

SKLEPI

SKLEP EVROPSKE CENTRALNE BANKE

z dne 15. novembra 2011

o spremembah Sklepa ECB/2007/7 o pogojih za sistem TARGET2-ECB

(ECB/2011/19)

(2011/749/EU)

IZVRŠILNI ODBOR EVROPSKE CENTRALNE BANKE JE –

ob upoštevanju Pogodbe o delovanju Evropske unije in zlasti člena 127(2) Pogodbe,

ob upoštevanju Statuta Evropskega sistema centralnih bank in Evropske centralne banke ter zlasti člena 11.6 ter členov 17, 22 in 23 Statuta,

ob upoštevanju Smernice ECB/2007/2 z dne 26. aprila 2007 o transevropskem sistemu bruto poravnave v realnem času (TARGET2) ⁽¹⁾ in zlasti člena 6(2) Smernice,

ob upoštevanju naslednjega:

(1) Smernica ECB/2007/2 je bila spremenjena s Smernico ECB/2011/15 z dne 14. oktobra 2011 o spremembah Smernice ECB/2007/2 o transevropskem sistemu bruto poravnave v realnem času (TARGET2) ⁽²⁾, da bi se med drugim (a) med merila, na podlagi katerih bo prijava za udeležbo v sistemu TARGET2 zavrnjena in na podlagi katerih se lahko udeleženca začasno ali trajno izključi iz udeležbe v sistemu TARGET2 oziroma se mu začasno ali trajno zavrne dostop do posojila čez dan ali se mu to udeležbo oziroma dostop omeji, vključili „razlogi skrbnega in varnega poslovanja“ in (b) odrazile nove zahteve za udeležence v sistemu TARGET2 v povezavi z upravnimi in omejevalnimi ukrepi, uvedenimi na podlagi členov 75 in 215 Pogodbe.

(2) Prilogo k Sklepu ECB/2007/7 z dne 24. julija 2007 o pogojih za sistem TARGET2-ECB ⁽³⁾ je zato treba spremeniti, da bi se v pogoje za sistem TARGET2-ECB vključili nekateri elementi Smernice ECB/2011/15 –

SPREJEL NASLEDNJI SKLEP:

Člen 1

Spremembe pogojev za sistem TARGET2-ECB

Priloga k Sklepu ECB/2007/7, ki vsebuje pogoje za sistem TARGET2-ECB, se spremeni v skladu s Prilogo k temu sklepu.

Člen 2

Začetek veljavnosti

Ta sklep začne veljati 21. novembra 2011.

V Frankfurtu na Majni, 15. novembra 2011

Predsednik ECB
Mario DRAGHI

⁽¹⁾ UL L 237, 8.9.2007, str. 1.

⁽²⁾ UL L 279, 26.10.2011, str. 5.

⁽³⁾ UL L 237, 8.9.2007, str. 71.

PRILOGA

Priloga k Sklepu ECB/2007/7 se spremeni:

1. V členu 1 se naslednji opredelitvi nadomestita, kot sledi:

- „— ‚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. Člen 6(4)(c) se nadomesti z naslednjim:

- „(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. Člen 28(2)(e) in (f) se nadomesti z naslednjim:

- „(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. Člen 33 se spremeni:

- (a) naslov „Data protection, prevention of money laundering and related issues“ se nadomesti z „Data protection, prevention of money laundering, administrative or restrictive measures and related issues“;
- (b) doda se odstavek 3, kot sledi:

„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.“
