

Executive Board
DS 3
8 October 2024

Reporting requirements

Telephone	Date	Form	Process	Outdated
+49 69 9566 32069 or +49 69 9566 0	Published in the Official Section of the Federal Gazette (<i>Bundesanzeiger</i>) of			

Banking statistics reports and orders

1. Modification of reporting requirements for banking statistics
2. Repeal of a Bundesbank notice

1. Modification of reporting requirements for banking statistics

The Executive Board of the Deutsche Bundesbank issues the following order:

1. Investment funds as defined in Article 2(1) of Regulation (EU) 2024/1988 of the European Central Bank of 27 June 2024 concerning statistics on investment funds and repealing Decision (EU) 2015/32 (ECB/2014/62) (ECB/2024/17)¹ that are resident in Germany are required, under Regulation (EU) 2024/1988, to report statistical information to the Bundesbank for each investment fund they have formed.
2. The reporting agents referred to under point 1 must furthermore report the following statistical information to the Bundesbank:
 - a. identification information (address data, BaFin ID, Legal Entity Identifier (LEI), commercial register number), the focus of the investment, the type of listing and superordinated fund or master-feeder structures;
 - b. information broken down into individual asset items;
 - c. for money market funds: the amount of the loans taken out with institutions subject to minimum reserve requirements under Article 3 of Regulation (EU) 2021/378 of the European Central Bank of 22 January 2021 on the application of minimum reserve requirements (recast) (ECB/2021/1; OJ L 073 of 3 March 2021, p. 1).

This statistical information will also be made available to the Federal Financial Supervisory Authority (BaFin) and used within the Bundesbank for the purposes of performing its tasks.

¹ OJ L, 2024/1988, 23 July 2024; "Regulation (EU) 2024/1988".

3. When submitting the reports referred to under points 1 and 2, the reporting templates, guidelines and individual opinions of the Bundesbank relating to investment funds statistics must be observed; the latest applicable versions of these are published on the Bundesbank's website (under Service > Reporting systems > Banking statistics > Investment funds statistics). In the event of any changes to the reporting templates and guidelines, an electronic notice will be posted on the website at the specified location and a notification will be sent by email to the reporting agents.
4. The reports referred to under points 1 and 2 are to be transmitted to the Bundesbank, in accordance with its specifications, in electronic form in XML format via a secure channel made available by the Bundesbank (Bundesbank Extranet).
5. The reports referred to under points 1 and 2 are to be submitted for the first time in respect of the reference month of December 2025. The reports must be submitted monthly by the close of business on the fifth business day following the end of each month.
6. The statistics order, Bundesbank Notice No 8003/2013, published in the Federal Gazette (*Bundesanzeiger*) of 9 December 2023 (BAnz AT 9 December 2013 B4), is repealed with effect from 1 December 2025.
7. The immediate execution of points 1 to 6 of this statistics order is hereby ordered.

Grounds

I.

Due to the forthcoming entry into force of Regulation (EU) 2024/1988, it is necessary to issue a recast version of the current banking statistics order (Notice No 8003/2013). The publication is made in the Federal Gazette (*Bundesanzeiger*) pursuant to Section 33 of the Bundesbank Act (*Gesetz über die Deutsche Bundesbank*).

II.

Point 1 refers to the existing reporting requirements of investment funds resident in Germany pursuant to Regulation (EU) 2024/1988. All investment management companies and externally managed investment companies established in Germany will continue to remain subject to the reporting requirement pursuant to the regulation. The reporting requirements are set out directly in Regulation (EU) 2024/1988.

