

REGULATION (EU) 2022/1917 OF THE EUROPEAN CENTRAL BANK**of 29 September 2022****on infringement procedures in cases of non-compliance with statistical reporting requirements and repealing Decision ECB/2010/10 (ECB/2022/31)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 132(3) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 5 and 34 thereof,

Having regard to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions ⁽¹⁾, and in particular Article 6(2) thereof,

Having regard to Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank ⁽²⁾, and in particular Article 7 thereof,

Whereas:

- (1) The European Central Bank (ECB) may impose sanctions on reporting agents pursuant to Article 7(1) of Regulation (EC) No 2533/98 and should establish a framework to further specify the arrangements for the imposition of such sanctions in accordance with Article 6(2) of Regulation (EC) No 2532/98. It is therefore appropriate to determine the procedures according to which such sanctions should be applied.
- (2) In order to reduce the administrative burden, such procedures should be harmonised as far as possible with existing procedural rules. The infringement and enforcement procedures in this Regulation should therefore take into account European Central Bank Regulation (EC) No 2157/1999 (ECB/1999/4) ⁽³⁾ and Articles 3 and 4 of Council Regulation (EC) No 2532/98. Article 3 of Regulation (EC) No 2532/98 provides that the ECB, or the national central bank (NCB) of the Member State in whose jurisdiction the alleged infringement has occurred, may initiate an infringement procedure, acting on their own initiative or on the basis of a motion to that effect addressed to the ECB by the relevant NCB, or, addressed to the relevant NCB by the ECB, respectively.
- (3) Regulation (EC) No 2157/1999 (ECB/1999/4) ensures that the principle of *ne bis in idem* is respected with regard to infringement procedures and provides that no more than one infringement procedure may be initiated against the same undertaking based on the same facts. For this purpose, no decision on whether to initiate an infringement procedure should be taken by the ECB or by the competent NCB until they have informed and consulted with one another. Likewise no decision on whether to initiate an infringement procedure should be taken by the ECB or by the competent NCB until the competent NCB has informed the national competent authority (NCA), which collects statistical information and transmits such information to the competent NCB on the basis of local cooperation arrangements. Similarly, in cases where supervisory information is used to meet statistical reporting requirements, coordination with the Single Supervisory Mechanism (SSM) may be necessary prior to initiating an infringement procedure or imposing a sanction.
- (4) Regulation (EC) No 2157/1999 (ECB/1999/4) also sets out the procedure for the submission of a proposal by the independent investigating unit of the ECB or by the competent NCB to the Executive Board of the ECB for the purposes of determining whether the reporting agent concerned has committed an infringement and specifying the amount of the sanction to be imposed, and allows for a simplified infringement procedure for the sanctioning of minor infringements.

⁽¹⁾ OJ L 318, 27.11.1998, p. 4.

⁽²⁾ OJ L 318, 27.11.1998, p. 8.

⁽³⁾ European Central Bank Regulation (EC) No 2157/1999 of 23 September 1999 on the powers of the European Central Bank to impose sanctions (ECB/1999/4) (OJ L 264, 12.10.1999, p. 21).

