GUIDELINES

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 7 May 2009

amending Guideline ECB/2007/2 on a Trans-European Automated Real-time Gross Settlement Express Transfer system (TARGET2)

(ECB/2009/9)

(2009/390/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular to the first and fourth indents of Article 105(2) thereof,

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

Whereas:

(1) The Governing Council of the European Central Bank (ECB) adopted Guideline ECB/2007/2 of 26 April 2007 on a Trans-European Automated Real-time Gross Settlement Express Transfer system (TARGET2) [1] governing TARGET2 which is characterised by a single technical platform called the Single Shared Platform (SSP).

(2) Amendments should be made to Guideline ECB/2007/2: (a) in view of the new release of the SSP and the need to define the newly introduced cross-system settlement; and (b) to allow access to TARGET2 by publicly-owned credit institutions which, in view of their specific institutional nature under Community law, are subject to scrutiny of a standard comparable to supervision by competent national authorities,

HAS ADOPTED THIS GUIDELINE:

Article 1

Annexes II, III and IV to Guideline ECB/2007/2 are amended in accordance with the Annex to this Guideline.

Article 2

Entry into force

1. This Guideline shall enter into force on 8 May 2009.

2. Article 1 shall apply from 11 May 2009.

Article 3

Addressees and implementing measures

1. This Guideline applies to all Eurosystem central banks.

2. The national central banks of the Member States that have adopted the euro shall by 11 May 2009 send to the ECB the measures by which they intend to comply with this Guideline.

Done at Frankfurt am Main, 7 May 2009.

For the Governing Council of the ECB
The President of the ECB
Jean-Claude TRICHET

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[1] OJ L 237, 8.9.2007, p. 1.

ANNEX

1. Annex II to Guideline ECB/2007/2 is amended as follows:

The definition of 'credit institution' in Article 1 is replaced by the following:

'— "credit institution" means either: (a) a credit institution within the meaning of [insert national law provisions implementing Article 4(1)(a) and, if relevant, Article 2 of the Banking Directive] that is subject to supervision by a competent authority; or (b) another credit institution within the meaning of Article 101(2) of the Treaty that is subject to scrutiny of a standard comparable to supervision by a competent authority.'

2. Annex III to Guideline ECB/2007/2 is amended as follows:

The definition of 'credit institution' in the list of definitions contained in this Annex is replaced by the following:

'— "credit institution" means either: (a) a credit institution within the meaning of Articles 2 and 4(1)(a) of the Banking Directive, as implemented in national law, that is subject to supervision by a competent authority; or (b) another credit institution within the meaning of Article 101(2) of the Treaty that is subject to scrutiny of a standard comparable to supervision by a competent authority.'

3. Annex IV to Guideline ECB/2007/2 is amended as follows:

1. In paragraph 1, the following definitions are added:

'— "cross-system settlement" means the real-time settlement of debit instructions under which payments are executed from a settlement bank of one AS using settlement procedure 6 to a settlement bank of another AS using settlement procedure 6;

— "Static Data (Management) Module" means the SSP module in which static data are collected and recorded.',

2. The following paragraph 3(7) is added:

'(7) The ASCBs shall ensure that the ASs with which they have bilateral arrangements provide the name and the BIC of the AS with which they intend to execute cross-system settlement and the date from which cross-system settlement with a particular AS should begin or stop. This information shall be recorded in the Static Data (Management) Module.'

3. Paragraph 4(3) is replaced by the following:

'(3) A payment instruction shall be deemed accepted if:

(a) the payment instruction complies with the rules established by the network service provider;

(b) the payment instruction complies with the formatting rules and conditions of the ASCB's TARGET2 component system;

(c) the settlement bank is on the list of settlement banks referred to in paragraph 3(1);

(d) in the case of a cross-system settlement, the relevant AS is on the list of ASs with which cross-system settlement may be executed;

(e) in the event that a settlement bank's participation in TARGET2 has been suspended, the explicit consent of the SCB of the suspended settlement bank has been obtained.'

4. Paragraph 6(1)(f) is replaced by the following:

'(f) settlement procedure 6 (dedicated liquidity and cross-system settlement).'

