

GUIDELINES

GUIDELINE (EU) 2017/1404 OF THE EUROPEAN CENTRAL BANK
of 23 June 2017
amending Guideline ECB/2012/13 on TARGET2-Securities (ECB/2017/19)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first indent of Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank and in particular Articles 3.1, 12.1 and 12.3 and Articles 17, 18 and 22 thereof,

Whereas:

- (1) On 16 March 2016, the Governing Council approved the establishment of a 'Market Infrastructure Board', a new governance body responsible for technical and operational management tasks in the field of market infrastructures and platforms.
- (2) On the same date, the Governing Council approved the establishment of a 'Market Infrastructure and Payments Committee', to replace the 'Payment and Settlement Systems Committee'.
- (3) An 'Advisory group on Market Infrastructures for Securities and Collateral' (hereinafter 'AMI SeCo') has been established to take over the responsibilities of the T2S Advisory Group, to advise the Eurosystem on matters relevant to securities clearing and settlement, collateral management and T2S.
- (4) Guideline ECB/2012/13 ⁽¹⁾ should, therefore, be amended, to reflect the replacement of the Payment and Settlement Systems Committee by the Market Infrastructure and Payments Committee, the establishment of the Market Infrastructure Board, and the replacement of the T2S Advisory Group by AMI SeCo,

HAS ADOPTED THIS GUIDELINE:

Article 1

Amendments

Guideline ECB/2012/13 is amended as follows:

1. in Article 2 the following definitions are added:

- (25) "Advisory Group on Market Infrastructures for Securities and Collateral" or "AMI SeCo" means the advisory body whose mission is to advise the Eurosystem on matters related to securities clearing and settlement, collateral management and T2S, and whose mandate is published on the ECB's website;
- (26) "Market Infrastructure Board" or "MIB" means the governance body, which has as its mission to support the Governing Council by ensuring that the Eurosystem's market infrastructures and platforms, in the fields of cash settlement, securities settlement and collateral management, are maintained and further developed in line with the Treaty objectives of the European System of Central Banks (ESCB), the ESCB's business needs, technological advances, as well as regulatory and oversight requirements, as applicable from time to time;
- (27) "Market Infrastructure and Payments Committee" or "MIPC" means the Eurosystem Committee charged with assisting the decision-making bodies of the Eurosystem in fulfilling the ESCB's statutory duty to promote the smooth operation of payment systems, including business continuity aspects, or its successor.;

⁽¹⁾ Guideline ECB/2012/13 of 18 July 2012 on TARGET2-Securities (OJ L 215, 11.8.2012, p. 19).

2. in Article 2, point (18) is replaced by the following:

‘(18) “T2S Board” means the governance body established pursuant to Decision ECB/2012/6, with the task of developing proposals for the Governing Council on key strategic issues and executing tasks of a purely technical nature in relation to T2S, and which operates as one of the dedicated formats of the MIB;’

3. in Article 7, in paragraphs 1, to 3 all references to the ‘T2S Advisory Group’ are replaced by ‘AMI SeCo’;

4. in Article 8, paragraph 1 is replaced by the following:

‘1. In order to avoid conflicts of interest between the provision of T2S services by the Eurosystem and the Eurosystem’s oversight functions, the Eurosystem central banks shall ensure that:

(a) T2S Board members, shall not be directly involved in the oversight of T2S or of CSDs that outsource settlement operations to T2S, to the extent that such involvement could give rise to actual or potential conflicts with their functions as T2S Board Members. Appropriate measures shall be put in place to identify and avoid any such conflicts;

(b) T2S Board members shall not be part of the Internal Auditors Committee (IAC), nor shall they be involved in Level 3 Activities on a day-to-day basis;

(c) T2S oversight activities shall be separated from T2S operational activities.’;

5. in Article 9, in paragraphs 3 and 4 all references to the ‘Payment and Settlement Systems Committee (PSSC)’ are replaced by ‘Market Infrastructure and Payments Committee (MIPC).’;

6. the Annex is replaced by the Annex to this Guideline.

Article 2

Taking effect

This Guideline shall take effect on the day of its notification to the national central banks of the Member States whose currency is the euro.

Article 3

Addressees

This Guideline is addressed to all Eurosystem central banks.

Done at Frankfurt am Main, 23 June 2017.

For the Governing Council of the ECB
The President of the ECB
Mario DRAGHI

ANNEX

‘ANNEX

NATIONAL USER GROUPS

MANDATE

1. Objectives

- 1.1. The National User Groups (NUGs) bring together providers and users of securities settlement services within their national markets in order to support the development, implementation and operation of TARGET2-Securities (T2S). They create fora for involving national market participants in the work of the Advisory group on Market Infrastructures for Securities and Collateral (hereinafter “AMI SeCo”) and establish the formal link between AMI SeCo and the national markets. They act both as a sounding board for the T2S Programme Office and as providers of input to AMI SeCo in relation to all matters considered by AMI SeCo. As such, they may also suggest issues for AMI SeCo’s consideration.
- 1.2. The NUGs may be involved in the change and release management process and can play an important role in assessing such requests in the context of the operation of the national markets. The NUGs should adopt the T2S principle of seeking to avoid incorporating national specificities in T2S, and should actively promote harmonisation.

