

CBS-DNB Cooperation Agreement on the joint production and publication of statistics

THE UNDERSIGNED,

Statistics Netherlands (*Centraal Bureau voor de Statistiek*), having its registered office at Henri Faasdreef 312, 2492 JP The Hague, the Netherlands, referred to below as *CBS*, lawfully represented for the present purpose by

Name: Dr Tjark Tjin-A-Tsoi

Position: Director general of statistics

AND

De Nederlandsche Bank N.V., having its registered office at Westeinde 1, 1017 ZN Amsterdam, the Netherlands, referred to below as *DNB*, lawfully represented for the present purpose by

Name: Prof. Job Swank

Position: Executive Director

(also referred to below as *the party* or *the other party* individually, and *the parties* jointly)

WHEREAS:

- I. CBS and DNB must comply with international delivery obligations to Eurostat and the European Central Bank (ECB) and these obligations are highly correlated;
- II. based on their individual statutory tasks and powers, CBS and DNB each collect data from financial and non-financial institutions and other entities for statistical purposes;
- III. pursuant to relevant European legislation (in particular Regulations (EC) No 223/2009 and No 2533/98), CBS and DNB must cooperate closely in compiling the statistics that are governed by this legislation, acting in conformity with the European Statistics Code of Practice of the European Statistical System (ESS) and the Public Commitment on European Statistics of the European System of Central Banks (ESCB), which are fully harmonised;
- IV. with a view to reducing the administrative burden on businesses, setting up an efficient process chain and improving the quality of their statistics, CBS and DNB wish to cooperate as if they were a single institution, leveraging each other's comparative advantages;
- V. the purpose of the cooperation between CBS and DNB is to prepare a comprehensive system of accounts and related statistics, including in relation to supply and use tables (SUT), structural business statistics (SBS) and government accounts, in accordance with ESA 2010 (as defined below), and to prepare the balance of payments and international investment position (IIP) and related statistics, including in relation to foreign direct investment (FDI), in accordance with applicable European requirements (as defined below);
- VI. by cooperating, CBS and DNB seek to create a permanent structure for the mutual delivery of statistical information, which will enable them to comply with their obligations to deliver statistics to the Commission (Eurostat) and the ECB by the specified deadlines as efficiently as possible;
- VII. DNB must also be able to use statistical information to prepare analyses on its own responsibility, including within the framework of financial stability, in respect of which it also has sole authority to collect data, for instance pursuant to the Bank Act 1998 (*Bankwet 1998*);
- VIII. in publishing statistics, CBS and DNB apply the single figure principle, which means that they publish consistent statistics if the purposes of these statistics are identical;
- IX. the parties align their enforcement policies on the imposition of orders subject to penalty and administrative fines in respect of their collection of data for the sector accounts, balance of payments, international investment position and related statistics;
- X. for the purpose of their cooperation as described above, the parties entered into a cooperation agreement on 23 January 2006;
- XI. since their conclusion of the aforesaid cooperation agreement, a number of developments have taken place that have prompted CBS and DNB to revise that agreement, in particular the publication of new European legislation and mutually consistent international guidelines for sector accounts (ESA 2010) and balance of payments and IIP statistics (BPM6), and the increased importance of consistency between these statistics, which is related among other things to the inclusion of

- relevant indicators in the macroeconomic scoreboard that forms part of the European Commission's macroeconomic imbalances procedure (MIP);
- XII. since that time, new legislation has come into force governing securities holdings statistics, requiring the delivery to the ECB of data on a security-by-security basis compiled using the Centralised Securities Database (CSDB) of the ESCB;
 - XIII. the parties made new arrangements to reinforce their cooperation with a view to achieving complete concordance between the balance of payments and IIP statistics of the Netherlands compiled by DNB and the rest-of-the-world account compiled by CBS as part of the sector accounts;
 - XIV. the parties intend to reallocate the collection of data from institutions between them, which will help prevent double submission requests and allow them to benefit from each other's comparative advantages (DNB has expert knowledge of financial institutions and CBS does of all other sectors); and
 - XV. the parties wish to lay down their arrangements in respect of their cooperation in this Agreement, which will replace the cooperation agreement of 23 January 2006.

HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS

- 1.1. In this Agreement, the following definitions apply:
 - a. *CBS*: Statistics Netherlands (*Centraal Bureau voor de Statistiek*);
 - b. *DNB*: De Nederlandsche Bank N.V.;
 - c. *ECB*: the European Central Bank;
 - d. *ESA 2010*: the revised European System of Accounts set up by Regulation (EU) No 549/2013¹ of the European Parliament and of the Council of the European Union of 21 May 2013 on the European system of national and regional accounts in the European Union;
 - e. *Regulation (EC) No 2533/98*: Regulation (EC) No 2533/98² of the Council of the European Union of 23 November 1998 concerning the collection of statistical information by the European Central Bank;
 - f. *Regulation (EC) No 223/2009*: Regulation (EC) No 223/2009³ of the European Parliament and of the Council of the European Union of 11 March 2009 on European statistics;
 - g. *Regulation (EC) No 1161/2005*: Regulation (EC) No 1161/2005⁴ of the European Parliament and of the Council of the European Union of 6 July 2005 on the compilation of quarterly non-financial accounts by institutional sector;
 - h. *balance of payments and IIP statistics*: the balance of payments and international investment position statistics, guidelines for which are laid down in BPM6 and in European legislation;

