

Task Force on the Exchange of Confidential Information Phase II

Final report

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Contents

I. Introduction	3
II. TF ECI II recommendations	3
III. Motivation for more ECI	4
IV. Changes to the ESS and ESCB legal acts	7
IV.1 Amend the EU statistical framework regulations	7
IV.2 EU statistical legislation.....	11
V. Joint repository for ECI between ESS and ESCB	11
VI. Further recommendations to facilitate the ECI.....	12
VI.1 Safe and secure ECI.....	12
VI.2 ECI toolbox and joint common guidance on ECI	13
VII. Conclusions and further work.....	14
Annex A: Members of the TF ECI II.....	16
Annex B: Possibilities and combinations to facilitate ECI for statistical purposes in the TF ECI II interim report	17
Annex C: Three-Tier classification system for CSI.....	18
Annex D: Fields suggested for a Joint ESS/ESCB repository for ECI on European Statistics	19
Annex E: ECI Toolbox prototype	20

I. Introduction

The CMFB agreed, at its meeting on 1 July 2021, on a second phase of the Task Force on Exchanging Confidential Information (TF ECI II) in order to follow up on the Recommendation 1 of the TF ECI phase I.¹ The TF ECI II was mandated to prepare a proposal for an enhanced definition of confidential statistical information (CSI) that serves the needs of the two European statistical systems as regard the exchange of confidential statistical information (ECI).² According to the CMFB Working Programme 2023-2024, the results of the TF will be expressed in a CMFB opinion and forwarded to the Commission and the ECB as input for their work on the updates of regulations 223/2009 and 2533/98.³

The TF was composed of 15 members from the two European statistical systems, including representatives from statistical and legal departments (see Annex A). It was co-chaired by Jorge Diz Dias (ECB DG-S) and Adolfo Galvez (INE Spain). The TF ECI II started its work in December 2021 and, for the first semester of 2022, it researched possible actions to facilitate the ECI presented to the CMFB in the form of a TF ECI II interim report in June 2022.⁴ The TF ECI II collected feedback⁵ from the CMFB and other stakeholders on the various possibilities and combinations to facilitate ECI (see Annex B), which was key to shape its final report.

The Chapter II of this report presents the TF ECI II conclusions in the form of recommendations to facilitate ECI between ESS and ESCB for statistical purposes. Chapter III explains the main motivations for facilitating ECI between ESS and ESCB, followed by the amendments to the ESS and ESCB legal acts necessary to further improve the ECI between ESS and ESCB. Chapter V discusses a joint repository to support the ECI between ESS and ESCB. Chapter VI includes further recommendations of the TF ECI II to facilitate ECI, followed by the final chapter with conclusions and further work.

II. TF ECI II recommendations

This chapter summarises the TF ECI II recommendations to the CMFB to facilitate the ECI for statistical purposes of European Statistics (see Table 1).⁶ It also includes one specific recommendation on the exchange of CSI of national official statistics. The recommendations resulted from the investigations, conclusions, and feedback received. The TF ECI II proposes to the CMFB the preparation of a CMFB Opinion, to advise on the ongoing revision of the EU statistical framework regulations⁷, referring the following TF ECI II recommendations #ECI.01 (a, b, or c), #ECI.02, and #ECI.04. Recommendations #ECI.04, #ECI.06, #ECI.07 may be combined into a single recommendation, but the TF ECI II decided to present them separately as they could be implemented at different speeds and independently of each other for the most part.

¹ See TF ECI I final report ([link](#)) dated 6 October 2020.

² See chapter VI.A of the TF ECI II interim report ([link](#)) for the TF ECI II mandate ([link](#)).

³ See CMFB Work Programme 2023-2024 ([link](#)).

⁴ See TF ECI II interim report ([link](#)), 21 June 2022.

⁵ During the CMFB plenary meeting of July 2022, subsequent CMFB written procedure, and all institutions represented in the TF ECI II through its members.

⁶ The acronym “ECI” used in this report refers to the exchange of CSI for statistical purposes of European Statistics. When referring to national statistics the acronym “ECI” is not used.

⁷ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and the Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank, are referred in this report as the “statistical framework regulations”.

Table 1 – TF ECI II Recommendations

	#ID	Recommendation	Chapter
Alternative	#ECI.01.a (ECI required)	Amending the EU statistical framework regulations to set the ECI for European Statistics as a requirement (ECI required).	Chapter IV.1
	#ECI.01.b (ECI semi-required)	Amending the EU statistical framework regulations to (a) set the ECI for European Statistics as a requirement for certain and well-defined types of confidential statistical information, and (b) explicitly mention that the special cases of exception to the confidentiality regime are adopted for ECI between ESS and ESCB.	Chapter IV.1
	#ECI.01.c (ECI enabled)	Amending the EU statistical framework regulations to explicitly mention that the special cases of exception to the confidentiality regime are adopted for ECI between ESS and ESCB.	Chapter IV.1
	#ECI.02	Mentioning in the recitals of the EU statistical framework regulations the case of national official statistics to encourage a similar approach of the ECI of European Statistics also to exchange of CSI of national official statistics.	Chapter IV.1
	#ECI.03	Using EU sectorial legislation (ESS feature) more frequently to facilitate ECI.	Chapter IV.2
	#ECI.04	Implementing a joint repository for ECI between ESS and ESCB supported by a reference in the statistical framework regulations, maintained by the CMFB (assisted by Eurostat and the ECB), and its functioning detailed in the joint common guidance on ECI. Every year, the CMFB prepares a document for the CMFB plenary meeting with an evaluation of the ECI results and follow-up actions.	Chapter V
	#ECI.05	Mandating a joint task force composed of technical experts from the ESS and ESCB statistical systems to develop common rules and minimum standards on secure environments for transmission, storage and access of CSI to exchange, for adoption by all the ESS and ESCB statistical authorities and prepare a Memorandum of Understanding to be adopted while the legal framework is not amended.	Chapter VI.1
	#ECI.06	Setting up a ECI toolbox to be updated by the ESS/ESCB statistical authorities and the CMFB to be responsible to curate, review and maintain its content on a yearly basis.	Chapter VI.2
	#ECI.07	Preparing jointly by the ECB and Eurostat of opinions, letters, or other type of guidance that can be a powerful tool for common and harmonised practices on ECI.	Chapter VI.2

III. Motivation for more ECI

The European official statistical community understands the value of exchanging statistical information (ECI) for the efficient development, production, dissemination and increase of the quality of European official Statistics. The legal and operational construct for the ECI between (and within) ESS and ESCB statistical authorities has been improving over the last decades to attain a robust setup in terms of legal certainty and information technology (IT) for safe environments supporting the exchange. These are pre-conditions for ECI to occur in a controlled manner so that the risks of unlawful disclosure of confidential information are minimised and the benefits of synergies through collaboration between statistical authorities of official statistics are maximised.

