



Template for comments

ECB draft Regulation on Infringement procedures in cases of non-compliance with statistical reporting requirements and repealing Decision ECB/2010/10

Institution/Company

Banking & Payments Federation Ireland

Contact person

Mr/Ms

First name

Surname

Email address

Telephone number

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General comments

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ECB draft Regulation on Infringement procedures in cases of non-compliance with statistical reporting requirements and repealing Decision ECB/2010/10

Please enter all your feedback in this list.

When entering feedback, please make sure that:

- each comment deals with a single issue only;
- you indicate the relevant article/chapter/paragraph/section, where appropriate;
- you indicate whether your comment is a proposed amendment, clarification or deletion.

Deadline: Midnight CET on 4 August 2021

ID	Foreword, recital or article	Paragraph	Page	Type of comment	Detailed comment	Concise statement as to why your comment should be taken on board	Name of commenter	Personal data
1	Article 7	6.(b)	8	Clarification	The deadline referred to in paragraph 1 relates to the timeframe for the competent Eurosystem central bank and the reporting agent, while this paragraph refers only to the deadline for the reporting agent to submit a revised plan. This is potentially confusing and this paragraph should explicitly state the relevant time frame.	The timeframe is unclear and could result in remedial plans not being agreed on time due to confusion.		Don't publish
2	Article 8	1.	9	Deletion	The paragraph gives broad powers to the competent NCBs or the ECB to initiate infringement procedures against reporting agents. The circumstances for initiating infringement procedures in cases of alleged infringements not referred to in paragraph 2 should be stated clearly.	This paragraph undermines the aim of the Regulation to harmonise the approach to infringement procedures and does not ensure transparency or equal treatment of reporting agents.		Don't publish
3	Article 8	5.	9	Deletion	What justification will be used to initiate infringement procedures where the competent Eurosystem central bank has failed to record or report the alleged infringement, as required by the draft Regulation? This paragraph also seems to contradict Article 6 where reporting agents must be notified prior to the initiation of an infringement procedures under Article 8.	This paragraph undermines the aim of the Regulation to harmonise the approach to infringement procedures and does not ensure transparency or equal treatment of reporting agents.		Don't publish
4	Article 12	1.(b)	11	Amendment	The word "substantively" should be removed as this is a subjective term and the transitional provisions should apply to any ECB statistical reporting requirements amended by ECB regulations or decisions.	Amendments brought about by ECB regulations and decision are substantive by nature. This is especially important for smaller institutions which would have limited resources available to implement amended regulations and decisions.		Don't publish

5	Article 2		4	Amendment	Inclusion of the following terms referred to in the draft Regulation in Article 2 'Definitions': 'Ordinary Revisions' 'Non-systematic revisions'	Definitions should be added for full transparency and disclosure.		Don't publish
6	Article 5	1.(b)	6	Clarification	This paragraph refers to the requirement to report 'three or more alleged infringements by a reporting agent of monthly reporting requirements within six consecutive months'. This paragraph does not state whether these alleged infringements should be due to the same issue or three different issues.	Clarity is needed as to whether the infringements are seen as cumulative if they are due to a recurring issue or three new issues.		Don't publish
7	Article 5	1	6	Clarification	Please clarify whether the reporting described in Article 5 would include all revisions. See Article 9, paragraph 4, page 10 where the ECB will not take into account negligible errors / ordinary revisions.	If reporting agents remain encouraged to report revisions in accordance with relevant policies to improve overall data quality, clarity is needed as to whether revisions to improve overall data quality are included as an alleged infringement.		Don't publish
8	Article 9	4	10	Clarification	Further clarification should be included for what is included in 'ordinary revisions, including non-systematic revisions' (related to article 2 comment above - ID5)	This paragraph is confusing when no definition has been provided for 'ordinary revisions' and 'non-systematic' revisions.		Don't publish
9	Article 2	(7)		Clarification	The concept of infringement should be defined more clearly and criteria more transparently set out for what constitutes a failure to "by an undertaking to fulfil an obligation arising from ECB regulations or decisions". The apparent criteria for assessing whether the undertaking is fulfilling its obligations in statistical reporting (Annex IV to Regulation (EU) No 1333/2014 of the European Central Bank) are cited only in reference to 'cumulative alleged infringement'. This creates uncertainty regarding their general applicability.	In order to manage and ensure their compliance with ECB regulations or decisions, reporting agents need clarity regarding the criteria used to measure or assess compliance. This should be addressed by the ECB to ensure consistency, transparency and equal treatment of reporting agents.		Don't publish
10	Article 3	1	5	Clarification	Please clarify whether the monitoring referred to in Article 3 would include all revisions. See Article 9, paragraph 4, page 10 where the ECB will not take into account negligible errors / ordinary revisions.	If reporting agents remain encouraged to report revisions in accordance with relevant policies to improve overall data quality, clarity is needed as to whether revisions to improve overall data quality are included as an alleged infringement.		Don't publish
11	Article 8	8	6	Amendment	This article states that technical difficulties are not being considered to be beyond the reporting agents control. However, there should be a reference here to the transitional period where new regulations are imposed that technical difficulties would also fall under this Transitional period.	Technical difficulties can be brought about by new regulation changes and if sufficient notice has not been provided by the NCB so that IT systems can be updated in time needs to be a consideration in this Article for Transitional Provisions		Don't publish

12	Article 8	8	6	Amendment	<p>There should be an additional instance included where infringement procedures would not be initiated. That is when new regulations have been imposed, the notice provided by the NCBs to the reporting agents should be within a sufficient timeframe for all changes to be considered and IT systems updated accordingly</p>	<p>If sufficient lead in time is not provided regarding implementing new regulations/changes it should be a consideration in not initiating infringement procedures against the reporting agent</p>		Don't publish
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