Article 4

Time limits

1. The right to take the decision to initiate an infringement procedure, as provided for in this Regulation, shall expire one year after the existence of the alleged infringement first became known either to the ECB or to the national central bank of the Member State in whose jurisdiction the alleged infringement occured and, in any case, five years after the infringement occurred or, in the case of a continued infringement, five years after the infringement was terminated.

2. The right to take the decision to impose a sanction in respect of an infringement, as provided for in this Regulation, shall expire one year after the decision to initiate the procedure as described in Article 3(1) was taken.

3. The right to start an enforcement procedure shall expire six months after the decision has become enforceable pursuant to Article 3(7).

Article 5

Judicial review

The Court of Justice of the European Communities shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty over the review of final decisions whereby a sanction is imposed.

Article 6

General provisions

1. In the event of a conflict between the provisions of this Regulation and the provisions of other Council regulations enabling the ECB to impose sanctions, the provisions of the latter shall prevail.

2. Subject to the limits and conditions laid down in this Regulation, the ECB may adopt regulations to specify further the arrangements whereby sanctions may be imposed in accordance herewith as well as guidelines to coordinate and harmonise the procedures in relation to the conduct of the infringement procedure.

Article 7

Final provisions

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and shall be directly applicable in all Member States.

Recommendation of the European Central Bank for a Council Regulation (EC) concerning the collection of statistical information by the European Central Bank

(98/C 246/08)

(Submitted by the European Central Bank on 7 July 1998)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (the Statute) and in particular Article 5.4 thereof,

Having regard to the recommendation of the European Central Bank (the ECB),

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Commission,

In accordance with the procedure foreseen in Article 106(6) of the Treaty establishing the European Community (the Treaty) and in Article 42 of the Statute,

(1) Whereas Article 5.1 of the Statute requires the ECB, assisted by the national central banks, to collect either from the competent national authorities or directly from economic agents the statistical information which is necessary for the tasks of the European System of Central Banks (the ESCB) to be performed; whereas to facilitate the execution of these tasks, set out in Article 105 of the Treaty, and in particular the conduct of monetary policy, this statistical information is primarily used for the production of aggregated statistical information, for which the identity of individual economic agents is irrelevant, but may also be used at the level of individual economic agents; whereas Article 5.2 of the Statute requires the national central banks to carry out, to the extent possible, the tasks described in Article 5.1 of the Statute; whereas Article 5.4 of the Statute

requires the Council to define the natural and legal persons subject to reporting requirements, the confidentiality regime and the appropriate provisions for enforcement; whereas the national central banks may cooperate with other competent authorities including national statistical institutes and market regulators for the purposes of Article 5.1 of the Statute;

(2) Whereas for statistical information to be effective as an instrument for the performance of the tasks of the ESCB, definitions and procedures for its collection need to be structured so that the ECB has the ability and flexibility to avail itself in a timely manner of high-quality statistics which reflect changing economic and financial conditions and take account of the burden imposed on reporting agents;

(3) Whereas it is therefore desirable to define a reference reporting population in terms of categories of economic units and statistical applications involved, to which the statistical powers of the ECB shall be confined and from which the ECB shall determine the actual reporting population through its regulatory power;

(4) Whereas a homogeneous reporting population is necessary for the production of the 'consolidated balance sheet of the monetary financial institutions sector' of the participating Member States, the principal aim of which is to provide the ECB with a comprehensive statistical picture of monetary developments in the participating Member States, seen as one economic territory; whereas the ECB has established and maintains a list of monetary financial institutions for statistical purposes based on a common definition of these institutions;

(5) Whereas the said common definition for statistical purposes specifies that monetary financial institutions comprise credit institutions as defined in Community law, and all other resident financial institutions whose business is to receive deposits and/or close substitutes for deposits from entities other than monetary financial institutions and, for their own account (at least in economic terms), to grand credits and/or to make investments in securities;