The definition of ‘confidential statistical information’ (Article 3.7 of Regulation 223/2009 and Article 1.12 of Council Regulation 2533/98) means statistical information which allows statistical units to be identified, either directly or indirectly, thereby disclosing individual information.⁸ It is a fundamental definition for the statistical function and the trust established with respondents, which can rapidly change if CSI is released or perceived to be released to the public. However, in the context of ECI for the purposes of European Statistics between statistical authorities, the individual statistical information is not to be released to the public but to be used for statistical purposes.

The current statistical confidentiality regime for the ECI between ESS and ESCB in the statistical framework regulations share similar principles and guarantees.⁹ The statistical framework regulations contain enabling clauses for the ECI necessary for the efficient development, production and dissemination of European statistics or for increasing the quality of European statistics (i.e. referred to as statistical purposes¹⁰). This EU enabling regime poses no barriers for the ECI exclusively for statistical purposes where there is an appropriate national legal framework in place (i.e. national law does not prohibit ECI) and the necessity for the ECI between ESS and ESCB has been justified.

The enabling clause has been serving the ECI between ESS and ESCB in an imperfect manner. It was a good achievement for further facilitating the ECI but it quickly revealed itself insufficient to serve the needs of ECI between ESS and ESCB. In particular, it frequently creates an unbalanced situation that some ESS/ESCB statistical authority shares data with another ESCB/ESS statistical authority and the latter does not share back the same kind of data (e.g. mirror data) because of its prohibitive national provisions on ECI.

In addition, the ESS and the ESCB statistical systems have evolved considerably in the last decades adapting to an ever-changing environment, e.g. responding to higher amounts of data inflow due to the digitalisation of the information, better response to health and economic emergencies in terms of statistical information for the policy making and society in general. In particular, both statistical systems became more interdependent for lowering the burden to society of compiling high quality official statistics and achieving better statistical outcomes from the statistical development and data quality activities. Supporting openness for collaborating is key to optimising the statistical function in the EU and ECI is an essential component to this end.

The TF ECI II analysed the statistical framework regulations and their interplay with national legislation on ECI.¹¹ The ECI of European Statistics between the ESS and ESCB in the statistical framework regulations is exclusively for statistical purposes and any exception is not covered by the legal framework (Article 21.5 of Regulation 223/2009 and Article 8a.3 of Council Regulation 2533/98).

The TF ECI II concluded that the provisions in the EU statistical framework regulations for the ECI between ESS and ESCB on European Statistics are not strong enough to supersede certain prohibiting national provisions

⁸ The ‘direct identification’ means the identification of a statistical unit from its name or address, or from a publicly accessible identification number. The ‘indirect identification’ means the identification of a statistical unit by any other means than by way of direct identification.

⁹ Regulation (EC) No 223/2009 (of the European Parliament and of the Council of 11 March 2009 on European statistics and the Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank, referred in this document as the “framework regulations”).

¹⁰ Therefore, statistical purposes cover statistical tasks based on European law and other official statistics, comprising new experimental statistics, that are included in the statistical work programmes of the ESS/ESCB (for more details see Step 1 of the ECI multi-layered process sub-section in Chapter IV.1).

¹¹ See Annex VI.C (Workstream: Analysis of the current legal framework) of the TF ECI II Interim Report for a comparative examination of the confidentiality regime in the statistical framework regulations.

on ECI existing in some EU countries. As a consequence, the current legal setup inhibits the ESS/ESCB statistical authorities from being able to openly cooperate more effectively on the ECI on European Statistics for statistical purposes even when there are low risks of privacy, security, compliance, or reputation.

The TF ECI II researched a 3-Tier classification system for CSI, looking at the ECI needs expressed in the TF ECI I final report, the TF ECI II members, and the CMFB members, to organise the CSI based on their basic importance for the European Statistics function and the level of protection required. Indeed, there are some data that are fundamental or of basic importance to exchange between the European statistical systems, e.g. sector classification of institutional units, while other data may be less needed to exchange to carry out the European Statistical function. In addition, as mentioned in the previous paragraph, data have different levels of risk when exchanged, e.g. exchanging the number of employees of an institutional unit represents a low risk case. Therefore, each Tier level represents a different level of criticality (mix importance-risk) for ECI and it will be used throughout this report (see Table 2 and Annex C). The Tier-classification is a tool to help the ECI process and is not to be included in any ESS or ESCB legal act.

Table 2 – Three-Tier classification system for CSI for ECI

CSI Tier	Description
Tier 1 – Critical CSI	This is the highest level of protection and includes confidential statistical information of natural ¹² and legal persons.
Tier 2 – Less critical CSI	This is confidential statistical information of legal persons for which the unauthorised access due to ECI between statistical authorities from ESS and ESCB would pose low privacy, security, compliance, reputation, or legal risk. It includes the mirror data ¹³ , data of liquidated legal persons, “old” data ¹⁴ , data on the “size” of the legal person ¹⁵ , qualitative information on legal person’s registers data ¹⁶ , and estimations ¹⁷ .
Tier 3 – Non-critical CSI	This is confidential statistical information for which the unauthorised access due to ECI would pose minimal privacy, security, compliance, reputation, or legal risk. It includes the special cases of exception to the confidentiality regime in the current statistical framework regulations that should also be adopted for ECI, i.e. consent by the statistical unit ¹⁸ for ECI and statistical transformation of the data that does not allow for direct identification ¹⁹ for ECI.

¹² General Data Protection Regulation (Regulation (EU) 2016/679) is to be considered for these data in addition to statistical regulations.

¹³ Mirror data, meaning when statistical authorities have the same level of information from the statistical units involved in an economic event. This is when the information collected by the statistical authorities mirrors each other but asymmetric knowledge can happen, for example, if the processing of survey data takes more time by one statistical authority, or the frequency of the survey is different (e.g. timing for collecting the information). This situation - when statistical authorities have the same level of information on the statistical units involved in an economic event (mirror data) - represents a case of CSI where an exchange between the concerned statistical authorities is less of a concern. The mirror data is of extreme importance for the improvement of European statistics quality in the field of cross-border statistics (e.g. FDI), but also for other statistical domains with details by counterpart (e.g. income statistics, sector accounts).

¹⁴ Data referring to periods older than 5 years, which can be particularly useful for the consistency of the 5-year benchmark revisions cycles between ESS and ESCB.