5. Paragraph 8(5) is replaced by the following:

'(5) When settlement procedure 6 is offered by an ASCB for interfaced models, SCBs shall open one or more sub-accounts in their TARGET2 component systems for settlement banks, to be used for dedicating liquidity and, if relevant, cross-system settlement. Sub-accounts shall be identified by the BIC of the PM account to which they relate, in combination with an account number that is specific to the relevant sub-account. The account number is composed of the country code plus up to 32 characters (depending on the relevant national bank account structure).'

6. Paragraph 14 is replaced by the following:

'14. **Settlement procedure 6 — Dedicated liquidity and cross-system settlement**

(1) Settlement procedure 6 can be used for both the interfaced and the integrated model, as described in subparagraphs 4 to 13 and 14 to 18 below, respectively. In the case of the integrated model, the relevant AS has to use a mirror account to collect the necessary liquidity set aside by its settlement banks. In the case of the interfaced model, the settlement bank has to open at least one sub-account relating to a specific AS.

(2) If they so request, the settlement banks shall be notified via a SWIFT MT 900 or MT 910 message of the crediting and debiting of their PM accounts and, if applicable, of their sub-accounts.

(3) When offering cross-system settlement under settlement procedure 6, the ASCBs and SCBs shall support cross-system settlement payments, if they are initiated by the relevant ASs. An AS can only initiate cross-system settlement during its processing cycle, and settlement procedure 6 has to be running in the AS receiving the payment instruction. Cross-system settlement shall be offered for both daytime and night-time processing under settlement procedure 6. The possibility to execute cross-system settlement between two individual ASs shall be recorded in the Static Data (Management) Module.

(A) *Interfaced model*

(4) When offering settlement procedure 6, the ASCBs and SCBs shall support the settlement of bilateral and/or multilateral cash balances of AS transactions by:

(a) enabling a settlement bank to pre-fund its prospective settlement obligation through liquidity transfers from its PM account into its sub-account (hereinafter "dedicated liquidity") prior to the AS processing; and

(b) settling the AS's payment instructions subsequent to the completion of the AS processing: in relation to short settlement banks by debiting their sub-accounts (within the limits of the funds provided on such account) and crediting the AS's technical account and in relation to long settlement banks by crediting their sub-accounts and debiting the AS's technical account.

(5) When offering settlement procedure 6:

(a) the SCBs shall open at least one sub-account in relation to a single AS for each settlement bank; and

(b) the ASCB shall open a technical account for the AS for: (i) crediting funds collected from the sub-accounts of the short settlement banks; and (ii) debiting funds when making credits to the dedicated sub-accounts of the long settlement banks.

(6) Settlement procedure 6 shall be offered both for daytime processing and night-time operations of ASs. In the latter case, the new business day shall start immediately upon fulfilment of the minimum reserve requirements; any debit or credit made on the relevant accounts thereafter shall be for value of the new business day.

(7) Under settlement procedure 6 and with regard to dedicating liquidity, the ASCBs and SCBs shall offer the following types of liquidity transfer service into and from the sub-account:

(a) standing orders which settlement banks may submit or modify at any time during a business day via the ICM (when it is available). Standing orders submitted after the sending of the "start-of-procedure" message on a given business day shall be valid only for the next business day. If there are several standing orders to credit different sub-accounts, they shall be settled in the order of their amount, starting with the highest. During night-time AS operations, if there are standing orders for which there are insufficient funds on the PM account, such orders shall be settled following a pro-rata reduction of all orders;

(b) current orders, which may only be submitted either by a settlement bank (via the ICM) or the relevant AS via an XML message during the running of settlement procedure 6 (identified by the time span from the "start-of-procedure" to the "end-of-procedure" message) and which will be settled only as long as the AS processing cycle has not yet started. If there is a current order submitted by the AS for which there are insufficient funds on the PM account, such order shall be partially settled;

(c) SWIFT orders that go via an MT 202 message, which may only be submitted during the running of settlement procedure 6 and only during daytime processing. Such orders shall be settled immediately. In the case of a running cycle, this shall be done without the AS being notified.

(8) Settlement procedure 6 shall start by means of a "start-of-procedure" message and finish by means of an "end-of-procedure" message, with both messages to be sent by the AS. However, for night-time ancillary system operations, the "start-of-procedure" message is sent by the ASCB. "Start-of-procedure" messages shall trigger the settlement of standing orders for the transfer of liquidity into the sub-accounts. The "end-of-procedure" message leads to an automatic retransfer of liquidity from the sub-account to the PM account.

