

Regulation (EU) No 1075/2013 of the European Central Bank of 18 October 2013 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions (recast) (ECB/2013/40)

Article 1

Definitions

For the purposes of this Regulation:

(1) ‘FVC’ means an undertaking which is constituted pursuant to national or Union law under one of the following:

- (i) contract law as a common fund managed by management companies;
- (ii) trust law;
- (iii) company law as a public or private limited company;
- (iv) any other similar mechanism;

and whose principal activity meets both of the following criteria:

- (a) it intends to carry out, or carries out, one or more securitisation transactions and its structure is intended to isolate the payment obligations of the undertaking from those of the originator, or the insurance or reinsurance undertaking; and
- (b) it issues, or intends to issue, debt securities, other debt instruments, securitisation fund units, and/or financial derivatives (hereinafter the ‘financing instruments’) and/or legally or economically owns, or may own, assets underlying the issue of financing instruments that are offered for sale to the public or sold on the basis of private placements.

This definition does not include:

- (a) monetary financial institutions (MFIs) as defined in Article 1 of Regulation (EU) No 1071/2013 (ECB/2013/33);
- (b) investment funds (IFs) as defined in Article 1 of Regulation (EU) No 1073/2013 of the European Central Bank of 18 October 2013 concerning statistics on the assets and liabilities of investment funds (ECB/2013/38)⁽¹⁾;
- (c) insurance undertakings or reinsurance undertakings as defined in Article 13 of 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)⁽²⁾;
- (d) managers of alternative investment funds which manage and/or market alternative investment funds as defined in Article 4(1) of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers that fall under the scope of Directive 2011/61/EU pursuant to Article 2 thereof⁽³⁾;

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- (2) ‘securitisation’ means a transaction or scheme whereby an entity that is separate from the originator or insurance or reinsurance undertaking and is created for or serves the purpose of the transaction or scheme issues financing instruments to investors, and one or more of the following takes place:
- (a) an asset or pool of assets, or part thereof, is transferred to an entity that is separate from the originator and is created for or serves the purpose of the transaction or scheme, either by the transfer of legal title or beneficial interest of those assets from the originator or through sub-participation;
 - (b) the credit risk of an asset or pool of assets, or part thereof, is transferred through the use of credit derivatives, guarantees or any similar mechanism to the investors in the financing instruments issued by an entity that is separate from the originator and is created for or serves the purpose of the transaction or scheme;
 - (c) insurance risks are transferred from an insurance or reinsurance undertaking to a separate entity that is created for or serves the purpose of the transaction or scheme, whereby the entity fully funds its exposure to such risks through the issuance of financing instruments, and the repayment rights of the investors in those financing instruments are subordinated to the reinsurance obligations of the entity;

Where such financing instruments are issued, they do not represent the payment obligations of the originator, or insurance or reinsurance undertaking;

- (3) ‘originator’ means the transferor of an asset or a pool of assets, and/or the credit risk of the asset or pool of assets to the securitisation structure;
- (4) ‘reporting agent’ has the same meaning as defined in Article 1 of Regulation (EC) No 2533/98;
- (5) ‘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 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;
- (6) ‘relevant NCB’ means the NCB of the euro area Member State in which the FVC is resident;
- (7) ‘taking up business’ means any activity, including any preparatory measures, related to the securitisation, other than merely establishing an entity that is not expected to commence the securitisation activity in the next six months. Any activity by the FVC taken after the securitisation activity becomes foreseeable means taking up business.

Article 2

Reporting population

1 FVCs resident in the territory of a euro area Member State shall form the reference reporting population. The reference reporting population shall be subject to the obligation laid down in Article 3(2).

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2 The actual reporting population shall consist of the reference reporting population excluding those FVCs which have been fully exempted from statistical reporting requirements pursuant to Article 5(1)(c). The actual reporting population shall be subject to the statistical reporting requirements laid down in Article 4, subject to the derogations laid down in Article 5. The FVCs that are subject to reporting their annual financial statement pursuant to Article 5(3) or that are subject to ad hoc reporting obligations pursuant to Article 5(5) shall also form part of the actual reporting population.

