the national central	ECB and the national central	
banks to verify the accuracy	banks to verify the accuracy and	
and quality of the statistical	quality of the statistical	
information submitted by	information submitted by	
reporting agents to the ECB or	reporting agents to the ECB or	
national central bank shall be	national central bank shall be	
deemed to have been infringed	deemed to have been infringed	
whenever a reporting agent	whenever a reporting agent	
obstructs this activity. Such	obstructs this activity. Such	
obstruction includes, but is not	obstruction includes, but is not	
limited to, the removal of	limited to, the removal of	
documents and prevention of	documents and prevention of	
physical access by the ECB or	physical access by the ECB or	
the national central bank which	the national central bank which	
is necessary for them to carry	is necessary for them to carry	
out their verification task or	out their verification task or	
compulsory collection.	compulsory collection.	

Text in force	ECB Recommandation	Presidency text
4. The ECB may impose	4. The ECB may impose	
sanctions on a reporting agent	sanctions on a reporting agent as	
as follows:	follows:	
(a) in the event of an	(a) in the event of an	
infringement as defined in	infringement as defined in	
paragraph 2(a), a daily penalty	paragraph 2(a), a daily penalty	
payment not exceeding EUR	payment not exceeding EUR 10	
10 000, with the total fine not	000, with the total fine not	
exceeding EUR 100 000;	exceeding EUR 100 000;	
(b) in the event of an	(b) in the event of an	
infringement as defined in	infringement as defined in	
paragraph 2(b), a fine not	paragraph 2(b), a fine not	
exceeding EUR 200 000; and	exceeding EUR 200 000; and	
(c) in the event of an	(c) in the event of an	
infringement as defined in	infringement as defined in	
paragraph 3, a fine not	paragraph 3, a fine not	
exceeding EUR 200 000.	exceeding EUR 200 000.	
5. The sanctions set out in	5. The sanctions set out in	
paragraph 4 shall be additional	paragraph 4 shall be additional	
to the obligation on the	to the obligation on the	
reporting agent to meet the	reporting agent to meet the costs	
costs of the verification and	of the verification and	
compulsory collection	compulsory collection	
procedure as required in	procedure as required in Article	
Article 6(3).	6(3).	
6. In exercising the powers	6. In exercising the powers	
provided for in this Article, the	provided for in this Article, the	
ECB shall act in accordance	ECB shall act in accordance	
with the principles and	with the principles and	
procedures as set out in	procedures as set out in	
Regulation (EC) No 2532/98.	Regulation (EC) No 2532/98.	

Text in force	ECB Recommandation	Presidency text
Article 8	Article 8	
Confidentiality regime	Confidentiality regime	
		0. This article applies
		without prejudice to article 8a.
1. Within the scope of this	1. Within the scope of this	
Regulation and for the	Regulation and for the purposes	
purposes of the confidentiality	of the confidentiality regime	
regime covering the statistical	covering the statistical	
information which is necessary	information which is necessary	
for the tasks of the ESCB to be	for the tasks of the ESCB to be	
performed, statistical	performed, statistical	
information shall be	information shall be confidential	
confidential when it allows	when it allows reporting agents	
reporting agents or any other	or any other legal person,	
legal person, natural person,	natural person, entity or branch	
entity or branch to be	to be identified, either directly	
identified, either directly from	from their name, address or	
their name, address or from an	from an officially allocated	
officially allocated	identification code, or indirectly	
identification code, or	through deduction, thereby	
indirectly through deduction,	disclosing individual	
thereby disclosing individual	information. To determine	
information. To determine	whether a reporting agent or any	
whether a reporting agent or	other legal person, natural	
any other legal person, natural	person, entity or branch is	
person, entity or branch is	identifiable, account shall be	
identifiable, account shall be	taken of all the means that might	
taken of all the means that	reasonably be used by a third	
might reasonably be used by a	party to identify the said	
third party to identify the said	reporting agent or the other legal	
reporting agent or the other	person, natural person, entity or	
legal person, natural person,	branch. Statistical information	
entity or branch. Statistical	taken from sources which are	
information taken from sources	available to the public in	
which are available to the	accordance with national law is	
public in accordance with	not confidential.	
national law is not confidential.		