- (5) It is necessary to ensure a consistent approach towards the imposition of sanctions in the various statistical fields, to clearly define the roles of the ECB and NCBs in infringement procedures, and to ensure that all procedural provisions concerning the initiation of an infringement procedure and the imposition of a sanction in the area of statistics are clearly defined, in the interests of ensuring due process and protecting the rights of the reporting agents concerned.
- (6) To ensure equal treatment of reporting agents, the European System of Central Banks (ESCB) should adopt a harmonised approach to the elements to be taken into account when monitoring compliance with statistical reporting requirements and assessing alleged infringements, to the infringement procedure itself, and to the calculation and imposition of sanctions for infringements of the reporting requirements. For this reason, it is also important to ensure that repeated cases of alleged infringements of any of the reporting requirements of the same ECB regulation or decision should be monitored and reported to the ECB or the competent NCB, as the case may be.
- (7) It is also necessary to establish harmonised rules for the application of local cooperation arrangements where the competent NCB transmits statistical information to the ECB which it has collected from an NCA, rather than directly from the reporting agent. Local cooperation arrangements should not, in any way, operate to alter or limit the duty of the reporting agent to comply with its statistical reporting requirements under ECB regulations or decisions. The legal framework on the sanctioning of infringements of the statistical reporting requirements is fully applicable in such cases. There should, however, be sufficient communication between the competent NCB and the relevant NCA regarding the measures that need to be taken in accordance with this framework, in order to ensure compliance with the principle of *ne bis in idem*.
- (8) With the exception of cases of infringements of the statistical reporting requirements of Regulation (EU) No 1333/2014 of the European Central Bank (ECB/2014/48) ⁽⁴⁾, for which remedial plans are considered not to be suitable to remedy alleged infringements in a timely manner due to the high frequency of reporting of the relevant statistical information, and cases of serious misconduct, it may be possible and appropriate to resolve alleged infringements through cooperation with the reporting agent. Accordingly, the possibility of agreeing on a remedial plan, between the competent NCB or the ECB and the reporting agent, should be facilitated. That remedial plan could also specify, inter alia, the methodologies, processes, resources, and personnel by which the reporting agent proposes to remediate each alleged infringement, the review and oversight processes that the reporting agent will employ for the remediation and the procedural improvements to reduce the likelihood of the recurrence of infringements by the reporting agent.
- (9) At the same time, in order to reduce the administrative burden and take account of the practical application of an infringement procedure, infringement procedures in cases of alleged infringements not considered as cumulative alleged infringements should be initiated as considered appropriate, taking into account the relevant circumstances of the specific case.
- (10) As the ESCB is guided by the principle of proportionality, it is appropriate to take into account the potential circumstances which may be considered to be beyond the reporting agent's control and to provide for an exemption to the initiation of the infringement procedure in such circumstances. Such an exemption should only apply to those reporting agents that have taken all reasonable efforts to avert any infringement of the reporting requirements. In addition, outsourcing by reporting agents of certain activities relevant for the fulfilment of their reporting obligations or difficulties with maintaining or upgrading their IT infrastructure should not, in itself, be considered to amount to circumstances beyond the reporting agent's control. Equally, the competent Eurosystem central bank should not consider circumstances beyond the reporting agent's control in cases of serious misconduct.
- (11) For reasons of cost-efficiency and in order to reduce the administrative burden, an infringement procedure should not be initiated below the potential minimum fine amounts indicated in this Regulation. Nonetheless, once initiated, fine amounts below those indicated in this Regulation may be imposed.

⁽⁴⁾ Regulation (EU) No 1333/2014 of the European Central Bank of 26 November 2014 concerning statistics on the money markets (ECB/2014/48) (OJ L 359, 16.12.2014, p. 97).

- (12) A harmonised approach should apply to all statistical reporting requirements laid down in ECB regulations or decisions. In order to allow sufficient time for reporting agents to adapt to the new reporting requirements, the power to impose sanctions should not be exercised by the ECB for a period of 12 months after the reporting obligation first arises pursuant to an applicable ECB regulation or decision. It is also necessary to provide that amendments to the reporting requirements which change the underlying conceptual framework or affect the reporting burden should be considered substantive for the purposes of transitional arrangements. No transitional period should apply to cases of serious misconduct.
- (13) In order to harmonise infringement procedures for statistical reporting requirements, and ensure transparency, it is appropriate to adopt a Regulation establishing a harmonised framework in which sanctions may be imposed on reporting agents in cases of non-compliance with statistical reporting requirements. It is therefore necessary to repeal Decision ECB/2010/10 ⁽⁵⁾. However, in order to ensure continuity and clarity, Decision ECB/2010/10 should continue to apply to alleged infringements which occur prior to the relevant date of application of this Regulation.
- (14) For the same reasons, it is appropriate to provide that the competent NCBs and the ECB should continue to comply with the requirements of Decision ECB/2010/10 in cases of alleged infringements which occur prior to the relevant date of application of this Regulation, including in cases of repeated non-compliance where one or more instances of non-compliance occur before and after the relevant date of application of this Regulation.
- (15) In order to allow NCBs sufficient time to adjust to the procedural and technical changes to be introduced by the new harmonised framework set out in this Regulation, it should not apply for a period of 18 months from the date of its entry into force. However, it is suitable and appropriate to apply this Regulation more promptly for non-compliance with the statistical reporting requirements under Regulation (EU) No 1333/2014 (ECB/2014/48) because it is critical to receive timely, accurate and complete statistical information for the performance of the ECB's tasks in the field of monetary policy, and failure to comply with these statistical reporting requirements can significantly hinder the performance of such tasks. This Regulation should therefore apply three months following the date of its entry into force in cases of non-compliance with the statistical reporting requirements under Regulation (EU) No 1333/2014 (ECB/2014/48),

