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DRAFT ECB REGULATION CONCERNING REPORTING ON SUPERVISORY FINANCIAL INFORMATION

TEMPLATE FOR COMMENTS

Institution/Company **Genossenschaftsverband Bayern e.V.**	
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Please separate your comments per issue, citing the relevant article of the draft Regulation concerning reporting on supervisory financial information where appropriate and indicating whether you are proposing an amendment, clarification or a deletion. If you require more space for your comments, please copy page 3.

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TEMPLATE FOR COMMENTS

Name of Institution/Company	**Genossenschaftsverband Bayern e.V.**	Country	**Germany**

COMMENTS ON THE DRAFT ECB REGULATION CONCERNING REPORTING ON SUPERVISORY FINANCIAL INFORMATION

Issue	Article	Comment	Concise statement why your comment should be taken on board
Impacts on national accounting standards (German Commercial Code)	1	Clarification	The International Financial Reporting Standards (IFRS) focus mainly on the fair value principle instead of the prudence principle as laid down in the German Commercial Code (‘HGB’). As the financial crisis has clearly shown, fair value accounting induces procyclicality. Even more - IFRS were acting as a dangerous ‘fire accelerant’. Such accounting rules cannot be of interest of a regulatory authority. In accordance with its tasks, the ECB must have a vested interest in the stability of the financial system, especially with the focus on the credit institutions under its supervision. In Germany only credit institutions whose securities are admitted for trading on an organized capital market <u>are obliged</u> to prepare consolidated financial statements according to IFRS (§ 315a (1) and (2) HGB, Regulation (EG) No 1606/2002 of the European Parliament and of the Council of 19 July

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			2002). All other credit institutions <u>have the option</u> to prepare consolidated financial statements according to IFRS (§ 315 (3) HGB). However, without exception all German credit institutions have to prepare their individual financial statements according to German Commercial Code (see also § 325 (2a) HGB). ECB's request for information cannot intervene and affect the national accounting principles. The German Less Significant Institutions ('LSI') are - nearly without exception – only required to account in accordance with national accounting standards. The implementation of an additional shadow accounting just to fulfil the requests of the planned reporting requirements is not appropriate at all. This would actually generate excessive administrative costs binding valuable personal, temporal and technical ressources of the LSI, which then can't be used otherwise. We fear an significant interference on the business operations of the LSI and connected with that on the supply of credit of the real economy. It is obvious that this is inconsistent with the principle of proportionality, which is required by recital 55 of Council Regulation (EU) No 1024/2013 of 15 October 2013 ('Regulation No 1024/2013'). Though the idea of supervising all European institutions on a consistent and harmonized data basis is comprehensible, this doesn't jusitfy in any way the ignorance of clearly applicable law on the part of ECB. So Regulation No 1024/2013 contains basic principles: - 'The ECB's request for information to perform its calculation should not force the institutions to apply accounting frameworks differing from those applicable to them pursuant to other acts of Union and national law.' (Recital 39 of Regulation No 1024/2013) - 'Nothing in this Regulation should be understood as changing the accounting framework applicable pursuant to other acts of Union and national law.' (Recital 19 of Regulation No

			1024/2013) Beyond that it should be mentioned that these basic principles of Regulation No 1024/2013 are compulsory for all deviated legal acts and thereby particularly for all regulations legislated by ECB. The introduction of reporting obligations on the basis of IFRS-data also for LSI, which are also commited to account on the basis of national accounting principles, is not in line with the principles of Regulation No 1024/2013 and therefore cannot be accepted. This includes the planned reporting formats ‘simplified supervisory financial reporting’ and ‘supervisory financial reporting data points’, which refer in various cases on IFRS-data (e.g. classification of financial instruments). The first principles of the Regulation No. 1024/2013 comprehend that the reporting of data during the year could not lead to a constructive obligation for the institutions to generate quarterly statements. Quarterly statements are only required from some instituts which are geared to the capital market (§ 264d HGB). Also in this point the ECB Consultation exceeds improperly the requirements of national GAAP. The Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 (‘Regulation No 575/2013’) does not constitute a legal basis for a extensive reporting based to IFRS-data. The ECB could not carry out the option of Article 99 (6) Regulation No 575/2013, i.e. the obligation to report IFRS-data, besides solo institutions because they do not possess consolidated data. Also Article 24 (2) Regulation No 575/2013 does not constitute a obligation to a reporting based on IFRS-data.
ECB Reporting of supervisory financial information versus national reporting of	I.2	Amendment	German credit institutions are already obliged to report (among other things) financial information (§ 25 (1) KWG, § 2 (1) FinaV) on a quarterly basis and balance sheet information (BISTA) even on a monthly basis (BISTA) to the national supervisory authority.

