

# European Central Bank (ECB): powers to impose sanctions

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The Commission issues a **favourable opinion** regarding the initiative of the ECB to recommend amendments to Council Regulation (EC) No 2532/98 1998 concerning the powers of the European Central Bank to impose sanctions.

**In general terms**, the Commission suggests the following changes:

- Since the Council Sanctions Regulation is based on Article 132(3) TFEU, it **can only deal with infringements of ECB regulations and decisions**, not with infringements to (other) directly applicable acts of Union law.
- **The interaction** between relevant provisions of the SSM Regulation, the Council Sanctions Regulation and [Regulation \(EU\) No 468/2014](#) of the European Central Bank establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities ('SSM Framework Regulation') deserves to be further clarified.

**In specific terms**, the Commission draws attention to the following points:

- the need to ensure consistency and to create a clear and comprehensive framework for publication of sanctions for infringements of ECB regulations and decisions;
- the ECB recommends that for periodic penalty payments the upper limit is 5 % of the average daily turnover per day of infringement. The reasons for this choice should at least be explained in the recitals of the Council Regulation;
- the recommendation provides a definition of annual turnover that does not correspond to the definitions in the SSM Regulation and provisions of [CRD IV](#) that apply to the imposition of administrative pecuniary penalties for the breach of directly applicable Union law. Since such divergent definitions could lead to different interpretations, the Commission would suggest that the provision is consistent with both the SSM Regulation and CRD IV;
- the Regulation should state that by way of derogation from Article 4, the right to take a decision to impose a sanction with regard to infringements of decisions and regulations adopted by the ECB in the exercise of its supervisory tasks, shall expire five years after the infringement occurred or, in the case of continuing or repeated infringements, five years after the infringement ceased;
- in order to provide more legal certainty for undertakings, but also for the ECB itself, the interruption of the limitation period should be linked to an objective moment that can be clearly identified. This could, for instance, be the opening of an infringement procedure or the formal opening of an investigation that is notified to the undertaking concerned.
- the drafting of the provision ensuring that in certain situations the limitation period in Article 4 is automatically extended should be clarified;
- lastly, the provisions regulating the time limits for enforcement of payment or payments terms and conditions should be restructured to stipulate what the limitation period is and when this period starts to run and only then stipulate in which situation the limitation period is interrupted.