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation establishes a harmonised framework in which sanctions may be imposed on reporting agents for non-compliance with statistical reporting requirements laid down by ECB regulations and decisions. In particular, it establishes the scope of monitoring of compliance by the reporting agents with those requirements and defines the following procedures to be applied by the competent Eurosystem central bank:

- (1) monitoring and recording procedure;
- (2) reporting procedure;
- (3) notification procedure;
- (4) endorsement and implementation of a remedial plan;
- (5) infringement procedure.

⁽⁵⁾ Decision ECB/2010/10 of the European Central Bank of 19 August 2010 on non-compliance with statistical reporting requirements (OJ L 226, 28.8.2010, p. 48).

*Article 2***Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) 'competent Eurosystem central bank' means the competent NCB or, in the case of direct reporting, the ECB;
- (2) 'competent NCB' means the NCB of the euro area Member State in whose jurisdiction the alleged infringement occurred;
- (3) 'cumulative alleged infringement' means a series of alleged infringements listed under any of points (a) to (e) of Article 8(2) of this Regulation which occur in respect of one or more statistical reporting requirements under the same ECB regulation or decision;
- (4) 'direct reporting' means reporting by reporting agents of statistical information directly to the ECB in accordance with the decision of a competent NCB pursuant to a regulation or decision of the ECB;
- (5) 'beyond the reporting agent's control' means an unforeseeable external event beyond a reporting agent's reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary;
- (6) 'reporting agents' means 'reporting agents' as defined in Article 1(2) of Regulation (EC) No 2533/98;
- (7) 'infringement' means 'infringement' as defined in Article 1(4) of Regulation (EC) No 2532/98;
- (8) 'sanctions' means 'sanctions' as defined in Article 1(7) of Regulation (EC) No 2532/98;
- (9) 'statistical reporting requirements' means 'the ECB's statistical reporting requirements' as defined in Article 1(1) of Regulation (EC) No 2533/98;
- (10) 'alleged infringement' means non-compliance by a reporting agent with the statistical reporting requirements of an ECB regulation or decision which:
 - (a) has been identified by the competent Eurosystem central bank; and
 - (b) has not yet been confirmed to be an infringement in a reasoned decision adopted by the Executive Board of the ECB pursuant to Article 3(4) of Regulation (EC) No 2532/98.

*Article 3***Monitoring and recording**

1. Competent NCBs shall monitor compliance with statistical reporting requirements by reporting agents on an ongoing basis and shall record alleged infringements of those requirements in a dedicated system. Each competent NCB shall maintain such a system for the purposes of this Regulation.
2. The ECB shall monitor compliance with statistical reporting requirements by reporting agents in cases of direct reporting on an ongoing basis, with the cooperation of the competent NCB upon request by the ECB and shall record alleged infringements of those requirements in a dedicated system. The ECB shall maintain that system for the purposes of this Regulation.
3. Where a reporting agent claims that an alleged infringement is due to circumstances beyond the reporting agent's control, the competent Eurosystem central bank shall register the claim when recording the details of the alleged infringement.
4. Where a competent Eurosystem central bank identifies more than one alleged infringement of statistical reporting requirements by the same reporting agent, it shall record each alleged infringement separately.