Text in force	ECB Recommandation	Presidency text
2. Transmission from the	2. Without prejudice to Article	2. []
national central banks to the	20 of Regulation (EC) No	(a) transmission within the
ECB of confidential statistical	[XX],	ESCB of confidential statistical
information shall take place to	(a) transmission [] within the	information that has been
the extent and at the level of	<b>ESCB</b> of confidential statistical	collected pursuant to Article 5 of
detail necessary for the	information that has been	the Statute shall take place:
exercise of the tasks to be	collected pursuant to Article 5	(i) to the extent and at the
carried out through the ESCB,	of the Statute shall take place:	level of detail necessary for
as described in Article 105 of	(i) to the extent and at the level	the performance of the tasks
the Treaty.	of detail necessary for the []	of the ESCB under Article
	<b>performance</b> of the tasks []	105 of the Treaty; or
	of the ESCB under Article 105	(ii) provided that such
	of the Treaty; or (ii) provided	transmission is necessary for
	that such transmission is	the efficient development,
	necessary for the efficient	production or dissemination
	development, production or	of statistics under Article 5 of
	dissemination of statistics	the Statute or for increasing
	under Article 5 of the Statute	their quality;
	or for increasing their quality;	(b) the Governing Council may
	(b) the Governing Council	decide on the collection and
	may decide on the collection	transmission, to the extent and
	and transmission, to the extent	level of detail necessary, within
	and level of detail necessary,	the ESCB of confidential
	within the ESCB of	information originally collected
	confidential information	for purposes other than those of
	originally collected for	Article 5 of the Statute, provided
	purposes other than those of	that this is necessary for the
	Article 5 of the Statute,	efficient development or
	provided that this is necessary	production of statistics or for
	for the efficient development	increasing their quality and that
	or production of statistics or	these statistics are necessary for
	for increasing their quality	the performance of the tasks of
	and that these statistics are	the ESCB under Article 105 of
	necessary for the performance	the Treaty.
	of the tasks of the ESCB	-
	under Article 105 of the	
	Treaty.	
3. Reporting agents shall be	3. Without prejudice to	3. [] reporting agents shall be
informed of the statistical and	Regulation (EC) No [XX],	informed of the statistical and
other, administrative, uses, to	reporting agents shall be	other, administrative, uses, to
which statistical information	informed of the statistical and	which statistical information
provided by them may be put.	other, administrative, uses, to	provided by them may be put.
Reporting agents shall have the	which statistical information	Reporting agents shall have the
right to obtain information on	provided by them may be put.	right to obtain information on
the legal basis for the	Reporting agents shall have the	the legal basis for the
transmission and the protective	right to obtain information on	transmission and the protective
measures adopted.	the legal basis for the	measures adopted.
_	transmission and the protective	_
	measures adopted.	

Text in force	ECB Recommandation	Presidency text
4. The ECB shall use	4. Without prejudice to	4. The ESCB [] shall use
confidential statistical	paragraph 12 of this Article,	confidential statistical
information transmitted to it	the ESCB [] shall use	information transmitted to it
exclusively for the exercise of	confidential statistical	exclusively for the exercise of
the tasks of the ESCB except:	information transmitted to it	the tasks of the ESCB except in
	exclusively for the exercise of	any of the following
	the tasks of the ESCB except <u>in</u>	circumstances:
	any of the following	
	<u>circumstances</u> :	
(a) if the reporting agent or the	(a) if the reporting agent or the	
other legal person, natural	other legal person, natural	
person, entity or branch which	person, entity or branch which	
can be identified, has explicitly	can be identified, has explicitly	
given its consent to the use of	given its consent to the use of	
the said statistical information	the said statistical information	
for other purposes; or	for other purposes; []	
(b) for the production of	(b) [] for transmission to the	
specific Community statistics,	members of the European	
following an agreement	Statistical System (ESS) in	
between the Commission and	accordance with paragraph	
the ECB in accordance with	<u>11;</u>	
Article 9 of Regulation (EC)		
No 322/97; or		
(c) for granting scientific	(c) for granting scientific	
research bodies access to	research bodies access to	
confidential statistical	confidential statistical	
information which does not	information which does not	
allow direct identification,	allow direct identification, []	
without prejudice to national	and with the [] <b>prior</b> explicit	
legislation and with the	consent of the [] authority	
previous explicit consent of the	which provided the information:	
national authority which		
provided the information.		
[]	(d) as regards NCBs, if the	
	said statistical information is	
	used in the field of prudential	
	supervision or for the exercise	
	of functions other than those	
	specified in the Statute, in	
	accordance with Article 14.4	
	of the Statute.	