The legal basis for the additional statistical information to be reported under point 2 is Section 18 of the Bundesbank Act. This statistical information is necessary in order for the Bundesbank to perform its tasks as set out in Section 3 of the Bundesbank Act. In particular, it is necessary for performance of the tasks laid down in Section 1(1) of the Financial Stability Act (*Gesetz zur Überwachung der Finanzstabilität*). In the event of substantial liquidity and maturity transformation, the investment fund sector – being the largest actor in the shadow banking sector – can intensify potential shocks during a stress phase in financial markets, particularly if unexpectedly high cash outflows occur and liquidity buffers are low. The additional granular data make it possible for such links to be understood and analysed in the light of different attributes. In that respect, the more precise breakdowns provide important information for mapping the income and financing cycle for the financial accounts as well as for determining cross-border capital commitments for the international investment position. Furthermore, the itemised recording of assets at the individual level is a suitable means for unburdening the reporting agents since necessary adjustments are no longer reported and can instead be deduced from the stock data. The order concerning use of the information has its basis in Section 7 of the Banking Act (*Kreditwesengesetz*), read in conjunction with Section 18(5) of the Bundesbank Act.

III.

The Bundesbank has exercised its discretion and decided not to make use of the possibility afforded to it under Article 10 of Regulation (EU) 2024/1988 to grant derogations to reporting agents. As part of its discretionary considerations, the Bundesbank took into account the reporting agents' interest in the reporting burden being kept to a minimum. Ultimately, however, the public interest in the availability of comprehensive information on the entire sector comprising the investment funds defined in Article 2(1) of Regulation (EU) 2024/1988 and resident in Germany prevails. The analytical requirements for which the data collection is intended can be fully met only if the complete population of investment funds is included. Ensuring the accuracy of the analyses is not the only reason for requiring the availability of complete information on all investment funds. If granting derogations, it would then also be necessary – in view of the investment funds resident in Germany – to deal with the fact that demarcated, specialised areas were not represented in the data and, consequently, that it would not be possible to identify factual circumstances of relevance to the analyses. Without data that are capable of producing a full picture of the entire investment funds sector, it would be impossible to make any reliable findings – especially during dynamic market phases.

IV.

Article 11(2) of Regulation (EU) 2024/1988 provides the legal basis for the orders made under points 3 and 4 of the operative part of this notice. That provision provides that national central banks are to define and implement the reporting arrangements to be followed by the actual reporting population in accordance with national requirements. The national central banks are to ensure that those defined reporting arrangements provide the statistical information required by the regulation and allow for accurate checking of the fulfilment of the minimum standards for transmission, accuracy,

compliance with concepts and revisions specified in Annex IV of the regulation. The reporting templates referred to in the orders set out under point 3 specifically fulfil the requirement to define and implement the reporting requirements. The same applies to the stipulation in point 4, which provides that the reporting requirements are to be fulfilled electronically via a secure channel (currently the Bundesbank Extranet). The issued guidelines and individual opinions on monthly balance sheet statistics are to be regarded as additional provisions intended to implement and provide detailed specifications on the reporting requirements.

V.

Article 8(1) of Regulation (EU) 2024/1988 serves as the legal basis for the orders set out in point 5. According to that provision, the national central banks are required to specify clear reporting deadlines for the reporting agents. The reporting deadlines must be designed to ensure that the national central banks are able to comply with the deadlines for reporting to the ECB laid down in Article 8(2) and (3) of the regulation. The reporting deadlines and frequencies stipulated in point 5 allow the reporting agents adequate time to prepare their reports in the first instance, while also affording the Bundesbank the necessary time to comply with the deadlines for reporting to the ECB that are laid down in Article 8(2) and (3) of the regulation.

VI.

The order for immediate execution set out in point 7 is based on Section 80(2) sentence 1 number 4 of the Code of Administrative Court Procedure (*Verwaltungsgerichtsordnung*). According to that provision, immediate execution of the order can be prescribed if that is in the public interest and the party bringing the rescissory action does not have an overriding interest in the suspensive effect of that action.

