
EBA Regular Use

Decision of the European Banking Authority EBA/DC/529

of 10 April 2024

concerning the internal process for ad hoc collection of information

The Executive Director

Having regard to Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC¹ (EBA Regulation), in particular Articles 2(4), 35 and 53(3) thereof,

Whereas:

- (1) The EBA has powers to collect information from competent authorities in order to carry out its tasks, mainly, but not exclusively, under Article 35 of the EBA Regulation and needs an internal process when exercising those powers.
- (2) In order to ensure consistency across the organisation, the preliminary assessment of the necessity and legitimacy of any request for *ad hoc* collections of information should be raised to, and evaluated by, a central point within the EBA, the most appropriate for this purpose being the EBA's Chief Data Officer, a position held *ex officio* by the DART Director. This is especially so as all EBA *ad hoc* collections of information are based on Article 35 of the EBA Regulation, and therefore any examination of the necessity, proportionality, legitimacy and non-redundancy of the *ad hoc* collections of information should be made against any information already available to the EBA, which should be re-used where possible, with the view to limiting the burden to the reporting institutions and competent authorities in line with the conclusions of the EBA Cost of Compliance report² and the Feasibility Study on Integrated Reporting³.

1. OJ L331, 15.12.2010, p. 12.

² Study of the cost of compliance with supervisory reporting requirements Report (EBA/Rep/2021/15).

³ EBA report on a feasibility study of an integrated reporting system under Article 430c CRR (EBA/REP/2021/38).

- (3) It is necessary to set out a more detailed process for collection of information which require extensive statistical and IT capacity, and to determine the appropriate internal responsibility for the data collection, than for collections that are either more limited in extent or are not amenable to statistical treatment. Data collections that are more amenable to statistical treatment refers to typically datasets that are sufficiently large, representative, and structured in a way that allows for meaningful statistical analysis. By statistical analysis it is understood the process of analysing data using statistical methods and techniques to derive meaningful insights, draw conclusions, or make predictions. This involves applying various statistical procedures such as descriptive statistics, inferential statistics, regression analysis, hypothesis testing, and others to understand the characteristics of the data, explore relationships between variables, and make inferences about the population from which the data is sampled.
- (4) There is a need to specify and streamline the process to adopt decisions on *ad hoc* data collections at staff level and in terms of the involvement of the Board of Supervisors and EBA's standing committees (SC), distinguishing *ad hoc* data collections which are expected to have a minimal effect on the reporting institutions' and competent authorities' reporting burden from those where the burden is considered to be more material.
- (5) It is also necessary to establish a structured mechanism for keeping track of the *ad hoc* requests for collecting information.
- (6) Logistical information that EBA collects in the course of its daily work collaborating with other authorities and the public should be excluded from the application of this Decision. Certain *ad hoc* collections of information should also not follow either of the processes covered by this Decision given their legal nature, such as requests for information in the context of breach of Union law cases.
- (7) In order to assess overlaps and redundancy of information requested by the EBA the process set out in the Decision should apply whether or not formal powers are used to collect information and therefore also applies to so-called 'voluntary' data collections, where the EBA invites institutions and competent authorities to share information with it, given that such voluntary collections result in the collection of information.
- (8) For efficiency reasons this Decision sets out only the main requirements so that the practical, administrative details should be further specified in implementing rules to be developed by the EBA's Information and Data Committee (IDC).
- (9) Where an *ad hoc* collection of information is envisaging to cover also personal data, given the particularity of the topic and that the EBA has already specific procedures in place in order to ensure compliance of the Authority with the requirements of Regulation (EU) 2018/1725⁴,

⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p.39).

those specific procedures should also be applied. The provisions of Decision EBA/DC/112 on the internal process for data sharing should be repealed in so far as they concern data collection.

Has decided as follows:

Article 1 – Subject matter and scope of application

1. This Decision sets out the EBA internal process for ad hoc collections of information.
2. This Decision applies to all ad hoc collections of information (collections) that are not provided for in Union legislative acts ('Level 1') and related delegated or implementing acts and guidelines ('Level 2').
3. This Decision shall not apply to:
 - a. logistical information needed for the day-to-day functioning of the EBA, including that which the EBA collects from individuals participating in the various structures of its governance for the purposes of organising its meetings and training activities;
 - b. information collected in the context of the EBA's decision-making process or administrative procedures managed by the EBA in accordance with the EBA Regulation or any other Union act or EBA decisions, including but not limited to complaints handling, the annual budgetary procedure, Breach of Union Law ('BUL') investigations, settlement of disagreements among competent authorities, access to documents requests, AML/CTF-related investigations, procurement, enquiries conducted on alleged unauthorised disclosure of EBA information.
4. This Decision does not relate to the assessment of compliance of the envisaged collection with Regulation (EU) 2018/1725 of 23 October 2018 regarding the processing of personal data by the EBA. Where the envisaged collection is expected to include also personal data, the relevant EBA internal procedures⁶ shall apply.

Article 2 – Requests from business units

1. Ad hoc collections of information by the EBA shall only take place following approval by the DART Director. The staff member in charge of the relevant project (requester) shall make the request with the approval of the relevant Head of Unit ('HoU') or Director.
2. Requests shall be submitted via an automated form provided by DART.