5. The national central banks 5. [] Confidential statistical	
shall use the confidential <u>information may be</u>	
statistical information collected exchanged within the ESCB in	
to fulfil the ECB's statistical order to grant scientific	
reporting requirements research bodies access to []	
exclusively for the exercise of such information, in	
the tasks of the ESCB except: accordance with paragraphs 3	
(a) if the reporting agent or the and 4(c) of this Article.	
other legal person, natural []	
person, entity or branch which	
can be identified has explicitly	
given its consent to the use of	
the said statistical information	
for other purposes; or	
(b) if it is used at the national	
level for statistical purposes	
following an agreement	
between the national statistical	
authorities and the national	
central bank or for the	
production of Community	
statistics in accordance with	
Article 9 of Regulation (EC)	
No 322/97; or	
(c) if it is used in the field of	
prudential supervision or for	
the exercise in accordance with	
Article 14(4) of the Statute of	
functions other than those	
specified in the Statute; or	
(d) for granting scientific	
research bodies access to	
confidential statistical	
information which does not	
allow direct identification.	
6. This Article shall not prevent	
prevent confidential statistical confidential statistical information collected for	
information collected for information collected for	
purposes other than, or in purposes other than, or in addition to masting the ECP's addition to masting the ECP's	
addition to, meeting the ECB's statistical reporting statistical reporting	
statistical reporting statistical reporting requirements from being used requirements from being used to	
to meet those other purposes. meet those other purposes.	

Text in force	ECB Recommandation	Presidency text
7. This Article shall apply only	7. This Article shall apply only	•
to the collection and	to the collection and	
transmission of confidential	transmission of confidential	
statistical information for the	statistical information for the	
fulfilment of the ECB's	fulfilment of the ECB's	
statistical reporting	statistical reporting	
requirements; it shall not affect	requirements; it shall not affect	
special national or Community	special national or Community	
provisions relating to the	provisions relating to the	
transmission of other types of	transmission of other types of	
information to the ECB.	information to the ECB.	
8. This Regulation shall apply	8. This Regulation shall apply	
without prejudice to Directive	without prejudice to Directive	
95/46/EC.	95/46/EC and Regulation (EC)	
In the case of data collected by	No 45/2001 of the European	
national statistical institutes	Parliament and of the Council	
and the Commission, which are	of 18 December 2000 on the	
submitted to the ECB, this	protection of individuals with	
Regulation shall, as regards	regard to the processing of	
statistical confidentiality, apply	personal data by the	
without prejudice to	<b>Community institutions and</b>	
Regulation (EC) No 322/97.	bodies and of the free	
	movement of such data.	
9. The ECB and the national	9. The ECB and the national	9. The ECB and the national
central banks shall take all the	central banks shall take all the	central banks shall take all the
necessary regulatory,	necessary regulatory,	necessary regulatory,
administrative, technical and	administrative, technical and	administrative, technical and
organisational measures to	organisational measures to	organisational measures to
ensure the protection of	ensure the protection of	ensure the <b>physical and logica</b> l
confidential statistical	confidential statistical	protection of confidential
information. The ECB shall	information. The ECB shall	statistical information. The ECB
define common rules and	define common rules and	shall define common rules and
minimum standards to prevent	<u>implement</u> minimum standards	implement minimum standards
unlawful disclosure and	to prevent unlawful disclosure	to prevent unlawful disclosure
unauthorised use. The	and unauthorised use [] of	and unauthorised use of data
protection measures shall apply	data transmitted under	transmitted under paragraphs 1
to all confidential statistical	paragraphs 1 and 2.	and 2.
information as defined in		
paragraph 1.	10.16	
10. Member States shall adopt	10. Member States shall adopt	
all the necessary measures to	all the necessary measures to	
ensure the protection of	ensure the protection of	
confidential statistical	confidential statistical	
information, including the	information, including the	
imposition of the appropriate	imposition of the appropriate	
enforcement measures by the Member States in the event of	enforcement measures by the Member States in the event of	
an infringement.	an infringement.	