1. The public interest in immediate execution is based on the requirement for effective implementation of European Union law (*effet utile*); that is because the effective implementation of European Union law would be jeopardised unless immediate execution is ordered (Judgment of the CJEU of 10 July 1990, Case C-217/88 paragraph 25 – table wine; Schoch/Schneider/Bier/Schoch VwGO [Code of Administrative Court Procedure (*Verwaltungsgerichtsordnung*)] 36th supplement, February 2019, paragraphs 218 et seq.). Regulation (EU) 2024/1988 of the European Central Bank concerning statistics, which was issued on the basis of primary European Union law (Article 5(1) of the Statute of the European System of Central Banks), Regulation (EC) No 2533/98 and Regulation (EU) No 2531/98, is binding secondary European Union legislation. The same applies to Guideline (EU) 2021/831, which is directed at the national central banks in the European System of Central Banks (ESCB), according to which the Bundesbank is required to transmit the data collected from the reporting agents to the ECB. The Frankfurt am Main Administrative Court (*Verwaltungsgericht*) has confirmed that ECB guidelines have legally binding effect on the Bundesbank. According to the Administrative Court, the national central banks must take all possible measures within the scope of their competence to give full effect to the ECB guidelines (Judgment of 14 November 2019, file number 9 K 5011/18.F). Article 8(2) and (3) of Regulation (EU) 2024/1988 also lay down directly

applicable deadlines for the Bundesbank to pass on the statistical information transmitted to the Bundesbank by the reporting agents in accordance with the regulation.

The suspensive effect of a rescissory action would lead, contrary to the requirement laid down in Article 8(2) and (3) of Regulation (EU) 2024/1988, to repeat non-reporting of statistical information and would also cause the Bundesbank to be in breach of its obligation to transmit the information collected from the reporting agents, as referred to in Article 8(1) of the regulation. This is prevented, in the public interest, by the order for immediate execution.

2. A public interest in immediate execution arises also from the fact that the ESCB needs the requisite information in full from all reporting agents in order for it to perform its tasks as of the effective date for the new requirements laid down in Regulation (EU) 2024/1988. According to Recital (6) of Regulation (EU) 2024/1988, statistical information on the financial activities of investment funds is necessary to satisfy regular and ad hoc analytical needs and to support the ECB in carrying out monetary and financial analysis. Furthermore, Recital (11) of the regulation points out that statistical information is needed on a monthly basis precisely because it allows for timely advice and improved quality of analysis.

3. With regard to the additional statistical information to be reported under point 2 of the operative part of this notice, as authorised under Section 18 of the Bundesbank Act, a public interest in immediate execution arises from the fact that that information is essential for the Bundesbank to perform its tasks including, in particular, those tasks laid down in Section 1(1) of the Financial Stability Act. The investment companies sector, as the third-largest group of collective investment vehicles, is of essential importance to the functioning of capital markets. Upheavals in that sector could undermine trust in key market mechanisms. The order for immediate execution is intended to guarantee the information base necessary to ensure fulfilment of the euro system's functions. Any delays in supplying the information would mean that the information would no longer be relevant and up-to-date, which would consequently impair the informative value of the entire set of analyses. Adequate responses to current market events would no longer be possible.

4. The public interest in immediate execution described above stands in opposition to the reporting agents' interest in the suspensive effect of a rescissory action. The order for immediate execution means that any initiated rescissory action would no longer have suspensive effect. The reporting agents must therefore transmit the requisite statistical information in accordance with the required reporting frequency notwithstanding any rescissory action that may have been initiated. The reporting agents will thus be required, firstly, to cover the necessary expenses relating to the data that must be transmitted under the new reporting requirements, particularly the costs involved in making such adaptations to the IT infrastructure as are necessary to ensure fulfilment of the reporting requirement.

In addition, the data to be transmitted under the new reporting requirements may also constitute company or trade secrets; they will have to be transmitted before clarification can be obtained, through a potential rescissory action, as to whether or not an obligation to report exists for the purposes of the revised reporting requirements. In that regard, it must be taken into account – from the perspective of the party with an interest in the suspensive effect – that a disclosure of the company or trade secrets necessitated by an order for immediate execution can no longer be

reversed. However, the consequences of a disclosure can be partially mitigated through erasure of the data.

