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►B ►C1 **DECISION (EU) 2022/134 OF THE EUROPEAN CENTRAL BANK**

of 19 January 2022

laying down common rules on the transmission by the European Central Bank of supervisory information to authorities and bodies for the purpose of carrying out the tasks conferred on it by Council Regulation (EU) No 1024/2013 (ECB/2022/2) ◄

(OJ L 20, 31.1.2022, p. 275)

Corrected by:

►C1 Corrigendum, OJ L 199, 28.7.2022, p. 31 (2022/134)

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DECISION (EU) 2022/134 OF THE EUROPEAN CENTRAL BANK

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Article 1

Subject matter

1. This Decision lays down common rules on the transmission of supervisory information held by the ECB to authorities and bodies as defined in Article 2(2).

2. This Decision shall be without prejudice to rules on the transmission of supervisory information held by the ECB to other authorities and bodies or held by the national competent authorities within the meaning of Article 2(2) of Regulation (EU) No 1024/2013.

Article 2

Definitions

For the purpose of this Decision, the following definitions apply:

(1) ‘supervisory information’ means any confidential information held by the ECB, the transmission of which to authorities and bodies presupposes an assessment, connected with the carrying out of the tasks conferred on the ECB by Regulation (EU) No 1024/2013, as to the appropriateness of such transmission;

(2) ‘authorities and bodies’ means national, Union and international authorities and bodies, except national competent authorities as defined in Article 2(2) of Regulation (EU) No 1024/2013, as identified in the Annex to this Decision;

(3) ‘decision to allocate tasks’ means a decision by which the Executive Board allocates to a transmission clearance officer the task of applying the rules laid down in this Decision and/or, as appropriate, the specific rules laid down in instruments applicable to particular categories of transmission of supervisory information;

(4) ‘transmission clearance’ means the approval to transmit supervisory information to authorities and bodies given by a transmission clearance officer in applying this Decision and/or, as appropriate, instruments that lay down specific rules applicable to particular categories of transmission of supervisory information, pursuant to a decision to allocate tasks.

Article 3

Common rules on the transmission of supervisory information

1. The ECB shall transmit supervisory information to authorities and bodies if:

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(a) the applicable law authorises the transmission of such supervisory information to those authorities and bodies and the conditions laid down for that authorisation are satisfied;

(b) the supervisory information is adequate, relevant and not excessive in scope in relation to the tasks of those relevant authorities or bodies; and

(c) there are no overriding reasons for refusing to disclose such supervisory information relating to the need to avoid any interference with the functioning and independence of the Single Supervisory Mechanism, in particular by jeopardising the accomplishment of its tasks.

2. If it appears that overriding reasons for refusing to disclose the supervisory information referred to in paragraph (1)(c) exist, the Governing Council shall decide on the transmission of supervisory information, following the procedure laid down in Article 26(8) of Regulation (EU) No 1024/2013.

3. The common rules laid down in paragraph 1 shall be without prejudice to any specific rules as referred to in Article 4.

Article 4

Instruments laying down specific rules

This decision is without prejudice to other instruments laying down specific or complementing rules on particular categories of transmission of supervisory information to authorities and bodies.

Article 5

Transmission clearance

Transmission clearance officers shall have responsibility for approving the transmission of supervisory information by the ECB and shall apply in this regard the rules laid down in this Decision and/or, as appropriate, any specific rules laid down in the instruments referred to in Article 4, pursuant to a decision to allocate tasks.

