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From:	Mr Mario Draghi, President of the European Central Bank
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To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

Subject:	OPINION OF THE EUROPEAN CENTRAL BANK of 5 December 2014 on a proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 184/2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures (CON/2014/84)
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Delegations will find attached the Opinion of the European Central Bank.

OPINION OF THE EUROPEAN CENTRAL BANK

of 5 December 2014

on a proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 184/2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures

(CON/2014/84)

Introduction and legal basis

On 15 July 2014 the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 184/2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures¹ (hereinafter the ‘proposed regulation’).

The ECB’s competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union, since the proposed regulation concerns the collection of balance of payments (BOP) statistics which is a European System of Central Banks (ESCB) task in line with Article 2 of Council Regulation (EC) No 2533/98². In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. General observations

- 1.1 European statistics are developed, produced and disseminated by both the European Statistical System (ESS) partnership and the ESCB and both operate under separate legal frameworks reflecting their respective governance structures³.

¹ COM(2014) 379 final.

² Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank (OJ L 318, 27.11.1998, p. 8); see also Recommendation ECB/2003/8 of 2 May 2003 on the statistical reporting requirements of the European Central Bank in the field of balance of payments and international investment position statistics, and the international reserves template (OJ C 126, 28.5.2003, p. 7) and Guideline ECB/2011/23 of 9 December 2011 on the statistical reporting requirements of the European Central Bank in the field of external statistics (OJ L 65, 3.3.2012, p. 1).

³ See Article 338(1) of the Treaty, Article 5 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the ‘Statute of the ESCB’) and recital 8 of Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

- 1.2 Article 2 of Regulation (EC) No 2533/98 allocates to the ECB, assisted by the national central banks (NCBs), the task to collect information on, inter alia, BOP and international investment position (IIP) statistics, either from the competent national authorities or directly from economic agents. The initial statistical reporting requirements of the ECB in the field of BOP and IIP statistics were specified by the Governing Council of the ECB in Guideline ECB/1998/17⁴ and recast on 9 December 2011 by Guideline ECB/2011/23.
- 1.3 BOP and IIP statistics are crucial datasets to support the ESCB in its tasks to define and implement the single monetary policy, potentially conduct foreign exchange operations and hold and manage official reserves. They also support the assessment of external vulnerabilities and interconnectedness for financial stability purposes, the ‘risk dashboard’ of the European Systemic Risk Board (ESRB)⁵ as well as the ‘scoreboard’ of the macroeconomic imbalances procedure⁶. BOP and IIP statistics are part of the ‘Special Data Dissemination Standard’ and the ‘Special Data Dissemination Standard Plus’ of the International Monetary Fund (IMF)⁷ and are required for IMF ‘Article IV consultations’ of the euro area and the Member States. The ECB and the NCBs publish BOP and IIP statistics on a monthly and quarterly basis.
- 1.4 On 12 January 2005, the European Parliament and the Council adopted Regulation (EC) No 184/2005⁸ establishing reporting requirements for the production of Union statistics on BOP, international trade in services and foreign direct investment. The Balance of Payments Committee (hereinafter the ‘BOP Committee’) established by the same Regulation⁹, on which Member States are mainly represented by NCBs, secures strong alignment of reporting requirements, methodology and quality assurance processes relating to BOP and IIP statistics.

⁴ Guideline ECB/1998/17 of 1 December 1998 on the statistical reporting requirements of the European Central Bank in the field of balance of payments and international investment position statistics (OJ L 115, 4.5.1999, p. 47).

⁵ Addressed in a separate legal act.

⁶ See Article 4 of Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances (OJ L 306, 23.11.2011, p. 25).

⁷ See IMF Policy Papers, ‘Revisions to the Special Data Dissemination Standard and Establishment of the Special Data Dissemination Standard Plus—Proposed Decisions’, 4 October 2012, and ‘Modifications to the Special Data Dissemination Standard Plus’, 19 March 2014, available on the IMF’s website at www.imf.org.

⁸ Regulation (EC) No 184/2005 of the European Parliament and of the Council of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment (OJ L 35, 8.2.2005, p. 23).

⁹ See Article 11(1) of Regulation (EC) No 184/2005.

- 1.5 NCBs, as members of the ESCB, produce European statistics under Articles 3 and 5 of the Statute of the ESCB, as further implemented in Regulation (EC) No 2533/98, and do not participate in the production of European statistics under Regulation (EC) No 223/2009¹⁰. Therefore, following agreement between an NCB and the Commission (Eurostat), data produced by the NCB may be used directly or indirectly by the Commission (Eurostat) for the production of European statistics.
- 1.6 Since Regulation (EC) No 2533/98 has allocated the collection of information on BOP and IIP statistics to the ECB, with the assistance of NCBs, and in order to minimise the reporting burden and to guarantee the coherence necessary to produce European statistics the Commission is invited to make appropriate use of the BOP and IIP statistics provided by the ESCB.

