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"I" ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
Subject:	Recommendation for a Council Regulation amending Regulation (EC) No 2533/98 concerning the collection of statistical information by the European Central Bank (ECB/2014/13) = Political agreement

1. The Single Supervisory Mechanism (SSM) confers on the European Central Bank (ECB) specific supervisory tasks.
2. In order to allow the collection of statistical data for prudential supervision, the ECB presented in Spring 2014 a recommendation for a Council Regulation amending Regulation (EC) No 2533/98 concerning collection of statistical information by the European Central Bank (11200/14 + COR1).
3. Regulation 2533/98 already allows for the collection of confidential data for statistical purposes. Therefore, in order to minimise the reporting burden, the draft recommendation specifies that the ECB, similarly to National Central Banks (NCBs), be allowed to collect confidential data to be used in the field of prudential supervision of credit institutions.
4. In addition, the draft recommendation stipulates that confidential statistical information can be transmitted between the European System of Central Banks (ESCB) and authorities of the Member States and the Union and to the European Stability Mechanism (ESM).

5. On 26 November 2014, the Commission adopted its Opinion¹. The European Parliament adopted a number of amendments on the draft recommendation. Whereas most of those amendments fall outside the scope of the ECB draft recommendation, relevant amendments have been taken into account when drafting the Presidency compromise text, i.e. on the protection of confidential data transmitted to Member States authorities or to the ESM.
6. On 10 December 2014, the Italian Presidency informed the Working Party on Statistics, after having coordinated its position with the Financial Attachés, that a qualified majority, which accounted for more than 72 % of the Council members (i.e. 21 members) and more than 65 % of the total population of the Union, supported a Presidency drafted compromise. On 19 December 2014, the Permanent Representatives Committee examined that compromise². On this occasion, however, some delegations³ expressed concern on the system for **further** transmission of confidential statistical information from the European Stability Mechanism (ESM) to national parliaments (Article 8, paragraph 4a). On this background, the Committee decided to revert to the item at a fourth coming meeting.

¹ 14345/14

² 16514/2/14 REV2

³ The AT, DE and FI delegations entered in the minutes a joint declaration on their constitutional obligations to transmit information to national parliaments.

7. Based on the compromise presented to the Permanent Representatives Committee, the Latvian Presidency launched a written consultation of delegations, which ended on 19 January 2015. Whilst that consultation revealed that a qualified majority⁴ supported the text, it also showed that some delegations (AT, DE, FI) were not able to rally behind the compromise.
8. On this basis, the Permanent Representatives Committee is invited to endorse:
- the compromise text set out in the annex to the present note,
 - that the lawyer-linguists will finalise the text with a view to having it adopted formally at a forthcoming Council.
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⁴ The SI delegation recalled its declaration entered in the minutes of the Committee meeting on 19 December 2014. That declaration concluded that the compromise was *not clear enough in the limitation of using confidential statistical information and it could contribute to lower standards of statistical confidentiality*.

Presidency compromise on the Recommendation for a Council Regulation amending Regulation (EC) No 2533/98 concerning the collection of statistical information by the European Central Bank (ECB/2014/13)⁵

THE COUNCIL 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 to Article 5.4 thereof, Having regard to the Recommendation of the European Central Bank, Having regard to the Opinion of the European Parliament, Having regard to the Opinion of the Commission, Acting in accordance with the procedure laid down in Article 129(4) of the Treaty on the Functioning of the European Union and in Article 41 of the Statute of the European System of Central Banks and of the European Central Bank, Whereas:	(1) Council Regulation (EC) No 2533/98 is a key component in the legal framework supporting the statistical information collection tasks of the European Central Bank (ECB) assisted by the national central banks. The ECB has consistently relied on this Regulation to carry out and monitor the coordinated collection of statistical information necessary to undertake the tasks of the European System of Central Banks (ESCB), including the task of contributing to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system, as specified in Article 127(5) of the Treaty.
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⁵ Changes to the ECB Recommendation are indicated in bold. The compromise text is identical to the text set out in the annex of 16514/2/14 REV2

(2) Council Regulation (EU) No 1024/2013 confers on the ECB specific tasks concerning policies relating to the prudential supervision of credit institutions and the stability of the financial system within the Union and individual Member States.	3) To minimise the reporting burden on reporting agents and to enable proper performance of supervision of financial institutions, markets and infrastructures conferred on all competent authorities as well as a proper performance of the tasks conferred on authorities responsible for the protection of the stability of the financial system, it is necessary to amend Regulation (EC) No 2533/98 to enable the transmission and use of the statistical information collected by the ESCB between ESCB members and the relevant authorities. These authorities should include the competent authorities responsible for the supervision of financial institutions, markets and infrastructures and macro-prudential oversight, the European Supervisory Authorities, the European Systemic Risk Board as well as authorities authorised to resolve credit institutions.
(3a) This regulation should not apply to confidential statistical information collected according to Regulation (EC) No 223/2009 of 11 March 2009 on European statistics.	

HAS ADOPTED THIS REGULATION:	
Article 1 <u>Specific amendments</u>	
Article 8 of Regulation (EC) No 2533/98 is amended as follows:	
1.	In paragraph 1, point (d) is replaced by the following text and the following point (e) is added:
“(d)	as regards the ECB and national central banks, if the said statistical information is used in the field of prudential supervision,
(e)	as regards national central banks in accordance with Article 14.4 of the Statute, for the exercise of functions other than those specified in the Statute.”

2.	In paragraph 4, point (a) is replaced by the following:
“(a)	to the extent and at the level of detail necessary for the performance of tasks of the ESCB referred to in the Treaty or tasks in the field of prudential supervision conferred on the members of the ESCB; or”

3.	The following paragraph 4a is inserted: “4a The ESCB may transmit confidential statistical information to authorities or bodies of the Member States and the Union responsible for the supervision of financial institutions, markets and infrastructures or the stability of the financial system in accordance with Union or national law and to the European Stability Mechanism (ESM) only to the extent and at the level of detail necessary for the performance of their respective tasks. The authorities or bodies receiving confidential statistical information shall take all the necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of confidential statistical information. Any further transmission thereafter shall be necessary for the execution of the above mentioned tasks and explicitly authorised by the ESCB member that collected the confidential statistical information. Such authorisation shall not be required for further transmission from the ESM members to national parliaments to the extent required under national law, provided that the ESM member has consulted the ESCB member before the transmission, and that in any event the Member State has taken all the necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of confidential statistical information in accordance with this Regulation. When transmitting confidential statistical information in accordance with this paragraph the ESCB shall take all the necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of confidential statistical information pursuant to paragraph 3 of this Article.”
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Article 2 <u>Final provisions</u>
This Regulation shall enter into force on [date].
This Regulation shall be binding in its entirety and directly applicable in all Member States.’
Done at Frankfurt am Main, 21 March 2014.
The President of the ECB Mario DRAGHI