¹ OJ L 174 of 26 June 2013

² OJ L 318 of 27 November 1998, as amended by OJ L 64 of 7 March 2015

³ OJ L 87 of 31 March 2009, as amended by OJ L 123 of 19 May 2015

⁴ OJ L 191 of 22 July 2005

- i. *BPM6*: the sixth edition of the Balance of Payments and International Investment Position Manual of the International Monetary Fund, containing internationally used guidelines for the compilation of balance of payments and IIP statistics;
- j. *Regulation (EC) No 184/2005*: Regulation (EC) No 184/2005⁵ of the European Parliament and of the Council of the European Union of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment, as amended by Regulation (EU) 2016/1013⁶ of the European Parliament and of the Council of the European Union of 8 June 2016;
- k. *Guideline on balance of payments*: Guideline of the ECB of 9 December 2011 on the statistical reporting requirements of the ECB in the field of external statistics (ECB/2011/23),⁷ as amended by Guideline of the ECB of 30 July 2013 (ECB/2013/25)⁸ and Guideline (EU) 2016/231 of the ECB of 26 November 2015 (ECB/2015/39)⁹;
- l. *EAA Guideline*: Guideline of the ECB of 25 July 2013 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts (ECB/2013/24),¹⁰ as amended by Guideline (EU) 2016/66 of the ECB of 26 November 2015 (ECB/2015/40)¹¹;
- m. *GFS Guideline*: Guideline of the ECB of 25 July 2013 on government finance statistics (ECB/2013/23),¹² as amended by Guideline of the ECB of 3 June 2014 (ECB/2014/21)¹³;
- n. *Regulation (EU) No 1011/2012*: Regulation (EU) No 1011/2012 of the ECB of 17 October 2012 concerning statistics on holdings of securities (ECB/2012/24)¹⁴, as amended by Regulation (EU) 2015/730 of the ECB of 16 April 2015 (ECB/2015/18)¹⁵ and Regulation (EU) 2016/1384 of the ECB of 2 August 2016 (ECB/2016/22)¹⁶;
- o. *SHS Guideline*: Guideline of the ECB of 22 March 2013 concerning statistics on holdings of securities (ECB/2013/7)¹⁷, as amended by Guideline (EU) 2015/948 of the ECB of 16 April 2015 (ECB/2015/19)¹⁸ and Guideline (EU) 2016/1386 of the ECB of 2 August 2016 (ECB/2016/23)¹⁹;

⁵ OJ L 35 of 8 February 2005

⁶ OJ L 171 of 29 June 2016

⁷ OJ L 65 of 3 March 2012

⁸ OJ L 247 of 18 September 2013

⁹ OJ L 41 of 18 February 2016

¹⁰ OJ L 2 of 7 January 2014

¹¹ OJ L 14 of 21 January 2016

¹² OJ L 57 of 7 January 2014

¹³ OJ L 267 of 6 September 2014

¹⁴ OJ L 305 of 1 November 2012

¹⁵ OJ L 116 of 7 May 2015

¹⁶ OJ L 222 of 17 August 2016

¹⁷ OJ L 125 of 7 May 2013

¹⁸ OJ L 157 of 19 June 2015

¹⁹ OJ L 222 of 17 August 2016

- p. *EDP Regulation*: Council Regulation (EC) No 479/2009 of 25 May 2009 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community²⁰;
- q. *MGDD*: Manual on Government Deficit and Debt, Implementation of ESA 2010, 2014 edition;
- r. *MoU between Eurostat and the ECB on quality assurance of statistics*: Memorandum of Understanding between Eurostat and the ECB/Directorate General Statistics on the quality assurance of statistics underlying the Macroeconomic Imbalances Procedure of 7 November 2016;
- s. *sectors and subsectors*: the various institutional sectors and subsectors referred to in Chapter 2 of ESA 2010, and the applicable ESA codes;
- t. *sector accounts*: the quarterly and annual financial accounts and balance sheets (*FA & BS*) and non-financial accounts (*NFA*) of the sectors and subsectors;
- u. *Q1, Q2, Q3 and Q4, respectively*: the first, second, third and fourth quarter, *respectively* of the relevant calendar year;
- v. *Mandating Decision*: the 2016 Mandating Decision on DNB-CBS cooperation²¹;
- w. *related statistics*: the statistics related to a comprehensive system of accounts, including in relation to supply and use tables (SUT) and structural business statistics (SBS), and the statistics related to the balance of payments and IIP, including in relation to foreign direct investment (FDI);
- x. *micro-data*: statistical information on an individual institution subject to reporting requirements or any other natural person, legal entity, body or branch office;
- y. *FCA*: further cooperation agreement between CBS and DNB, the document that elaborates the arrangements laid down in the Cooperation Agreement and that is updated each year.

2. COOPERATION BETWEEN THE PARTIES

- 2.1. The parties cooperate for the purpose of preparing a comprehensive system of accounts in accordance with ESA 2010 (the sector accounts) and the balance of payments and international investment position of the Netherlands with a view to aligning them, and, to the extent relevant, compiling the related statistics.
- 2.2. The cooperation between the parties referred to in Article 2.1 safeguards a permanent structure for the mutual delivery of statistical information, which will enable them to comply with their statistical reporting commitments to the Commission (Eurostat) and the ECB by the specified deadlines.
- 2.3. The cooperation also covers other areas, the arrangements for which are elaborated in the FCA. These areas include loan-level data, AnaCredit, SDDS Plus, and the macroeconomic scoreboard.