5. After weighing the interests, the reasons supporting an order for immediate execution prevail and hence an order for immediate execution is to be made. For the reasons set out below, the reporting agents' interest in the suspensive effect of a rescissory action initiated by them gives way to the public interest in immediate execution in the present case. The order for immediate execution is intended to ensure effective implementation of European Union law and to guarantee the information base necessary for the ESCB to perform its tasks. The order therefore has a legitimate purpose. The order is also appropriate and necessary, since a violation of the provisions of European Union law can be prevented only by means of immediate execution (*effet utile*) and the up-to-date information base necessary for the ESCB to perform its functions under the ECB regulation is ensured.

The order is also reasonable. It is true that the order requires the reporting agents to submit reports notwithstanding any legal action that they may have initiated to contest the imposition of the reporting requirement. However, even taking into account the reporting agents' interest in the suspensive effect of a legal action, non-compliance with the provisions of European Union law on the reporting of information to the Bundesbank, and the submission of that information to the ECB, cannot be accepted on an overall consideration. Such non-compliance would mean that the ESCB would not receive the information necessary for it to perform its tasks and it would consequently have to take important decisions affecting the general public on the basis of an incomplete information base. The interest in preventing those consequences outweighs the above-mentioned interest of the reporting agents. Furthermore, the recast version of the ECB regulation on statistical reporting requirements also affords a reasonable time period for implementation; Article 18 of the regulation states that it is to apply from 1 December 2025. The ECB had previously engaged in a public consultation on a draft of its regulation. Hence, the obligation to fulfil corresponding reporting requirements is basically foreseeable. On an overall consideration, it therefore follows that the interest in the implementation of European Union law (*effet utile*), and in the provision of a complete information base enabling the performance of important ESCB tasks within the overall scope of the regulation, is to be attributed a greater importance than the interest of the reporting agents in maintenance of the suspensive effect. Consequently, the public interest in immediate execution of the administrative act ultimately outweighs the interest of the reporting agents in the suspensive effect.

6. Even after balancing the reasons for collection of the additional statistical information provided for under point 2 of the operative part of this notice with immediate execution – in order to facilitate fulfilment of the Bundesbank's tasks – the reasons supporting immediate execution prevail. Since the purpose of collecting that additional statistical information is to enable the stability of the financial system to be adequately analysed, a legitimate objective is therefore being served. The order is also appropriate and necessary because that is the only way of collecting the necessary data with the requisite level of granularity. The order is also reasonable. It is true that the order requires the reporting agents to submit reports notwithstanding any legal action that they may have initiated to contest the imposition of the reporting requirement. However, even taking into account the interest of the reporting agents in the suspensive effect of a legal action, an outcome whereby obligations intended to ensure performance of the public interest tasks of monitoring and analysing risk and business policy developments among banks, for the purposes of banking supervision and financial

stability, as well as for monetary analysis purposes, are not fulfilled in a timely manner cannot be accepted on an overall consideration. Furthermore, these statistical reporting requirements have existed for some time and it was only on account of new requirements set out in Regulation (EU) 2024/1988 that it became necessary to recast the statistics order, which also affects the additional statistical information collected pursuant to Section 18 of the Bundesbank Act. Consequently, the public interest in immediate execution of the administrative act ultimately outweighs the interest of the reporting agents in the suspensive effect of a legal action.

This statistical order is published in the Federal Gazette (*Bundesanzeiger*) and on the website of the Bundesbank (under Service > Reporting systems > Banking statistics > Investment funds statistics).

Information on legal remedies

A legal action contesting this general order may be lodged with the Verwaltungsgericht Frankfurt am Main (Administrative Court, Frankfurt am Main), Adalbertstrasse 18, 60486 Frankfurt am Main, within one month of its publication.

2. Repeal of a Bundesbank notice

Notice 8003/2013 of 26 November 2013 (BAnz AT 9 December 2013 B4) is repealed with effect from 1 December 2025.

Deutsche Bundesbank

Dr Sabine Mauderer

Gabriele Meinert