

DEN EUROPÆISKE CENTRALBANKS AFGØRELSE (EU) 2017/2081**af 10. oktober 2017****om ændring af afgørelse ECB/2007/7 om de nærmere vilkår for TARGET2-ECB (ECB/2017/30)**

DIREKTIONEN FOR DEN EUROPÆISKE CENTRALBANK HAR —

under henvisning til traktaten om Den Europæiske Unions funktionsmåde, særlig artikel 127, stk. 2, første og fjerde led,

under henvisning til statuttet for Det Europæiske System af Centralbanker og Den Europæiske Centralbank, særlig artikel 3.1, og artikel 17, 18 og 22, og

ud fra følgende betragtninger:

- (1) Den 22. september 2017 ændrede Styrelsesrådet retningslinje ECB/2012/27 ⁽¹⁾ for at: a) afspejle Styrelsesrådets afgørelse af 9. juni 2016 om at harmonisere forrentningen af finansielle markedsinfrastrukturers garantifonde, der holdes af Eurosystemet, i retsgrundlaget for TARGET2, b) afspejle, at den integrerede model, som anvendes i afviklingsprocedurer i afviklingssystemer, ikke længere vil blive tilbudt, efter planen for migrering af TARGET2-Securities (T2S) er afsluttet i september 2017, c) indføre en ny afviklingsprocedure i afviklingssystemet, der understøtter etableringen af en paneuropæisk løsning til betalinger med øjeblikkelig overførsel (afviklingsprocedure 6 realtid) og d) præcisere vise aspekter af retningslinje ECB/2012/27.
- (2) For at afspejle ændringerne til retningslinje ECB/2012/27, som vedrører de nærmere vilkår for TARGET2-ECB, hvor det er nødvendigt, og at præcisere enkelte andre punkter i vilkårene, bør afgørelse ECB/2007/7 ⁽²⁾ ændres tilsvarende —

VEDTAGET DENNE AFGØRELSE:

*Artikel 1***Ændringer**

1. Følgende artikel 3a indsættes:

*»Artikel 3a***Forrentning af garantifonde**

1. »Garantifonde« (guarantee funds): midler tilvejebragt af deltagerne i et afviklingssystem, som skal anvendes i tilfælde af, at en eller flere deltagere, af en hvilken som helst årsag, ikke er i stand til at opfylde deres betalingsforpligtelser i afviklingssystemet.
 2. Garantifonde forrentes med renten for indlånsfaciliteten.«
2. Bilag I og II til afgørelse ECB/2007/7 ændres i overensstemmelse med bilaget til denne afgørelse.

*Artikel 2***Ikrafttrædelse**

Denne afgørelse træder i kraft den 20. oktober 2017.

⁽¹⁾ Retningslinje ECB/2012/27 af 5. december 2012 om TARGET2 (Trans-European Automated Real-time Gross settlement Express Transfer system) (EUT L 30 af 30.1.2013, s. 1).

⁽²⁾ Afgørelse ECB/2007/7 af 24. juli 2007 om de nærmere vilkår for TARGET2-ECB (EUT L 237 af 8.9.2007, s. 71).

Den finder anvendelse fra den 13. november 2017.

Udfærdiget i Frankfurt am Main, den 10. oktober 2017.

For ECB's Direktion

Mario DRAGHI

Formand for ECB

BILAG

Bilag I og II til afgørelse ECB/2007/7 ændres således:

1. Bilag I ændres således:

a) I artikel 1 ændres definitionen af »afviklingssystem« som følger:

»ancillary system' means a system managed by an entity established in the European Economic Area (EEA) that is subject to supervision and/or oversight by a competent authority and complies with the oversight requirements for the location of infrastructures offering services in euro, as amended from time to time and published on the ECB's website (*), in which payments and/or financial instruments are exchanged and/or cleared or recorded with (a) the monetary obligations settled in TARGET2 and/or (b) funds held in TARGET2, in accordance with Guideline ECB/2012/27 (**), and a bilateral arrangement between the ancillary system and the relevant Eurosystem CB.

(*) Eurosystemets nuværende politik for placering af infrastrukturer fremgår af følgende dokumenter, som alle findes på ECB's websted www.ecb.europa.eu: (a) the policy statement on euro payment and settlement systems located outside the euro area of 3 November 1998; (b) the Eurosystem's policy line with regard to consolidation in central counterparty clearing of 27 September 2001; (c) the Eurosystem policy principles on the location and operation of infrastructures settling in euro-denominated payment transactions of 19 July 2007; (d) the Eurosystem policy principles on the location and operation of infrastructures settling euro-denominated payment transactions: specification of 'legally and operationally located in the euro area' of 20 November 2008; (e) the Eurosystem oversight policy framework of July 2011, subject to the judgment of 4 March 2015 *United Kingdom v European Central Bank*, T-496/11, ECLI:EU:T:2015:496.