¹⁵ Data characterising the size of the unit (e.g. number of employees, total assets, net financial and non-financial positions/flows).

¹⁶ Qualitative information on legal person’s registers data (name, address, institutional sector, economic activity, and all types of IDs).

¹⁷ Estimations of individual data done by the originating statistical authority, e.g. estimation of the total operational income in a given reference period for an institutional unit before the source data are available (business accounting).

¹⁸ Article 20.2 of Regulation 223/2009 and Article 8.1.a of Council Regulation 2533/98. It could be a passive or an “active” consent. The passive consent, or “passive confidentiality” is one of the exceptions to the obligation to protect CSI according to Article 20(a) of Regulation 233/2009. It needs to be supported by a basic EU legal act, adopted by ordinary legal procedure (OLP), allowing the disclosure of confidential data unless there is a specific request from the concerned statistical unit for anonymization. On the contrary, in the active consent it is the statistical authority that needs to explicitly request the concerned statistical unit for a specific disclosure of their data and for each use case. The TF ECI II supports the recommendations for confidentiality management in business statistics in the ESS (Eurostat): *“When feasible in the relevant legislation, even changing the default from active to passive confidentiality could be considered”*.

¹⁹ Article 23 of Regulation 223/2009 and Article 8.1.c of Council Regulation 2533/98. It includes aggregation, anonymisation or other

IV. Changes to the ESS and ESCB legal acts

This chapter focuses on the legal framework with the assumptions that the necessary IT environment and additional protection measures for ECI are in place (Article 20.4 of Regulation 223/2009 and Article 8.3 of Council Regulation 2533/98)²⁰ and the requesting ESS/ESCB statistical authority does not transmit the statistical information further, without the authorisation from the originating ESS/ESCB statistical authority that collected the information (Article 21.3 of Regulation 223/2009 and Article 8a.2 of Council Regulation 2533/98). It is organised by first detailing the recommendations of the TF ECI II on the ECI of European Statistics, second explaining the changes needed in the statistical framework regulations to support the ECI more effectively.

The ECI among ESCB members of statistics collected under Article 5 of the Statute of the ESCB and the ECB²¹ for statistical purposes (and other ESCB tasks) is already required (Article 8.4 of Council Regulation 2533/98). In contrast, among ESS members it is not required (Article 21.1 of Regulation 223/2009) and is subject to national provisions on confidentiality except if there is an EU legal act (i.e. sectorial legislation) requiring the exchange of CSI among the ESS (and also between ESS and the ESCB) for statistical purposes of European Statistics to occur (Article 21.4 of Regulation 223/2009).

The TF ECI II investigated various possibilities to facilitate ECI but realised that only with changes to the ESS and ESCB legal acts the ECI between ESS and ESCB can improve considerably. The recommendations to amend the ESS and ESCB legal frameworks fits into the current window of opportunity provided by the planned review of the EU statistical framework regulations (Regulation 233/09 and Council Regulation 2533/98), which will not happen again in a decade or so.

The TF ECI II prepared three alternative recommendations to amend the EU statistical framework regulations, and one recommendation related to sectorial statistical legislation of ESS legal acts.

IV.1 Amend the EU statistical framework regulations

The TF ECI II prepared three alternative recommendations (see Table 3) to amend the ESS and ESCB legal statistical framework regulations, considering the CSI Tier system (criticality for ECI), with various degrees of impact on ECI. These alternatives can provide some flexibility to the legislator, as CSI Tier 2 exchanges are less critical or “controversial” in the context of ECI of European Statistics where the individual statistical information is not to be released to the public but are key to be exchanged for statistical purposes. The TF ECI II suggests articulating any of the alternatives in Table 3 with the recommendations #ECI.04 and #ECI.07 to strengthen the generic ECI framework with a multi-layered process that is not automatic but structured as envisaged by the joint repository (#ECI.04) and the joint guidance on the ECI process (#ECI.07).

Table 3 – Alternatives to amend EU statistical framework regulations by CSI Tier

CSI Tier \ Alternative	ECI required	ECI semi-required	ECI enabled
CSI Tier 1	Required	Enabled (<i>status quo</i>)	Enabled (<i>status quo</i>)
CSI Tier 2	Required	Required	Enabled (<i>status quo</i>)
CSI Tier 3	Required	Required	Required

statistical techniques that does not allow for direct identification.

²⁰ See chapter VI.1 Safe and secure ECI for further recommendations from the TF ECI II.

²¹ Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank ([link](#)).

Alternative 1. ECI required

The TF ECI II recommends (#ECI.01.a) amending the EU statistical framework regulations to set the ECI for European Statistics as a requirement. The TF ECI II recommendation #ECI.01.a is to amend Article 21 of Regulation 223/2009 and Article 8a of Council Regulation 2533/98 along the following blocks of reasoning provided in Table 4.

Table 4 – Legal formulation for the ECI required – recommendation TF ECI II #ECI.01.a

Context	Possible legal formulation
<i>Exchange of confidential statistical information (ECI)</i>	The exchange of confidential statistical information between an [ESS]/[ESCB] member that collected the information/data and an [ESCB/ESS]/[ESS] authority <u>shall</u> take place provided that:
<i>Aim: Statistical purposes of European statistics</i>	(i) it is necessary for the efficient development, production, or dissemination, or for increasing the quality of European statistics, within the respective spheres of competence of the ESS and the ESCB, and
<i>Request justification</i>	(ii) the necessity has been justified to the [ESS]/[ESCB] member.
<i>Cooperation agreements</i>	The ESS and/or ESCB members may conclude cooperation agreements to regulate the exchange of confidential statistical information for statistical purposes.

Alternative 2. ECI semi-required

The TF ECI II recommends (#ECI.01.b) amending the EU statistical framework regulations to:

- **set the ECI for European Statistics as a requirement for certain and well-defined types of confidential statistical information, and**
- **explicitly mention that the special cases of exception to the confidentiality regime are adopted for ECI between ESS and ESCB.**

The TF ECI II recommendation #ECI.01.b is to amend Article 21 of Regulation 223/2009 and Article 8a of Council Regulation 2533/98 along the following blocks of reasoning provided in Table 5.