²⁰ OJ L 145 of 10 June 2009

²¹ Published in the Dutch Government Gazette (*Staatscourant*) on 4 March 2016, No 11832; attached to this Agreement as Annex 1.

3. RESPONSIBILITIES OF THE PARTIES FOR THE COLLECTION OF SOURCE INFORMATION FROM THE VARIOUS SECTORS AND SUBSECTORS

- 3.1. CBS is responsible for collecting data (source information) for the comprehensive system of accounts (both *FA & BS* and *NFA*) and the balance of payments and IIP, including other unrelated and related statistics, for the sectors and subsectors listed below:
 - a. the non-financial corporations sector (S.11), including institutional units in subsector S.127 that are closely related to this sector as specified in detail in the FCA (this is an observation performed by CBS using the logos of both CBS and DNB);
 - b. the general government sector (S.13), including all subsectors; and
 - c. the households (S.14) and non-profit institutions serving households (S.15) sectors.
- 3.2. CBS is responsible for collecting data (source information) on international trade in goods and services, excluding services of monetary financial institutions (MFIs) and special purpose entities (SPEs).
- 3.3. DNB is responsible for collecting data (source information) for the sector accounts (both *FA & BS* and *NFA*) and the balance of payments and IIP, including other unrelated and related statistics, for all subsectors (S.121 to S.129) in the financial corporations sector, excluding institutional units in subsector S.127 that are closely related to sector S.11 as specified in detail in the FCA.
- 3.4. DNB is responsible for collecting data (source information) concerning securities transactions and positions for the sector accounts (both *FA & BS* and *NFA*), for the balance of payments and IIP, and for statistics concerning holdings and issuances of securities for all individual sectors and subsectors.
- 3.5. DNB collects data concerning securities holdings by households and non-profit institutions serving households (sectors S.14 and S.15) via indirect observations at central securities depositories. The parties may decide by agreement to also indirectly observe the securities holdings of specific other parties in the future.
- 3.6. The party collecting data (source information) for a specific sector or subsector is also responsible for managing the population and classifying the institutional units of that sector or subsector. The parties coordinate the allocation of units to specific sectors. Population consistency is ensured within the parties' respective registers.
- 3.7. The party collecting data (source information) for a specific sector or subsector consults with the other party on the set-up, nature and scope of the data collection. The determining factor in this context is that they must enable compliance with the information requirements and quality standards set by Eurostat or the ECB.
- 3.8. In collecting data for the various sectors and subsectors, the parties take as much account as possible of statistical requirements in terms of the related statistics, to the extent that these directly overlap with data submission requests for the financial accounts and balance sheets (*FA & BS*) and the non-financial accounts (*NFA*).

4. DATA COLLECTION BY DNB UNDER THE MANDATING DECISION

- 4.1. Under the Mandating Decision, the director general of statistics mandates DNB to collect data from financial institutions that are material to the preparation of the sector accounts and other unrelated and related statistics. DNB and CBS decide by agreement on the collection strategy for the sectors and subsectors from which they each collect data and must transparently document their methods for collecting and processing these data.

5. PROCESSING OF COLLECTED DATA (SOURCE MATERIALS) INTO STATISTICS

- 5.1. DNB prepares the quarterly and annual financial accounts and balance sheets (*FA & BS*) and non-financial accounts (*NFA*) for all subsectors in S.12 in accordance with ESA 2010, excluding the non-financial accounts (*NFA*) of S.128 and S.129. These are non-integrated statistics. DNB also prepares the securities statistics that serve as a source for the sector accounts (*FA & BS* and *NFA*), balance of payments and IIP for all sectors.
- 5.2. DNB is authorised to use the source materials it collected under the Mandating Decision for the financial accounts and balance sheets (*FA & BS*) and the non-financial accounts (*NFA*) to prepare analyses and to compile and publish substatistics on its own responsibility, including within the framework of financial stability.
- 5.3. CBS prepares the financial accounts and balance sheets (*FA & BS*) and the non-financial accounts (*NFA*) for sectors S.11, S.13, S.14 and S.15 and compiles the government finance statistics in conformity with the EDP Regulation and the MGDD. CBS also prepares the non-financial accounts (*NFA*) for sectors S.128 and S.129.
- 5.4. CBS is ultimately responsible for the preparation of the sector accounts in their entirety, while DNB is responsible for preparing the balance of payments and IIP (all integrated statistics). In the sector account preparation process, DNB sector experts act as sector specialists and project managers for all subsectors in S.12 (excluding the *NFA* of S.128 and S.129) and for S.2. The rest-of-the-world (S.2) account adopted in the joint process establishes the totals of the balance of payments and IIP and is further processed by DNB into a full balance of payments and IIP (with a complete functional categorisation, geography and other breakdowns).
- 5.5. DNB is also responsible for preparing the Dutch monthly balance of payments, whose initial preparation incorporates the information on international trade in goods collected by CBS on a monthly basis (as referred to in Article 3.2).
- 5.6. The processes for the preparation of the financial accounts and balance sheets (*FA & BS*), the non-financial accounts (*NFA*) and the balance of payments and IIP referred to in Articles 5.1, 5.3 and 5.4 are transparently documented so as to enable compliance with the relevant requirements of the ECB and Eurostat. The parties also comply with their jointly adopted accountability and transparency requirements for the process of preparing the balance of payments and sector accounts.