(6) Whereas those post office giro institutions which may not fulfil the common definition for statistical purposes of monetary financial institutions may nevertheless need to be made subject to the ECB's statistical reporting requirements in the field of money and banking statistics and payment systems statistics because they may, to a significant extent, receive deposits and/or close substitutes for deposits and undertake payment systems business;

(7) Whereas in the European System of Accounts 1995 [1] (the ESA 95), the monetary financial institutions therefore comprise the subsectors 'the central bank' and 'other monetary financial institutions' and may be broadened solely through the inclusion of categories of institutions coming from the subsector 'other financial intermediaries, except insurance corporations and pension funds';

(8) Whereas statistics on the balance of payments, the international investment position, securities, electronic money and payment systems are necessary to enable the ESCB to fulfil its tasks in an independent manner;

(9) Whereas the use of the terms 'legal and natural persons' in Article 5.4 of the Statute has to be construed in a manner that is consistent with the practices of Member States in the field of money and banking statistics and balance of payments statistics and therefore also encompasses entities that are neither legal persons nor natural persons under their respective national laws but still fall within the relevant subsectors of the ESA 95; whereas reporting requirements can therefore be imposed on entities such as partnerships, branches, undertakings for collective investments in transferable securities (UCITS) and funds that, under their respective laws, do not enjoy the status of a legal person; whereas in these cases the reporting obligation is imposed on those persons who, under the applicable national laws, legally represent the entities concerned;

(10) Whereas the statistical balance sheet reports of institutions mentioned in Article 19.1 of the Statute may also be used to calculate the amount of minimum reserves which they may be obliged to hold;

(11) Whereas it is the task of the Governing Council of the ECB to specify the division of tasks between the ECB and the national central banks concerning the collection and verification of statistical information and their enforcement, taking into account the principle laid down in Article 5.2 of the Statute, as well as the tasks which will be assumed by national authorities within the limits of their competence, for the purposes of obtaining statistics of a consistently high quality;

[1] OJ L 310, 30.11.1996.

(12) Whereas in the early years of the single currency area cost-effectiveness may require that the ECB's statistical reporting requirements be satisfied through transitional procedures due to existing constraints on the collection systems; whereas this may imply in particular that, in the case of the financial account of the balance of payments, data on cross-border positions or transactions of the participating Member States seen as one economic territory may in the early years of the single currency area be compiled using all positions or transactions between residents of a participating Member State and residents of other countries;

(13) Whereas the limits within and the conditions under which the ECB is entitled to impose sanctions on undertakings for failure to comply with the obligations laid down in regulations and decisions of the ECB have been defined by the Council Regulation (EC) concerning the powers of the European Central Bank to impose sanctions, in accordance with Article 34.3 of the Statute; whereas in the event of a conflict between the provisions of the said Regulation and the present Regulation enabling the ECB to impose sanctions, the provisions of the present Regulation will prevail; whereas the sanctions for non-compliance with the obligations set out in this Regulation are without prejudice to the possibility of the ESCB establishing appropriate enforcement provisions in its relations with counterparties, including the partial or total exclusion of a reporting agent from monetary policy operations in the case of a serious infringement of statistical reporting requirements;

(14) Whereas regulations made by the ECB under Article 34.1 of the Statute do not confer any rights or impose any obligations on non-partipating Member States;

(15) Whereas Denmark, referring to paragraph 1 of the Protocol (12) on certain provisions relating to Denmark, has given notification, in the context of the Edinburgh Decision of 12 December 1992, that it will not participate in the third stage of economic and monetary union; whereas, therefore, in accordance with paragraph 2 of the said Protocol, all Articles and provisions of the Treaty and the Statute referring to a derogation will be applicable to Denmark;

(16) Whereas under Article 8 of the Protocol (11) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland, Articles 34.1 and 34.3 of the Statute do not apply to the United Kingdom unless it participates in the third stage of economic and monetary union;

