

# ODLUKE

## ODLUKA (EU) 2016/821 EUROPSKE SREDIŠNJE BANKE

od 26. travnja 2016.

### o izmjeni Odluke ESB/2007/7 o uvjetima sustava TARGET2-ECB (ESB/2016/9)

IZVRŠNI ODBOR EUROPSKE SREDIŠNJE BANKE,

uzimajući u obzir Ugovor o funkcioniranju Europske unije, a posebno prvu i četvrtu alineju njegova članka 127. stavka 2.,

uzimajući u obzir Statut Europskog sustava središnjih banaka i Europske središnje banke, a posebno njegov članak 3. stavak 1. i članke 17., 18. i 22.,

budući da:

- (1) Smjernicom (EU) 2016/579 Europske središnje banke (ESB/2016/6) <sup>(1)</sup> izmijenjena je Smjernica ESB/2012/27 <sup>(2)</sup> radi pojašnjavanja sustava kojim nacionalne središnje banke pružaju usluge samoosiguranja i namire u novcu središnje banke. Ova pojašnjenja proizlaze iz izmjena uvedenih Smjernicom (EU) 2015/930 Europske središnje banke (ESB/2015/15) <sup>(3)</sup>, kojom je izmijenjena Smjernica ESB/2012/27 radi uvođenja namjenskih gotovinskih računa i usluga samoosiguranja u odnosu na rad sustava TARGET2-Securities (sustav T2S).
- (2) Smjernicom (EU) 2016/597 (ESB/2016/6) također su izvršene izmjene Smjernice ESB/2012/27 o brojnim pitanjima politike, uključujući tretman sudionika sustava TARGET2 u odnosu na postupke sanacije, sa stajališta njihova sudjelovanja u sustavu TARGET2.
- (3) Radi odražavanja navedenih izmjena Smjernice ESB/2012/27, Odluku ESB/2007/7 <sup>(4)</sup>, koja se odnosi na uvjete sustava TARGET2-ECB, potrebno je izmijeniti na odgovarajući način,

DONIO JE OVU ODLUKU:

Članak 1.

### Izmjene

Prilozi I. i II. Odluci ESB/2007/7 mijenjaju se u skladu s Prilogom ovoj Odluci.

<sup>(1)</sup> Smjernica (EU) 2016/579 Europske središnje banke od 16. ožujka 2016. o izmjeni Smjernice ESB/2012/27 o Transeuropskom automatiziranom sustavu ekspresnih novčanih transakcija u realnom vremenu na bruto načelu (sustav TARGET2) (ESB/2016/6) (SL L 99, 15.4.2016., str. 21.).

<sup>(2)</sup> Smjernica ESB/2012/27 Europske središnje banke od 5. prosinca 2012. o Transeuropskom automatiziranom sustavu ekspresnih novčanih transakcija u realnom vremenu na bruto načelu (sustav TARGET2) (SL L 30, 30.1.2013., str. 1.).

<sup>(3)</sup> Smjernica (EU) 2015/930 Europske središnje banke od 2. travnja 2015. o izmjeni Smjernice ESB/2012/27 o Transeuropskom automatiziranom sustavu ekspresnih novčanih transakcija u realnom vremenu na bruto načelu (sustav TARGET2) (ESB/2015/15) (SL L 155, 19.6.2015., str. 38.).

<sup>(4)</sup> Odluka ESB/2007/7 od 24. srpnja 2007. o uvjetima sustava TARGET2-ECB (SL L 237, 8.9.2007., str. 71.).

Članak 2.

**Stupanje na snagu**

Ova Odluka stupa na snagu 16. svibnja 2016.

Sastavljeno u Frankfurtu na Majni 26. travnja 2016.