Table 5 – Legal formulation for the ECI semi-required – recommendation TF ECI II #ECI.01.b

Context	Possible legal formulation	
<i>1. Exceptions to the enabling clause</i>	National rules on statistical confidentiality <u>shall not be invoked</u> to prevent the transmission of confidential data where an EU basic act provides for the transmission of such data or regarding the following data:	
CSI Tier 2	<i>Mirror data</i>	• mirror data, meaning when statistical authorities have the same level of information from the statistical units involved in an economic event;
	<i>Statistical unit ceased</i>	• data of statistical units that have ceased to exist (after the liquidation process is over);
	<i>“Old” data</i>	• data referring to periods older than 5 years;
	<i>Data on the “size” of the legal person and qualitative information on legal person’s registers data</i>	• data characterising the size of the unit (e.g. number of employees, total assets, total net financial and non-financial positions/flow); • qualitative information on legal person’s registers data (name address, institutional sector, economic activity, and all types of IDs);
	<i>Estimations</i>	• estimations of individual data done by the originating statistical authority.
<i>2. Reinforce the special cases of exception for ECI</i>	Explicitly mention that the special cases of exception to the confidentiality regime are also available for ECI between ESS and ESCB:	
CSI Tier 3	<i>Statistical unit consent</i>	• data that have obtained the consent from the statistical unit for the exchange.
	<i>Statistical data transformation</i>	• data that does not allow for direct identification such as aggregation or anonymisation.

Alternative 3. ECI enabled

The TF ECI II recommends (#ECI.01.c) amending the EU statistical framework regulations to explicitly mention that the special cases of exception to the confidentiality regime are also available for ECI between ESS and ESCB. The TF ECI II recommendation #ECI.01.c is to broadly maintain the *status quo* by amending Article 21 of Regulation 223/2009 and Article 8a of Council Regulation 2533/98 along the following blocks of reasoning provided in Table 6.

Table 6 – Legal formulation for the ECI enabled – recommendation TF ECI II #ECI.01.c

Context		Possible legal formulation
<i>Reinforce the special cases of exception to the confidentiality regime for ECI</i>		Explicitly mention that the special cases of exception to the confidentiality regime are also available for ECI between ESS and ESCB:
CSI Tier 3	<i>Statistical unit consent</i>	• data that have obtained the consent from the statistical unit for the exchange.
	<i>Statistical data transformation</i>	• data that does not allow for direct identification such as aggregation or anonymisation.

ECI multi-layered process

The alternative recommendations have different emphasis with alternative 1 (#ECI.01.a ECI required) focusing more on the justification (e.g. are these data really needed for ECI), alternative 2 (#ECI.01.b ECI semi-required) focusing more on the type and nature of the confidential statistical information (e.g. sharing names and ESA sectors may be a rather non-controversial exchange), and alternative 3 (#ECI.01.c ECI enabled) focusing more on protection and keeping the status quo.

In any of these cases, the TF ECI II recommendations are not to be interpreted as an automatic clause but instead a multi-layered process to ensure a proper balance for the ECI (“necessary and justified”), taking into account the operational costs and risks for engaging on ECI. The multi-layered process comprises the following steps:

- *Step 1. Justification of the necessity by the requesting statistical authority:*
The first step for ECI is for the requesting ESS/ESCB statistical authority to **justify the necessity** in writing to the originating ESS/ESCB statistical authority that collected the statistical information.²² The requesting statistical authority needs to demonstrate in writing to the originating statistical authority that the exchange is for the efficient development, production and dissemination²³ of European Statistics or for increasing the quality of European Statistics, within the respective spheres of competence of the ESS and the ESCB. In addition, the requesting statistical authority specifies for how long the ECI is needed, with a maximum of 5 years, at which point the ECI needs to be review (recertification). Any subsequent modification to the initial requested statistical purpose would need to be cleared again with the originating statistical authority.²⁴

In turn, the originating ESS/ESCB statistical authority starts by confirming whether the request is about “statistical information” in relation with **European Statistics** (Article 1 of Regulation 223/2009 and Article 1.1a of Council Regulation 2533/98) that comprises all collected data and metadata needed for the compilation of European statistics that have an EU legal basis (e.g. balance of payments statistics) and other official statistics, comprising experimental statistics, that are included in the statistical work programmes of the ESS/ESCB (e.g. new/experimental statistics on trade by enterprise characteristics).²⁵ This means that all

²² Sharing data under embargo that may be market sensitive (e.g. statistical press release on HICP) may not be CSI by definition. Embargo data is about the timing of the sharing and the access before publication needs to be formulated in an MoU between the statistical authorities. After the embargo time, the ECI rules apply normally.

²³ ECI may only be used for statistical purposes and not for publication as such. However, it may be used for the production of European statistics for dissemination that are publishable if the conditions for that are in place (i.e. CSI is always protected, respect of the respective spheres of competence of ESS and ESCB).

²⁴ Under alternative 2 (#ECI.01.b ECI semi-required), the requesting statistical authority must also demonstrate the CSI required is one of the exceptions to the enabling clause included in amended statistical framework regulations.

²⁵ See Annex IV to the 2022 work programme of the single market programme - European statistics ([link](#)).

data used in the compilation of European Statistics (e.g. data sources such as surveys and administrative data, master data such as business registers, data from market data providers, publicly available data) become statistical information and are subject to the required ECI between ESS and ESCB, as recommended by the TF ECI II.

- *Step 2. Special cases of exception to the confidentiality regime for ECI*

This step is to facilitate the exchange of data between statistical authorities by looking into ways of not dealing with CSI in the first place, as in some cases exchanging data (even if transformed) is better than not exchanging data at all.²⁶ It only makes sense to pursue this “solution” if it is effective to do so, i.e. it still serves the needs of the receiving ESS/ESCB statistical authority and avoids difficulties with ECI at the most detailed level of the data (i.e. statistical units). It relies on the special cases of exception to the confidentiality regime to investigate whether it is effective to get the consent of the statistical units involved or transform the statistical information, for instance through aggregation or anonymisation.²⁷

- *Step 3. Justification of course of action by the originating statistical authority*

The ESS/ESCB originating statistical authority provides in writing its course of action concerning the exchange of CSI to the requesting ESS/ESCB statistical authority, preferably within a reasonable time frame.²⁸ If there is no objection by the ESS/ESCB statistical authority, the required ECI can proceed (including it in the ECI joint repository). On the contrary, in case of objection to the ECI, the originating statistical authority describes the specific circumstances and/or the nature or content of the CSI for which an exchange with the receiving ESS/ESCB statistical authority is not possible, after considering CSI Tier 2 (if relevant) and ultimately CSI Tier 3 (special cases).

The arguments for the objection may be varied and will need to be assessed on a case-by-case basis. In practice, they may concern cases that:

- the justification is not clearly demonstrated (e.g. an NSI does not need detailed supervisory bank data for its European Statistics function),
- the information requested is not considered “statistical” as it is not used in the compilation of European Statistics by the originating statistical authority (e.g. probability of default of statistical units), and
- the statistical information may be protected with specific non-statistical legal regime that needs to be assessed, notably with regards to reusing of data or integrated/multi-purpose data collections (e.g. individual data of natural persons, secret information on fiscal data, supervisory data, or regulatory data, and contracts with market data providers such as licenses, etc).