(17) Whereas, while it is recognised that the statistical information needed to fulfil the ECB's statistical reporting requirements is not the same for the participating as for the non-participating Member States, Article 5 of the Statute applies to both participating and non-participating Member States; whereas this, together with Article 5 of the Treaty, implies an obligation to design and implement at the national level all the measures that they consider appropriate in order to carry out the collection of the statistical information needed to fulfil the ECB's statistical reporting requirements and the timely preparations in the field of statistics in order for them to become participating Member States;

(18) Whereas confidential statistical information which the ECB and the national central banks must obtain for the performance of the tasks of the ESCB must be protected in order to gain and maintain the confidence of the reporting agents; whereas once this Regulation is adopted there will be no further cause to invoke provisions on confidentiality preventing the exchange of confidential statistical information relating to the tasks of the ESCB, subject to the provisions of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

(19) Whereas Article 38.1 of the Statute provides that members of the governing bodies and the staff of the ECB and the national central banks shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, and Article 38.2 of the Statute provides that persons having access to data covered by Community legislation imposing an obligation of secrecy shall be subject to such legislation;

(20) Whereas any infringement of the rules binding members of the staff of the ECB, whether committed wilfully or through negligence, renders them liable to disciplinary sanctions and, if appropriate, legal penalties for the violation of professional secrecy, subject to the combined provisions of Articles 12 and 18 of the Protocol on the privileges and immunities of the European Communities;

(21) Whereas the possible use of statistical information for the execution of the tasks of the ESCB, while reducing the overall reporting burden, implies that the confidentiality regime defined in this Regu-

lation must differ to some extent from the general Community and international principles on statistical confidentiality, and in particular from the provisions on statistical confidentiality in Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics [1];

(22) Whereas the confidentiality regime defined in this Regulation applies only to confidential statistical information transmitted to the ECB for the performance of the tasks of the ESCB, and whereas it does not affect special national or Community provisions relating to the transmission of other types of information to the ECB; whereas the rules on statistical confidentiality applied by the national statistical institutes on the statistical information they collect on their own behalf must be respected;

(23) Whereas, for the purposes of Article 5.1 of the Statute, the ECB is required to cooperate in the field of statistics with the Community institutions or bodies, with the competent authorities of the Member States or non-member countries and with international organisations; whereas the ECB and the Commission will establish appropriate forms of cooperation in the field of statistics in order to carry out their tasks in the most efficient way, trying to minimise the burden on reporting agents;

(24) Whereas the provisions of this Regulation can only be effectively applied if participating Member States in their entirety have adopted the necessary measures with a view to ensuring that their authorities have the powers to assist and collaborate fully with the ECB in carrying out the verification and compulsory collection of statistical information as required by Article 6 of this Regulation, in conformity with Article 5 of the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation:

1. the *ECB's statistical reporting requirements:* shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;

2. *reporting agents:* shall mean the legal and natural persons and the entities referred to in Article 3 of this Regulation which are subject to the ECB's statistical reporting requirements;

3. *participating Member State:* shall mean a Member State which has adopted the single currency in accordance with the Treaty;

4. *resident* and *residing:* shall mean having a centre of economic interest in the economic territory of a country as described in Annex A of this Regulation; in this context, *cross-border positions* and *cross-border transactions* shall mean respectively positions and transactions in the assets and/or liabilities of residents of participating Member States seen as one economic territory *vis-à-vis* residents of non-participating Member States and/or residents of non-member countries;

5. *international investment positions:* shall mean the balance sheet of the stock of cross-border financial assets and liabilities;

6. *electronic money:* shall mean an electronic store of monetary value on a technical device, including prepaid cards, that may be widely used for making payments to entities other than the issuer without necessarily involving bank accounts in the transaction, but acting as a prepaid bearer instrument.

Article 2

Reference reporting population

1. For the fulfilment of the ECB's statistical reporting requirements, the ECB, assisted by the national central banks in accordance with Article 5.2 of the Statute, shall have the right to collect statistical information within the limits of the reference reporting population and of what is necessary to carry out the tasks of the ESCB.

