

AFGØRELSER

DEN EUROPÆISKE CENTRALBANKS AFGØRELSE

af 15. november 2011

om ændring af afgørelse ECB/2007/7 om de nærmere vilkår for TARGET2-ECB

(ECB/2011/19)

(2011/749/EU)

DIREKTIONEN FOR DEN EUROPÆISKE CENTRALBANK HAR —

under henvisning til traktaten om Den Europæiske Unions funktionsmåde, særlig artikel 127, stk. 2,

under henvisning til statuten for Det Europæiske System af Centralbanker og Den Europæiske Centralbank, særlig artikel 11.6, og artikel 17, 22 og 23,

under henvisning til retningslinje ECB/2007/2 af 26. april 2007 om TARGET2 (Trans-European Automated Real-time Gross settlement Express Transfer system) ⁽¹⁾, særlig artikel 6, stk. 2, og

ud fra følgende betragtninger:

- (1) Retningslinje ECB/2007/2 er blevet ændret af retningslinje ECB/2011/15 af 14. oktober 2011 om ændring af retningslinje ECB/2007/2 om TARGET2 (Trans-European Automated Real-time Gross settlement Express Transfer system) ⁽²⁾, bl.a. for a) at inddrage »forsigtighedshensyn« blandt kriterierne, på grundlag af hvilke en ansøgning om deltagelse i TARGET2 kan afslås, og på grundlag af hvilke en deltagers deltagelse i TARGET2 eller dennes adgang til intradag-kredit kan suspenderes, indskrænkes eller ophæves, og for b) at afspejle de nye krav for TARGET2 deltagere vedrørende administrative og restriktive foranstaltninger, som er indført henholdsvis i traktatens artikel 75 og artikel 215.

- (2) Det er derfor nødvendigt at ændre bilaget til afgørelse ECB/2007/7 af 24. juli 2007 om de nærmere vilkår for TARGET2-ECB ⁽³⁾ for at indarbejde visse elementer fra retningslinje ECB/2011/15 i de nærmere vilkår og betingelser for TARGET2-ECB —

TRUFFET FØLGENDE AFGØRELSE:

Artikel 1

Ændring af de nærmere vilkår for TARGET2-ECB

Bilaget til afgørelse ECB/2007/7, som indeholder de nærmere vilkår for TARGET2-ECB, ændres i overensstemmelse med bilaget til denne afgørelse.

Artikel 2

Ikrafttrædelse

Denne afgørelse træder i kraft den 21. november 2011.

Udfærdiget i Frankfurt am Main, den 15. november 2011.

Mario DRAGHI
Formand for ECB

⁽¹⁾ EUT L 237 af 8.9.2007, s. 1.

⁽²⁾ EUT L 279 af 26.10.2011, s. 5.

⁽³⁾ EUT L 237 af 8.9.2007, s. 71.

BILAG

Bilag til afgørelse ECB/2007/7 ændres således:

1. Følgende definitioner erstattes i artikel 1:

- »— »payee«, except where used in Article 33, 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 33, means a TARGET2 participant whose PM account will be debited as a result of a payment order being settled.«.

2. Artikel 6, stk. 4, litra c), erstattes af følgende:

- »c) in the ECB's assessment, such participation would endanger the overall stability, soundness and safety of TARGET2-ECB or of any other TARGET2 component system, would jeopardise the ECB's performance of its tasks as described in the Statute of the European System of Central Banks and of the European Central Bank, or poses risks on the grounds of prudence.«.

3. Artikel 28, stk. 2, litra e) og f) erstattes af følgende:

- »e) any other participant-related event occurs which, in the ECB's assessment, would threaten the overall stability, soundness and safety of TARGET2-ECB or of any other TARGET2 component system, which would jeopardise the ECB's performance of its tasks as described in the Statute of the European System of Central Banks and of the European Central Bank, or poses risks on the grounds of prudence;
- f) the ECB suspends, limits or terminates the participant's access to intraday credit pursuant to paragraph 12 of Annex III to Guideline ECB/2007/2.«

4. Artikel 33 ændres således:

- a) Titlen »Data protection, prevention of money laundering and related issues« erstattes af »Data protection, prevention of money laundering, administrative or restrictive measures and related issues«;

b) Som stk. 3 indsættes følgende:

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

a) when the ECB 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 ECB with evidence of having made a notification or having received consent; and
- ii) the participant shall not enter any credit transfer order into TARGET2 until it has obtained confirmation from the ECB 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 ECB 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 ECB 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 given to them in the applicable administrative or restrictive measures.«