supervisory information			In his context, there are significant overlaps between the existing national and the planned european reporting requirements. Not least with reference to the principle of proportionality, we request that the european reporting requirements - to ease the burden on the LSI - are based on the already existing national reporting requirements. Additional data should only be gathered if the national reporting is incomplete and as well as the information is absolutely necessary for regulatory purposes.
Templates: simpliefied supervisory financial reporting and supervisory financial reporting data points	Annex I,III, IV, V	Amendment	The overwhelming majority of the data containing the templates for 'simplified supervisory financial reporting' as well as for 'supervisory financial reporting data points' cannot be filled without reconciliation between the national accounting Standards and IFRS. The following exemplary shortlist shows data fields, which are provided by the european reporting requirements but do not exist in the German Commercial Code. Usually these items account for an significant part of the credit institutions balance sheet total. Annex I, Table 2: - Breakdown of financial assets by instruments and by counterparty sector: o Financial assets designated at fair value through profit or loss (template number 4.2) o Available for-sale-financial assets (template number 4.3) o Loans and receivables and held to-maturity investments (template number 4.4) o Non-trading non derivative financial assets measured at fair value through profit or loss (template number 4.7) o Non-trading non derivative financial assets measured at fair value to equity (template number 4.8) - Derivates – Trading, Derivates – Hedge accounting (template number 10) - Fair value hierarchy: financial instruments at fair value (template number 14) Annex IV:

			- Financial assets designated through profit or loss (1.1 Assets, line 100) - Available-for-sale financial assets (1.1 Assets, line 140) - Held-to-maturity Investments (1.1 Assets, line 210) - Derivatives – Hedge accounting (1.1 Assets, line 240) - Fair value changes of the hedged items in portfolio hedge of interest rate risk (1.1 Assets, line 250) - Non-current assets and disposal groups classified as held for sale (1.1 Assets, line 370) - Financial liabilities designated at fair value through profit or loss (1.2 Liabilities, line 070) - Derivatives – Hedge accounting (1.2 Liabilities, line 150) - Fair value changes of the hedged items in portfolio hedge of interest rate risk (1.2 Liabilities, line 160) - Liabilities included in disposal groups classified as held for sale (1.2 Liabilities, line 290) - Accumulated other comprehensive income (1.3 Equity, line 090) - Revaluation reserves (1.3 Equity, line 200) - Profit or loss attributable to owners of the parent (1.3 Equity, line 250) - Minority Interests (1.3 Equity, line 270) - Gains or losses on derecognition ... (2. Statement of profit or loss, line 220) Annex V: - Non-trading non-derivative financial assets measured at fair value through profit or loss (1.1 Assets, line 171) - Non-trading non-derivative financial assets measured at fair value to equity (1.1 Assets, line 175) - Revaluation Reserves (1.3 Equity, line 200) - Fair Value Reserves (1.3 Equity, line 205) - Minority Interests (1.3 Equity, line 270) In addition, it must be noted that there are many other items, which are also existing in the German

			Commercial Code (e.g. tangible assets, intangible assets, provisions, non-trading debt instruments measured at a cost-based method, loans and receivables), by which the valuation methods differ substantially between German Commercial Code and IFRS. For example, according to German Commercial Code impairments to loans and receivables have to be taken in account much earlier and at a higher amount than its required by IAS 39 or IFRS 9. In conclusion, the data, which German LSI are able to deliver to the ECB will remain incomplete and/or incomparable. However, based on the clear legal situation of the Regulation No 1024/2013 the ECB cannot force German LSI to create a reconciliation to IFRS. Furthermore, even a obligatory application of the IFRS in the whole EU for all credit institutions (including the non-capital market oriented LSI) would not increase the comparability of financial statements because the IFRS contain many implied options and a lot of valuation options. Moreover the IFRS are seen in the well-established literature as highly aggregated and complicated. Based to the implicated mistake probability a high quality supervision could not be imposed on IFRS-data-reporting.
		Choose one option	
		Choose one option	