(**) Retningslinje ECB/2012/27 af 5. december 2012 om TARGET2 (Trans-European Automated Real-time Gross settlement Express Transfer system) (EUT L 30 af 30.1.2013, s. 1).«

b) Artikel 28 ændres som følger:

i) Stk. 6 affattes således:

»6. If a PM account holder is suspended from TARGET2-ECB on grounds other than those specified in paragraph (1)(a), all of its incoming payments and outgoing payment orders shall be stored and only entered into the entry disposition after they have been explicitly accepted by the suspended PM account holder's CB.«

ii) Følgende indsættes som stk. 7:

»7. If a PM account holder is suspended from TARGET2-ECB on the grounds specified in paragraph (1)(a), any outgoing payment orders from that PM account holder shall only be processed on the instructions of its representatives, including those appointed by a competent authority or a court, such as the PM account holder's insolvency administrator, or pursuant to an enforceable decision of a competent authority or a court providing instructions as to how the payments are to be processed. All incoming payments shall be processed in accordance with paragraph 6.«

c) Artikel 32 ændres som følger:

i) Stk. 2 affattes således:

»2. By derogation from paragraph 1, the participant agrees that the ECB may disclose payment, technical or organisational information regarding the participant, participants from the same group or the participant's customers obtained in the course of the operation of TARGET2-ECB to: (a) other CBs or third parties that are involved in the operation of TARGET2-ECB, to the extent that this is necessary for the efficient functioning of TARGET2 or the monitoring of the participant's or its group's exposure; (b) other CBs in order to carry out the analyses necessary for market operations, monetary policy functions, financial stability or financial integration; or (c) supervisory and oversight authorities of Member States and the Union, including CBs, to the extent that this is necessary for the performance of their public tasks, and provided in all such cases that the disclosure is not in conflict with the applicable law. The ECB shall not be liable for the financial and commercial consequences of such disclosure.«

ii) Stk. 3 affattes således:

»3. By derogation from paragraph 1 and provided that this does not make it possible, whether directly or indirectly, to identify the participant or the participant's customers, the ECB may use, disclose or publish payment information regarding the participant or the participant's customers for statistical, historical, scientific or other purposes in the exercise of its public functions or of functions of other public entities to which the information is disclosed.«

d) I tillæg I erstattes afsnit 8, nr. 8, litra c), af følgende:

»(c) from the PM account to the technical account managed by the ancillary system using settlement procedure 6 real-time; and«

e) Tillæg IV ændres således:

i) Stk. 6, litra a), affattes således:

»(a) If it deems it necessary to do so, the ECB shall initiate the contingency processing of payment orders using the Contingency Module of the SSP or other means. I disse tilfælde ydes kun et mindstemål af service til deltagerne. The ECB shall inform its participants of the start of contingency processing by means of any available means of communication.«

ii) Stk. 8, litra b), affattes således:

»(b) In the event of a failure of the ECB, some or all of its technical functions in relation to TARGET2-ECB may be performed by other Eurosystem CBs or the SSP.«

f) I tillæg V affattes tabellen i afsnit 3 således:

»Time	Description
6.45-7.00	Business window to prepare daytime operations (*)
7.00-18.00	Daytime processing
17.00	Cut-off time for customer payments (i.e. payments where the originator and/or the beneficiary of a payment is not a direct or indirect participant as identified in the system by the use of an MT 103 or MT 103 + message)
18.00	Cut-off time for interbank payments (i.e. payments other than customer payments)
18.00-18.45 (**)	End-of-day processing
18.15 (**)	General cut-off time for the use of standing facilities
(Shortly after) 18.30 (***)	Data for the update of accounting systems are available to CBs
18.45-19.30 (***)	Start-of-day processing (new business day)
19.00 (***)-19.30 (**)	Provision of liquidity on the PM account
19.30 (***)	'Start-of-procedure' message and settlement of the standing orders to transfer liquidity from the PM accounts to the sub-accounts/technical account (ancillary system-related settlement)
19.30 (***)-22.00	Execution of additional liquidity transfers via the ICM for settlement procedure 6 real-time; execution of additional liquidity transfers via the ICM before the ancillary system sends the 'start-of-cycle' messages for settlement procedure 6 interfaced; settlement period of night-time ancillary system operations (only for ancillary system settlement procedure 6 real-time and settlement procedure 6 interfaced)
22.00-1.00	Technical maintenance period
1.00-7.00	Settlement procedure of night-time ancillary system operations (only for ancillary system settlement procedure 6 real-time and settlement procedure 6 interfaced)

(*) 'Daytime operations' means daytime processing and end-of-day processing.