*Predsjednik ESB-a*  
Mario DRAGHI

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## PRILOG

## 1. Prilog I. Odluci ESB/2007/7 mijenja se kako slijedi:

## (a) u članku 1. mijenja se sljedeća definicija:

„— ‚direct debit authorisation‘ means a general instruction by a payer to its CB entitling and obliging that CB to debit the payer’s account upon receipt of a valid direct debit instruction from a payee.”;

## (b) članak 28. mijenja se kako slijedi:

## i. na kraju 1. stavka dodaje se sljedeća rečenica:

„For the purposes of this paragraph, the taking of resolution action within the meaning of Directive 2014/59/EU of the European Parliament and of the Council (\*) against a PM account holder shall not automatically qualify as the opening of insolvency proceedings.

(\*) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).”;

## ii. stavak 4. točka (a) zamjenjuje se sljedećim:

„(a) In the event that the ECB suspends or terminates a PM account holder’s participation in TARGET2-ECB under paragraph 1 or 2, the ECB shall immediately inform, by means of an ICM broadcast message or a T2S broadcast message, that PM account holder, other CBs and PM account holders and DCA holders in all of the TARGET2 component systems of such suspension or termination. Such message shall be deemed to have been issued by the home CB of the PM account holder and DCA holder that receives the message.”;

## iii. stavak 4. točka (b) briše se;

## (c) u članku 32. stavak 1. zamjenjuje se sljedećim:

„1. The ECB shall keep confidential all sensitive or secret information, including when such information relates to payment, technical or organisational information belonging to the participant, participants from the same group or the participant’s customers, unless the participant or its customer has given its written consent to disclose.”;

## (d) u Dodatku II. stavak 3. točka (a) podtočka ii. zamjenjuje se sljedećim:

„(ii) interest compensation shall be determined by applying a reference rate to be fixed from day to day. This reference rate shall be the lower of the euro overnight index average (EONIA) rate and the marginal lending rate. The reference rate shall be applied to the amount of the payment order not settled as a result of the technical malfunction of TARGET2 for each day in the period from the date of the actual or, in relation to payment orders referred to in paragraph 2(b)(ii), intended submission of the payment order until the date on which the payment order was or could have been successfully settled. Any interest or charges resulting from the placing of any non-settled payment orders on deposit with the Eurosystem shall be deducted from, or charged to, the amount of any compensation, as the case may be; and”;

## (e) u Dodatku IV., stavak 4. mijenja se kako slijedi:

## i. točka (b) zamjenjuje se sljedećim:

„(b) In the event that the operation of the SSP or the T2S Platform, as referred to in Annex II, is relocated from one region (Region 1) to another region (Region 2), the participants shall endeavour to reconcile their positions up to the point of the failure or the occurrence of the abnormal external events and provide to the ECB all relevant information in this respect.”;

ii. umeće se sljedeća točka (c):

„(c) Where a PM to DCA liquidity transfer order is debited on the participant's PM account on the SSP in Region 1, but, after reconciliation, is not shown as debited on the SSP in Region 2, the CB responsible for the participant shall debit the participant's PM account in Region 2 to return the participant's PM account balance to the level it had prior to the relocation.”;

(f) u Dodatku IV., stavak 8. točka (c) zamjenjuje se sljedećim:

„(c) The ECB may require that the participants participate in regular or ad hoc testing of business continuity and contingency processing measures, training or any other preventative arrangements, as deemed necessary by the ECB. Any costs incurred by the participants as a result of such testing or other arrangements shall be borne solely by the participants.”;

(g) u Dodatku VI. dodaje se sljedeći tekst:

„15. An ancillary system using the ASI or the Participant Interface, irrespective of the number of any accounts it may hold with the ASCB and/or the SCB, shall be subject to a fee schedule consisting of the following elements:

(a) A fixed monthly fee of EUR 1 000 to be charged to each ancillary system (Fixed Fee I).