*Article 4***Local cooperation arrangements**

1. Where a competent NCB reports statistical information to the ECB which it has collected via a national competent authority (NCA) pursuant to local cooperation arrangements, that competent NCB shall ensure that information collected and transmitted via the respective NCA allows for the effective monitoring of compliance with statistical reporting requirements.
2. Where a reporting agent provides statistical information to the competent NCB via an NCA pursuant to local cooperation arrangements prior to the initiation of an infringement procedure, the competent NCB shall liaise with the relevant NCA to obtain information as to whether the alleged infringement occurred as a result of actions or inactions by the reporting agent and to ensure that no more than one infringement procedure based on the same facts is initiated against the same reporting agent at a time.
3. Where a reporting agent provides statistical information to the competent NCB via an NCA pursuant to local cooperation arrangements, the competent NCB shall inform the relevant NCA in cases where a remedial plan referred to in Article 7 has been submitted by the reporting agent and endorsed by the competent NCB, as well as whether or not it has been successfully implemented, and in cases where a sanction has been imposed on a reporting agent by the Executive Board of the ECB in accordance with Article 3 of Regulation (EC) No 2532/98 and Article 7 of Regulation (EC) No 2533/98.

*Article 5***Reporting**

1. Competent NCBs shall promptly report to the ECB each of the following alleged infringements:
 - (a) any alleged infringement by a reporting agent of daily reporting requirements;
 - (b) three or more alleged infringements by a reporting agent of monthly reporting requirements within six consecutive months;
 - (c) three or more alleged infringements by a reporting agent of quarterly reporting requirements within four consecutive quarters;
 - (d) two or more consecutive alleged infringements by a reporting agent of semi-annual reporting requirements;
 - (e) any alleged infringement by a reporting agent of annual reporting requirements.

For the purposes of reporting alleged infringements pursuant to this paragraph, competent NCBs shall record those alleged infringements in the same dedicated system as referred to in Article 3(1).

2. Competent NCBs shall report each of the following cases of serious misconduct to the ECB as soon as it is identified:
 - (a) any systematic or intentional failure to report statistical information to the competent NCB within the prescribed deadline;
 - (b) any systematic or intentional failure to report correct or complete statistical information;
 - (c) any systematic or intentional failure to comply with the prescribed form of the statistical reporting requirements;
 - (d) any failure to cooperate effectively with the competent NCB or to apply a reasonable degree of diligence.

For the purposes of identifying serious misconduct, the competent NCB may request additional information from the reporting agent.

For the purposes of reporting serious misconduct pursuant to this paragraph, competent NCBs shall record the serious misconduct in the same dedicated system as referred to in Article 3(1).

3. The ECB shall inform the competent NCB without delay of any alleged infringements or serious misconduct referred to in paragraphs 1 and 2 that it has identified in cases of direct reporting and shall record those alleged infringements or the serious misconduct in the same dedicated system as referred to in Article 3(2).

Article 6

Notification

1. Prior to the initiation of an infringement procedure pursuant to Article 8, the competent Eurosystem central bank shall provide the reporting agent concerned with a warning by way of a written notification of at least the following:

- (a) the nature of the alleged infringements;
- (b) the possibility that an infringement procedure may be initiated and the possibility, in such case, that a sanction may be imposed on the reporting agent;
- (c) that the reporting agent has an opportunity to provide reasons, including that the alleged infringements were due to circumstances beyond the reporting agent's control;
- (d) that the alleged infringements are to be corrected, if not already corrected, to ensure compliance with the statistical reporting requirements; and
- (e) where relevant, that the competent Eurosystem central bank may endorse a remedial plan, if submitted, to be implemented by the reporting agent.