2. The reference reporting population shall comprise the following reporting agents:

(a) legal and natural persons falling within the subsectors 'central bank', 'other monetary financial institutions' and 'other financial intermediaries, except insurance corporations and pension funds' as described in Annex B to this Regulation and residing in a Member State, to the extent necessary to fulfil the ECB's statistical reporting requirements in the field of money and banking statistics and payment systems statistics;

[1] OJ L 52, 22.2.1997, p. 1.

(b) post office giro institutions, to the extent necessary to fulfil the ECB's statistical reporting requirements in the field of money and banking statistics and payment systems statistics;

(c) legal and natural persons residing in a Member State, to the extent that they hold cross-border positions or carry out cross-border transactions and that statistical information relating to such positions or transactions is necessary to fulfil the ECB's statistical reporting requirements in the field of balance of payments statistics or the international investment position;

(d) legal and natural persons residing in a Member State, to the extent that statistical information relating to the securities or the electronic money issued by them is necessary to fulfil the ECB's statistical reporting requirements.

3. An entity that would otherwise be covered by the definition in the previous paragraph, but which according to the national law of its country of residence is neither a legal person nor a collection of natural persons, while it can be the subject of rights and obligations, shall be a reporting agent. The reporting obligation of such an entity shall be fulfilled by the persons legally representing it. Where a legal person, collection of natural persons or an entity as referred to in the first sentence of this paragraph has a branch resident in another country, the branch shall be a reporting agent in its own right irrespective of where the head office is located in so far as the branch satisfies the conditions defined in paragraph 2, with the exception of the need to possess separate legal personality. Any number of branches set up in the same Member State shall be regarded as a single branch when they belong to the same subsector of the economy. The reporting obligation of a branch shall be fulfilled by the persons legally representing it.

Article 3

Modalities for the definition of statistical reporting requirements

In defining and imposing its statistical reporting requirements the ECB shall specify the actual reporting population within the limits of the reference reporting population as defined in Article 2 of this Regulation. Without prejudice to the fulfilment of its statistical reporting requirements, the ECB:

(a) shall minimise the reporting burden involved, including by using existing statistics as far as possible;

(b) shall take into account Community and international statistical standards;

(c) may fully or partly exempt specific classes of reporting agents from its statistical reporting requirements.

Article 4

Obligations of Member States

Member States shall organise themselves in the field of statistics and shall fully cooperate with the ESCB in order to ensure the fulfilment of the obligations arising out of Article 5 of the Statute.

Article 5

Regulatory power of the ECB

1. The ECB may adopt regulations for the definition and imposition of its statistical reporting requirements on the actual reporting population of participating Member States.

2. To guarantee the coherence necessary to produce statistics meeting their respective information requirements, the ECB shall consult the Commission on draft regulations whenever links with the statistical requirements of the Commission exist. The Committee on Monetary, Financial and Balance of Payments Statistics shall take part, within the limits of its competence, in the process of cooperation between the Commission and the ECB.

Article 6

Right of verification and compulsory collection of statistical information

1. If a reporting agent residing in a participating Member State is suspected of an infringement, as set out in Article 7(2) of this Regulation, of the ECB's statistical reporting requirements, the ECB and, in accordance with Article 5.2 of the Statute, the national central bank of the participating Member State concerned shall have the right to verify the accuracy and quality of the statistical information and to carry out its compulsory collection. However, in the event that the statistical information concerned is necessary in order to demonstrate compliance with minimum reserve requirements, the verification should be carried out in accordance with Article 6 of the Council Regulation (EC) concerning the application of minimum reserves by the European Central Bank. The right to verify statistical information or to carry out its compulsory collection shall comprise the right to:

(a) require submission of documents,

(b) examine the books and records of the reporting agents,

(c) take copies or extracts from such books and records, and

(d) obtain written or oral explanations.

2. The ECB or the competent national central bank shall notify the reporting agent in writing of its decision to verify statistical information or to collect it compulsorily, specifying the time limit for compliance with the verification request, the sanctions applicable in the case of non-compliance and the right to review. The ECB and the national central bank concerned shall inform each other of such verification requests.

