

PRIVACY STATEMENT

RIGHT OF ESTABLISHMENT BY SIGNIFICANT SUPERVISED ENTITIES IN THE TERRITORY OF A NON-PARTICIPATING MEMBER STATE

PURPOSE AND LEGAL BASIS FOR THE PROCESSING OF PERSONAL DATA

Credit institutions established in participating Member States may exercise the right of establishment and freedom to provide services within the territory of a non-participating Member State (outgoing). Council Regulation (EU) No 1024/2013 of 15 October 2013 (**SSM Regulation**)¹ confers specific tasks on the European Central Bank (**ECB**) concerning policies relating to the prudential supervision of credit institutions on the basis of Article 127(6) of the Treaty on the Functioning of the European Union (**TFEU**).

For prudential supervisory purposes, the ECB is entrusted with the tasks in relation to credit institutions established in the participating Member States referred to in Article 4, within the framework of Article 6, of the SSM Regulation.

According to Article 4(1)(b) of the SSM Regulation, the ECB is competent to carry out the tasks which the competent authority of the home member state shall have under the relevant Union law regarding credit institutions established in a participating Member State, which wish to establish a branch in a non-participating Member State. The powers of the home Member State regarding the right of establishment of credit institutions are set in Article 35 of **CRD IV**² and include the assessment of the adequacy of the administrative structure. To that end information on the persons responsible for the management of the branch has to be provided by the significant supervised entity. The procedures between the National Competent Authorities (**NCA**s) and the ECB for the right of establishment of significant supervised entities in relation to non-participating Member States are set in Article 17(1) of the **SSM Framework Regulation**³.

DISCLOSURE OF PERSONAL DATA

All the required personal data, as referred to in the forms set in Commission Implementing Regulation (EU) No 926/2014 of 27 August 2014, is necessary to carry out the assessment of the suitability of the persons proposed to be responsible for the management or key functions of the branch of a significant supervised entity to be established in the territory of a non-participating Member State. If not provided, the application shall be deemed incomplete and Article 5(2)(3) of the aforementioned Commission Implementing Regulation shall apply: the significant institution shall be informed of the incompleteness of the notification and the three-month assessment period shall not be initiated until the notification is assessed to be complete.

¹ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, OJ L 175, 14.6.2014.

² Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.6.2013.

³ Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities, OJ L 141, 14.5.2014.

RECIPIENTS OR CATEGORIES OF RECIPIENTS OF THE PERSONAL DATA

In the right to establishment by a significant supervised entity within the territory of a non-participating Member State procedure the personal data may be disclosed, on a need-to-know basis, to the NCAs' staff, the Joint Supervisory Teams' staff (ECB Directorate General – Micro-Prudential Supervision I or II), ECB Directorate General – Micro-Prudential Supervision III staff, ECB Directorate General – Micro-Prudential Supervision IV staff (Authorisation Division), the Secretariat of the Supervisory Board and the members of the Supervisory Board and of the Governing Council of the ECB.

APPLICABLE RETENTION PERIOD

The ECB is to store personal data regarding the right of establishment by significant supervised entities in the territory of a non-participating Member State applications/notifications for a period of fifteen years; from the date of application or notification if withdrawn before a formal decision is reached; from the date of a negative decision or from the date the data subjects cease to be managers or key function holders of the branch in the case of a positive ECB decision. In case of initiated administrative or judicial proceedings, the retention period shall be extended and end one year after these proceedings are sanctioned by a decision having acquired the authority of a final decision.

APPLICABLE DATA PROTECTION FRAMEWORK AND DATA CONTROLLER

Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁴ is applicable to the processing of personal data by the ECB. For the purposes of Regulation (EC) No 45/2001, the ECB shall be the Data Controller.

DATA SUBJECT RIGHTS

The data subjects of the processing of personal data by the ECB for the mentioned prudential supervisory purpose have access rights to and the right to rectify the data concerning him or herself according to Article 9 of the ECB Decision of 17 April 2007 adopting implementing rules concerning data protection at the ECB (ECB/2007/1)⁵.

POINT OF CONTACT?

In case of queries or complaints regarding this processing operation, you can contact the Data Controller at Authorisation@ecb.europa.eu, and/or the National Competent Authority at fma@fma.gv.at.

Equally, you also have the right to have recourse at any time to the European Data Protection Supervisor. The data subjects also have the right to recourse at any time to the European Data Protection Supervisor: <https://secure.edps.europa.eu/EDPSWEB/edps/lang/en/EDPS>.

⁴ OJ L 8, 12.1.2001.

⁵ OJ L116, 4.5.2007.