6. EXCHANGE OF DATA BETWEEN THE PARTIES AND ACCESS

- 6.1. The parties exchange data for the purpose of preparing the sector accounts and the balance of payments and IIP, including the data referred to in Articles 3.1, 3.2, 5.1, 5.5 and the rest-of-the-world account referred to in Article 5.4. These exchanges are specified in detail in the FCA.
- 6.2. The parties also exchange micro-data. The exchange of micro-data between the ESCB (DNB) and the ESS (CBS) is permitted on the grounds of:
 - a. Article 8.4b of Regulation (EC) 2533/98 concerning the collection of statistical information by the European Central Bank;
 - b. Article 21 of Regulation (EC) 223/2009 of the European Parliament and of the Council on European statistics.
- 6.3. On request or on their own initiative, CBS and DNB provide explanatory notes to the figures with their mutual deliveries. Where applicable, the FCA provides specifications for individual deliveries.
- 6.4. If necessary for the preparation of the sector accounts and the balance of payments, DNB and CBS staff have access to each other's physical workstations in conformity with the policy rules in place.

7. NON-DISCLOSURE AND PUBLICATIONS

- 7.1. Micro-data are confidential and must not be disclosed to third parties unless disclosure is permitted under Regulations (EC) No 2533/98 and No 223/2009.
- 7.2. Data that DNB and CBS mutually exchange are used exclusively for purposes permitted under Regulations (EC) No 2533/98 and No 223/2009.
- 7.3. In their exchange of micro-data, the parties must comply with the applicable provisions on non-disclosure of these data ensuing from national and European regulations.
- 7.4. Without prejudice to the provisions of Articles 7.1 and 7.2 of this Agreement, the parties undertake to maintain the confidentiality of all information made known or available to them in the performance of this Agreement and to refrain from disclosing or providing this information to others in any way.
- 7.5. Only the party ultimately responsible for specific statistics is authorised to issue news and other reports on their publication at the time of publication. DNB is ultimately responsible for statistics on sector S.12, securities statistics, and the balance of payments and IIP. CBS is ultimately responsible for statistics on sectors S.11, S.13, S.14 and S.15, and the sector accounts. Derogations from the foregoing must be decided by agreement.
- 7.6. If either CBS or DNB publishes statistics for which the other party is ultimately responsible, (1) it must not do so before the responsible party has published them first, (2) it must ensure that the published data are identical to the data published by the party responsible for their publication, and (3) it must at all times state the source.

- 7.7. As a rule, all external questions concerning statistics that DNB and CBS receive must be answered by the party responsible for them, if necessary after consulting the other party if it collected the data.
- 7.8. If CBS or DNB detects a security incident or actual or potential data leak possibly involving personal data or confidential micro-data, it must take all reasonably required measures to resolve the incident or close the data leak, to limit any loss or damage to the extent possible, and to prevent the issue from reoccurring. CBS and DNB undertake to consult each other without delay.

8. DELIVERY OF THE SECTOR ACCOUNTS TO EUROSTAT AND THE ECB

- 8.1. CBS delivers the financial accounts and government finance statistics directly to the ECB, in conformity with the conditions and deadlines set by the ECB. DNB hereby grants CBS the required authorisation. CBS simultaneously delivers the financial accounts and government finance statistics to DNB. The arrangements for these deliveries are elaborated in the FCA. CBS also delivers the financial and non-financial accounts to Eurostat.
- 8.2. CBS must ensure that the deliveries referred to in Article 8.1 of this Agreement are accompanied by readily available explanatory information on major events and reasons for revisions as referred to in Article 2.7 of the EAA Guideline and Article 2.6 of the GFS Guideline, insofar as necessary after consulting DNB.
- 8.3. DNB hereby authorises CBS to provide supplementary (non-mandatory) details in the ECB's data requirements to the extent that these data requirements ensue from or relate to the ECB's data request based on the EAA Guideline or the GFS Guideline. CBS must comply with the ECB's requests of this nature in consultation with DNB.

9. IMPLEMENTATION

- 9.1. CBS and DNB cooperate with a view to ensuring that:
 - a. effective from June 2018, the data on the balance of payments/IIP published by DNB and the data on the rest-of-the-world account published by CBS are fully consistent in respect of data for the 2015, 2016, 2017 and 2018-Q1 reference periods and beyond;
 - b. effective from 2019-Q1, CBS opens a new observation for the non-financial corporations sector (S.11, *FA & BS* and *NFA*) that also covers data submission requests for the balance of payments and IIP and other unrelated and related statistics;
 - c. DNB opens a new monthly observation of securities transactions and positions for all domestic sectors effective from 2019-M1 and, effective from 2020-Q1, a new quarterly observation for the subsectors in the financial corporations sector (S.12, *FA & BS* and *NFA*, excluding S.121, S.122 and S.123, for which the current monthly observation will be largely preserved), which also cover data submission

requests for the sector accounts and other unrelated and related statistics.

- 9.2. To achieve the objectives set out in Article 9.1, the parties have agreed a platform planning, which also comprises detailing and implementing contingency plans.
- 9.3. CBS and DNB have agreed to set up a governance structure to manage their cooperation, which provides for regular consultations between the parties and in which strategic, tactical and operational decisions will be taken. It also comprises the adequate set-up of cross-sectoral consultations and chain control. Further details will be included in the FCA.