3. For the verification and the compulsory collection of statistical information, national procedures shall be followed. The costs of the procedure shall be borne by the reporting agent concerned if it is established that the reporting agent has breached statistical reporting requirements.

4. The ECB may adopt regulations specifying the conditions under which the right to verify or to carry out the compulsory collection of statistical information may be exercised.

5. Within the limits of their competence, national authorities of participating Member States shall give the necessary assistance to the ECB and national central banks in the exercise of the powers provided for in this Article.

6. When a reporting agent opposes or obstructs the verification process or the compulsory collection of the required statistical information, the participating Member State in which the reporting agent's premises are located shall afford the necessary assistance, including ensuring access to the reporting agent's premises by the ECB or the national central bank so that the rights mentioned in paragraph 1 can be exercised.

Article 7

Imposition of sanctions

1. The ECB shall have the power to impose the sanctions set out in this Article on reporting agents which are subject to reporting requirements and residing in a participating Member State and which fail to comply with the obligations resulting from this Regulation or from ECB regulations or decisions defining and imposing the ECB's statistical reporting requirements.

2. The obligation to transmit certain statistical information to the ECB or to the national central banks shall be deemed to have been infringed if:

(a) no statistical information is received by the ECB or national central bank by the established deadline, or

(b) the statistical information is incorrect, incomplete or in a form not complying with the requirement.

3. The obligation to allow the ECB and the national central banks to verify the accuracy and quality of the statistical information submitted by reporting agents to the ECB or national central bank shall be deemed to have been infringed whenever a reporting agent obstructs this activity. Such obstruction includes, but is not limited to, the removal of documents and prevention of physical access by the ECB or the national central bank which is necessary for them to carry out their verification task or compulsory collection.

4. The ECB may impose sanctions on a reporting agent as follows:

(a) in the event of an infringement as defined in Article 7(2)(a), a daily penalty payment not exceeding EUR 10 000, with the total fine not exceeding EUR 100 000;

(b) in the event of an infringement as defined in Article 7(2)(b), a fine not exceeding EUR 200 000;

(c) in the event of an infringement as defined in Article 7(3), a fine not exceeding EUR 200 000.

5. The sanctions set out in Article 7(4) of this Regulation shall be additional to the obligation on the reporting agent to meet the costs of the verification and compulsory collection procedure as required in Article 6(3) of this Regulation.

6. In exercising the powers provided for in this Article the ECB shall act in accordance with the principles and procedures as set out in the Council Regulation (EC) concerning the powers of the European Central Bank to impose sanctions.

Article 8

Confidentiality regime

1. Within the scope of this Regulation and for the purposes of the confidentiality regime covering the statistical information which is necessary for the tasks of the ESCB to be performed, statistical information shall be confidential when it allows reporting agents or any other legal person, natural person, entity or branch to be identified, either directly from their name, address or from an officially allocated identification code, or indirectly through deduction, thereby disclosing individual information. To determine whether a reporting agent or any other legal person, natural person, entity or branch is identifiable, account shall be taken of all the means that might reasonably be used by a third party to identify the said reporting agent or the other legal person, natural person, entity or branch. Statistical information taken from sources which are available to the public in accordance with national law is not confidential.

2. Transmission from the national central banks to the ECB of confidential statistical information shall take place to the extent and at the level of detail necessary for the exercise of the tasks of the ESCB, including the appropriate monitoring of compliance with any reserve requirements in the event that the latter are established on the basis of individual statistical information collected through the ECB's regulatory power.

3. Reporting agents shall be informed of the uses to which statistical information provided by them may be put.

4. The ECB shall use confidential statistical information transmitted to it exclusively for the exercise of the tasks of the ESCB except:

(a) if the reporting agent or the other legal person, natural person, entity or branch which can be identified, has explicitly given its consent to the use of the said statistical information for other purposes, or

(b) for the production of specific Community statistics, following an agreement between the Commission and the ECB in accordance with Article 9 of Council Regulation (EC) No 322/97 of 17 February 1997 on Community statistics [1], or

(c) for granting specific research bodies access to confidential statistical information which does not allow direct identification, without prejudice to national legislation and with the previous explicit consent of the national authority which provided the information.