⁵ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁶ <https://intranet.eba.europa.eu/StaffMatters/Pages/Personal%20Data%20Protection.aspx>

3. Requests shall contain all of the following:

- a. justification of the information needs (e.g. for policy development and risk assessment), that sets out the legal duties for the discharge of which information needs to be collected, i.e. the justification or need for the ad hoc information collection especially in light of any information already available to the EBA;
- b. description of the scope of the collection envisaged, including sample of entities and identification criteria, timeline (reference date, reporting frequency, duration, submission date), list of data items requested and data aggregation level (individual, either on solo or consolidated basis, or aggregated);
- c. preliminary assessment of the proportionality of the ad hoc collection of information vis-à-vis the reporting burden for the reporting institutions and competent authorities, including possible alternatives to the ad hoc collection of information such as re-use of information already available to the EBA;
- d. indication of the need for statistical treatment and DART support relating to the information to be collected, including whether there is an expectation for DART to develop any specific output and, if so, which type of output;
- e. if requested and available at the time of the request, the opinion of the relevant Sub-Group/Task Force in relation to points (a) to (c).

Article 3 - DART Director decision

1. Based on the information in the request and with the support of the requester, the DART Director shall decide:
 - a. whether the collection requested is necessary and legitimate;
 - b. the degree of its materiality in terms of potential impact on reporting institutions and competent authorities;
 - c. if points (a) and (b) are met, whether the envisaged collection requires statistical treatment or not and whether a collection requiring statistical treatment is to be carried out by DART or by the relevant business unit.
 2. Necessity, legitimacy and materiality shall be assessed on the proportionality and non-redundancy of the request, based on the policy needs and any information already available to the EBA.
 3. For determining whether the envisaged collection requires statistical treatment, the following criteria shall be considered:
 - a. the nature and scope of the requested information;
 - b. any request for DART statistical support;
 - c. the resources available to DART;
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- d. any other factor deemed relevant to the specific ad hoc collection of information.
4. The requester may refer the DART Director decision to the Information and Data Committee (IDC).

Article 4 – Collection carried out by DART

1. Where a collection requiring statistical treatment is to be carried out by DART, STATS shall carry out an in-depth assessment of:
 - a. the feasibility and materiality of the collection;
 - b. the technical means necessary to carry out the collection. This shall include an assessment of the possibility to integrate the collection in the EBA Data Point Model ('DPM'), as well as a consideration of the technical platform or facility to be used to collect the data.
2. If technical advice from the IT and the Reporting and Transparency ('RT') Units is needed, then their advice shall be given within two weeks from receiving the request by STATS.
3. In its assessment STATS shall take into account all of the following elements:
 - a. the available resources;
 - b. the limits of the available data exchange platforms and/or facilities;
 - c. the timeline envisaged for the collection.
4. The DART Director takes the final decision to:
 - a. confirm that the ad hoc collection of information is necessary based on the policy needs and any information already available to the EBA, feasibility for the EBA and the nature and materiality of the reporting burden for reporting institutions and competent authorities;
 - b. determine the most appropriate technical means to collect the information.

Article 5 – Submission to Standing Committees and the Board of Supervisors

1. Where a collection does not require statistical treatment or a collection requiring statistical treatment is to be carried out by the relevant business unit, the DART Director decision shall be submitted to the relevant Standing Committee for information within five working days before the launch. The collection shall be launched unless three members raise concerns, in which case the BoS shall approve the decision. The DART Director decision shall be sent to the Standing Committee on Reporting, Data Analysis and Transparency ('SCReDAT') for information.
2. For collections requiring statistical treatment where a limited impact on reporting institutions and competent authorities is expected and the collection is non-recurrent, the final DART Director decision shall be sent to the SCReDAT for information.

3. In other cases, the DART Director decision shall be submitted to the Board of Supervisors for its approval after informing SCReDAT members unless the DART Director considers that:
 - a. based on the materiality of the decision it is sufficient to submit it to SCReDAT for information within five working days before the launch. The *ad hoc* collection shall be launched, unless three members raise concerns, in which case the BoS approval shall be sought; or
 - b. technical aspects of an envisaged collection have been already extensively discussed at a relevant Standing Committee other than SCReDAT and no objections have been raised in that Standing Committee and it is sufficient to send decision to SCReDAT for information only.

Article 6 – Records to be retained

1. All the steps of the decision-making process shall be documented with the reasoning followed at each step. The DART Director shall be responsible for ensuring this for DART-led collections, otherwise the relevant Head of Unit shall be responsible.
2. Where an *ad hoc* collection is launched through the adoption of a decision under Article 35 of the EBA Regulation, the documentation referred to in paragraph 1 shall be attached as an Annex.
3. The information collected shall be stored in a central repository maintained by DART.

Article 7 - Implementing rules

The IDC may develop implementing rules to further elaborate the details of any part of the process set out in this Decision.

Article 8 - Entry into force

This Decision shall enter into force immediately. Decision EBA/DC/112 of 22 January 2015 on the internal process for data sharing is repealed in so far as it concerns data collection.

Done at Paris,

François-Louis Michaud
Executive Director