

GUIDELINES

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 14 October 2011

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

(ECB/2011/15)

(2011/704/EU)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union and, in particular 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 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.
- (2) Amendments should be made to Guideline ECB/2007/2 to: (a) take into account the need to include the 'grounds of prudence' among the criteria on the basis of which an application for participation in TARGET2 will be rejected, and a participant's participation in TARGET2 or its access to intraday credit might be suspended, limited or terminated; and (b) reflect new requirements for TARGET2 participants related to the administrative and restrictive measures introduced under Articles 75 and 215 of the Treaty, respectively,

HAS ADOPTED THIS GUIDELINE:

Article 1

Amendments to Guideline ECB/2007/2

1. In Article 2 of Guideline ECB/2007/2, the definition of 'transition period' is replaced by the following:

— "transition period" means, in respect of each Eurosystem CB, the period of four years starting from the moment the Eurosystem CB migrates to the SSP, unless otherwise decided by the Governing Council with respect to specific features or services on a case-by-case basis'.

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

Article 2

Entry into force

This Guideline shall enter into force two days after its adoption. It shall apply from 21 November 2011.

Article 3

Addressees and implementing measures

1. This Guideline is addressed to all Eurosystem central banks.
2. The participating national central banks shall by 21 October 2011 send to the ECB the measures by which they intend to comply with this Guideline.

Done at Frankfurt am Main, 14 October 2011.

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

⁽¹⁾ OJ L 237, 8.9.2007, p. 1.

ANNEX

(1) Annex II is amended as follows:

(a) in Article 1 the definitions of the terms 'payee' and 'payer' are replaced by the following:

- "payee", except where used in Article 39 of this Annex, 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 39 of this Annex, means a TARGET2 participant whose PM account will be debited as a result of a payment order being settled.;

(b) Article 8(4)(c) is replaced by the following:

- '(c) in the [insert name of CB]'s assessment, such participation would endanger the overall stability, soundness and safety of TARGET2-[insert CB/country reference] or of any other TARGET2 component system, or would jeopardise the [insert name of CB]'s performance of its tasks as described in [refer to relevant national law] and the Statute of the European System of Central Banks and of the European Central Bank, or poses risks on the grounds of prudence.;

(c) Article 34(2)(e) is replaced by the following:

- '(e) any other participant-related event occurs which, in the [insert name of CB]'s assessment, would threaten the overall stability, soundness and safety of TARGET2-[insert CB/country reference] or of any other TARGET2 component system, or which would jeopardise the [insert name of CB]'s performance of its tasks as described in [refer to relevant national law] and the Statute of the European System of Central Banks and of the European Central Bank, or poses risks on the grounds of prudence; and/or';

(d) Article 39 is amended as follows:

- (i) the title 'Data protection, prevention of money laundering and related issues' is replaced by 'Data protection, prevention of money laundering, administrative or restrictive measures and related issues';

(ii) the following paragraph 3 is added:

'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 the obtaining of consent from a competent authority in relation to the processing of transactions. In addition:

(a) when the [insert name of CB] 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 [insert name of CB] with evidence of having made a notification or having received consent;
- (ii) the participant shall not enter any credit transfer order into TARGET2 until it has obtained confirmation from the [insert name of CB] 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 [insert name of CB] 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 [insert name of CB] 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 ascribed to them in the applicable administrative or restrictive measures.'

(2) Annex III is amended as follows:

(a) point (h) of the definition of 'event of default' is replaced by the following:

'(h) where participation of the entity in another TARGET2 component system and/or in an ancillary system has been suspended or terminated;';

(b) the title 'Suspension or termination of intraday credit' is replaced by 'Suspension, limitation or termination of intraday credit';

(c) paragraph 12 is replaced by the following:

'12. (a) Participating NCBs shall suspend or terminate access to intraday credit if one of the following events of default occurs:

(i) the account of the entity with the participating NCB is suspended or closed;

(ii) the entity concerned ceases to meet any of the requirements laid down in this Annex for the provision of intraday credit;

(iii) a decision is made by a competent judicial or other authority to implement in relation to the entity a procedure for the winding-up of the entity or the appointment of a liquidator or analogous officer over the entity or any other analogous procedure;

(iv) the entity becomes subject to the freezing of funds and/or other measures imposed by the Union restricting the entity's ability to use its funds.

(b) Participating NCBs may suspend or terminate access to intraday credit if an NCB suspends or terminates the participant's participation in TARGET2 pursuant to Article 34(2)(b) to (e) of Annex II, or one or more events of default (other than those referred to in Article 34(2)(a)) occur.

(c) If the Eurosystem decides to suspend, limit or exclude counterparties' access to monetary policy instruments on the grounds of prudence or otherwise in accordance with Section 2.4 of Annex I to Guideline ECB/2000/7, participating NCBs shall implement that decision in respect of access to intraday credit pursuant to provisions in the contractual or regulatory arrangements applied by the respective NCBs.

(d) Participating NCBs may decide to suspend, limit or terminate a participant's access to intraday credit if the participant is deemed to pose risks on the grounds of prudence. In such cases, the participating NCB shall immediately notify the ECB and other participating NCBs and connected CBs thereof in writing. Where appropriate, the Governing Council shall decide upon uniform implementation of the measures taken in all TARGET2 component systems;';

(d) paragraph 13 is replaced by the following:

'13. Where a participating NCB decides to suspend, limit or terminate a Eurosystem monetary policy counterparty's access to intraday credit, such decision shall not take effect until the ECB has approved it.'

(3) In Annex V: in Article 4(16)(b) the words 'Appendix IA' are replaced by the words 'Appendix IV' and the words 'Annex V' are replaced by the words 'Annex II'.