(b) A second monthly fixed fee of between EUR 417 and EUR 8 334, in proportion to the underlying gross value of the ancillary system's euro cash settlement transactions (Fixed Fee II):

| Band | From (EUR million/day) | To (EUR million/day) | Annual fee  | Monthly fee |
|------|------------------------|----------------------|-------------|-------------|
| 1    | 0                      | below 1 000          | EUR 5 000   | EUR 417     |
| 2    | 1 000                  | below 2 500          | EUR 10 000  | EUR 833     |
| 3    | 2 500                  | below 5 000          | EUR 20 000  | EUR 1 667   |
| 4    | 5 000                  | below 10 000         | EUR 30 000  | EUR 2 500   |
| 5    | 10 000                 | below 50 000         | EUR 40 000  | EUR 3 333   |
| 6    | 50 000                 | below 500 000        | EUR 50 000  | EUR 4 167   |
| 7    | Above 500 000          | —                    | EUR 100 000 | EUR 8 334   |

The gross value of the ancillary system's euro cash settlement transactions shall be calculated by the ASCB once a year on the basis of such gross value during the previous year and the calculated gross value shall be applied for calculating the fee from 1 January of each calendar year. The gross value shall exclude transactions settled on DCAs.

(c) A transaction fee calculated on the same basis as the schedule established for PM account holders, in line with paragraph 1(b). The ancillary system may choose one of the two options: either to pay a flat EUR 0,80 fee per payment instruction (Option A) or to pay a fee calculated on a degressive basis (Option B), subject to the following modifications:

(i) for Option B, the limits of the bands relating to volume of payment instructions are divided by two, and

(ii) a monthly fixed fee of EUR 150 (under Option A) or EUR 1 875 (under Option B) shall be charged in addition to Fixed Fee I and Fixed Fee II.

- (d) In addition to the fees set out in points (a) to (c), an ancillary system using the ASI or the Participant Interface shall also be subject to the following fees:
- (i) If the ancillary system makes use of the TARGET2 value-added services for T2S, the monthly fee for the use of the value added services shall be EUR 50 for those systems that have chosen option A and EUR 625 for those systems that have chosen option B. This fee shall be charged for each account held by the ancillary system that uses the services;
  - (ii) If the ancillary system holds a Main PM account linked to one or more DCAs, the monthly fee shall be EUR 250 for each linked DCA; and
  - (iii) The ancillary system as Main PM account holder shall be charged the following fees for T2S services connected with the linked DCA(s). These items shall be billed separately:

| Tariff items  | Price         | Explanation   |
|---|---------------|---|
| Settlement services   |               |   |
| DCA to DCA liquidity transfer orders  | 9 euro cent   | per transfer  |
| Intra-balance movement (i.e. blocking, unblocking, reservation of liquidity etc.) | 6 euro cent   | per transaction   |
| Information services  |               |   |
| A2A reports   | 0,4 euro cent | Per business item in any A2A report generated                       |
| A2A queries   | 0,7 euro cent | Per queried business item in any A2A query generated                |
| U2A queries   | 10 euro cent  | Per executed search function  |
| U2A queries downloaded  | 0,7 euro cent | Per queried business item in any U2A query generated and downloaded |
| Messages bundled into a file  | 0,4 euro cent | Per message in a file   |
| Transmissions   | 1,2 euro cent | Per transmission"   |

2. Prilog II. Odluci ESB/2007/7 mijenja se kako slijedi:

- (a) u članku 1. zamjenjuju se sljedeće definicije:

„— ‚auto-collateralisation’ means intraday credit granted by the euro area national central bank (NCB) in central bank money triggered when a DCA holder has insufficient funds to settle securities transactions, whereby such intraday credit is collateralised either with the securities being purchased (collateral on flow), or with securities already held by the DCA holder (collateral on stock). An auto collateralisation transaction consists of two distinct transactions, one for the granting of auto-collateralisation and one for its reimbursement. It may also include a third transaction for any eventual relocation of collateral. For the purposes of Article 16, all three transactions are deemed to have been entered into the system and deemed to be irrevocable at the same time as the transaction for the granting of the auto-collateralisation,”;

