

Regulation (EU) No 1073/2013 of the European Central Bank of 18 October 2013 concerning statistics on the assets and liabilities of investment funds (recast) (ECB/2013/38)

Article 1

Definitions

For the purposes of this Regulation:

- (1) ‘investment fund (IF)’ means a collective investment undertaking that:
- (a) invests in financial and/or non-financial assets, within the meaning of Annex II, to the extent that its objective is investing capital raised from the public; and
 - (b) is constituted pursuant to Union or national law under:
 - (i) contract law, as a common fund managed by management companies;
 - (ii) trust law, as a unit trust;
 - (iii) company law, as an investment company;
 - (iv) any other similar mechanism or legal form.

The following are included within the definition:

- (a) undertakings whose units or shares are, at the request of the holders, repurchased or redeemed directly or indirectly out of the undertaking’s assets; and
- (b) undertakings which have a fixed number of issued shares and whose shareholders have to buy or sell existing shares when entering or leaving the fund.

The following are not included within the definition:

- (a) pension funds as defined in the revised European System of Accounts (hereinafter the ‘ESA 2010’) laid down by Regulation (EU) No 549/2013 (sub-sector S.129);
- (b) money market funds (MMFs) as defined in Annex I to Regulation (EU) No 1071/2013 of the European Central Bank of 24 September 2013 concerning the balance sheet of the monetary financial institutions sector (ECB/2013/33)⁽⁴⁾.

For the purposes of the definition of IF, ‘public’ shall encompass retail, professional and institutional investors;

- (2) ‘reporting agent’ has the same meaning as defined in Article 1 of Regulation (EC) No 2533/98;
- (3) ‘resident’ has the same meaning as defined in Article 1 of Regulation (EC) No 2533/98. For the purposes of this Regulation, if a legal entity lacks a physical

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dimension its residence shall be determined by the economic territory under whose laws the entity is incorporated. If the entity is not incorporated, legal domicile shall be used as a criterion, namely the country whose legal system governs the creation and continued existence of the entity;

- (4) ‘monetary financial institution (MFI)’ has the same meaning as defined in Article 1 of Regulation (EU) No 1071/2013 (ECB/2013/33);
- (5) ‘OFI’ means other financial intermediaries except insurance corporations and pension funds, as defined in ESA 2010 (sub-sector S.125);
- (6) ‘IF registered shares/units’ means IF shares/units in respect of which, in accordance with national legislation, a record is kept identifying the holders of its shares/units, including information on the residency and sector of the holder;
- (7) ‘IF bearer shares/units’ means IF shares/units in respect of which, in accordance with national legislation, a record is not kept identifying the holders of its shares/units, or in respect of which a record is kept which does not contain information on the residency and sector of the holder;
- (8) ‘relevant NCB’ means the NCB of the euro area Member State in which the IF is resident;
- (9) ‘security-by-security’ data means data broken down into individual securities.

Article 2

Actual reporting population

1 The actual reporting population shall consist of the IFs resident in the territory of the euro area Member States. The IF itself or, in the case of IFs that do not have legal personality under their national law, the persons legally entitled to represent them, shall be responsible for reporting the statistical information required under this Regulation.

2 Without prejudice to paragraph 1, for the purpose of collecting information on the holders of bearer shares issued by IFs in accordance with paragraph 3 in Part 2 of Annex I, the actual reporting population shall include MFIs and OFIs. The NCBs may grant derogations to these entities provided that the required statistical information is collected from other available sources in accordance with paragraph 3 in Part 2 of Annex I. The NCBs shall check the fulfilment of this condition in good time in order to grant or withdraw, if necessary, any derogation with effect from the start of each year, in agreement with the ECB. For the purposes of this Regulation, the NCBs may establish and maintain a list of reporting OFIs, in accordance with the principles laid down in paragraph 3 in Part 2 of Annex I.

Article 3

List of IFs for statistical purposes

1 The Executive Board shall establish and maintain, for statistical purposes, a list of IFs that form the reference reporting population, including, where applicable, their sub-funds, within the meaning of Article 4(2). The list may be based on existing lists of IFs supervised by national authorities, where such lists are available, supplemented by other IFs falling within the definition of IFs in Article 1.

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2 The NCBs and the ECB shall make this list and its updates available in an appropriate form, including by electronic means, via the internet or, at the request of the reporting agents concerned, in paper form.

3 If the latest accessible electronic version of the list referred to in paragraph 2 is incorrect, the ECB shall not impose sanctions on any reporting agent which did not properly fulfil its statistical reporting requirements to the extent that it relied on the incorrect list in good faith.

Article 4

Fund-by-fund reporting

1 The actual reporting population shall report data on its assets and liabilities on a fund-by-fund basis.

2 Without prejudice to paragraph 1, if an IF segregates its assets into different sub-funds in such a way that shares/units relating to each sub-fund are independently backed by different assets, each sub-fund shall be considered as an individual IF.

3 By derogation from paragraphs 1 and 2, subject to the prior approval and in accordance with the instructions of the relevant NCB, IFs may report their assets and liabilities as a group, provided that this leads to results that are similar to fund-by-fund reporting.

Article 5

Quarterly and monthly statistical reporting requirements

1 The reporting agents shall provide, in accordance with Annexes I and II:

- a on a quarterly basis, end-of-quarter stock data on the assets and liabilities of IFs, and quarterly revaluation adjustments or transactions, where applicable; and
- b on a monthly basis, end-of-month stock data on IF shares/units issued, the corresponding monthly revaluation adjustments or transactions, if applicable and separate reporting of new issuance and redemptions of IF shares/units during the reporting month.