2. Where a competent Eurosystem central bank has identified a case of serious misconduct pursuant to Article 5(2), it shall contact the reporting agent concerned, in writing, to notify that reporting agent of at least the following:

- (a) the nature of the serious misconduct;
- (b) that an infringement procedure is to be initiated and the possibility, in such case, that a sanction may be imposed on the reporting agent;
- (c) that the reporting agent has an opportunity to provide reasons; and
- (d) that the serious misconduct is to be corrected by the reporting agent to ensure compliance with the statistical reporting requirement and, where relevant, to ensure effective cooperation with the competent Eurosystem central bank, without delay.

3. The competent Eurosystem central bank shall provide to the reporting agent the written notification referred to in paragraphs 1 and 2 as soon as possible following the occurrence of the alleged infringement or after the serious misconduct first became known to that Eurosystem central bank. Where there is an alleged infringement of daily reporting requirements, the competent Eurosystem central bank shall provide such notice, wherever practical, before a cumulative alleged infringement occurs.

Article 7

Remedial plan

1. Following the provision of a warning of an alleged infringement in accordance with Article 6(1), and once the threshold for a cumulative alleged infringement referred to in Article 8(2) has been reached, the competent Eurosystem central bank shall notify the reporting agent concerned that it may submit a remedial plan.

2. Within 60 calendar days of the notification referred to in paragraph 1, the competent Eurosystem central bank may endorse a remedial plan submitted by a reporting agent in accordance with this Article.

3. This Article shall not apply in either of the following cases:

- (a) serious misconduct referred to in Article 5(2); or
- (b) an alleged infringement of the statistical reporting requirements set out in Regulation (EU) No 1333/2014 (ECB/2014/48).

4. A remedial plan shall be prepared by the reporting agent and shall at least:
 - (a) state the reasons for the alleged infringement;
 - (b) set out the corrective measures to be taken by the reporting agent, including a provision to submit the correct or missing statistical information without delay;
 - (c) include a timetable for the implementation of the measures referred to in point (b); and
 - (d) include the details of the responsible contact person(s).
5. The competent Eurosystem central bank shall assess a remedial plan submitted pursuant to paragraph 4 without delay and in any case within 12 calendar days from the date of such submission, and, where applicable, having due regard to any comments provided by the ECB in accordance with paragraph 7, it shall either:
 - (a) endorse the plan and set a final deadline of not more than 60 calendar days for the overall implementation of that plan from the date of its endorsement; or
 - (b) where the plan is not sufficient to remedy the alleged infringement, request that the reporting agent prepares and submits a revised remedial plan within 10 calendar days from the date of such request.
6. Where a revised remedial plan is submitted within the deadline set out in paragraph 5, point (b), the competent Eurosystem central bank shall assess it without delay and in any case within 8 calendar days from the date of such submission, and, where applicable, having due regard to any comments provided by the ECB in accordance with paragraph 7, it shall either:
 - (a) endorse the revised remedial plan and set a final deadline of not more than 42 calendar days for the overall implementation of that plan from the date of its endorsement; or
 - (b) where the revised remedial plan is not sufficient to remedy the alleged infringement, reject it and initiate an infringement procedure in accordance with Article 8.
7. A competent NCB shall submit any remedial plan or any revised remedial plan it receives pursuant to this Article to the ECB without delay. Where the ECB considers that the plan is not sufficient to remedy the alleged infringement, the following shall apply:
 - (a) in the case of a remedial plan as referred to in paragraph 5, the competent NCB shall request that the reporting agent prepare and submit a revised remedial plan within 10 calendar days from the date of such request; and
 - (b) in the case of a revised remedial plan as referred to in paragraph 6, the competent NCB shall reject it and initiate an infringement procedure in accordance with Article 8.
8. Where a competent Eurosystem central bank endorses a remedial plan pursuant to paragraph 5 or 6, it shall monitor the implementation of that plan and verify whether the corrective measures therein have been applied effectively and without delay.
9. A competent Eurosystem central bank may extend the deadline for the implementation of a remedial plan endorsed pursuant to paragraph 5 or 6 once, in exceptional circumstances and provided that the reporting agent demonstrates that the remedial plan is being implemented effectively. Any extension shall be limited to the period that the competent Eurosystem central bank considers necessary for the reporting agent to implement the remedial plan, and in any event no longer than 30 calendar days from the expiry of the final deadline referred to in paragraph 5 or 6, as applicable.
10. Competent NCBs and the ECB shall notify each other of any remedial plan agreed with a reporting agent as soon as such a plan is endorsed and keep each other informed as to each plan's implementation.
11. Where a remedial plan is endorsed and implemented pursuant to this Article, the competent Eurosystem central bank shall not initiate an infringement procedure pursuant to Article 8 in relation to the same alleged infringement by the same reporting agent before the final deadline referred to in paragraph 5 or 6, as applicable, has expired, subject to any extension granted pursuant to paragraph 9.

