

# DECISIONS

## DECISION OF THE EUROPEAN CENTRAL BANK

of 15 November 2011

amending Decision ECB/2007/7 concerning the terms and conditions of TARGET2-ECB

(ECB/2011/19)

(2011/749/EU)

THE EXECUTIVE BOARD 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 11.6 and Articles 17, 22 and 23 thereof,

Having regard to Guideline ECB/2007/2 of 26 April 2007 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) <sup>(1)</sup>, and in particular Article 6(2) thereof,

Whereas:

- (1) Guideline ECB/2007/2 has been amended by Guideline ECB/2011/15 of 14 October 2011 amending Guideline ECB/2007/2 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) <sup>(2)</sup>, inter alia, (a) to include the 'grounds of prudence' among the criteria on the basis of which an application for participation in TARGET2 may be rejected, and a participant's participation in TARGET2 or its access to intraday credit might be suspended, limited or terminated; and (b) to reflect new requirements for TARGET2 participants related to the administrative and restrictive measures introduced pursuant to Articles 75 and 215 of the Treaty.

- (2) Therefore, it is necessary to amend the Annex to Decision ECB/2007/7 of 24 July 2007 concerning the terms and conditions of TARGET2-ECB <sup>(3)</sup> to incorporate certain elements from Guideline ECB/2011/15 into the terms and conditions of TARGET2-ECB,

HAS ADOPTED THIS DECISION:

### Article 1

#### Amendment of the terms and conditions of TARGET2-ECB

The Annex to Decision ECB/2007/7 which contains the terms and conditions of TARGET2-ECB is amended in accordance with the Annex to this Decision.

### Article 2

#### Entry into force

This Decision shall enter into force on 21 November 2011.

Done at Frankfurt am Main, 15 November 2011.

*The President of the ECB*

Mario DRAGHI

<sup>(1)</sup> OJ L 237, 8.9.2007, p. 1.

<sup>(2)</sup> OJ L 279, 26.10.2011, p. 5.

<sup>(3)</sup> OJ L 237, 8.9.2007, p. 71.

## ANNEX

The Annex to Decision ECB/2007/7 is amended as follows:

(1) in Article 1 the following definitions are replaced:

- “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) Article 6(4)(c) is replaced by the following:

- ‘(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) Article 28(2)(e) and (f) is replaced by the following:

- ‘(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) Article 33 is amended as follows:

- (a) 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’;

(b) 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 Article 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.’.

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