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SLUŽBENI LIST EUROPSKE UNIJE

22.11.2011.

ODLUKA EUROPSKE SREDIŠNJE BANKE**od 15. studenoga 2011.****o izmjeni Odluke ESB/2007/7 o uvjetima sustava TARGET2-ECB****(ESB/2011/19)**

(2011/749/EU)

IZVRŠNI ODBOR EUROPSKE SREDIŠNJE BANKE,

uzimajući u obzir Ugovor o funkcioniranju Europske unije, a posebno njegov članak 127. stavak 2.,

uzimajući u obzir Statut Europskog sustava središnjih banaka i Europske središnje banke, a posebno njegov članak 11. stavak 11.6. i članke 17., 22. i 23.,

uzimajući u obzir Smjernicu ESB/2007/2 od 26. travnja 2007. o Transeuropskom automatiziranom sustavu ekspresnih novčanih transakcija u realnom vremenu na bruto načelu (sustav TARGET2) ⁽¹⁾, a posebno njezin članak 6. stavak 2.,

budući da:

- (1) Smjernica ESB/2007/2 izmijenjena je Smjernicom ESB/2011/15 od 14. listopada 2011. o izmjeni Smjernice ESB/2007/2 o Transeuropskom automatiziranom sustavu ekspresnih novčanih transakcija u realnom vremenu na bruto načelu (sustav TARGET2) ⁽²⁾, kako bi se, između ostalog, (a) „načelo opreznosti” uključilo u kriterije na temelju kojih se prijava za sudjelovanje u sustavu TARGET2 može odbiti, a sudjelovanje sudionika u sustavu TARGET2 ili njegov pristup dnevnim kreditima odgoditi ograničiti ili okončati; i (b) uzeli u obzir novi zahtjevi za sudionike u sustavu TARGET2 povezani s administrativnim mjerama i mjerama ograničavanja, uvedenima u skladu s člancima 75. i 215. Ugovora.

- (2) Stoga je potrebno izmijeniti Prilog Odluci ESB/2007/7 od 24. srpnja 2007. o uvjetima sustava TARGET2-ECB ⁽³⁾ kako bi se u uvjete sustava TARGET2-ECB unijeli određeni elementi iz Smjernice ESB/2011/15,

DONIO JE OVU ODLUKU:

*Članak 1.***Izmjene uvjeta sustava TARGET2-ECB**

Prilog Odluci ESB/2007/7 koji sadržava uvjete sustava TARGET2-ECB mijenja se u skladu s Prilogom ovoj Odluci.

*Članak 2.***Stupanje na snagu**

Ova Odluka stupa na snagu 21. studenoga 2011.

Sastavljeno u Frankfurtu na Majni 15. studenoga 2011.

Predsjednik ESB-a
Mario DRAGHI⁽¹⁾ SL L 237, 8.9.2007., str. 1.⁽²⁾ SL L 279, 26.10.2011., str. 5.⁽³⁾ SL L 237, 8.9.2007., str. 71.

PRILOG

Prilog Odluci ESB/2007/7 mijenja se kako slijedi:

1. U članku 1. zamjenjuju se sljedeće definicije:

„— „payee”, except where used in Article 33, means a TARGET2 participant whose PM account will be credited as a result of a payment order being settled,

— „payer”, except where used in Article 33, means a TARGET2 participant whose PM account will be debited as a result of a payment order being settled.”

2. U članku 6. stavku 4. točka (c) zamjenjuje se sljedećim:

„(c) in the ECB's assessment, such participation would endanger the overall stability, soundness and safety of TARGET2-ECB or of any other TARGET2 component system, would jeopardise the ECB's performance of its tasks as described in the Statute of the European System of Central Banks and of the European Central Bank, or poses risks on the grounds of prudence.”

3. U članku 28. stavku 2. točke (e) i (f) zamjenjuju se sljedećim:

„(e) any other participant-related event occurs which, in the ECB's assessment, would threaten the overall stability, soundness and safety of TARGET2-ECB or of any other TARGET2 component system, which would jeopardise the ECB's performance of its tasks as described in the Statute of the European System of Central Banks and of the European Central Bank, or poses risks on the grounds of prudence;

(f) the ECB suspends, limits or terminates the participant's access to intraday credit pursuant to paragraph 12 of Annex III to Guideline ECB/2007/2.”

4. Članak 33. mijenja se kako slijedi:

(a) naziv „Data protection, prevention of money laundering and related issues” zamjenjuje se s „Data protection, prevention of money laundering, administrative or restrictive measures and related issues”;

(b) dodaje se sljedeći stavak 3.:

„3. Participants, when acting as the payment service provider of a payer or payee, shall comply with all requirements resulting from administrative or restrictive measures imposed pursuant to Articles 75 or 215 of the Treaty on the Functioning of the European Union, including with respect to notification and/or obtaining consent from a competent authority in relation to the processing of transactions. In addition:

(a) when the ECB is the payment service provider of a participant that is a payer:

i. the participant shall make the required notification or obtain consent on behalf of the central bank that is primarily required to make notification or obtain consent, and shall provide the ECB with evidence of having made a notification or having received consent; and

ii. the participant shall not enter any credit transfer order into TARGET2 until it has obtained confirmation from the ECB that the required notification has been made or the consent has been obtained by or on behalf of the payment service provider of the payee;

(b) when the ECB is a payment service provider of a participant that is a payee, the participant shall make the required notification or obtain consent on behalf of the central bank that is primarily required to make notification or obtain consent, and shall provide the ECB with evidence of having made a notification or having received consent.

For the purposes of this paragraph, the terms „payment service provider”, „payer” and „payee” shall have the meanings given to them in the applicable administrative or restrictive measures.”