5. The national central banks shall use the confidential statistical information collected to fulfil the ECB's statistical reporting requirements exclusively for the exercise of the tasks of the ESCB except:

(a) if the reporting agent or the other legal person, natural person, entity or branch which can be identified has explicitly given its consent to the use of the said statistical information for other purposes, or

(b) if it is used at the national level for statistical purposes following an agreement between the national statistical authorities and the national central bank or for the production of Community statistics in accordance with Article 9 of Council Regulation (EC) No 322/97, or

(c) if it is used in the field of prudential supervision or for the exercise in accordance with Article 14.4 of the Statute of functions other than those specified in the Statute, or

(d) for granting scientific research bodies access to confidential statistical information which does not allow direct identification.

6. This Article shall not prevent confidential statistical information collected for purposes other than, or in addition to, meeting the ECB's statistical reporting requirements from being used to meet those other purposes.

7. This Article shall apply to the collection and transmission of confidential statistical information for the fulfilment of the ECB's statistical reporting requirements; it shall not affect special national or Community provisions relating to the transmission of other types of information to the ECB.

8. This Regulation shall apply without prejudice to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

9. The ECB and the national central banks shall take all the necessary regulatory, administrative, technical and organisational measures to ensure the protection of confidential statistical information. The ECB shall define common rules and minimum standards to prevent unlawful disclosure and unauthorised use. The protection

[1] Following the amendment at the start of stage three to replace 'European Monetary Institute' with 'European Central Bank'.

measures shall apply to all confidential statistical information as defined in paragraph 1.

10. Member States shall adopt all the necessary measures to ensure the protection of confidential statistical information, including the imposition of the appropriate enforcement measures by the Member States in the event of an infringement.

Article 9

Final provisions

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

ANNEX A

THE LIMITS OF THE NATIONAL ECONOMY

2.04. The units, whether institutional, local kind-of-activity or of homogeneous production, which constitute the economy of a country and whose transactions are recorded in the ESA, are those which have a centre of economic interest on the economic territory of that country. These units, known as resident units, may or may not have the nationality of that country, may or may not be legal entities, and may or may not be present on the economic territory of the country at the time they carry out a transaction. Having thus defined the limits of the national economy in terms of resident units, it is necessary to define the meaning of the terms economic territory and centre of economic interest.

2.05. The term economic territory means:

(a) the geographic territory adminstered by a government within which persons, goods, services and capital move freely;

(b) any free zones, including bonded warehouses and factories under customs control;

(c) the national airspace, territorial waters and the continental shelf lying in international waters, over which the country enjoys exclusive rights [1];

(d) territorial enclaves i.e. geographic territories situated in the rest of the world and used, under international treaties or agreements between States, by general government agencies of the country (embassies, consulates, military bases, scientific bases, etc.);

(e) deposits of oil, natural gas, etc. in international waters outside the continental shelf of the country, worked by units resident in the territory as defined in the preceding subparagraphs.

2.06. The economic territory does not include extraterritorial enclaves i.e. the parts of the country's own geographic territory used by general government agencies of other countries, by the institutions of the European Union or by international organisations under international treaties or agreements between States [2].

---

[1] Fishing boats, other ships, floating platforms and aircraft are treated in the ESA just like any other mobile equipment, whether owned and/or operated by units resident in the country, or owned by non-residents and operated by resident units. Transactions involving the ownership (gross fixed capital formation) and use (renting, insurance, etc.) of this type of equipment are attributed to the economy of the country of which the owner and/or operator respectively are resident. In cases of financial leasing a change of ownership is assumed.

[2] The territories used by the institutions of the European Union and international organisations thus constitute the territories of States *sui generis*. The feature of such States is that the only residents are the institutions themselves (see paragraph 2.10(e)).