10. PARTICIPATION IN EUROPEAN WORKING GROUPS

- 10.1. CBS and DNB participate in the relevant ESS and ESCB working groups. If and insofar as these working groups allow more than one representative per country, DNB and CBS have the option of delegating one representative each. The parties' participation in the various working groups is recorded in the FCA. To the extent relevant, CBS and DNB undertake to discuss and coordinate the positions they will adopt at meetings in advance.
- 10.2. DNB and CBS undertake to notify and consult each other in good time in the event of new or imminent amendments to guidelines by the ECB or Eurostat or other relevant developments in relation to the financial accounts and balance sheets (*FA & BS*) and non-financial accounts (*NFA*), the balance of payments and IIP, source information and other unrelated and related statistics, and to coordinate the positions they will adopt on these topics in the ECB's Statistics Committee and in Eurostat's Directors of Macroeconomic Statistics, Business Statistics Directors' Group and European Statistical System Committee.

11. COMMITMENT TO INTERNATIONAL OBLIGATIONS

- 11.1. CBS and DNB commit themselves to their international obligations in relation to the sector accounts, balance of payments and IIP and also, to the extent there is a direct overlap with the data submission requests for the purpose of these statistics, in relation to other unrelated or related statistics, irrespective of whether these international obligations are imposed by the ECB, Eurostat or other international institutions.
- 11.2. CBS and DNB hereby acknowledge the quality frameworks applicable to these statistics in the same way as Eurostat and the ECB have acknowledged the quality frameworks used within the ESCB and the ESS in their MoU on quality assurance of statistics.

12. OTHER ARRANGEMENTS

- 12.1. With respect to its imposition of orders subject to penalty and administrative fines on natural persons or legal entities for non-compliance with the reporting requirements under the Statistics Netherlands Act (*Wet op het Bureau voor de*

statistiek) (based on the Mandating Decision) and under the 1994 External Financial Relations Act (*Wet financiële betrekkingen buitenland 1994*), also with a view to preventing double sanctioning, DNB will apply the sanctioning policy it formulated for the purpose of applying the 1994 External Financial Relations Act. If a natural person or legal entity has failed to comply only with its reporting requirements under the Statistics Netherlands Act, based on the Mandating Decision DNB will apply Statistics Netherlands' sanctioning policy in imposing an order subject to penalty or an administrative fine for the relevant violation. As the costs that DNB must incur to discharge the duties delegated to it under the Mandating Decision are expected to outweigh the proceeds from the penalties and administrative fines it receives, to the extent imposed for non-compliance with the Statistics Netherlands Act, DNB does not settle these proceeds and costs with CBS.

- 12.2. The arrangements documented in this Agreement will be elaborated in an FCA, which will be updated each year and adopted jointly by CBS and DNB.

13. EVALUATION OF THIS AGREEMENT

- 13.1. The annual update of the FCA or major developments in terms of the cooperation may prompt the parties to evaluate and amend this Agreement.

14. TERM OF THIS AGREEMENT

- 14.1. This Agreement is entered into for an indefinite period of time and can be terminated by giving notice only for compelling reasons. The notice period to be observed must be sufficiently ample to guarantee the continuity of the international deliveries.
- 14.2. If appropriate, the data exchanged between the parties may be used for statistical purposes after the termination referred to in Article 14.1 of this Agreement, subject to the provisions of Article 7 of this Agreement.

15. EFFECTIVE DATE AND OFFICIAL TITLE

- 15.1. This Agreement takes effect immediately upon being signed by the parties, replacing the cooperation agreement the parties entered into on 23 January 2006.
- 15.2. This Agreement must be cited as: 2017 CBS-DNB Cooperation Agreement.

AGREED AND SIGNED IN DUPLICATE,

Amsterdam, 18 September 2017

Statistics Netherlands

De Nederlandsche Bank N.V.

Dr Tjark Tjin-A-Tsoi
Director general of statistics

Prof. Job Swank
Executive Director

ANNEX 1: 2016 Mandating Decision on DNB-CBS cooperation (Dutch Government Gazette 2016, No 11832)

2016 Mandating Decision on DNB-CBS cooperation

Decision of the Director General of statistics to mandate De Nederlandsche Bank N.V. to collect data from financial institutions for the purpose of preparing the sector accounts and other statistics, and to impose administrative measures for violation of the reporting requirements under the Statistics Netherlands Act (Wet op het Centraal bureau voor de statistiek) (2016 Mandating Decision on DNB-CBS cooperation)

The Director General of statistics;

In view of Sections 33(3), 37, 43 and 51 of the Statistics Netherlands Act and Sections 2, under j, 3, 10 and 12 of the Decree on data collection by Statistics Netherlands (*Besluit gegevensverwerking CBS*);

In view of Section 10:4 of the General Administrative Law Act (*Algemene wet bestuursrecht*) and the letter of consent from De Nederlandsche Bank N.V. dated 16 February 2016, reference 2016/86330;

In view of Sections 10:1 to 10:10 of the General Administrative Law Act;

Decides as follows:

Article 1

In this Decision, the following definitions apply:

- a. *Statistics Netherlands Act*: the Statistics Netherlands Act (Wet op het Centraal bureau voor de statistiek);
- b. *Decree*: the Decree on data collection by Statistics Netherlands (Bulletin of Acts, Orders and Decrees 2003, 552);
- c. *CBS*: Statistics Netherlands (*Centraal Bureau voor de Statistiek*);
- d. *Director General*: the Director General of statistics, referred to in Section 8 of the Statistics Netherlands Act;
- e. *DNB*: De Nederlandsche Bank N.V.;
- f. *financial institutions*: the enterprises, independent professionals, institutions and legal entities engaging in financial services provision designated under Section 33(3) of the Statistics Netherlands Act, read in conjunction with Section 2, under j, of the Decree;
- g. *ESA 2010*: the revised European System of Accounts set up by Regulation (EU) No 549/2013 of the European Parliament and of the Council of the European Union of 21 May 2013 on the European system of national and regional accounts in the European Union;
- h. *sectors and subsectors*: the various institutional sectors and subsectors referred to in Chapter 2 of ESA 2010, and the applicable ESA codes;
- i. *sector accounts*: the quarterly and annual financial accounts, balance sheets and non-financial accounts of the sectors and subsectors;
- j. *Regulation (EC) No 2533/98*: Regulation (EC) No 2533/98 of the Council of the European Union of 23 November 1998 concerning the collection of statistical information by the European Central Bank;
- k. *Regulation (EC) No 223/2009*: Regulation (EC) No 223/2009 of the European Parliament and of the Council of the European Union of 11 March 2009 on European statistics;²²
- l. *related statistics*: the statistics related to a comprehensive system of accounts, including in relation to supply and use tables (SUT) and structural business statistics (SBS);
- m. *micro-data*: statistical information on an individual institution subject to reporting requirements or any other natural person, legal entity, body or branch office.

Article 2

1. Subject to the general instructions referred to in Article 3, DNB exercises the following powers in the name of the Director General:

²² Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities.

- a. collecting from financial institutions the data referred to in Section 3 in particular (under a to l) and Section 10 of the Decree that are material to the preparation of sector accounts and other unrelated and related statistics;
 - b. imposing administrative fines as referred to in Section 43(1) of the Statistics Netherlands Act on financial institutions that fail to submit the data referred to under a, or fail to do so correctly and completely or by the specified deadlines;
 - c. imposing orders subject to penalty as referred to in Section 51 of the Statistics Netherlands Act on financial institutions that fail to submit the data referred to under a, or fail to do so correctly and completely or by the specified deadlines;
 - d. deciding on objections to its decisions under this Mandating Decision, including decisions to impose an administrative fine or an order subject to penalty;
 - e. demanding payment of or collecting by way of a writ of execution the administrative fines payable by financial institutions;
 - f. demanding payment of or collecting by way of a writ of execution the penalties forfeited by financial institutions.
2. For the purpose of exercising the power referred to in Article 2.1, under a, DNB defines, after consulting CBS, the substance of the reports to be submitted by the various categories of financial institutions. This definition is based primarily on the obligations of CBS and DNB to deliver statistics to Eurostat and to the European Central Bank in relation to the sector accounts and other unrelated and related statistics, including the quality standards set for the data to be delivered, and on the practical feasibility of the data collection and its burden on the financial institutions.
 3. The powers referred to in Article 2.1 are exercised by the DNB staff members whom DNB has given that responsibility.

Article 3

1. Without prejudice to the provisions of Article 130 of the Treaty on the Functioning of the European Union (TFEU) and Article 7 of the Statute of the European System of Central Banks and of the European Central Bank, the exercise of the powers referred to in Article 2.1 is subject to the following general instructions:
 - a. in exercising the power referred to in Article 2.1, under a, DNB must observe the provisions of Sections 33(4), 37, 38 and 39 of the Statistics Netherlands Act and Section 12 of the Decree;
 - b. in exercising the powers referred to in Article 2.1, under b and e, DNB must also exercise the powers referred to in Sections 44 to 50 of the Statistics Netherlands Act;
 - c. in exercising the powers referred to in Article 2.1, under c and f, DNB must also exercise the powers referred to in Section 52 of the Statistics Netherlands Act;
 - d. no DNB staff member who has taken a decision to which an objection is lodged may decide on that objection;
 - e. decisions taken and instruments drawn up by DNB under this Mandating Decision must close with: "De Nederlandsche Bank N.V., on behalf of the Director General of statistics";
 - f. the enforcement policy to be pursued by DNB in imposing orders subject to penalty and administrative fines and DNB's policy rules on exercising the powers referred to in Section 2.1 must be adopted in consultation with the Director General;
 - g. micro-data are confidential and must not be disclosed to third parties unless disclosure is permitted under Regulations (EC) No 2533/98 and No 223/2009. All micro-data provided to DNB are governed by the non-disclosure regime set out in Article 8 (Confidentiality regime) of Regulation (EC) No 2533/98. These data also continue to be governed by Chapter V (Statistical confidentiality) of Regulation (EC) No 223/2009. In their exchange of micro-data, CBS and DNB must comply with the applicable provisions on non-disclosure of these data ensuing from national and European regulations.
2. Specific instructions on a case-by-case basis from the Director General to DNB in respect of its exercise of the powers referred to in Article 2.1 have no bearing on the tasks and duties conferred to DNB by virtue of the European System of Central Banks (ESCB).

Article 4

This Decision comes into force on the second day after the publication date of the Dutch Government Gazette (*Staatscourant*) in which it is published.

Article 5

1. This Decision is to be cited as: 2016 Mandating Decision on DNB-CBS cooperation.

2. The Mandating Decision on the sector accounts of financial institutions (Dutch Government Gazette of 14 November 2005, No 221, page 28) is repealed.

This Decision and the accompanying explanatory notes will be published in the Dutch Government Gazette.

