

DECYZJE

DECYZJA EUROPEJSKIEGO BANKU CENTRALNEGO (UE) 2016/821

z dnia 26 kwietnia 2016 r.

zmieniająca decyzję EBC/2007/7 w sprawie warunków uczestnictwa w systemie TARGET2-ECB (EBC/2016/9)

ZARZĄD EUROPEJSKIEGO BANKU CENTRALNEGO,

uwzględniając Traktat o funkcjonowaniu Unii Europejskiej, w szczególności art. 127 ust. 2 tiret pierwsze i czwarte,

uwzględniając Statut Europejskiego Systemu Banków Centralnych i Europejskiego Banku Centralnego, w szczególności art. 3 ust. 1 oraz art. 17, 18 i 22,

a także mając na uwadze, co następuje:

- (1) Wytyczne Europejskiego Banku Centralnego (UE) 2016/579 (EBC/2016/6) ⁽¹⁾ zmieniły wytyczne EBC/2012/27 ⁽²⁾ w celu doprecyzowania schematu świadczenia przez krajowe banki centralne (KBC) usług autokolateralizacji i rozrachunku w pieniądzu banku centralnego. Doprecyzowanie to wynika ze zmian wprowadzonych przez wytyczne Europejskiego Banku Centralnego (UE) 2015/930 (EBC/2015/15) ⁽³⁾, które zmieniły wytyczne EBC/2012/27 w celu wprowadzenia dedykowanych rachunków pieniężnych i usług autokolateralizacji w odniesieniu do działania systemu TARGET2-Securities (T2S).
- (2) Wytyczne (UE) 2016/579 (EBC/2016/6) wprowadziły również do wytycznych EBC/2012/27 zmiany dotyczące szeregu kwestii strategicznych, takich jak traktowanie uczestników TARGET2 przechodzących procedurę restrukturyzacji i uporządkowanej likwidacji z perspektywy ich uczestnictwa w systemie.
- (3) Odzwierciedlenie wskazanych powyżej zmian wytycznych EBC/2012/27 wymaga zatem wprowadzenia odpowiednich zmian do decyzji EBC/2007/7 ⁽⁴⁾, która dotyczy warunków uczestnictwa w systemie TARGET2-ECB,

PRZYJMUJE NINIEJSZĄ DECYZJĘ:

Artykuł 1

Zmiany

Zmiany w załącznikach I i II do decyzji EBC/2007/7 wyszczególniono w załączniku do niniejszej decyzji.

⁽¹⁾ Wytyczne Europejskiego Banku Centralnego (UE) 2016/579 z dnia 16 marca 2016 r. zmieniające wytyczne EBC/2012/27 w sprawie transeuropejskiego automatycznego błyskawicznego systemu rozrachunku brutto w czasie rzeczywistym (TARGET2) (EBC/2016/6) (Dz.U. L 99 z 15.4.2016, s. 21).

⁽²⁾ Wytyczne Europejskiego Banku Centralnego EBC/2012/27 z dnia 5 grudnia 2012 r. w sprawie transeuropejskiego automatycznego błyskawicznego systemu rozrachunku brutto w czasie rzeczywistym (TARGET2) (Dz.U. L 30 z 30.1.2013, s. 1).

⁽³⁾ Wytyczne Europejskiego Banku Centralnego (UE) 2015/930 z dnia 2 kwietnia 2015 r. zmieniające wytyczne EBC/2012/27 w sprawie transeuropejskiego automatycznego błyskawicznego systemu rozrachunku brutto w czasie rzeczywistym (TARGET2) (EBC/2015/15) (Dz.U. L 155 z 19.6.2015, s. 38).

⁽⁴⁾ Decyzja Europejskiego Banku Centralnego EBC/2007/7 z dnia 24 lipca 2007 r. w sprawie warunków uczestnictwa w systemie TARGET2-ECB (Dz.U. L 237 z 8.9.2007, s. 71).

*Artykuł 2***Wejście w życie**

Niniejsza decyzja wchodzi w życie z dniem 16 maja 2016 r.

Sporządzono we Frankfurcie nad Menem dnia 26 kwietnia 2016 r.

Mario DRAGHI
Prezes EBC

ZAŁĄCZNIK

1. W załączniku I do decyzji EBC/2007/7 wprowadza się następujące zmiany:

a) w art. 1 poniższa definicja otrzymuje brzmienie:

„— »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) w art. 28 wprowadza się następujące zmiany:

(i) na końcu ust. 1 dodaje się zdanie w brzmieniu:

„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) ust. 4 lit. a) otrzymuje brzmienie:

„(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) skreśla się ust. 4 lit. b);

c) art. 32 ust. 1 otrzymuje brzmienie:

„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) w dodatku II pkt 3 lit. a) ppkt (ii) otrzymuje brzmienie:

„(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) w dodatku IV w pkt 4 wprowadza się następujące zmiany:

(i) lit. b) otrzymuje brzmienie:

„(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) dodaje się lit. c) w brzmieniu:

„(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) w dodatku IV pkt 8 lit. c) otrzymuje brzmienie:

„(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) w dodatku VI dodaje się tekst w brzmieniu:

„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		
A2 A reports	0,4 euro cent	Per business item in any A2 A report generated
A2 A queries	0,7 euro cent	Per queried business item in any A2 A query generated
U2 A queries	10 euro cent	Per executed search function
U2 A queries downloaded	0,7 euro cent	Per queried business item in any U2 A 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. W załączniku II do decyzji EBC/2007/7 wprowadza się następujące zmiany:

a) w art. 1 poniższe definicje otrzymują brzmienie:

„— »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) w art. 16 ust. 3 akapit wprowadzający otrzymuje brzmienie:

„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) w art. 24 wprowadza się następujące zmiany:

(i) na końcu ust. 1 dodaje się zdanie w brzmieniu:

„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) ust. 4 lit. a) otrzymuje brzmienie:

„(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) skreśla się ust. 4 lit. b);

d) w dodatku II pkt 3 lit. a) ppkt (ii) otrzymuje brzmienie:

„(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) w dodatku IV pkt 7 lit. b) otrzymuje brzmienie:

„(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) dodatek VI otrzymuje brzmienie:

„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		
A2 A reports	0,4 euro cent	Per business item in any A2 A report generated
A2 A queries	0,7 euro cent	Per queried business item in any A2 A query generated
U2 A queries	10 euro cent	Per executed search function
U2 A queries downloaded	0,7 euro cent	Per queried business item in any U2 A 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".