2 The NCBs may choose to collect the data in paragraph 1(a) on a monthly instead of on a quarterly basis.

Article 6

Revaluation adjustments or transactions

1 The reporting agents shall report revaluation adjustments or transactions, in accordance with the relevant NCB's instructions, for the information reported on an aggregated basis as specified in Annex I.

2 As specified in Annex I, NCBs may either derive approximations of security transactions from the security-by-security information or directly collect data on transactions on an security-by-security basis.

3 Further requirements and guidelines regarding the compilation of revaluation adjustments or transactions are laid down in Annex III.

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Article 7

Accounting rules

1 The accounting rules followed by IFs for the purposes of reporting under this Regulation shall be those laid down in the relevant national law implementing Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions⁽²⁾ or, if the former provision is inapplicable, in any other national or international standards that apply to IFs.

2 Without prejudice to accounting practices and netting arrangements prevailing in the euro area Member States, all financial assets and liabilities shall be reported on a gross basis for statistical purposes.

Article 8

Derogations

1 Derogations from the statistical reporting requirements set out in Article 5 may be granted to IFs as follows:

- a The NCBs may grant derogations to the smallest IFs in terms of total assets, provided that the IFs that contribute to the quarterly aggregated balance sheet account for at least 95 % of the total of IFs' assets in terms of stocks, in each euro area Member State.
- b In euro area Member States where the combined total assets of national IFs do not exceed 1 % of the euro area IF total assets, NCBs may grant derogations to the smallest IFs in terms of total assets, provided that the IFs that contribute to the quarterly aggregated balance sheet account for at least 80 % of the total of national IFs' assets in terms of stocks.
- c The IFs to which derogations as laid down in points (a) and (b) apply shall only report, on a quarterly basis, end-of-quarter stock data on IF shares/units issued and the corresponding quarterly revaluation adjustments or transactions, if applicable.
- d The NCBs shall check the fulfilment of the conditions set out in points (a) and (b) annually in good time in order to grant or withdraw, if necessary, any derogation with effect from the start of each calendar year.

2 Derogations may be granted to IFs that are subject to national accounting rules which allow the valuation of their assets less frequently than quarterly. The IF categories to which NCBs shall have the discretion to grant derogations shall be decided by the Governing Council. The IFs to which such derogations apply shall be subject to the requirements set out in Article 5 at a frequency consistent with their accounting obligations regarding the timing of valuation of their assets.

3 The IFs may choose not to make use of the derogations and to fulfil the full statistical reporting requirements specified in Article 5 instead. If an IF makes such a choice, it shall obtain the relevant NCB's consent prior to any change in its use of these derogations.

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Article 9

Timeliness

- 1 The NCBs shall decide when they need to receive data from reporting agents pursuant to Article 5 in order to meet the deadlines laid down in paragraph 2.
- 2 The NCBs shall transmit to the ECB:
 - a aggregated quarterly stocks and revaluation adjustments by close of business on the 28th working day following the end of the quarter to which the data relate, based on the quarterly data collected from reporting agents;
 - b aggregated monthly stocks and revaluation adjustments by close of business on the 28th working day following the end of the month to which the data relate, based on the monthly data on IF shares/units issued collected from reporting agents or based on actual data in accordance with Article 5(2);
 - c aggregated monthly new issuances and redemptions of IF shares/units by close of business on the 28th working day following the end of the month to which the data relate, based on the monthly data collected from reporting agents.

Article 10

Minimum standards and national reporting arrangements

- 1 Reporting agents shall comply with the statistical reporting requirements to which they are subject in accordance with the minimum standards for transmission, accuracy, compliance with concepts and revisions specified in Annex IV.
- 2 The NCBs shall define and implement the reporting arrangements to be followed by the actual reporting population in accordance with national requirements. The NCBs shall ensure that these reporting arrangements provide the required statistical information and allow accurate checking of the fulfilment of the minimum standards for transmission, accuracy, compliance with concepts and revisions specified in Annex IV.

Article 11

Mergers, divisions and reorganisations

In the event of a merger, division or reorganisation that might affect the fulfilment of its statistical obligations, the reporting agents concerned shall inform the relevant NCB, once the intention to implement such operation has become public and in due time before it takes effect, of the procedures that are planned to fulfil the statistical reporting requirements set out in this Regulation.

Article 12

Verification and compulsory collection

The NCBs shall exercise the right to verify or to collect compulsorily the information which reporting agents are required to provide pursuant to this Regulation, without prejudice to the ECB's right to exercise these rights itself. In particular, the NCBs shall

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exercise this right when an institution included in the actual reporting population does not fulfil the minimum standards for transmission, accuracy, compliance with concepts and revisions specified in Annex IV.

Article 13

First reporting

First reporting shall begin with monthly and quarterly data for December 2014.

Article 14

Repeal

1 Regulation (EC) No 958/2007 (ECB/2007/8) is repealed with effect from 1 January 2015.

2 References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex V.

Article 15

Final provision

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 1 January 2015.

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

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- (1) See page 1 of this Official Journal.
- (2) [OJ L 372, 31.12.1986, p. 1.](#)

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Changes and effects yet to be applied to :

- [Regulation revoked by S.I. 2021/1300 Sch. 1 para. 69](#)