12. Where a reporting agent fails to comply with a deadline as referred to in paragraph 5 or 6, or any extended deadline granted under paragraph 9, or where the alleged infringement is not remedied by the final deadline referred to in paragraph 5 or 6 or any extended deadline granted under paragraph 9 as applicable, the competent Eurosystem central bank shall initiate an infringement procedure in accordance with Article 8.

13. Notwithstanding paragraphs 1 to 12, competent Eurosystem central banks shall continue to monitor the one or more alleged infringements which are the subject of a remedial plan and compliance by the reporting agents with statistical reporting requirements, and continue to record and report any alleged infringements in accordance with Articles 3 and 5.

Article 8

Infringement procedure

1. Competent NCBs or the ECB shall initiate an infringement procedure against a reporting agent in each of the following cases:

- (a) serious misconduct as referred to in Article 5(2);
- (b) a cumulative alleged infringement of the statistical reporting requirements set out in Regulation (EU) No 1333/2014 (ECB/2014/48) as referred to in paragraph 2;
- (c) a cumulative alleged infringement as referred to in paragraph 2, where no remedial plan has been submitted in accordance with Article 7 or where the remedial or the revised remedial plan submitted by the reporting agent has not been endorsed by the competent Eurosystem central bank in accordance with Article 7(5) or 7(6); or
- (d) a cumulative alleged infringement as referred to in paragraph 2, where the final deadline for implementation of a remedial plan or a revised remedial plan as referred to in Article 7(5) or 7(6), as applicable, or its extension as referred to in Article 7(9), has expired before the non-compliance is remedied.

2. For the purposes of paragraph 1, points (b), (c) and (d), a cumulative alleged infringement shall include each of the following:

- (a) at least three alleged infringements by a reporting agent of daily reporting requirements within the same month or at least five alleged infringements within three consecutive calendar months;
- (b) at least three alleged infringements by a reporting agent of monthly reporting requirements within six consecutive months;
- (c) at least three alleged infringements by a reporting agent of quarterly reporting requirements within four consecutive quarters;
- (d) any two consecutive alleged infringements by a reporting agent of semi-annual reporting requirements;
- (e) any two consecutive alleged infringements by a reporting agent of annual reporting requirements.

3. Competent NCBs or the ECB may initiate an infringement procedure against a reporting agent in cases of alleged infringements not referred to in paragraph 1. In such cases, the competent NCB or ECB shall take the circumstances of the specific case into account when determining whether or not to initiate an infringement procedure, including the following where relevant:

- (a) whether the reporting agent has demonstrated good faith in the interpretation and fulfilment of the statistical reporting requirement;
- (b) whether the reporting agent has demonstrated diligence and cooperation in the interpretation and fulfilment of the statistical reporting requirement;
- (c) whether the reporting agent has demonstrated wilful deceit in the interpretation and fulfilment of the statistical reporting requirement;
- (d) the seriousness of the effects of the alleged infringement;
- (e) the repetition, frequency or duration of the alleged infringement;

- (f) any benefits to the reporting agent resulting from the alleged infringement;
- (g) the economic size of the reporting agent;
- (h) whether the reporting agent has been subject to prior sanctions for non-compliance with statistical reporting requirements.