The Hague, 23 February 2016
The Director General of statistics

Dr Tjark Tjin-A-Tsoi

Explanatory notes

General

Introduction

This Mandating Decision replaces the Mandating Decision on the sector accounts of financial institutions of 14 November 2005, published in the Dutch Government Gazette (*Staatscourant*) of 14 November 2005, No 221.

The 2005 Mandating Decision relates only to sector accounts. Its scope of application needs broadening as CBS and DNB intend to expand their cooperative efforts. By cooperating more closely, the two authorities aim to reduce their respective administrative costs as well as the response burden on reporting institutions. Closer cooperation will also contribute to improving the quality of European statistics. In addition, the 2005 Mandating Decision requires several technical and editorial changes to reflect amendments to EU legislation. By Regulation (EU) No 549/2013, the 1995 European System of Accounts (ESA 95) was revised and the 2010 European System of Accounts (ESA 2010) was set up. Moreover, Council Regulation (EC) No 322/97 was replaced by Regulation (EC) No 223/2009, and Regulation (EC) No 2533/98 was amended in 2015.

In all other respects, the substance of the 2005 Mandating Decision has been preserved in this new Mandating Decision. For reasons of transparency, it was decided to readopt the Mandating Decision in its entirety rather than settling for an amendment to the 2005 version. For all intents and purposes, the explanatory notes below are identical to those to the 2005 Mandating Decision.

The Statistics Netherlands Act (*Wet op het Centraal bureau voor de statistiek*) (Bulletin of Acts, Orders and Decrees 2003, 516) came into force on 3 January 2004. Section 33(3) of the Statistics Netherlands Act provides a legal basis for the power of the Director General of statistics to collect data, to be designated by order in council, from categories of enterprises, independent professionals, institutions and legal entities designated by the same order in council, for statistical purposes. This order in council is the Decree on data collection by Statistics Netherlands (*Besluit gegevensverwerving CBS*) (Bulletin of Acts, Orders and Decrees 2003, 552), which also came into force on 3 January 2004. Section 2, under k, of the Decree on data collection by Statistics Netherlands designates enterprises, independent professionals, institutions and legal entities engaging in financial services provision. Sections 3 and 10 of the Decree on data collection by Statistics Netherlands list the data that Statistics Netherlands is authorised to collect from these financial institutions, which include data on economic activities, costs, profit and loss account, balance sheet and balance sheet changes.

The data collected from a range of institutions and entities – i.e. including financial institutions – under Section 33 of the Statistics Netherlands Act are needed to prepare sector accounts (comprising non-financial accounts on the one hand and financial accounts and balance sheets on the other), among other things. Sector accounts provide a systematic description for each institutional sector of the various components of the economic process: production, income generation, income distribution, use of income, and financial and non-financial accumulation. They also include balance sheets, describing the opening and closing balances of assets and liabilities for a reporting period. These accounts are currently prepared for annual and quarterly periods.

In addition to the collection of data for the sector accounts, this Mandating Decision also provides for the collection of data for statistics related to the sector accounts, including statistics in relation to supply and use tables (SUT), structural business statistics (SBS) and other statistics.

Main features of the Mandating Decision

The purpose of the 2016 Mandating Decision on DNB-CBS cooperation is to provide for the delegation of some of the powers assigned to the Director General of statistics under Section 33 of the Statistics Netherlands Act – i.e. the collection of economic and financial data from financial institutions – to De Nederlandsche Bank N.V. (DNB). The delegation of this part of CBS's remit to DNB is related to the fact that DNB, in its capacity as one of the national central banks (NCBs) within the European System of Central Banks (ESCB), must assist the European Central Bank (ECB) in collecting the necessary statistical information.²³ A large portion of the data that DNB must deliver to the ECB in this context corresponds with the data collected from financial institutions and other entities under Section 33 of the Statistics Netherlands Act.

Moreover, under the 1994 External Financial Relations Act (*Wet financiële betrekkingen buitenland 1994*) and the 2003 Balance of Payments Reporting Instructions (*Rapportagevoorschriften betalingsbalansrapportages 2003*; Dutch Government Gazette 2003, 38) currently in force, DNB already has a responsibility for collecting from financial institutions and other entities data that are necessary for the preparation of the Dutch balance of payments, i.e. data of a cross-border nature. DNB also contributes to the compilation of ECB statistics on the euro area, for instance monetary and interest rate statistics and statistics on various financial subsectors, based on regulations and guidelines of the ECB. Financial enterprises are required to submit SE reports to DNB for the preparation of monetary statistics.

Bearing this in mind, it would only be logical to charge DNB in this Mandating Decision with collecting national, i.e. non-cross-border, economic and financial data from financial institutions as well. This is also important in the context of the ambition to reduce the administrative burden on businesses, discussed in detail below.

This Mandating Decision results from arrangements between CBS and DNB about the division of duties in the preparation of the sector accounts and other unrelated and related statistics. To guarantee the adequate performance of CBS's statistical tasks under the Statistics Netherlands Act, the parties opted for a mandate format pursuant to which CBS delegates to DNB not only the power to collect data from financial institutions, but also the power to impose sanctions – in the form of orders subject to penalty or administrative fines, or both – on financial institutions that fail to submit the requested data, or fail to do so correctly and completely or by the specified deadlines. Pursuant to this Mandating Decision, DNB is also mandated to decide on institutions' objections to its decisions to impose an order subject to penalty or an administrative fine. To conclude, for practical reasons DNB also has a mandate to demand payment of or collect by way of a writ of execution the penalties forfeited and fines payable to it, to the extent that these amounts arise from its sanction decisions.