Article 6

Entry into force

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

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ANNEX

Recipient authority or body	Description and legal basis
European Commission	Article 32 of the SSMR ([1])
The European Banking Authority (EBA), European Securities and Markets Authority, European Insurance and Occupational Pensions Authority, European Systemic Risk Board	Article 53(2) of the CRD ([2]) in conjunction with Article 35(1) of the EBA Regulation ([3]) or Article 80 of the CRR ([4]), Article 15 of the ESRB Regulation ([5]) Article 9a of the EBA Regulation
National prudential supervisory authorities in the European Union and European Economic Area (EEA) regarding qualifying holding and licensing procedures or other procedures referred to in the relevant legislation	Article 56 and Articles 16(3), 24(2), 50(4) of the CRD and equivalent provisions in Union law, in particular Articles 26 and 60 in Solvency II ([6]) and Articles 11 and 84 of MiFID ([7])
National competent and resolution authorities that participate in a prudential college under the CRD, or in arrangements under FICOD or crisis management groups This category covers the exchange of information within prudential colleges under the CRD and the FICOD and crisis management groups as well as the non-discretionary annual updates and termination of written coordination and cooperation arrangements, coordination arrangements under FICOD and cooperation arrangements for crisis management groups	Article 116 of the CRD for written coordination and co-operation arrangements; Article 11 of FICOD ([8]) for financial conglomerate arrangements; Articles 90, 97 and 98 of the BRRD ([9]) for cooperation arrangements related to crisis management groups; Articles 88 and 90 of the BRRD for resolution college written arrangements.
Authorities that are part of an AML/Countering the Financing of Terrorism (CFT) college	Article 117(5) of the CRD (for AML/CFT supervisory authorities and financial intelligence units and terms of participation concluded for the specific AML/CFT college). For exchange of information with other types of authorities participating in the college, the legal basis may differ (note: the AML/CFT colleges are regulated by joint guidelines on cooperation and information exchange for the purpose of Directive (EU) 2015/849 of the European Parliament and of the Council ([10]) between competent authorities supervising credit and financial institutions and other parties; those guidelines are not addressed to the ECB).
AML/CFT supervisory authorities that signed the Multilateral Agreement on the practical modalities for exchange of information pursuant to Article 57a(2) of Directive (EU) 2015/849 (hereinafter the 'AML Agreement')	Article 117(5) of the CRD, Article 3(4) and (5) of the AML Agreement
AML/CFT supervisory authorities and financial intelligence units of Member States	Article 117(5) of the CRD and EBA Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and financial intelligence units under Directive 2013/36/EU (EBA/GL/2021/15) ([11])
National market authorities in the Union and EEA	Article 56 of the CRD
National insurance supervisors in the Union and EEA	Article 56 of the CRD

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Recipient authority or body	Description and legal basis
Deposit guarantee schemes, contractual or institutional protection schemes, competition authorities	Article 56 of the CRD, or national law requiring an opinion from the prudential supervisor
National resolution authorities in the Union and EEA	Article 56 of the CRD
National macroprudential supervisors for tasks outside the scope of Article 5 of the SSMR	Article 56 of the CRD
Statutory auditors of significant institutions	Article 56(f) of the CRD EBA Guidelines on communication between competent authorities supervising credit institutions and the statutory auditor(s) and the audit firm(s) carrying out the statutory audit of credit institutions (EBA/GL/2016/05) ([12])
National authorities responsible for the supervision of financial markets if designated under Article 24(1) in connection with Article 24(4)(h) of Directive 2004/109/EC of the European Parliament and of the Council ([13]) **(accounting enforcers)**	Article 56 of the CRD
National authorities responsible for oversight of persons charged with carrying out statutory audits of the accounts of institutions, insurance undertakings and financial institutions (audit enforcers)	Article 57 of the CRD
National authorities responsible for oversight of the bodies involved in the liquidation and bankruptcy of institutions and in other similar procedures	Article 57 of the CRD
National authorities responsible for oversight of contractual or institutional protection schemes as referred to in Article 113(7) of the CRR	Article 57 of the CRD
National authorities or bodies legally responsible for the detection and investigation of breaches of company law	Article 57 of the CRD
National authorities responsible for overseeing payment systems	Article 58 of the CRD
International bodies (the International Monetary Fund, the World Bank, the Bank of International Settlements, the Financial Stability Board)	Article 58a of the CRD, with the exception of data sharing (e.g. Implementing Technical Standards modules) for stress tests
Prudential supervisory authorities in third countries	Article 55 of the CRD Exchange of information in accordance with arrangements (memoranda of understanding (MoUs), written coordination and cooperation arrangements (WCCAs), institution-specific cross-border cooperation agreements (CoAgs) developed by crisis management groups (CMGs), resolution written arrangements (WAs) etc.) or ad hoc agreements
National market, insurance, or similar authorities in third countries	Article 55 of the CRD and applicable arrangements (MoUs, WCCAs, CoAgs, resolution WAs etc.) or ad hoc agreements

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Recipient authority or body	Description and legal basis
AML/CFT supervisory authorities and financial intelligence units in third countries	Article 55 of the CRD and, where relevant, MoUs or other cooperation arrangements
Resolution authorities in third countries	Article 55 of the CRD, Articles 97 and 98 of the BRRD, in connection with applicable arrangements

([1]) Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).
([2]) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338) in conjunction with EU implementing regulations.
([3]) Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).
([4]) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).
([5]) Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010, p. 1).
([6]) Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).
([7]) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).
([8]) Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1).
([9]) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).
([10]) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).
([11]) Available on the EBA's website at www.eba.europa.eu.
([12]) Available on the EBA's website.
([13]) Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).