2.07. The term centre of economic interest indicates the fact that there exists some location within the economic territory on, or from, which a unit engages, and intends to continue to engage, in economic activities and transactions on a significant scale, either indefinetely or over a finite but long period of time (a year or more). It follows that a unit which carries out such transactions on the economic territory of several countries is deemed to have a centre of economic interest in each of them. The ownership of land and buildings within the economic territory is deemed to be sufficient in itself for the owner to have a centre of economic interest there.

2.08. On the basis of these definitions, units deemed to be residents of a country can be subdivided into:

(a) units which are principally engaged in production, finance, insurance or redistribution, in respect of all their transactions except those relating to ownership of land and buildings;

(b) units which are principally engaged in consumption [1], in respect of all their transactions except those relating to ownership of land and buildings;

(c) all units in their capacity as owners of land and buildings with the exception of owners of extraterritorial enclaves which are part of the economic territory of other countries or are States *sui generis* (see paragraph 2.06).

2.09. In the case of units which are principally engaged in production, finance, insurance or redistribution, in respect of all their transactions except those relating to ownership of land and buildings, the following two cases may be dinstinguished:

(a) activity conducted exclusively on the economic territory of the country: units which carry out such activity are resident units of the country;

(b) activity conducted for a year or more on the economic territories of several countries; only that part of the unit which has a centre of economic interest on the economic territory of the country is deemed to be a resident unit. It may be:

1. either an institutional resident unit, whose activities conducted for a year or more in the rest of the world are excluded and treated separately [2], or

2. a notional resident unit, in respect of the activity conducted in the country for a year or more by a unit which is resident in another country [3].

2.10. In the case of units which are principally engaged in consumption, except in their capacity as owners of land and buildings, households which have a centre of economic interest in the country are deemed to be resident units, even if they go abroad for short periods (less than a year). They include, in particular, the following:

(a) border workers, i.e. people who cross the frontier daily to work in a neighbouring country;

(b) seasonal workers, i.e. people who leave the country for several months, but less than a year, to work in another country in sectors in which additional manpower is needed periodically;

(c) tourists, patients, students [3], visiting officials, businessmen, salesmen, artists and crew members who travel abroad;

---

[1] Consumption is not the only possible activity of households. Households may as entrepreneurs engage in any kind of economic activity.

[2] It is only where such activity is carried on for less than a year that it should not be separated from the activities of the producer institutional unit. This may also be done where the activity, though conducted for a year or more, is insignificant, and in all circumstances for the installation of equipment abroad. But a unit which is resident in another country and which is carrying out a construction activity in the country for a duration of less than a year is deemed to have a centre of economic interest on the economic territory of the country if the output of the construction activity constitutes gross fixed capital formation. Such a unit should therefore be treated as a notional resident unit.

[3] Students are always treated as residents, however long they study aborad.

(d) locally recruited staff working in the extraterritorial enclaves of foreign governments;

(e) the staff of the institutions of the European Union and of civilian or military international organisations which have their headquarters in extraterritorial enclaves;

(f) the official, civilian or military representatives of the government of the country (including their households) established in territorial enclaves.

2.11. All units in their capacity as owners of land and/or buildings which form part of the economic territory are deemed to be resident units or notional resident units of the country in which the land or buildings in question are located.

ANNEX B

SUBSECTOR: THE CENTRAL BANK (S. 121)

2.45. *Definition:*

The subsector 'the central bank' (S. 121) consists of all financial corporations and quasi-corporations whose principal function is to issue currency, to maintain the internal and external value of the currency and to hold all or part of the international reserves of the country.

2.46. The following financial intermediaries are classified in subsector S. 121:

(a) the national central bank, also in the case where it is part of a European System of Central Banks;

(b) central monetary agencies of essentially public origin (e.g. agencies managing foreign exchange or issuing currency) which keep a complete set of accounts and enjoy autonomy of decision in relation to central government. Mostly these activities are performed either within central government or within the central bank. In these cases no separate institutional units exist.

