

**DECISION (EU) 2019/1006 OF THE EUROPEAN CENTRAL BANK****of 7 June 2019****amending Decision ECB/2011/20 establishing detailed rules and procedures for implementing the eligibility criteria for central securities depositories to access TARGET2-Securities services (ECB/2019/15)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union,

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

Having regard to Guideline ECB/2012/13 of 18 July 2012 on TARGET2-Securities <sup>(1)</sup>, and in particular Article 4(2)(d) and Article 15 thereof,

Whereas:

- (1) Decision ECB/2011/20 <sup>(2)</sup> establishes the application procedure for a central securities depository to access TARGET2-Securities services, which includes a requirement that a central securities depository must be positively assessed by the competent authority against the European System of Central Banks/Committee of European Securities Regulators Recommendations for Securities Settlement Systems. The European System of Central Banks/Committee of European Securities Regulators Recommendations for Securities Settlement Systems have been superseded by the Principles for Financial Market Infrastructures of the Committee on Payment and Market Infrastructures and the International Organisation of Securities Commissions (PFMI) <sup>(3)</sup> or a set of requirements implementing those principles, which, for example, in the European Economic Area, are implemented by Regulation (EU) No 909/2014 of the European Parliament and of the Council <sup>(4)</sup>.
- (2) On 25 January 2019, the Governing Council of the European Central Bank (ECB) adopted Decision (EU) 2019/166 (ECB/2019/3) <sup>(5)</sup> which established the Market Infrastructure Board (MIB) in its current format. Previously, the MIB had met in different dedicated formats and the T2S Board had operated as one of such dedicated formats.
- (3) Certain changes have been made to the rules and procedures for implementing the eligibility criteria for central securities depositories to access TARGET2-Securities services, in particular in relation to CSD access criterion 2.
- (4) Therefore, Decision ECB/2011/20 should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1***Amendments**

Decision ECB/2011/20 is amended as follows:

1. in Article 1, point (4) is replaced by the following:

‘(4) “CSD access criterion 2” means the criterion laid down in Article 15(1)(b) of Guideline ECB/2012/13 <sup>(\*)</sup>, i.e. that CSDs are eligible for access to T2S services provided that they have been positively assessed by the competent

<sup>(1)</sup> OJ L 215, 11.8.2012, p. 19.

<sup>(2)</sup> Decision ECB/2011/20 of 16 November 2011 establishing detailed rules and procedures for implementing the eligibility criteria for central securities depositories to access TARGET2-Securities services (OJ L 319, 2.12.2011, p. 117).

<sup>(3)</sup> CPMI-IOSCO Principles for Financial Market Infrastructures (April 2012).

<sup>(4)</sup> Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

<sup>(5)</sup> Decision (EU) 2019/166 of the European Central Bank of 25 January 2019 on the Market Infrastructure Board and repealing Decision ECB/2012/6 on the establishment of the TARGET2-Securities Board (ECB/2019/3) (OJ L 32, 4.2.2019, p. 14).

authorities against (i) Regulation (EU) No 909/2014 of the European Parliament and of the Council (\*\*), for CSDs located in a European Economic Area (EEA) country, or (ii) the Principles for Financial Market Infrastructures of the Committee on Payment and Market Infrastructures and the International Organisation of Securities Commissions (\*\*\*) or a legal framework implementing those principles, for CSDs located in a non-EEA country;

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

(\*\*) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

(\*\*\*) CPMI-IOSCO, Principles for Financial Market Infrastructures (April 2012).;

2. in Article 1, point (11) is replaced by the following:

‘(11) “Market Infrastructure Board” or “MIB” means the Eurosystem governance body established pursuant to Decision (EU) 2019/166 of the European Central Bank (ECB/2019/3) (\*);

(\*) Decision (EU) 2019/166 of the European Central Bank of 25 January 2019 on the Market Infrastructure Board and repealing Decision ECB/2012/6 on the establishment of the TARGET2-Securities Board (ECB/2019/3) (OJ L 32, 4.2.2019, p. 14).;

3. in Article 1, point (12) is replaced by the following:

‘(12) “Advisory Group on Market Infrastructures for Securities and Collateral” or “AMI SeCo” has the same meaning as in point (25) of Article 2 of Guideline ECB/2012/13;’

4. in paragraph 1 of Article 3, the words ‘an assessment report’ are replaced by the words ‘a self-assessment report’;

5. in paragraph 2 of Article 3, the words ‘the assessment report’ are replaced by the words ‘the self-assessment report’;

6. Article 5 is replaced by the following:

*‘Article 5*

#### **Ongoing compliance with the five CSD access criteria**

1. A CSD with access to T2S services shall comply, after it has migrated to T2S, with the five CSD access criteria on an ongoing basis and shall:

- (a) ensure, in particular, through a reliable self-assessment conducted each year and supported by relevant documentation that it continues to comply with CSD access criteria 1, 3, 4 and 5;
- (b) promptly provide the MIB with the most recent outcome of the assessment conducted by the relevant competent authority against Regulation (EU) No 909/2014, the Principles for Financial Market Infrastructures of the Committee on Payment and Market Infrastructures and the International Organisation of Securities Commissions (PFMI) or a legal framework implementing the PFMI. If the above outcome of the assessment is not available, the CSD shall submit a self-attestation based on the relevant documentation;
- (c) request a new assessment by the relevant competent authorities of its compliance with Regulation (EU) No 909/2014, the PFMI or a legal framework implementing the PFMI in the event of material changes to the CSD’s system;
- (d) notify the MIB without undue delay where a relevant competent authority assessment or a self-assessment has established non-compliance with any of the five CSD access criteria;
- (e) following a request from the MIB, provide an assessment report demonstrating that the CSD still complies with the five CSD access criteria.

2. The MIB may carry out its own evaluation and monitor compliance with the five CSD access criteria or request information from a CSD. Where the MIB decides that a CSD does not comply with one of the five CSD access criteria, it shall initiate the procedure laid down in the contracts with the CSDs pursuant to Article 16 of Guideline ECB/2012/13.;

7. in Articles 3 and 4, and in the Annex, references to 'T2S Programme Board' are replaced by 'MIB';
8. in Article 4, references to 'T2S Advisory Group' are replaced by 'AMI SeCo';
9. the Annex is amended in accordance with the Annex to this Decision.

*Article 2*

**Transitional provision**

As regards ongoing compliance with CSD access criterion 2, the outcome of the assessment by the relevant competent authorities against the European System of Central Banks/Committee of European Securities Regulators Recommendations for Securities Settlement Systems shall remain valid until the relevant central securities depository has been assessed by the relevant competent authorities against Regulation (EU) No 909/2014, the PFMI or a legal framework implementing the PFMI.

*Article 3*

**Entry into force**

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Frankfurt am Main, 7 June 2019.

*The President of the ECB*  
Mario DRAGHI

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## ANNEX

The Annex to Decision ECB/2011/20 is amended as follows:

1. Section II is replaced by the following:

**‘II. Implementation details for CSD access criterion 2**

A CSD shall provide the following documentation in the context of its assessment against this criterion:

- (a) for a CSD located in an EEA country, the outcome of its assessment or proof of its authorisation (whichever is the most recent) by the relevant competent authorities against Regulation (EU) No 909/2014 of the European Parliament and of the Council (\*); if no proof of compliance with that Regulation is available, the CSD shall submit a self-attestation consistent with the assessment and/or authorisation; or
- (b) for a CSD located in a non-EEA country, the outcome of its assessment or proof of its authorisation (whichever is the most recent) by the relevant competent authorities against the Principles for Financial Market Infrastructures of the Committee on Payment and Market Infrastructures and the International Organisation of Securities Commissions (PFMI) (\*\*) or a legal framework implementing the PFMI, as applicable. If no proof of compliance with a legal framework implementing the PFMI is available, the CSD shall submit a self-attestation consistent with the assessment and/or authorisation.

Where shortcomings have been identified by the relevant competent authorities as regards the CSD's compliance with Regulation (EU) No 909/2014, the PFMI or a legal framework implementing the PFMI, the respective CSD shall inform the MIB of the relevant details and provide explanations and evidence regarding those shortcomings. The CSD shall also provide the MIB with the conclusions of the relevant competent authorities, as contained in the assessment.

Any shortcomings identified by the relevant competent authorities as regards the CSD's compliance with Regulation (EU) No 909/2014, the PFMI or a legal framework implementing the PFMI must not endanger, in the assessment of the Governing Council, the safe and efficient provision of T2S services.

The above information will be processed in accordance with the relevant application procedures for access to T2S services and ongoing compliance with the five CSD access criteria.

A CSD will fulfil this CSD access criterion where:

- (a) a CSD located in an EEA country has been authorised under Regulation (EU) No 909/2014 or positively assessed against Regulation (EU) No 909/2014 in the most recent assessment conducted by the relevant competent authorities; or
- (b) a CSD located in a non-EEA country has been positively assessed against the PFMI or a legal framework implementing the PFMI in the most recent assessment conducted by the relevant competent authorities.

If the CSD is authorised under/assessed against a legal framework other than the PFMI or Regulation (EU) No 909/2014, the CSD must provide evidence satisfactory to the MIB and the Governing Council that it has been assessed against a legal framework of a level and nature comparable with that of the PFMI or Regulation (EU) No 909/2014.

Where the relevant competent authorities' assessment contains confidential information, the CSD must provide a general summary or the assessment conclusion to show its level of compliance.

(\*) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

(\*\*) CPMI-IOSCO, Principles for Financial Market Infrastructures (April 2012).;

2. the following Section VI is added:

**‘VI. General Provision**

Where a CSD with access to T2S services no longer complies with one of the five CSD access criteria, the MIB will initiate the procedure provided for in the contracts with the CSDs.’.

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