(**) Ends 15 minutes later on the last day of the Eurosystem reserve maintenance period.

(***) Starts 15 minutes later on the last day of the Eurosystem reserve maintenance period.«

g) Tillæg VI erstattes af følgende:

»Appendix VI

FEE SCHEDULE AND INVOICING

Fees for direct participants

1. The monthly fee for the processing of payment orders in TARGET2-ECB for direct participants, depending on which option the direct participant has chosen, shall be either:

- (a) EUR 150 per PM account plus a flat fee per transaction (debit entry) of EUR 0,80; or
- (b) EUR 1 875 per PM account plus a fee per transaction (debit entry) determined as follows, based on the volume of transactions (number of processed items) per month:

Band	From	To	Price (EUR)
1	1	10 000	0,60
2	10 001	25 000	0,50
3	25 001	50 000	0,40
4	50 001	100 000	0,20
5	Above 100 000	—	0,125

Liquidity transfers between a participant's PM account and its sub-accounts shall not be subject to a charge.

PM to DCA liquidity transfer orders sent from a participant's PM account and DCA to PM liquidity transfer orders received on a participant's PM account shall be charged according to pricing options (a) or (b) as chosen for that PM account.

- 2. There shall be an additional monthly fee for direct participants who do not wish the BIC of their account to be published in the TARGET2 directory of EUR 30 per account.
- 3. The monthly fee for direct participants subscribing to the TARGET2 value-added services for T2S shall be EUR 50 for those participants that have opted for option (a) in paragraph 1, and EUR 625 for those participants that have opted for option (b) in paragraph 1.

Fees for Main PM account holders

- 4. In addition to the fees set out in paragraphs 1 to 3 of this Appendix, a monthly fee of EUR 250 for each linked DCA shall be charged to Main PM account holders.
- 5. The Main PM account holders shall be charged the following fees for T2S services connected with the linked DCA(s). These items shall be billed separately.

Tariff items	Price (eurocent)	Explanation
<i>Settlement services</i>		
DCA to DCA liquidity transfer orders	9	per transfer
Intra-balance movement (i.e. blocking, unblocking, reservation of liquidity etc.)	6	per transaction
<i>Information services</i>		
A2A reports	0,4	Per business item in any A2A report generated
A2A queries	0,7	Per queried business item in any A2A query generated

Tariff items	Price (eurocent)	Explanation
U2A queries	10	Per executed search function
Messages bundled into a file	0,4	Per message in a file
Transmissions	1,2	Per transmission

Invoicing

6. In the case of direct participants, the following invoicing rules apply. The direct participant shall receive the relevant invoices for the previous month specifying the fees to be paid, no later than on the ninth business day of the following month. Payment shall be made at the latest on the 14th working day of that month to the account specified by the ECB and shall be debited from that participant's PM account.

Fee schedule and invoicing for ancillary systems

7. An ancillary system using the ASI or the Participant Interface, irrespective of the number of any accounts it may hold with the ASCB and/or the SCB, shall be subject to a fee schedule consisting of the following elements:

- (a) A fixed monthly fee of EUR 1 000 to be charged to each ancillary system (Fixed Fee I).
- (b) A second monthly fixed fee of between EUR 417 and EUR 8 334, in proportion to the underlying gross value of the ancillary system's euro cash settlement transactions (Fixed Fee II).

Band	From (EUR million/day)	To (EUR million/day)	Annual fee (EUR)	Monthly fee (EUR)
1	0	below 1 000	5 000	417
2	1 000	below 2 500	10 000	833
3	2 500	below 5 000	20 000	1 667
4	5 000	below 10 000	30 000	2 500
5	10 000	below 50 000	40 000	3 333
6	50 000	below 500 000	50 000	4 167
7	500 000 and above	—	100 000	8 334

The gross value of the ancillary system's euro cash settlement transactions shall be calculated by the ASCB once a year on the basis of such gross value during the previous year and the calculated gross value shall be applied for calculating the fee from 1 January of each calendar year. The gross value shall exclude transactions settled on DCAs.