2. Specific observations

2.1 *Implementation of a new system of adopting delegated and implementing acts in the area of BOP and IIP statistics*

- 2.1.1 The proposed regulation implements a new system for the adoption of delegated and implementing acts, under Articles 290 and 291 of the Treaty, in the area of BOP and IIP statistics. Article 1(1) of the proposed regulation aims to empower the Commission to adopt delegated acts to amend the data requirements for BOP and IIP, including the revision, extension and elimination of data flows, and submission deadlines. Likewise, Article 1(2) proposes to confer upon the Commission implementing powers to adopt the quality standards and the content and periodicity of the quality reports for BOP and IIP statistics.
- 2.1.2 Data requirements, submission deadlines and quality assurance standards are essential elements of Regulation (EC) No 184/2005 and have a direct impact on the reporting burden of data compilers and reporting agents. As the ESCB has been allocated the task, by the Council, of collecting BOP and IIP statistics either from the competent national authorities or directly from economic agents since 1998, close cooperation between the ESCB and the ESS must be ensured when defining, amending or updating such statistics. Otherwise, European BOP and IIP statistics produced by the ESS and the ESCB may unnecessarily diverge or be inconsistent.
- 2.1.3 Divergent or inconsistent BOP statistical reporting requirements not only increase the reporting burden for respondents such as small and medium-sized enterprises, they may also result in different BOP statistics depending on the purpose for which the data are used. Such differences would not be in line with the principles of data relevance, cost effectiveness and minimisation of the reporting burden laid down in Regulation (EC) No 223/2009 and Regulation (EC) No 2533/98.

¹⁰ See recital 9 thereof.

2.1.4 Hence, the ECB does not support the proposal in Article 1(1) of the proposed regulation to delegate powers to the Commission to amend the data requirements for BOP and IIP, including those relating to submission deadlines, revisions, extensions and eliminations of data flows. Articles 1(1) and 1(3) of the proposed regulation should be deleted accordingly.

2.2 *The role of the Committee on Monetary, Financial and Balance of Payments Statistics*

2.2.1 The proposed regulation abolishes the BOP Committee and transfers all comitology powers to the European Statistical System Committee, on which members of the ESCB are not represented¹¹. Moreover, NCBs, as members of the ESCB, produce European statistics under Articles 3 and 5 of the Statute of the ESCB, as further implemented in Regulation (EC) No 2533/98, and do not participate in the production of European statistics under Regulation (EC) No 223/2009.

2.2.2 In order to ensure continued close cooperation in this field, the Committee on Monetary, Financial and Balance of Payments Statistics (CMFB)¹² should be at the centre of mutual cooperation on BOP and related statistics (e.g. international trade in goods, international trade in services, foreign direct investment, foreign affiliates statistics) and would need to be consulted on proposals for new legal acts, including amending legal acts, on BOP and related statistics.

2.2.3 Therefore, appropriate wording should be inserted in Articles 1(2) and 1(4) of the proposed regulation obliging the Commission to request the opinion of the CMFB before proposing amendments to essential elements of Regulation (EC) No 184/2005. In particular, this should apply to amendments relating to: (a) the data requirements, including submission deadlines as well as revisions, extensions and eliminations of data flows; (b) updating the definitions set out in Annex II to Regulation (EC) No 184/2005; and (c) the common quality standards as well as the content and periodicity of the quality reports.

¹¹ See Article 7(2) of Regulation (EC) No 223/2009.

¹² See Article 9 of Regulation (EC) No 223/2009. The CMFB was established by Council Decision 2006/856/EC of 13 November 2006 establishing a Committee on monetary, financial and balance of payments statistics (OJ L 332, 30.11.2006, p. 21).

2.3 Consultation of the ECB

Implementing acts of the Commission qualify as proposed Union acts within the meaning of the first indent of Article 127(4) and Article 282(5) of the Treaty¹³. The ECB therefore needs to be consulted, separately from the CMFB, on any draft implementing acts that fall within its fields of competence. This consultation process will enable the ECB to contribute with the full benefit of its long-standing experience and expertise in BOP statistics.

Done at Frankfurt am Main, 5 December 2014.

The President of the ECB

Mario DRAGHI

¹³ The first indent of Article 127(4) of the Treaty provides that the ECB shall be consulted ‘on any proposed Union act in its fields of competence’. Article 282(5) of the Treaty provides that: ‘Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts’.