ECI encouraged for national statistics

The TF ECI II recommends (#ECI.02) mentioning in the recitals of the EU statistical framework regulations the case of national official statistics to encourage a similar approach of the ECI of European Statistics also to exchange of CSI of national official statistics. The following legal formulation (see Table 7) is inspired in the

²⁶ In some situations, the statistical authorities do not need to exchange the maximum available details available in the originating ESS/ESCB statistical authority (e.g. for calculation of macroeconomic statistics) or can make the exchange work with anonymised data (e.g. the FDI Asymmetry Resolution Mechanism uses this approach). In many cases this has clearly proven to be a sub-optimal solution, due to additional burden to process the information, but still in specific cases it might be better than not exchanging data.

²⁷ For example, the originating statistical authority examines whether the statistical information can be transformed with aggregation or anonymisation techniques to reduce CSI and still serving the statistical needs of the requesting statistical authority. The result may still be confidential via indirect identification but is “mitigated” because the identification of the statistical units by the requesting statistical authority is very difficult and the exchange for statistical purposes can proceed.

²⁸ Ideally within 10 working days for the first time or setting up ECI. Any subsequent ECI would be executed with the agreed timeliness between the statistical authorities.

current recital 7 of Regulation 223/2009 (the bold text presents a proposal to add), but no similar recital exists in Council Regulation 2533/98. However, similar wording could be used in both statistical framework regulations.

Table 7 – Legal formulation for national statistics – recommendation TF ECI II #ECI.02

Context	Possible legal formulation
<i>Recital on National Statistics to follow a similar approach on exchange of CSI as in European Statistics</i>	Furthermore, it is important to ensure close cooperation and appropriate coordination between the ESS and the European System of Central Banks (ESCB), notably to foster the exchange of confidential data between the two systems for statistical purposes, in the light of Article 285 of the Treaty and of Article 5 of the Protocol (No 18) on the Statute of the European System of Central Banks and the European Central Bank annexed to the Treaty. <i>It is recommended to follow a similar approach not only for European Statistics but also for national statistics, based on appropriate national law.</i>

The connection between statistical authorities also happens on national statistics not considered European Statistics. For instance, health and economic emergencies have demonstrated the need for cooperation in data sharing and reinforced the importance of access to various data sources for the efficient development of official national statistics. The optimal delivery of the ESS and ESCB statistical functions in national statistics also means the need for an ECI that is justified, controlled, and with the necessary guarantees for an adequate data protection.

The TF ECI II concluded that strengthening the lawful cases of ECI of national statistics for statistical purposes increases the collaboration and trust between ESS/ESCB statistical authorities. While the EU statistical framework regulations cannot regulate other statistics than European Statistics, the TF ECI II recommends mentioning the case of national official statistics in the EU statistical framework regulations' recitals to encourage a similar approach of the ECI of European Statistics also to the ECI of national statistics.

In particular, the TF ECI II recommends the ECI for statistical purposes of national statistics is encouraged when verified that national statistics are included in the official statistical programme of the receiving and originating statistical authorities (national and/or international), subject to adequate legal provisions for safeguarding statistical confidentiality and data protection.

A MoU between the statistical authorities may be considered for describing the conditions under which the data exchange takes place. Similarly, to the European Statistics, the originating statistical authority assess the specific circumstances and/or the nature or content of the information to be exchanged, and replies in writing to the receiving statistical authority with its conclusion.

IV.2 EU statistical legislation

The TF ECI II recommends (#ECI.03) using EU sectorial legislation (ESS feature) more frequently to facilitate ECI. The statistical framework regulations provide general rules and principles, but they do not include the mandate to produce any specific statistics. In the ESS this is done through sectorial legislation (e.g. Regulation (EU) 2019/2152 of the European Parliament and of the Council of 27 November 2019 on European business statistics). The sectorial legislation may include special rules for some type of statistics as regards the confidentiality regime, such as a compulsory exchange of CSI among statistical authorities or passive confidentiality rules (e.g. Intrastat in European business statistics Regulation). Without prejudice to the recommendations referring to the changes in the statistical framework regulations, the inclusion of specific rules for ECI among and between ESS/ESCB in sectorial legislation will also improve and facilitate the ECI.

V. Joint repository for ECI between ESS and ESCB

The TF ECI recommends (#ECI.04) implementing a joint repository for ECI between ESS and ESCB supported by a reference in the statistical framework regulations, maintained by the CMFB (assisted by Eurostat and the ECB), and its functioning detailed in the ECI toolbox and joint common guidance.²⁹ Every year, the CMFB prepares a document for the CMFB plenary meeting with an evaluation of the ECI results and follow-up actions.

Building trust between ESS and ESCB for ECI is key for an effective statistical function at the European level. In this regard, the existence of a joint repository with all the justified needs, maintained by the ESS and/or ESCB as originators of ECI, would be recommendable for traceability purposes. This repository would follow a defined life cycle by opening and closing a request, approval status, detailing the receiving and originating statistical authorities, format and any other circumstance that occurred during the procedure.

Definition of the joint ESS/ESCB repository:

- Catalogue of metadata on ECI for statistical purposes of European Statistics (ongoing data collections and in development as included in the ESS/ESCB statistical work programs).
- The metadata should follow standards on concepts, definitions, code lists, and be interlinked to existing metadata repositories if already existing at national level.
- The joint repository is provided in Excel format (see Annex D).

Governance of the repository:

- The CMFB assisted by Eurostat and the ECB is responsible for the infrastructure and for keeping the joint repository updated at the end of each quarter, including the recertification (i.e. when the ECI period is about to expire).
- The joint repository is to be centrally located and accessible by all designated authorities (ESS/ESCB), with appropriate and verifiable access rights. Security measures should be implemented in regulating the access rights.
- The receiving ESS/ESCB statistical authority is responsible for opening the request and informing the originating statistical authority of the ECI id.
- The originating ESS/ESCB statistical authority is responsible for closing the request and informing the receiving statistical authority and the CMFB.
- Every year, the CMFB (assisted by Eurostat and the ECB) will prepare a document for the CMFB plenary meeting with an evaluation of the ECI results and follow-up actions. In particular, the evaluation should look into patterns and trends of the ECI.