Administrative burden

As argued above, entities subject to reporting requirements for the sector accounts, including financial institutions, also have other equivalent reporting requirements. In the past, some financial institutions were required to submit separate reports to different authorities (in part to CBS, in part to DNB). The purpose of this Mandating Decision is to reduce the administrative burden ensuing from European and other legislation by providing that financial institutions required to submit national or cross-border data need no longer submit these data to two authorities (CBS and DNB) but rather to only one of them (DNB). Further efficiency gains are achieved by using integrated reporting forms where possible.

²³ This obligation is laid down in, among other places, Article 5 of the Statute of the ESCB and of the ECB and in Regulation (EC) No 2533/98 of the Council of the European Union of 23 November 1998 concerning the collection of statistical information by the European Central Bank (OJ L 318/8).

Legal protection

Pursuant to Section 7:1 of the General Administrative Law Act (*Algemene wet bestuursrecht*), stakeholders have six weeks to lodge an objection to, among other things, decisions taken by DNB under this Mandating Decision to impose an order subject to penalty or an administrative fine on financial institutions. Likewise, stakeholders have six weeks to lodge an appeal against decisions on objections – which are also taken by DNB under this Mandating Decision – with the administrative court (i.e. the administrative-law sector of the competent district court) and subsequently with the Administrative Jurisdiction Division of the Council of State. This appeal procedure, as is the preceding objection procedure, is handled by DNB.

Section 49 of the Statistics Netherlands Act and Section 5:33 read in conjunction with Section 5:26(2) to (4) of the General Administrative Law Act provide for the demand for payment of and collection by way of a writ of execution of fines payable and penalties forfeited by financial institutions, respectively. If the amount is collected by way of a writ of execution, an objection to this writ of execution may be lodged with the civil court within six weeks of the date on which it is served.

Explanatory notes by article

Article 1 Definitions

The term “financial institutions” is defined in Section 2, opening words and under j, of the Decree on data collection by Statistics Netherlands, which does not specify the scope of application of the term in any further detail. This generic term covers many different types of institutions and enterprises, including credit institutions (the banking sector), insurance companies (life, non-life and health insurers), pension funds, investment funds, clearing members, central securities depositories, special purpose vehicles, special financial institutions (SFIs) and other financial institutions (OFIs). Chapter 2 of ESA 2010 groups these institutions under ESA sector code S.12. The other definitions are self-explanatory and require no further comment.

Article 2 Mandated powers

Article 2.1 of this Mandating Decision lists the powers delegated to DNB under this mandate. The most important power in this context is the power to collect from financial institutions the information listed in Section 3 (general data) and Section 10 (specific data) of the Decree on data collection by CBS. In principle, this Mandating Decision limits the data to be collected to primarily those referred to in Section 3, under a to l, and Section 10 of the Decree on data collection by CBS. However, the mandate will also apply to the data referred to in Section 3, under m to s, of the Decree if for efficiency reasons it is more expedient for DNB to collect them even if they are not of a financial nature.

The power referred to in Article 2.1, under a, of this Mandating Decision, i.e. the power delegated to DNB to collect certain data from financial institutions on CBS’s behalf, also comprises the designation by DNB of financial institutions as entities subject to reporting requirements.

Article 2.2 of this Mandating Decision stipulates that DNB defines the substance of the reports after in consultation with CBS.

Article 3 General and specific instructions

Pursuant to Section 10:6 of the General Administrative Law Act, a mandator (in this case the Director General of statistics) may give the mandatory (in this case DNB) instructions regarding the exercise of the mandated powers either generally or on a case-by-case basis. Article 3.1 of this Mandating Decision sets out the general instructions, for brevity’s sake with reference to several provisions of the Statistics Netherlands Act and the Decree on data collection by Statistics Netherlands.

One of the general instructions is that a decision on an objection must not be taken by the staff member who has taken the principal decision that is being objected to. This instruction follows

from Section 10:3(3) of the General Administrative Law Act and applies to the individual staff member who drafted the principal decision. Given that an objection procedure serves to reconsider the principal decision in its entirety, an unbiased assessment of the raised objections is required and it would not be appropriate for the same staff member to draw up both the principal decision and the decision on the objection to that decision.

The purpose of the general instruction of Article 3.1, under g, is to safeguard the confidentiality of micro-data (i.e. confidential statistical information).

Article 3.1 refers to Article 130 of the Treaty on the Functioning of the European Union (TFEU) and to Article 7 of the Statute of the European System of Central Banks and of the European Central Bank (Statute of the ESCB and of the ECB), which provide for the political independence of the European System of Central Banks (ESCB). Article 130 of the TFEU reads:

“Article 130 of the TFEU

When exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and the Statute of the ESCB and of the ECB, neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body. The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks.”

Article 7 of the Statute of the ESCB and of the ECB is a virtually identical provision on political independence. These references serve to ensure that DNB complies with this provision at all times, including in performing statistical tasks on behalf of CBS under this Mandating Decision. Article 3.2 seeks to provide a similar safeguard by stipulating that any specific instructions from the Director General to DNB – i.e. instructions for one or more specific cases within the meaning of Section 10:6 of the General Administrative Law Act – have no bearing on DNB’s ESCB tasks.

Articles 4 and 5 Effective date and official title

Article 5 provides for the 2005 Mandating Decision to be repealed.

The Hague, 23 February 2016

The Director General of statistics

Dr Tjark Tjin-A-Tsoi