EUROPEAN CENTRAL BANK

EUROSYSTEM

ECB-PUBLIC

Technical working document

produced in connection with ECB Opinion CON/2024/21[1] on a proposal for a regulation of the European Parliament and of the Council as regards certain reporting requirements in the fields of financial services and investment support

Drafting proposals

Text proposed by the Commission	Amendments proposed by the ECB[2]
Amendment 1 Citations of the proposed regulation	
‘Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, Article 173 and Article 175, third paragraph, thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Economic and Social Committee [8] , Having regard to the opinion of the Committee of the Regions [9] , Acting in accordance with the ordinary legislative procedure,’	‘Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, Article 173 and Article 175, third paragraph, thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, **Having regard to the opinion of the European Central Bank***, Having regard to the opinion of the European Economic and Social Committee [8] , Having regard to the opinion of the Committee of the Regions [9] , Acting in accordance with the ordinary legislative procedure, *** OJ C […], […], ELI: […].**’
<u>*Explanation*</u> *As the proposed regulation contains provisions affecting the ECB’s tasks concerning the collection of statistical information pursuant to Article 5 of the Statute of the ESCB and the specific tasks conferred*	

1 This technical working document is produced in English only and communicated to the consulting Union institution(s) after adoption of the opinion. It is also published on EUR-Lex alongside the opinion itself.

2 Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

<table>
<tr><th>Text proposed by the Commission</th><th>Amendments proposed by the ECB[2]</th></tr>
<tr><td colspan="2">upon the ECB concerning policies relating to the prudential supervision of credit institutions, as referred to in Article 127(6) of the Treaty, the ECB opinion to be issued on the proposed regulation should be referred to in the citations.
See the first, second and third paragraphs of the ECB Opinion (Introduction and legal basis).</td></tr>
<tr><td colspan="2">Amendment 2
Article 2, point (4), of the proposed regulation (Article 35a(1) of Regulation (EU) No 1093/2010 (new))</td></tr>
<tr><td>‘4. the following Article 35a is inserted:
“Article 35a
Information exchange between authorities and with other entities
1. The Authority and the competent authorities shall share with other authorities, on a case-by-case or regular basis, information they obtained from financial institutions or other competent authorities in carrying out their duties, when requested by the other European Supervisory Authorities, the ESRB or competent authorities as defined in Article 4, point (2), of this Regulation, in Article 4, point (2), of Regulation (EU) No 1094/2010 or in Article 4, point (3) of Regulation (EU) No 1095/2010, or the authorities defined in Article 2, point (1), of Directive (EU) …/… of the European Parliament and of the Council[18], provided that the authority requesting that information is, pursuant to Union law, entitled to obtain that same information from financial institutions or other competent authorities. For the purposes of this Article, ‘financial institution’ means a ‘financial institution’ as defined in Article 2, point (a), of Regulation (EU) No 1092/2010.
[…]”;’</td><td>‘4. the following Article 35a is inserted:
“Article 35a
Information exchange between authorities and with other entities
1. The Authority and the competent authorities shall share with other authorities~~, on a case-by-case or regular basis, information~~ data reported to them by ~~they obtained from~~ financial institutions in compliance with their reporting obligations or received from other competent authorities in carrying out their duties, when requested by the other European Supervisory Authorities, the ESRB or competent authorities as defined in Article 4, point (2), of this Regulation, in Article 4, point (2), of Regulation (EU) No 1094/2010 or in Article 4, point (3) of Regulation (EU) No 1095/2010, or the authorities defined in Article 2, point (1), of Directive (EU) …/… of the European Parliament and of the Council[18], provided that the authority requesting that information is, pursuant to Union law, entitled to obtain that same information from financial institutions or other competent authorities. For the purposes of this Article, ‘financial institution’ means a ‘financial institution’ as defined in Article 2, point (a), of Regulation (EU) No 1092/2010.
[…]”;’</td></tr>
<tr><td colspan="2"><u>Explanation</u>
The scope of the information to be shared is not defined in the proposed regulation. The ECB proposes to limit the scope of the information to be shared to data obtained from financial institutions on the basis</td></tr>
</table>

