European Central Bank, ECB: power to impose sanctions (Article 106 6 EC Treaty)

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OBJECTIVE: Recommendation of the European Central Bank for a Council Regulation concerning the powers of the European Central Bank to impose sanctions. SUBSTANCE: In order to ensure a uniform approach towards the imposition of sanctions in the various fields of competence of the ECB, all the general and procedural provisions for the imposition of such sanctions should be contained in a single Council Regulation. To this end, this draft regulation provides that the ECB may impose fines and penalties on undertakings, within the following limits: - fines: the upper limit is EUR 500 000; - periodic penalty payments: the upper limit is EUR 10 000 per day of infringement (maximum period six months). In determining whether to impose the sanction, the ECB must be guided by the principle of proportionality and take into consideration circumstances such as: - the good faith and degree of openness of the undertaking; - the seriousness of the effects of the infringement; - the repetition, frequency or duration of the infringement; - the profits obtained by the undertaking by reason of the infringement; - the economic size of the undertaking; - prior sanctions imposed by other authorities. The application of a sanction does not exempt the undertaking from its performance. The decision on whether or not to initiate an infringement procedure is taken by the Executive Board of the ECB, acting on its own initiative or on the basis of a motion to that effect addressed to it by the national central bank of the Member State in whose jurisdiction the alleged infringement has occurred. The Court of Justice in Luxembourg has unlimited jurisdiction over the review of final decisions whereby a sanction is imposed.