3 If an FVC does not have legal personality under its national law, the persons legally entitled to represent the FVC or, in the absence of formalised representation, persons that under the applicable national laws are liable for acts of the FVC, shall be considered reporting agents under this Regulation.

Article 3

List of FVCs for statistical purposes

1 The Executive Board shall establish and maintain, for statistical purposes, a list of FVCs that form the reference reporting population subject to this Regulation. FVCs shall submit to the NCBs the data that the NCBs require in accordance with Guideline ECB/2007/9 of 1 August 2007 on monetary, financial institutions and markets statistics⁽⁴⁾. 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.

2 An FVC shall inform the relevant NCB of its existence within one week from the date on which it has taken up business irrespective of whether it expects to be subject to any of the statistical reporting requirements under this Regulation.

3 If the latest accessible electronic version of the list referred to in paragraph 1 is incorrect, the ECB shall not impose sanctions on a reporting agent which did not properly fulfil its statistical reporting requirements to the extent that the requirement set out in paragraph 2 was met and that the reporting agent relied on the incorrect list in good faith.

Article 4

Quarterly statistical reporting requirements and reporting rules

1 The actual reporting population shall provide to the relevant NCB data on outstanding amounts, financial transactions and write-offs/write-downs on the assets and liabilities of FVCs on a quarterly basis, in accordance with Annexes I and II.

2 NCBs may collect the statistical information on securities issued and held by FVCs necessary to fulfil the statistical reporting requirements under paragraph 1 on a security-by-security basis, to the extent that the data referred to in paragraph 1 can be derived according to minimum statistical standards as specified in Annex III. Without prejudice to the timeliness requirements set out in Article 6, NCBs may require the provision of security-by-security data on financial transactions in debt securities held by FVCs in accordance with one of the approaches listed in Section 2 of Part I of Annex I of Regulation (EU) No 1011/2012 of the European Central Bank (ECB/2012/24)⁽⁵⁾.

3 Without prejudice to the reporting rules laid down in Annex II, all assets and liabilities of FVCs shall be reported under this Regulation in accordance with the reporting rules laid down in the relevant national law transposing Council Directive 86/635/EEC of 8 December 1986 on

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the annual accounts and consolidated accounts of banks and other financial institutions⁽⁶⁾. The accounting rules in the relevant national law transposing the Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies⁽⁷⁾ shall apply to FVCs that do not fall within the scope of the national law transposing Directive 86/635/EEC. Any other relevant national or international accounting standards or practices shall apply to FVCs not falling under national law transposing either of these directives.

4 Where paragraph 3 requires the reporting of instruments on a mark-to-market basis, NCBs may exempt FVCs from reporting these instruments on a mark-to-market basis where the costs entailed by the FVC would be unreasonably high. In this case the FVCs shall apply the valuation used for the purpose of the investor reports.

5 Where according to national market practices available data refer to any date within a quarter, NCBs may allow the reporting agents to report these quarterly data instead, if the data are comparable and if significant transactions occurring between this date and the end of the quarter are taken into account.

6 Instead of providing the data on financial transactions referred to in paragraph 1, reporting agents may, in agreement with the relevant NCB, provide revaluation adjustments and other changes in volume which allow the NCB to derive financial transactions.

7 Instead of providing the data on write-offs/write-downs referred to in paragraph 1, a reporting agent may, in agreement with the relevant NCB, provide other information which allows the NCB to derive the required data on write-offs/write-downs.