4. For the purposes of paragraphs 1 and 3, competent NCBs or the ECB shall initiate an infringement procedure in accordance with the following:

- (a) Article 2 of Regulation (EC) No 2157/1999 (ECB/1999/4); and
- (b) Articles 3 and 4 of Regulation (EC) No 2532/98.

5. Competent NCBs or the ECB may initiate an infringement procedure even where the competent Eurosystem central bank has failed to record or report the alleged infringement pursuant to Articles 3 and 5.

6. Except in cases of serious misconduct, a competent NCB or the ECB shall not initiate an infringement procedure where it considers that the alleged infringement was committed due to circumstances beyond the reporting agent's control. When determining whether an alleged infringement occurred due to circumstances beyond the reporting agent's control, competent NCBs and the ECB shall take into account, in particular, whether the circumstances:

- (a) were sufficiently unusual;
- (b) were exceptional;
- (c) were unforeseeable;
- (d) can be attributed to any action or inaction of the reporting agent.

Technical difficulties or difficulties related to the maintenance and upgrading of IT infrastructure, including outsourced IT infrastructure, shall not be considered to be beyond the reporting agent's control.

7. A competent NCB or the ECB shall not initiate an infringement procedure where either of the following apply:

- (a) the potential fine for the alleged infringement is not likely to exceed EUR 10 000 in the case of an alleged infringement relating to a failure to report any statistical information to the ECB or competent NCB by the applicable deadline; or
- (b) the potential fine for the alleged infringement is not likely to exceed EUR 20 000 in the case of alleged infringements relating to statistical information being incorrect, incomplete or in a form not complying with an applicable requirement.

Where an infringement procedure has been initiated, fine amounts below those indicated in the first subparagraph may be imposed.

8. A competent NCB or the ECB shall not initiate an infringement procedure against a reporting agent where another infringement procedure has been initiated or a sanction has been imposed against the same reporting agent on the basis of the same facts.

9. A competent NCB or the ECB shall retain electronic records of each infringement procedure it has initiated pursuant to this Regulation.

Article 9

Sanctions methodology

The ECB shall adopt a decision on the methodology for the calculation of the proposed amount of sanctions.

*Article 10***Review**

The Governing Council shall review the general application and implementation of this Regulation by no later than five years following the date on which it enters into force, and thereafter every three years, and assess whether it should be amended.

*Article 11***Transitional provisions**

1. Article 8 shall not apply for a period of 12 months following the first reporting pursuant to an applicable ECB regulation or decision where any of the following applies:

- (a) the statistical information is reported for the first time pursuant to the ECB regulation or decision;
- (b) the statistical reporting requirements have been substantively amended by the ECB regulation or decision, such that the underlying conceptual framework is changed or the reporting burden affected, and the corresponding statistical information are reported for the first time since such amendment;
- (c) the statistical information is reported by new reporting agents or reporting agents of new undertakings which have not previously been subject to statistical reporting requirements under the same regulatory framework.

2. Paragraph 1 shall not apply in the cases of serious misconduct referred to in Article 5.

3. Where any alleged infringement occurs prior to the relevant date of application of this Regulation as specified in Article 14, the competent NCB or the ECB shall comply with the requirements of Decision ECB/2010/10 including in cases of repeated non-compliance referred to in Article 3(2), point (b), of that Decision, where one or more instances of non-compliance occur before and after the relevant date of application of this Regulation.

*Article 12***Specific application for infringements of money market statistical reporting**

In cases of alleged infringements of Regulation (EU) No 1333/2014 (ECB/2014/48), competent NCBs and the ECB shall comply with the requirements laid out in this Regulation from 31 January 2023.

*Article 13***Repeal**

Decision ECB/2010/10 is hereby repealed with effect from 31 January 2023. However, it shall continue to apply to alleged infringements which occur prior to the relevant date of application of this Regulation as specified in Article 14.

*Article 14***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 30 April 2024, except for Article 12 which shall apply from 31 January 2023.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Frankfurt am Main, 29 September 2022.

For the Governing Council of the ECB
The President of the ECB
Christine LAGARDE
