GUIDELINES

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 17 December 2007

amending Guideline ECB/2006/16 on the legal framework for accounting and financial reporting in the European System of Central Banks

(ECB/2007/20)

(2008/122/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 12.1, 14.3 and 26.4 thereof,

Having regard to the contribution of the General Council of the European Central Bank (ECB) pursuant to the second and third indents of Article 47.2 of the Statute,

Whereas:

(1) Guideline ECB/2006/16 of 10 November 2006 on the legal framework for accounting and financial reporting in the European System of Central Banks [1] does not contain specific rules on the accounting of synthetic instruments, which are increasingly used in the financial markets. The development of generic accounting rules for synthetic instruments is appropriate since it provides clear rules that can accommodate the full range of such instruments and provide a clear framework for the Eurosystem external auditors.

(2) Article 14(2) of Guideline ECB/2007/2 of 26 April 2007 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) [2] provides that the TARGET2 system will replace the current TARGET system. The national central banks (NCBs) of Member States that have adopted the euro (hereinafter the participating Member States) will migrate to TARGET2 in accordance with the schedule specified in Article 13 of Guideline ECB/2007/2. Furthermore, certain NCBs of Member States that have not adopted the euro will connect to TARGET2 on the basis of a separate agreement with the ECB and the NCBs of participating Member States. It is therefore necessary to amend references to 'TARGET' and related concepts in Guideline ECB/2006/16,

HAS ADOPTED THIS GUIDELINE:

Article 1

Amendments

Guideline ECB/2006/16 is amended as follows:

1. the following Article 9a is inserted:

'*Article 9a*

Synthetic instruments

1. Instruments combined to form a synthetic instrument shall be recognised and treated separately from other instruments, in accordance with the general provisions, valuation rules, income recognition and instrument-specific requirements set out in this Guideline.

2. In derogation from Articles 3(b), 7(3), 11(1) and 13(2), the following alternative treatment may be applied to the valuation of synthetic instruments:

(a) unrealised gains and losses of the instruments combined to form a synthetic instrument are netted at the year-end. In such case, net unrealised gains shall be recorded in a revaluation account. Net unrealised losses shall be taken to the profit and loss account if they exceed previous net revaluation gains registered in the corresponding revaluation account;

[1] OJ L 348, 11.12.2006, p. 1.
[2] OJ L 237, 8.9.2007, p. 1.

(b) securities held as part of a synthetic instrument shall not form part of the overall holding on these securities but shall be part of a separate holding;

(c) unrealised losses taken to the profit and loss account at the year-end and the corresponding unrealised gains shall be separately amortised in subsequent years.

3. If one of the instruments combined expires, is sold, terminated or exercised, the reporting entity shall discontinue prospectively the alternative treatment specified in paragraph 2 and any unamortised valuation gains credited in the profit and loss account in previous years shall be immediately reversed.

4. The alternative treatment specified in paragraph 2 may only be applied if the following conditions are met:

(a) the individual instruments are managed and their performance is evaluated as one combined instrument, based on either a risk management or investment strategy;

(b) on initial recognition, the individual instruments are structured and designated as a synthetic instrument;

(c) the application of the alternative treatment eliminates or significantly reduces a valuation inconsistency (valuation mismatch) that would arise from applying general rules set out in this Guideline at an individual instrument level; and

(d) availability of formal documentation allowing the fulfilment of the conditions set up in the preceding paragraphs a, b and c to be verified.';

2. the word 'TARGET' is replaced by the words 'TARGET/TARGET2' in Article 10(1)(a) and the following parts of Annex IV:

(a) in the table headed 'Assets', in relation to balance sheet item 9.5; and

(b) in the table headed 'Liabilities', in relation to balance sheet items 6 and 10.4;

3. Annex II to Guideline ECB/2006/16 is amended in accordance with the Annex to this Guideline.

Article 2

Entry into force

This Guideline shall enter into force on 1 January 2008.

Article 3

Addressees

This Guideline applies to all Eurosystem central banks.

Done at Frankfurt am Main, 17 December 2007.

For the Governing Council of the ECB

The President of the ECB

Jean-Claude TRICHET

ANNEX

Annex II to Guideline ECB/2006/16 is amended as follows:

1. the definition of 'interlinking' is deleted;

2. the following definition is added after 'strike price':

   '*Synthetic instrument:* a financial instrument created artificially by combining two or more instruments with the aim of replicating the cash flow and valuation patterns of another instrument. This is normally done via a financial intermediary.';

3. the definition of 'TARGET' is replaced by the following:

   '*TARGET*: the Trans-European Automated Real-time Gross settlement Express Transfer system, pursuant to Guideline ECB/2005/16 of 30 December 2005 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET) (*).;

   (*) OJ L 18, 23.1.2006, p. 1. Guideline as amended by Guideline ECB/2006/11 (OJ L 221, 12.8.2006, p. 17).'

4. the following definition is added after the definition of 'TARGET':

   '*TARGET2:* the Trans-European Automated Real-time Gross settlement Express Transfer system, pursuant to Guideline ECB/2007/2 of 26 April 2007 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) (*).

   (*) OJ L 237, 8.9.2007, p. 1.'