2.47. Subsector S. 121 does not include agencies and bodies, other than the central bank, which regulate or supervise financial corporations or financial markets.

SUBSECTOR: OTHER MONETARY FINANCIAL INSTITUTIONS (S. 122)

2.48. *Definition:*

The subsector 'other monetary financial institutions' (S. 122) consists of all financial corporations and quasi-corporations, except those classified in the central bank subsector, which are principally engaged in financial intermediation and whose business is to receive deposits and/or close substitutes for deposits from institutional units other than monetary financial institutions, and, for their own account, to grant loans and/or to make investments in securities.

2.49. The monetary financial institutions (MFIs) comprise the subsector 'the central bank' (S. 121) and the subsector 'other monetary financial institutions' (S. 122), and coincide with the monetary financial institutions for statistical purposes as defined by the EMI.

2.50. MFIs cannot be described simply as 'banks', because they may possibly include some financial corporations which may not call themselves banks, and some which may not be permitted to do so in

some countries, while some other financial corporations describing themselves as banks may not in fact be MFIs. In general, the following financial intermediaries are classified in subsector S. 122:

(a) commercial banks, 'universal banks', 'all-purpose' banks;

(b) savings banks (including trustee savings banks and savings banks and loan associations);

(c) post office giro institutions, post banks, giro banks;

(d) rural credit banks, agricultural credit banks;

(e) cooperative credit banks, credit unions;

(f) specialised banks (e.g. merchant banks, issuing houses, private banks).

2.51. The following financial intermediaries may also be classified in subsector S. 122 where it is their business to receive repayable funds from the public whether in the form of deposits or in other forms such as the continuing issue of bonds and other comparable securities. Otherwise, they should be classified in subsector S. 123:

(a) corporations engaged in granting mortgages (including building societies, mortgage banks and mortgage credit institutions);

(b) mutual funds (including investment trusts, unit trusts and other collective investment schemes, e.g. undertakings for collective investment in transferable securities-UCITS);

(c) municipal credit institutions.

2.52. Subsector S. 122 does not include:

(a) holding corporations which only control and direct a group consisting predominantly of other monetary financial institutions, but which are not other monetary financial institutions themselves. They are classified in subsector S. 123;

(b) non-profit institutions recognised as independent legal entities serving other monetary financial institutions, but not engaged in financial intermediation.

SUBSECTOR: OTHER FINANCIAL INTERMEDIARIES, EXCEPT INSURANCE CORPORATIONS AND PENSION FUNDS (S. 123)

2.53. *Definition:*

The subsector 'other financial intermediaries except insurance corporations and pension funds' (S. 123) consists of all financial corporations and quasi-corporations which are principally engaged in financial intermediation by incurring liabilities in forms other than currency, deposits and/or close substitutes for deposits from institutional units other than monetary financial institutions, or insurance technical reserves.

2.54. Subsector S. 123 includes various types of financial intermediaries especially those which are predominantly engaged in long-term financing. In most cases this predominant maturity forms the basis of a distinction from the other monetary financial institutions subsector. Based on the non-existence of liabilities in the form of insurance technical reserves, the borderline with the insurance corporations and pension funds subsector can be determined.

2.55. In particular, the following financial corporations and quasi-corporations are classified in subsector S. 123 unless they are MFIs:

(a) corporations engaged in financial leasing;

(b) corporations engaged in hire purchase and the provision of personal or commercial finance;

(c) corporations engaged in factoring;

(d) security and derivative dealers (on own account);

(e) specialised financial corporations such as venture and development capital companies, export/import financing companies;

(f) financial vehicle corporations, created to be holders of securitised assets;

(g) financial intermediaries which receive deposits and/or close substitutes for deposits from MFIs only;

(h) holding corporations which only control and direct a group of subsidiaries principally engaged in financial intermediation and/or in auxiliary financial activities, but which are not financial corporations themselves.

2.56. Subsector S. 123 does not include non-profit institutions recognised as independent legal entities serving other financial intermediaries except insurance corporations and pension funds, but not engaged in financial intermediation.