„— ‚Main PM account’ means the PM account to which a DCA is linked and to which any remaining balance will be automatically repatriated at the end of the day,”;

(b) uvodni stavak članka 16. stavka 3. zamjenjuje se sljedećim:

„An agreement is to be signed between the Eurosystem CBs and the connected NCBs, on the one hand, and all CSDs participating in T2S, on the other hand, on the exchange of information in the event of the insolvency of a participant, and the liability of each of the signatories to the agreement. Two weeks after the ECB has confirmed to all of the agreement's signatories that procedures for the exchange of the abovementioned information have been established and approved by all parties thereto, the rules provided for in paragraph 2 shall be replaced by the following:”;

(c) članak 24. mijenja se kako slijedi:

i. na kraju 1. stavka dodaje se sljedeća rečenica:

„For the purposes of this paragraph, the taking of resolution action within the meaning of Directive 2014/59/EU against a DCA holder shall not automatically qualify as the opening of insolvency proceedings.”;

ii. stavak 4. točka (a) zamjenjuje se sljedećim:

„(a) In the event that the ECB suspends or terminates a DCA holder's participation in TARGET2-ECB under paragraph 1 or 2, the ECB shall immediately inform, by means of an ICM broadcast message or a T2S broadcast message, that DCA holder, other CBs and DCA holders and PM account holders in all of the TARGET2 component systems of such suspension or termination. Such a message shall be deemed to have been issued by the home CB of the DCA holder and PM account holder that receives the message.”;

iii. stavak 4. točka (b) briše se;

(d) u Dodatku II. stavak 3. točka (a) podtočka ii. zamjenjuje se sljedećim:

„(ii) interest compensation shall be determined by applying a reference rate to be fixed from day to day. This reference rate shall be the lower of the euro overnight index average (EONIA) rate and the marginal lending rate. The reference rate shall be applied to the amount of the payment order not settled as a result of the technical malfunction of TARGET2 for each day in the period from the date of the actual or, in relation to payment orders referred to in paragraph 2(b)(ii), intended submission of the payment order until the date on which the payment order was or could have been successfully settled. Any interest or charges resulting from the placing of any non-settled payment orders on deposit with the Eurosystem shall be deducted from, or charged to, the amount of any compensation, as the case may be; and”;

(e) u Dodatku IV., stavak 7. točka (b) zamjenjuje se sljedećim:

„(b) The ECB may require that the DCA holders participate in regular or ad hoc testing of business continuity and contingency processing measures, training or any other preventative arrangements, as deemed necessary by the ECB. Any costs incurred by the DCA holders as a result of such testing or other arrangements shall be borne solely by the DCA holders.”;

(f) dodatak VI. zamjenjuje se sljedećim:

„APPENDIX VI

## FEE SCHEDULE

### Fees for T2S services

The following fees for T2S services connected with DCAs shall be charged to the Main PM account holders:

| Tariff items   | Price       | Explanation     |
|--|-------------|-----------------|
| Settlement services  |             |                 |
| DCA to DCA liquidity transfer orders   | 9 euro cent | per transfer    |
| Intra-balance movement (i.e. blocking, un-blocking, reservation of liquidity etc.) | 6 euro cent | per transaction |

| Tariff items                 | Price         | Explanation   |
|------------------------------|---------------|---|
| Information services         |               |   |
| A2A reports                  | 0,4 euro cent | Per business item in any A2A report generated                       |
| A2A queries                  | 0,7 euro cent | Per queried business item in any A2A query generated                |
| U2A queries                  | 10 euro cent  | Per executed search function  |
| U2A queries downloaded       | 0,7 euro cent | Per queried business item in any U2A query generated and downloaded |
| Messages bundled into a file | 0,4 euro cent | Per message in a file   |
| Transmissions                | 1,2 euro cent | Per transmission”   |