Text proposed by the Commission	**Amendments proposed by the ECB**[2]
regulatory reporting obligations. This would be in line with the objective of the proposed regulation and would reduce the operational burden on the sharing authority. *See paragraphs 2.1.1, 2.1.2 and 2.1.3 of the ECB Opinion.*	
Amendment 3 Article 3, point (4), of the proposed regulation (Article 35a(1) of Regulation (EU) No 1094/2010 (new))	
‘4. the following Article 35a is inserted: “Article 35a Information exchange between authorities and with other entities 1. The Authority and the competent authorities shall share with other authorities, on a case-by-case or regular basis, information they obtained from financial institutions or other competent authorities in carrying out their duties, when requested by the other European Supervisory Authorities, the ESRB or competent authorities as defined in Article 4, point (2) of this Regulation, in Article 4, point (2), of Regulation (EU) No 1093/2010 or in Article 4, point (3), of Regulation (EU) No 1095/2010, or the authorities defined in Article 2, point (1), of Directive (EU) …/… of the European Parliament and of the Council [20], provided that the authority requesting that information is, pursuant to Union law, entitled to obtain that same information from financial institutions or other competent authorities. For the purposes of this Article, ‘financial institution’ means a ‘financial institution’ as defined in Article 2, point (a), of Regulation (EU) No 1092/2010. […]”;’	‘4. the following Article 35a is inserted: “Article 35a Information exchange between authorities and with other entities 1. The Authority and the competent authorities shall share with other authorities~~, on a case-by-case or regular basis, information~~ **data reported to them by** ~~they obtained from~~ financial institutions **in compliance with their reporting obligations or received from** other competent authorities in carrying out their duties, when requested by the other European Supervisory Authorities, the ESRB or competent authorities as defined in Article 4, point (2) of this Regulation, in Article 4, point (2), of Regulation (EU) No 1093/2010 or in Article 4, point (3), of Regulation (EU) No 1095/2010, or the authorities defined in Article 2, point (1), of Directive (EU) …/… of the European Parliament and of the Council [20], provided that the authority requesting that information is, pursuant to Union law, entitled to obtain that same information from financial institutions or other competent authorities. For the purposes of this Article, ‘financial institution’ means a ‘financial institution’ as defined in Article 2, point (a), of Regulation (EU) No 1092/2010. […]”;’
<u>*Explanation*</u> *See explanation for Amendment 2.*	

Text proposed by the Commission	**Amendments proposed by the ECB[2]**
Amendment 4 Article 4, point (4), of the proposed regulation (Article 35a(1) of Regulation (EU) No 1095/2010 (new))	
‘4. the following Article 35a is inserted: “Article 35a Information exchange between authorities and with other entities 1. The Authority and the competent authorities shall share with other authorities, on a case-by-case or regular basis, information they obtained from financial institutions or other competent authorities in carrying out their duties, when requested by the other European Supervisory Authorities, the ESRB or competent authorities as defined in Article 4, point (3) of this Regulation, in Article 4, point (2), of Regulation (EU) No 1093/2010 or in Article 4, point (2), of Regulation (EU) No 1094/2010, or the authorities defined in Article 2, point (1), of Directive (EU) …/… of the European Parliament and of the Council [22], provided that the authority requesting that information is, pursuant to Union law, entitled to obtain that same information from financial institutions or other competent authorities. For the purposes of this Article, ‘financial institution’ means a ‘financial institution’ as defined in Article 2, point (a), of Regulation (EU) No 1092/2010. […]”;’	‘4. the following Article 35a is inserted: “Article 35a Information exchange between authorities and with other entities 1. The Authority and the competent authorities shall share with other authorities~~, on a case-by-case or regular basis, information~~ **data reported to them by** ~~they obtained from~~ financial institutions **in compliance with their reporting obligations** or **received from** other competent authorities in carrying out their duties, when requested by the other European Supervisory Authorities, the ESRB or competent authorities as defined in Article 4, point (3) of this Regulation, in Article 4, point (2), of Regulation (EU) No 1093/2010 or in Article 4, point (2), of Regulation (EU) No 1094/2010, or the authorities defined in Article 2, point (1), of Directive (EU) …/… of the European Parliament and of the Council [22], provided that the authority requesting that information is, pursuant to Union law, entitled to obtain that same information from financial institutions or other competent authorities. For the purposes of this Article, ‘financial institution’ means a ‘financial institution’ as defined in Article 2, point (a), of Regulation (EU) No 1092/2010. […]”;’
Explanation *See explanation for Amendment 2.*	

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<tr><td colspan="2">Amendment 5
Article 2, point (3), of the proposed regulation (Article 35(4) of Regulation (EU) No 1093/2010)
Article 3, point (3), of the proposed regulation (Article 35(4) of Regulation (EU) No 1094/2010)
Article 4, point (3), of the proposed regulation (Article 35(4) of Regulation (EU) No 1095/2010)</td></tr>
<tr><td>‘3. in Article 35, paragraph 4 is replaced by the following:
“4. Before requesting information in accordance with this Article and in order to avoid the duplication of reporting obligations, the Authority shall take account of information collected by other authorities referred to in Article 35a(1) and any relevant existing statistics produced and disseminated by the European Statistical System and the European System of Central Banks.”;’</td><td>‘3. in Article 35, paragraph 4 is replaced by the following:
“4. Before requesting information in accordance with this Article and in order to avoid the duplication of reporting obligations, the Authority shall take account of information collected by other authorities referred to in Article 35a(1) and any relevant existing statistics produced and disseminated by the European Statistical System and the European System of Central Banks, except in the case of time-sensitive requests.”;’</td></tr>
<tr><td colspan="2"><u>Explanation</u>
The obligation to check whether given information is already available to other authorities before seeking information from financial institutions could jeopardise the ECB’s ability to identify risks on a timely basis and prevent it from taking immediate action where needed in order to fulfil its prudential supervisory tasks, as the ECB would be required to await a reply from various Union and national authorities before obtaining information from the relevant supervised entity. This would concern in particular requests for information of a time-sensitive nature, for example in emergency situations. Thus, an exemption from this obligation for time-sensitive requests should be included in the proposed regulation.
See paragraph 2.2.1 of the ECB Opinion.</td></tr>
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