Article 5

Derogations

1 NCBs may grant derogations from the statistical reporting requirements set out in Article 4 as follows:

- a For loans originated by euro area MFIs and broken down by maturity, sector and residency of debtors, and where the MFIs continue to service the securitised loans within the meaning of Regulation (EU) No 1071/2013 (ECB/2013/33), the NCBs may grant FVCs derogations from reporting data on these loans. Regulation (EU) No 1071/2013 (ECB/2013/33) provides for the reporting of these data.
- b The NCBs may exempt FVCs from all statistical reporting requirements set out in Annex I, apart from the obligation to report, on a quarterly basis, end-of-quarter outstanding amount data on total assets, provided that the FVCs that contribute to the quarterly aggregated assets account for at least 95 % of the total of FVCs' assets in terms of outstanding amounts, in each euro area Member State. 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 calendar year.
- c To the extent that the data referred to in Article 4 can be derived, according to minimum statistical standards as specified in Annex III, from other statistical, public or supervisory data sources and without prejudice to points (a) and (b), the NCBs may, after consulting the ECB, fully or partially exempt reporting agents from the statistical reporting requirements set out in Annex I.

2 The FVCs may choose, with the relevant NCB's prior consent, not to use the derogations referred to in paragraph 1 and to fulfil the full statistical reporting requirements specified in Article 4 instead.

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3 FVCs that benefit from a derogation within the meaning of paragraph 1(c) shall provide their annual financial statements to the relevant NCB, if this is not available from public sources, within six months following the end of the reference period or at the earliest point in time thereafter, in accordance with the applicable national legal practices where the FVC is resident. The relevant NCB shall notify those FVCs which are subject to this reporting requirement.

4 The relevant NCB shall withdraw the derogation laid down in paragraph 1(c), if data of statistical standards comparable to those prescribed in this Regulation have not been made available in time to the relevant NCB for three consecutive reporting periods, independent of any fault attributable to the FVC involved. FVCs shall start reporting data, as set out in Article 4, not later than three months from the date on which the relevant NCB has notified the reporting agents that the derogation has been withdrawn.

5 Without prejudice to paragraph 3, in order to meet the requirements set out in this Regulation, NCBs may address ad hoc statistical reporting requirements to FVCs that have been granted derogations within the meaning of paragraph 1(c). FVCs shall report the information requested on an ad hoc basis within 15 working days following a request made by the relevant NCB.

Article 6

Timeliness

NCBs shall submit data to the ECB on aggregated quarterly assets and liabilities covering the positions of resident FVCs by close of business on the 28th working day following the end of the quarter to which the data relate. NCBs shall set deadlines for receiving the data from reporting agents.

Article 7

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 III.

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 compliance with concepts and the minimum standards for transmission, accuracy and revisions specified in Annex III.

Article 8

Verification and compulsory collection

The NCBs shall exercise the right to verify or to collect compulsorily 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 exercise this right when an institution included in the actual reporting population does not fulfil the

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minimum standards for transmission, accuracy, compliance with concepts and revisions specified in Annex III.

Article 9

First reporting

- 1 First reporting shall begin with quarterly data for the fourth quarter of 2014.
- 2 FVCs that take up business after 31 December 2014 shall, when reporting data for the first time, report data on a quarterly basis as far back as the commencement of securitisation activity.
- 3 FVCs that take up business before the adoption of the euro by their Member State following 31 December 2014 shall, when reporting data for the first time, report data on a quarterly basis from the reference period in which the Member State adopted the euro. For the reference period in which the Member State adopted the euro, the FVC shall report only outstanding amounts.

Article 10

Repeal

- 1 Regulation (EC) No 24/2009 (ECB/2008/30) is repealed with effect from 1 January 2015.
- 2 References to the repealed Regulation shall be construed as references to this Regulation.

Article 11

Final provision

This Regulation shall enter into force on the 20th 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) Page 73 of this Official Journal.
- (2) [OJ L 335, 17.12.2009, p. 1.](#)
- (3) [OJ L 174, 1.7.2011, p. 1.](#)
- (4) [OJ L 341, 27.12.2007, p. 1.](#)
- (5) [OJ L 305, 1.11.2012, p. 6.](#)
- (6) [OJ L 372, 31.12.1986, p. 1.](#)
- (7) [OJ L 222, 14.8.1978, p. 11.](#)

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Changes and effects yet to be applied to :

- [Regulation revoked by S.I. 2021/1300 Sch. 1 para. 71](#)