VI. Further recommendations to facilitate the ECI

The TF ECI II studied several possibilities to facilitate the ECI (see Annex B) but, in addition to the previous chapters, selected only a few of them for its final report as described in the next two sections.³⁰

VI.1 Safe and secure ECI

²⁹ See Chapter VI.2 for the ECI tool box and joint common guidance on ECI.

³⁰ The TF ECI II investigated in detail the possibility 9 of its interim report (Narrow the indirect identification definition for CSI; the Rule-of-2*). The reduction of the confidentiality flags in four separated data studies was measured to decrease between 8 and 2 percentage points compared to the current dominance rule. The risk of indirect identification increased but this would not be a major issue for the ECI framework that is designed to exchange CSI withing safe and secure environments. Nevertheless, it was also concluded that the burden reduction on applying such a modified rule-of-2* is not significantly lower and that maintaining two different flagging systems (one for ECI and another for disclosure) is not ideal. Therefore, the TF ECI II did not issue any recommendation for the Rule-of-2*.

The TF ECI II recommends (#ECI.05) mandating a joint task force composed of technical experts from the ESS and ESCB statistical systems to develop common rules and minimum standards on secure environments for transmission, storage and access of CSI to exchange, for adoption by all the ESS and ESCB statistical authorities and prepare a Memorandum of Understanding to be adopted while the legal framework is not amended.

The ECI is evolving and is becoming a prerequisite for a smooth and efficient development, production, dissemination, and increase of the quality of European Statistics by the ESS and ESCB. The final report of the TF ECI I (see chapter V.2) revealed that the ESS and ESCB still encounter non-legal barriers (in addition to the legal ones) that make ECI impossible or very difficult.³¹ The non-legal barriers comprise technical, regulatory and administrative issues.

A relevant aspect of the non-legal barriers is the role of technology, which provides solutions to mitigate risks of leaks and misuse of CSI. These concern specifically the:

- **Transmission**, need to ensure the security of the transmission channel,
- **Storage**, need to keep CSI securely stored;
- **Access**, need to take decisions in respect of granting, requesting, monitoring access to CSI, and the circulation of CSI in general.

The EU statistical framework regulations (Article 20.4 of Regulation 223/2009 and Article 8.3 of Council Regulation 2533/98) impose the need for adopting all necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of CSI by all statistical authorities. While for the ESS the Commission may harmonise and standardise such measures by comitology (not implemented yet), for the ESCB the common rules and minimum standards have been adopted already.³² Although the level of protection is similar in all Member States and in both systems, these common rules and minimum standards are not harmonised in the ESS, between the ESS members, and between the ESS and ESCB.³³

The cost of ECI may be a significant potential non-legal barrier both in terms of IT solutions to be implemented by ESS/ESCB statistical authorities and in terms of human resources to set up and maintain them. ECI should be driven and documented by clear use cases and the investment on common rules and minimum standards should be proportional to the benefits it brings.

The set of draft principles are presented in the Annex IV.F of the TF ECI II interim report.

VI.2 ECI toolbox and joint common guidance on ECI

The TF ECI II recommends (#ECI.06) setting up a ECI toolbox to be updated by the ESS/ESCB statistical authorities and the CMFB to be responsible to curate, review and maintain its content on a yearly basis. As described in the final report of the TF ECI I (see chapter V.I.2), approximately 30% of the respondents to the questionnaire of the TF ECI I identified the lack of practical guidance and tools as an obstacle to ECI. The TF ECI II examined the possibilities to tackle such an obstacle and concluded that establishing a “ECI toolbox” to

³¹ See Section V.2 "Legal and cultural restrictions for sharing CSI" of the final report of the TF ECI I.

³² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016O0001>

³³ In addition, the European Interoperability Framework (https://ec.europa.eu/isa2/eif_en) should be considered, whenever possible by Member States to overcome non-legal barriers to interoperability. Thus, organisational arrangements across different organisations, standard solutions for the semantics of the CSI exchanged (i.e., alignment of concepts, definitions and metadata) and technical aspects, such as software architecture, tools and security measures, could support the CSI exchanges.

facilitate the process of participating in ECI would be effective.

The ECI toolbox aims at providing support to the ESS/ESCB statistical authorities to start and set up ECI with other ESS/ESCB statistical authorities. It contains information, examples, and templates ready to use by the statistical authorities to further facilitate the ECI, and includes the following components:³⁴

- Relevant legislation and joint common guidance
- Operational guidance
- Memorandum of understanding or other type of agreements
- Templates of requests for statistical purposes
- Communication with the reporting agents
- Main roles in the process of ECI

The TF ECI II recommends (#ECI.07) preparing jointly by the ECB and Eurostat of opinions, letters, or other type of guidance that can be a powerful tool for common and harmonised practices on ECI. The TF ECI II concluded that promoting clarity on ECI for statistical purposes of European Statistics is key to strengthen trust on ECI between ESS and ESCB statistical authorities. In addition to the transparency between receiving and originating ESS/ESCB statistical authorities engaged on ECI, the reporting agents and other data providers would have a clearer understanding of how their data would be used and which guaranties are provided to them under the ECI between ESS and ESCB.

The joint common guidance prepared by Eurostat and ECB would describe the principles, common rules, minimum standards, the ECI multi-layered process, best practices, and up-to-date interpretation of definitions on ECI such as:

- principles about policies and practices on ECI for statistical purposes of European Statistics;
- principles for common rules and minimum standards on transmission, storage, and access to CSI (see Chapter VI.1);
- principles of accountability for complying with the measures to protect ECI by ESS and ESCB statistical authorities;
- guidance for further processing of the data and on the different ways to identify primary and secondary confidentiality by the receiving ESS/ESCB statistical authority;
- interpretation of statistical confidential information;
- interpretation of ECI for statistical purposes of European Statistics and its multi-layered process (see Chapter IV);
- detailed functioning of the Joint repository for ECI between ESS and ESCB (see Chapter V)
- new definitions derived from the European Commission Data Strategy such as: data sharing, data, re-use of data and data holder.

VII. Conclusions and further work

The TF ECI II investigated, analysed, and recommended several key changes to improve and facilitate the ECI between the ESS and ESCB. Its recommendations are addressed to various key players in the ECI for European Statistics, also encouraging a similar approach to ECI for national official statistics. A great deal of attention was dedicated to legal, technical and infrastructural aspects for aspiring a harmonised and effective ECI between the ESS and the ESCB. Furthermore, the timing to act is of essence as the window of opportunity provided by the planned revision of the EU statistical framework regulations will not happen again in a decade or so.

³⁴ See Annex E. This list is non-exhaustive and can be further expanded over time in a learn-by-doing fashion.

