

DECIZII

DECIZIA (UE) 2016/821 A BĂNCII CENTRALE EUROPENE

din 26 aprilie 2016

de modificare a Deciziei BCE/2007/7 privind termenii și condițiile TARGET2-ECB (BCE/2016/9)

COMITETUL EXECUTIV AL BĂNCII CENTRALE EUROPENE,

având în vedere Tratatul privind funcționarea Uniunii Europene, în special articolul 127 alineatul (2) prima și a patra liniuță,

având în vedere Statutul Sistemului European al Băncilor Centrale și al Băncii Centrale Europene, în special articolul 3.1 și articolele 17, 18 și 22,

întrucât:

- (1) Orientarea (UE) 2016/579 a Băncii Centrale Europene (BCE/2016/6) ⁽¹⁾ a modificat Orientarea BCE/2012/27 a Băncii Centrale Europene ⁽²⁾ pentru a detalia schema prin care băncile centrale naționale (BCN) furnizează servicii de autocolateralizare și decontare în banii băncii centrale. Aceste detalii continuă modificările introduse prin Orientarea (UE) 2015/930 a Băncii Centrale Europene (BCE/2015/15) ⁽³⁾, care a modificat Orientarea BCE/2012/27 pentru a introduce conturile de fonduri dedicate și serviciile de autocolateralizare în legătură cu funcționarea TARGET2-Securities (T2S).
- (2) Orientarea (UE) 2016/579 (BCE/2016/6) a introdus modificări ale Orientării BCE/2012/27 și cu privire la mai multe aspecte de politică, inclusiv tratamentul participanților la TARGET2 care fac obiectul unei proceduri de rezoluție, din perspectiva participării acestora la TARGET2.
- (3) Pentru a reflecta modificările anterioare ale Orientării BCE/2012/27, Decizia BCE/2007/7 ⁽⁴⁾, care privește termenii și condițiile TARGET2-ECB, ar trebui să fie modificată în mod corespunzător,

ADOPTĂ PREZENTA DECIZIE:

Articolul 1

Modificări

Anexele I și II la Decizia BCE/2007/7 se modifică în conformitate cu anexa la prezenta decizie.

⁽¹⁾ Orientarea (UE) 2016/579 a Băncii Centrale Europene din 16 martie 2016 de modificare a Orientării BCE/2012/27 privind sistemul transeuropean automat de transfer rapid cu decontare pe bază brută în timp real (TARGET2) (BCE/2016/6) (OJ L 99, 15.4.2016, p. 21).

⁽²⁾ Orientarea BCE/2012/27 a Băncii Centrale Europene din 5 decembrie 2012 privind sistemul transeuropean automat de transfer rapid cu decontare pe bază brută în timp real (TARGET2) (OJ L 30, 30.1.2013, p. 1).

⁽³⁾ Orientarea (UE) 2015/930 a Băncii Centrale Europene din 2 aprilie 2015 de modificare a Orientării BCE/2012/27 privind sistemul transeuropean automat de transfer rapid cu decontare pe bază brută în timp real (TARGET2) (BCE/2015/15) (OJ L 155, 19.6.2015, p. 38).

⁽⁴⁾ Decizia BCE/2007/7 din 24 iulie 2007 privind termenii și condițiile TARGET2-ECB (OJ L 237, 8.9.2007, p. 71).

*Articolul 2***Intrare în vigoare**

Prezenta decizie intră în vigoare la 16 mai 2016.

Adoptată la Frankfurt pe Main, 26 aprilie 2016.

Președintele BCE
Mario DRAGHI

ANEXĂ

1. Anexa I la Decizia BCE/2007/7 se modifică după cum urmează:

(a) la articolul 1, următoarea definiție se înlocuiește:

„— ‘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) articolul 28 se modifică după cum urmează:

(i) la sfârșitul alineatului (1) se adaugă următoarea teză:

„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) alineatul (4) litera (a) se înlocuiește cu următorul text:

„(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) alineatul (4) litera (b) se elimină;

(c) la articolul 32, alineatul (1) se înlocuiește cu următorul text:

„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) în apendicele II, punctul 3 litera (a) subpunctul (ii) se înlocuiește cu următorul text:

„(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) în apendicele IV, punctul 4 se modifică în felul următor:

(i) litera (b) se înlocuiește cu următorul text:

„(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) se introduce următoarea literă (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) în apendicele IV, punctul 8 litera (c) se înlocuiește cu următorul text:

„(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) în apendicele VI, se adaugă următorul text:

„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. Anexa II la Decizia BCE/2007/7 se modifică după cum urmează:

(a) la articolul 1, următoarele definiții se înlocuiesc:

„— ‘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) Paragraful introductiv al articolului 16 alineatul (3) se înlocuiește cu următorul text:

„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) articolul 24 se modifică după cum urmează:

(i) la sfârșitul alineatului (1) se adaugă următoarea teză:

„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 DCA holder shall not automatically qualify as the opening of insolvency proceedings”.

(ii) alineatul (4) litera (a) se înlocuiește cu următorul text:

„(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) alineatul (4) litera (b) se elimină;

(d) în appendicele II, punctul 3 litera (a) subpunctul (ii) se înlocuiește cu următorul text:

„(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) în appendicele IV, punctul 7 litera (b) se înlocuiește cu următorul text:

„(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) appendicele VI se înlocuiește cu următorul text:

„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".