2. Responsibilities and Tasks

- 2.1. The NUGs in markets participating in T2S are responsible for:
 - (a) assessing the impact of the T2S functionality, and in particular any changes in the T2S user requirements, on their national market. In this context, due consideration should be given to the concept of a “lean T2S” that aims to avoid national specificities and to promote harmonisation;
 - (b) contributing to the monitoring and implementation tasks associated with the T2S harmonisation activities supported by AMI SeCo;
 - (c) bringing material concerns of the national market to the attention of AMI SeCo;
 - (d) raising the awareness of T2S in all segments of the national securities community;
 - (e) supporting AMI SeCo members representing the national community.
- 2.2. While fulfilling their responsibilities, the NUGs must adhere to the high standards of transparency that are a key element of T2S.
- 2.3. Although the focus of this mandate is on markets participating in T2S, markets not yet participating in T2S are also welcome to establish NUGs. Any such market that decides to establish an NUG must follow a similar mandate in order to prepare its market for participation in T2S.

3. Composition and Term

- 3.1. The NUGs comprise a Chairperson, Secretary and members.
- 3.2. The Chairperson of an NUG should preferably be a full member or observer of AMI SeCo. This role will typically be performed by a senior official of the relevant national central bank (NCB). If the relevant NCB does not provide or designate the chairperson of the NUG, the chairperson will be nominated by AMI SeCo’s Chairperson who will look for consensus amongst the main participants in the relevant market. Should the NUG Chairperson not be a member of AMI SeCo, an AMI SeCo member should coordinate between AMI SeCo and the NUG Chairperson to ensure a close link between AMI SeCo and the NUG. Should no member of an NUG be represented in AMI SeCo, the NUG shall seek close cooperation with AMI SeCo’s Secretary in order to be informed about T2S developments.

- 3.3. The secretary of an NUG is provided by the relevant NCB in euro area countries; in other countries the NUG Secretary is appointed by the NUG Chairperson and should ideally be provided by the respective NCB. The secretary is expected to attend regular briefings organised for NUG secretaries by the T2S Programme Office via the NUG experts network. The NUG secretaries of markets that do not participate in T2S may participate as guests in the NUG experts network.
- 3.4. The members of an NUG comprise the relevant AMI SeCo members and observers (or their nominated senior representatives, acceptable to the NUG Chairperson) and additional persons with the knowledge and standing to be broadly representative of all categories of users and providers in the national market, including experts on cash matters. NUG members may thus include central securities depositories (CSDs), brokers, banks, investment banks, custodians, issuers and/or their agents, central counterparties, exchanges and multilateral trading facilities, the relevant NCB, regulatory authorities and the relevant banking associations.
- 3.5. The NUGs' mandate expires at the same time as the mandate of AMI SeCo, i.e. when the Framework Agreement and the Currency Participation Agreement are replaced by a new contract and/or when the Framework Agreement and Currency Participation Agreement are terminated with all signing CSDs and non-euro area central banks.

4. Working Procedures

- 4.1. NUGs only deal with issues relevant to T2S. They are invited to actively seek briefing from the T2S Programme Office in relation to live issues, and provide national views in a timely fashion on matters as requested by the AMI SeCo Secretary or as raised by the NUG. The T2S Programme Office regularly provides information to the NUGs on markets participating in T2S and organises meetings with such NUG secretaries via the NUG experts network to foster the interaction between the NUGs and the T2S Programme Office.
 - 4.2. The NUGs will endeavour to have regular meetings aligned with the schedule of AMI SeCo meetings, so that they can offer advice to national AMI SeCo members. However, no AMI SeCo member is bound by any such advice. NUGs may also make written submissions to the AMI SeCo via the AMI SeCo Secretary and invite an AMI SeCo member to present its view.
 - 4.3. The NUG Secretary aims to circulate the agenda and relevant documents for discussion at NUG meetings at least 5 business days prior to the meeting. Summaries of NUG meetings will be published on the T2S website and, if deemed appropriate, on the website of the respective NCB. Publication should ideally be made in English and, if required, in the relevant national language within 3 weeks of each NUG meeting.
 - 4.4. The members of the NUGs will be published on the T2S website. The NUGs will also publish an NUG-contact e-mail address on the T2S website, so that participants in national markets know whom to contact to express their views.'
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