In consequence, the TF ECI II researched and recommended changes to the EU statistical framework regulations so that their interplay with national legislation on ECI for statistical purposes of European Statistics is strong enough to supersede certain prohibiting national provisions on ECI existing in some EU countries. Only by adopting these changes that facilitate the ECI and considering that it is a multi-layered process that assess the operational costs and risks for engaging on ECI, the ESS/ESCB statistical authorities will be able to openly cooperate more effectively on European Statistics.

The TF ECI II also reiterates the importance of safe and secure environments for transmission, storage and access of CSI to exchange. In this regard, the adoption of principles that establish common rules and minimum standards is of great importance to have trustful ECI between the ESS and the ESCB. The TF ECI II recommends that a new CMFB joint task force takes on the initial work done to further develop and finalise the common rules and minimum standards on secure environments for transmission, storage and access of CSI to exchange, including all necessary technical and procedural aspects, and to prepare a Memorandum of Understanding to be adopted while the legal framework is not amended.

Finally, the TF ECI II focused exclusively on the ECI for statistical purposes addressing the statistical needs of the ESS/ESCB statistical authorities. In many occasions during the TF ECI II discussions, the access to CSI for other purposes than official statistics was mentioned, such as the access to CSI for research projects and other data users. There is clearly a need for future work in the field of access to CSI for other purposes than official statistics that could bring some harmonisation of practices across the ESS and the ESCB.

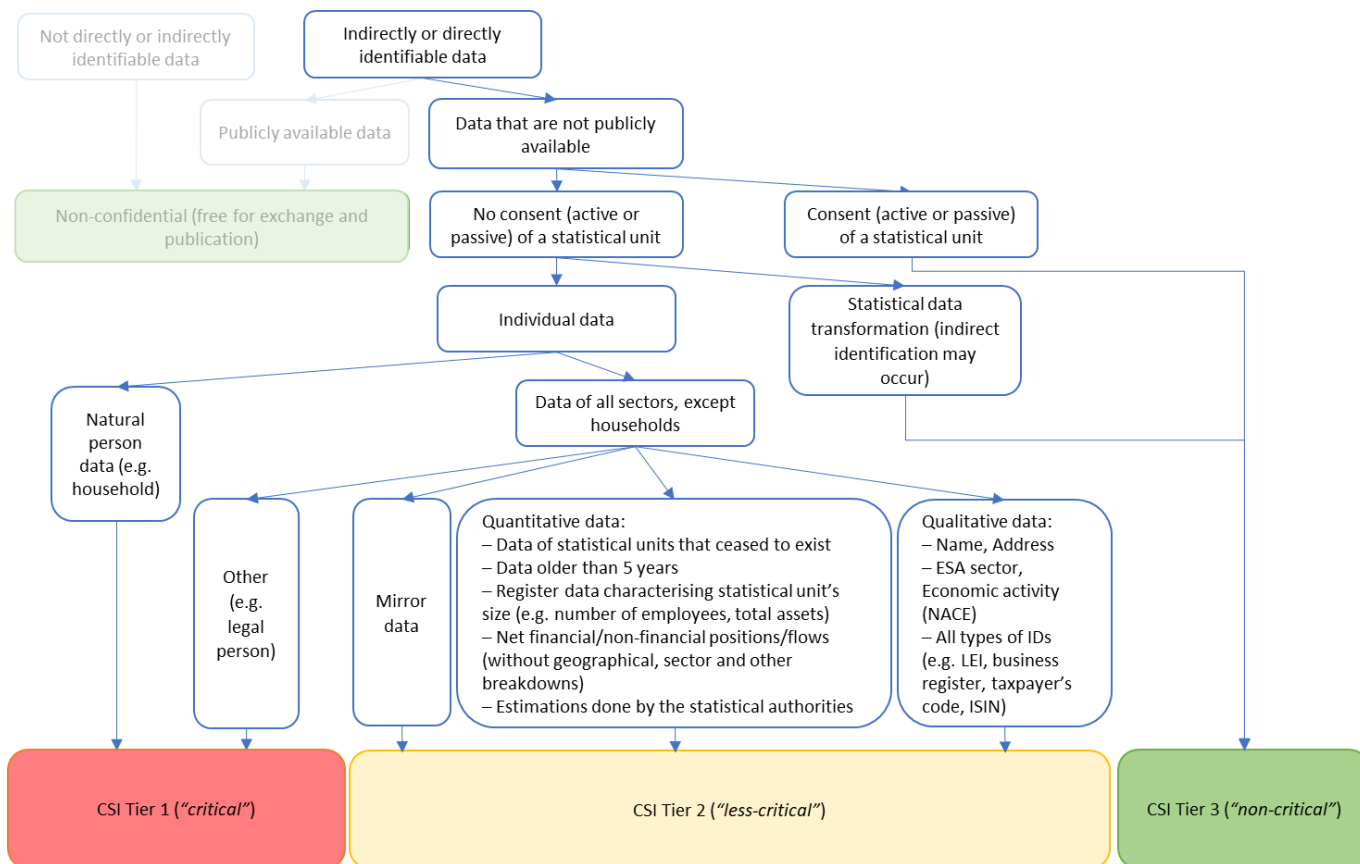
Annex A: Members of the TF ECI II

First semester of 2022	Second semester of 2022
	DIZ DIAS Jorge (ECB) – Co-chair
	GALVEZ Adolfo (NSI ES) – Co-chair
	DEBRUYN Johan (Eurostat) – Co-secretary
	HERNANDEZ Cecilia (ECB) – Co-secretary
	ANDERSONE Gunta (NCB LV)
	ERAMO Ginette (NCB IT)
	GARCIA-CID Teresa (NCB ES)
	GOMEZ Yolanda (NSI ES)
	LECRONE Julian (NCB DE)
	MORGANTI Enrica (Eurostat)
	NEGA Stamatina (NCB GR)
	ROMBAUTS Yannick (NCB BE)
	SOLDATO Olimpia (NCB IT)
QUILL Patrick (NSI IE)	SCOLLARD Conall (NSI IE)
ALVAREZ-PELAEZ Maria José (NSI DK)	--
--	PONCET H�el�ene (NSI FR)

Annex B: Possibilities and combinations to facilitate ECI for statistical purposes in the TF ECI II interim report