(9) Under settlement procedure 6, dedicated liquidity on the sub-accounts shall be frozen as long as the AS processing cycle is running (starting with a "start-of-cycle" message and ending with an "end-of-cycle" message, both to be sent by the AS) and released thereafter. The frozen balance can be changed during the processing cycle as a result of cross-system settlement payments.

(10) Within each AS processing cycle, payment instructions shall be settled out of dedicated liquidity whereby Algorithm 5 (as referred to in Appendix I of Annex II) shall be used as a rule.

(11) Within each AS processing cycle, a settlement bank's dedicated liquidity can be increased by crediting certain incoming payments directly to its sub-accounts, i.e. coupons and redemption payments. In such cases, the liquidity first has to be credited on the technical account, then debited from such account before crediting the liquidity on the sub-account (or on the PM account).

(12) Cross-system settlement between two interfaced ASs can only be initiated by an AS (or its ASCB on its behalf) whose participant's sub-account is debited. The payment instruction is settled by debiting the amount indicated in the payment instruction from the sub-account of a participant of the AS initiating the payment instruction and crediting such amount to the sub-account of a participant of another AS.

The AS initiating the payment instruction and the other AS shall be notified of the completion of the settlement.

(13) Cross-system settlement from an AS using the interfaced model to an AS using the integrated model can be initiated by the AS using the interfaced model (or its ASCB on its behalf). The payment instruction is settled by debiting the amount indicated in the payment instruction from the sub-account of a participant of the AS using the interfaced model and crediting such amount to the mirror account used by the AS using the integrated model. The payment instruction cannot be initiated by the AS using the integrated model whose mirror account will be credited.

The AS initiating the payment instruction and the other AS shall be notified of the completion of the settlement.

(B) *Integrated model*

(14) When offering settlement procedure 6 for integrated models, the ASCBs and SCBs shall support such settlement. In the event that settlement procedure 6 is used for the integrated model during daytime processing, only limited functionality is offered.

(15) Under settlement procedure 6 and with regard to the integrated model, the ASCBs and SCBs shall offer the following types of liquidity transfer service into a mirror account:

(a) standing orders (for daytime processing and for night-time AS operations), which settlement banks may submit or modify at any time during a business day via the ICM (when it is available). Standing orders submitted after the sending of the "start-of-procedure" message on a given business day shall be valid only for the next business day. If there are several standing orders, they shall be settled in the order of their amount, starting with the highest. If a standing order for daytime processing is not covered, it will be rejected. During night-time AS operations, if there are standing orders for which there are insufficient funds on the PM account, such orders shall be settled following a pro-rata reduction of all orders;

(b) current orders, which may only be submitted either by a settlement bank (via the ICM) or the relevant AS via an XML message during the running of settlement procedure 6 (identified by the time span from the "start-of-procedure" to the "end-of-procedure" message) and which will be settled only as long as the AS processing cycle has not yet started. If there is a current order for which there are insufficient funds on the PM account, such order shall be partially settled;

(c) SWIFT orders that go via an MT 202 message, which may only be submitted during daytime processing. Such orders shall be settled immediately.

(16) The rules regarding the "start-of-procedure" and "end-of-procedure" messages, as well as regarding the start and end of cycle for the interfaced model, shall apply *mutatis mutandis*.

(17) Cross-system settlement between two ASs using the integrated model can only be initiated by an AS (or its ASCB on its behalf) whose mirror account is debited. The payment instruction is settled by debiting the amount indicated in the payment instruction from the mirror account used by the AS initiating the payment instruction and crediting such amount to the mirror account used by another AS. The payment instruction cannot be initiated by the AS whose mirror account will be credited.

The AS initiating the payment instruction and the other AS shall be notified of the completion of the settlement.

(18) Cross-system settlement from an AS using the integrated model to an AS using the interfaced model can be initiated by the AS using the integrated model (or its ASCB on its behalf). The payment instruction is settled by debiting the amount indicated in the payment instruction from the mirror account used by the AS using the integrated model and crediting such amount to the sub-account of a participant of another AS. The payment instruction cannot be initiated by the AS using the interfaced model whose participant's sub-account will be credited.

The AS initiating the payment instruction and the other AS shall be notified of the completion of the settlement.'