Text in force	ECB Recommandation	Presidency text
		<u>Article 8a</u>
		Exchange of information
		between the ESCB and the ESS
[]	11. Without prejudice to	<b>1.</b> Without prejudice to national
	national provisions on the	provisions on the exchange of
	exchange of confidential	confidential statistical
	statistical information other	information other than
	than information covered in	information covered in this
	this Regulation, the	Regulation, the transmission of
	transmission of confidential	confidential statistical
	statistical information	information between an ESCB
	between an ESCB member	member that collected the
	that collected the information	information and an ESS
	and an ESS authority may	authority may take place
	take place provided that this	provided that this transmission
	transmission is necessary for	is necessary for the efficient
	the efficient development,	development, production or
	production or dissemination	dissemination or for increasing
	or for increasing the quality of	the quality of European
	<b>European Statistics within the</b>	Statistics within the respective
	respective spheres of	spheres of competence of the
	competence of the ESS and the	ESS and the ESCB. Any
	ESCB. Any transmission	transmission beyond the first
	beyond the first transmission	transmission must be explicitly
	must be explicitly authorised	authorised by the ESCB member
	by the ESCB member that	that collected the information.
	collected the information.	
[]	12. If confidential data are	<b>2</b> . If confidential data <b>which do</b>
	transmitted between an ESS	not fall within the scope of an
	authority and an ESCB	ECB regulation or decision
	member, these data shall be	referred to in Article 34 of the
	used exclusively for statistical	<b>Statute</b> , are transmitted between
	purposes and only be	an ESS authority and an ESCB
	accessible to staff working in	member, these data shall be used
	statistical activities within	exclusively for statistical
	their specific domain of work.	purposes and only be accessible
		to staff working in statistical
		activities within their specific
		domain of work.

Text in force	ECB Recommandation	Presidency text
[]	13. The protection measures	3. The protection measures
	referred to in Article 19 of	referred to in Article 19 of
	Regulation (EC) No [XX] shall	Regulation (EC) No [XX] shall
	apply to all confidential data	apply to all confidential data
	transmitted between an ESS	transmitted between an ESS
	authority and an ESCB	authority and an ESCB member
	member pursuant to	pursuant to paragraphs 11 and
	paragraphs 11 and 12 above,	12 above, and to Article 20(1a)
	and to Article 20(1a) of	of Regulation (EC) No [XX].
	Regulation (EC) No [XX]. The	[]
	ECB shall publish an annual	
	confidentiality report on the	
	measures adopted to	
	safeguard the confidentiality	
	of the statistical data.	
		<u>Article 8b</u>
		Confidentiality report
		The ECB shall publish an
		annual confidentiality report on
		the measures adopted to
		safeguard the confidentiality of
		the statistical data <b>referred to in</b>
		article 8 and 8a.
Article 9	Article 9	
Final provisions	Final provisions	
This Regulation shall enter into	This Regulation shall enter into	
force on the day of its	force on the day of its	
publication in the Official	publication in the Official	
Journal of the European	Journal of the European	
Communities.	Communities.	
Article 5, Article 6(4) and	Article 5, Article 6(4) and	
Article 8(9) shall apply from	Article 8(9) shall apply from the	
the date of entry into force of	date of entry into force of this	
this Regulation. The remaining	Regulation. The remaining	
Articles shall apply from 1	Articles shall apply from 1	
January 1999.	January 1999.	
This Regulation shall be	This Regulation shall be binding	
binding in its entirety and	in its entirety and directly	
directly applicable in all	applicable in all Member States.	
Member States.		