<i>Link</i>	Possible solutions <i>(bold text indicates the best combination)</i>	Benefit for ECI	Values for ECI
A. Requiring changes in framework regulations			
1	Enabling clause turned into a mandatory clause for ECI	Very high	Openness for collaborating
2	National statistics added to the definition of statistical purposes for ECI	Very high	Connecting statistical authorities
3	Joint repository for ECI between ESS and ESCB	Very high	Traceability of exchanges
4	Mirror principle for ECI <i>(not needed if 1 is achieved)</i>	High	Openness for collaborating
5	Publicly available data	Medium	Harmonise definitions
B. Requiring changes in other legislation			
6	Rules and procedures on secure environments	Very high	Trust between authorities
7	Passive confidentiality extended	High	Reduce the amount of CSI <i>(benefit beyond ECI)</i>
8	Freshness of the data	Medium	Reduce the amount of CSI <i>(benefit beyond ECI)</i>
9	Narrow the indirect identification definition for CSI	Medium	Reduce the amount of CSI <i>(benefit beyond ECI)</i>
10	Non-sensitive register type data	Medium	Reduce the amount of CSI <i>(benefit beyond ECI)</i>
C. Non-binding regulatory acts			
11	Eurostat and ECB joint common guidance	Very high	Clarity
12	National MoUs on ECI <i>(not needed if 2 is achieved)</i>	High	Connecting statistical authorities
13	Standards on secure environments <i>(not needed if 6 is achieved)</i>	High	Trust between authorities
D. Other			
14	Agreement and adoption of the principles for secure environments by the CMFB <i>(not needed if 6 is achieved)</i>	Very high	Trust between authorities
15	Toolbox for ECI	Very high	Efficiency
16	Information exchange network	High	Connecting statistical authorities
17	Classification of data by its sensitivity	Medium	Risk control <i>(benefit beyond ECI)</i>
18	Mirror data confirmation	Medium	Openness for collaborating
19	Statistical purpose clarification <i>(not needed if 11 is achieved)</i>	Medium	Clarity

Annex C: Three-Tier classification system for CSI for ECI



Annex D: Fields suggested for a Joint ESS/ESCB repository for ECI on European Statistics

1	Global ECI id request	12	Reason for the objection
2	Receiving statistical authority: name	13	Status (0=open, 1=closed)
3	Originating statistical authority: name	14	Necessity for ECI
4	Receiving statistical authority: country	15	Memorandum of understanding (specify)
5	Originating statistical authority: country	16	Legal basis
6	CSI Tier (code list)	17	Data exchange period length (years)
7	Data name: data source name	18	Recertification date
8	Data type: frequency (code list)	19	Confidentiality and security measures supporting the exchange (code list)
9	Request date	20	Related id request (optional)
10	Reply date	21	Notes
11	Acceptance/Objection date		

Remarks: automatic calculated fields marked in green highlight.

Annex E: ECI Toolbox prototype

This annex provides an example on how the ECI Toolbox could be presented. Its content would need to be curated with the relevant aspects of ECI between the ESS and ESCB. It would be stored in the CMFB website.

1. Relevant legislation and joint common guidance

Legal acts on ECI preselected from Eurolex and joint ESS and ESCB common guidance on ECI for statistical purposes of European Statistics.

Examples

- Regulation (EC) No 223/2009: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32009R0223>
 - Regulation (EC) No 2533/98: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31998R2533>
 - ECB legal acts: <https://eur-lex.europa.eu/browse/institutions/bank.html?locale=en>
-

2. Operational guidance

Guidance and reports related to ECI of European Statistics and national statistics.

Examples

- CSI-sharing requirements (secure transmission, storage and access) developed by the TF (see p. 48–51 of the Interim Report)
 - Joint guidance to be developed by the ECB and Eurostat (p. 18 of the Interim Report)
 - Statistical confidentiality Report 2020 of the ECB
<https://www.ecb.europa.eu/stats/pdf/statisticalconfidentialityprotectionreport2020.pdf>
 - ECB Guideline [Guideline \(EU\) 2016/256 of the European Central Bank of 5 February 2016 concerning the extension of common rules and minimum standards to protect the confidentiality of the statistical information collected by the European Central Bank assisted by the national central banks to national competent authorities of participating Member States and to the European Central Bank in its supervisory functions \(ECB/2016/1\)](#)
 - Detailed functioning of the Joint repository for ECI between ESS and ESCB
-

3. Memorandum of understanding or other type of agreements

Agreements or binding measures relating to legal, technical and confidentiality aspects of ECI.

Examples

- Statistics Canada: <https://www.statcan.gc.ca/en/about/accountability/receiving/obligation-duties/confidentiality-temp>
- Guide to Sharing Economic Data in Official Statistics (p. 71) https://unece.org/sites/default/files/2021-02/Data%20sharing%20guide%20on%20web_1.pdf
- Networking Exercises: The FDI Network <https://www.imf.org/external/pubs/ft/bop/2014/pdf/14-20.pdf>

- Draft data sharing code of practice (pp. 25–30) of ICO, the UK's independent body set up to uphold information rights <https://ico.org.uk/media/about-the-ico/consultations/2615361/data-sharing-code-for-public-consultation.pdf>
- US Social Security Administration <https://www.ssa.gov/dataexchange/statemodels.html>
- GNI MNE Group Pilot Exercise: https://unece.org/fileadmin/DAM/stats/documents/ece/ces/ge.20/2018/mtg2/UNECE_Task_Force_-_EU_GNI_MNE_Group_Pilot_Exercise.pdf
- Early Warning System (EWS) <https://ec.europa.eu/eurostat/web/economic-globalisation/early-warning-system#:~:text=The%20EWS%20is%20a%20structured,work%20on%20concrete%20restructuring%20cases.>

4. Templates of requests for statistical purposes

ECI requests, statistical domains, contents to be exchanged, expected benefits for the justification (efficient production, development, dissemination and increase of quality), legal examples, etc.

Examples

- Eurostat's document on granting access to microdata for scientific purposes. In the document there is a link to the application form.³⁵ https://ec.europa.eu/eurostat/documents/203647/771732/How_to_apply_for_microdata_access.pdf

5. Communication with the reporting agents

Asking of consent, clarification of the statistical purpose use of data, etc.

The example template should contain the purpose of the use of data, the list of data that will be used, the time period of data, the length of the use of the data, the name of the institution that will use the data, the references to the relevant legislation (EU and national), the aim/product that will be achieved by using the data.

6. Main roles in the process of ECI

Description of the roles of the involved parties on ECI.

Examples

- Data sharing: Receiving Organizations obligations and duties; source Statistics Canada <https://www.statcan.gc.ca/en/about/accountability/receiving/obligation-duties>

³⁵ This example currently refers to a document of Eurostat on granting access to microdata for scientific purposes. An illustration or document referring to a request between statistical institutions would be more appropriate here and could be worked out in the future within this toolbox as a kind of standard for such CSI requests.