- (c) A transaction fee calculated on the same basis as the schedule established for PM account holders, in line with paragraph 1. The ancillary system may choose one of the two options: either to pay a flat EUR 0,80 fee per payment instruction (Option A) or to pay a fee calculated on a degressive basis (Option B), subject to the following modifications:
- (i) for Option B, the limits of the bands relating to volume of payment instructions are divided by two; and
- (ii) a monthly fixed fee of EUR 150 (under Option A) or EUR 1 875 (under Option B) shall be charged in addition to Fixed Fee I and Fixed Fee II.
- (d) In addition to the fees set out in points (a) to (c), an ancillary system using the ASI or the Participant Interface shall also be subject to the following fees:
- (i) If the ancillary system makes use of the TARGET2 value-added services for T2S, the monthly fee for the use of the value added services shall be EUR 50 for those systems that have chosen option A and EUR 625 for those systems that have chosen option B. This fee shall be charged for each account held by the ancillary system that uses the services;

- (ii) If the ancillary system holds a Main PM account linked to one or more DCAs, the monthly fee shall be EUR 250 for each linked DCA; and
- (iii) The ancillary system as Main PM account holder shall be charged the following fees for T2S services connected with the linked DCA(s). These items shall be billed separately:

Tariff items	Price (eurocent)	Explanation
<i>Settlement services</i>		
DCA to DCA liquidity transfer orders	9	per transfer
Intra-balance movement (i.e. blocking, unblocking, reservation of liquidity etc.)	6	per transaction
<i>Information services</i>		
A2A reports	0,4	Per business item in any A2A report generated
A2A queries	0,7	Per queried business item in any A2A query generated
U2A queries	10	Per executed search function
U2A queries downloaded	0,7	Per queried business item in any U2A query generated and downloaded
Messages bundled into a file	0,4	Per message in a file
Transmissions	1,2	Per transmission

8. Any fee payable in relation to a payment instruction submitted or payment received by an ancillary system, via either the Participant Interface or the ASI, shall be exclusively charged to this ancillary system. The Governing Council may establish more detailed rules for the determination of billable transactions settled via the ASI.
9. Each ancillary system shall receive an invoice from its ASCB for the previous month based on the fees referred to in subparagraph 1, no later than the ninth business day of the following month. Payments shall be made no later than the 14th business day of this month to the account specified by the ASCB or shall be debited from an account specified by the ancillary system.
10. For the purposes of paragraphs 7 to 9, each ancillary system that has been designated under Directive 98/26/EC shall be treated separately, even if two or more of them are operated by the same legal entity. The same rule shall apply to the ancillary systems that have not been designated under Directive 98/26/EC, in which case the ancillary systems shall be identified by reference to the following criteria: (a) a formal arrangement, based on a contractual or legislative instrument, e.g. an agreement among the participants and the system operator; (b) with multiple membership; (c) with common rules and standardised arrangements; and (d) for the clearing, netting and/or settlement of payments and/or securities between the participants.»
2. Bilag II ændres som følger:
- a) Artikel 24 erstattes af følgende:
- i) Stk. 6 affattes således:
- »6. If a DCA holder is suspended from TARGET2-ECB on grounds other than those specified in paragraph (1)(a), all its incoming and outgoing payment orders shall only be presented for settlement after they have been explicitly accepted by the suspended DCA holder's CB.«
- ii) Følgende indsættes som stk. 7:
- »7. If a DCA holder is suspended from TARGET2-ECB on the grounds specified in paragraph (1)(a), any outgoing payment orders from that DCA holder shall only be processed on the instructions of its representatives, including those appointed by a competent authority or a court, such as the DCA holder's insolvency administrator, or pursuant to an enforceable decision of a competent authority or a court providing instructions as to how the payments are to be processed. All incoming payments shall be processed in accordance with paragraph (6).«

b) Artikel 27 erstattes af følgende:

i) Stk. 2 affattes således:

»2. By derogation from paragraph 1, the DCA holder agrees that the ECB may disclose payment order, technical or organisational information regarding the DCA holder, other DCAs held by DCA holders of the same group, or the DCA holder's customers obtained in the course of the operation of TARGET2-ECB to: (a) other CBs or third parties that are involved in the operation of TARGET2-ECB, to the extent that this is necessary for the efficient functioning of TARGET2, or the monitoring of the DCA holder's or its group's exposure; (b) other CBs in order to carry out the analyses necessary for market operations, monetary policy functions, financial stability or financial integration; or (c) supervisory and oversight authorities of Member States and the Union, including CBs, to the extent that this is necessary for the performance of their public tasks, and provided in all such cases that the disclosure is not in conflict with the applicable law. The ECB shall not be liable for the financial and commercial consequences of such disclosure.«

ii) Stk. 3 affattes således:

»3. By derogation from paragraph 1 and provided that this does not make it possible, whether directly or indirectly, to identify the DCA holder or the DCA holder's customers, the ECB may use, disclose or publish payment information regarding the DCA holder or the DCA holder's customers for statistical, historical, scientific or other purposes in the exercise of its public functions or of functions of other public entities to which the information is disclosed.«
