

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 26 April 2001

on a Trans-European Automated Real-time Gross Settlement Express Transfer system (Target)

(ECB/2001/3)

(2001/401/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community (hereinafter referred to as the 'Treaty') and in particular to the first and fourth indents of Article 105(2) thereof and to Articles 3.1, 12.1, 14.3, 17, 18 and 22 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute'),

Whereas:

- (1) The first indent of Article 105(2) of the Treaty and the first indent of Article 3.1 of the Statute require the European System of Central Banks (ESCB) to define and implement the monetary policy of the Community.
- (2) The fourth indent of Article 105(2) of the Treaty and the fourth indent of Article 3.1 of the Statute empower the European Central Bank (ECB) and the national central banks (NCBs) to promote the smooth operation of payment systems.
- (3) Article 22 of the Statute entrusts the ECB and the NCBs with the provision of facilities to ensure efficient and sound clearing and payment systems within the Community and with other countries.
- (4) The achievement of a single monetary policy entails the need for payment arrangements through which the monetary policy operations between NCBs and credit institutions can be effected in a timely and secure manner, and which will foster the singleness of the money market within the euro area.
- (5) Such objectives warrant a payment arrangement that operates with a high level of security, within very short processing times and at low cost.

- (6) Target is governed by a legal framework, which has applied from the starting date of Stage III of economic and monetary union (EMU). This Guideline replaces Guideline ECB/2000/9 of 3 October 2000 on a 'Trans-European Automated Real-time Gross Settlement Express Transfer system (Target)'.
(7) This Guideline is published following a policy in favour of transparency by way of official publication of the ECB's legal instruments; certain additional existing ESCB arrangements concerning security, financial and other operational or internal ESCB aspects are not included in this Guideline.
(8) In accordance with Articles 12.1 and 14.3 of the Statute, ECB guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

1. For the purposes of this Guideline:
 - 'national RTGS systems' shall mean those Real-time Gross Settlement systems which are component parts of Target as identified in Annex I of this Guideline,
 - 'ECB payment mechanism' shall mean the payment arrangements organised within the ECB and connected to Target for the purpose of effecting (i) payments between accounts held at the ECB; and (ii) payments through Target between accounts held at the ECB and at the NCBs,
 - 'interlinking' shall mean the technical infrastructures, design features and procedures which are put in place within, or constitute adaptations of, each national RTGS system and the ECB payment mechanism for the purpose of processing cross-border payments within Target,

- 'participants' shall mean the entities which have direct access to a national RTGS system and have an RTGS account with the NCB concerned (or, in the case of the ECB payment mechanism, with the ECB) and shall include such NCB or the ECB, whether in its capacity as settlement agent or otherwise,
- 'participating Member States' shall mean all Member States which have adopted the single currency in accordance with the Treaty,
- 'NCBs' shall mean the national central banks of the Member States which have adopted the single currency in accordance with the Treaty,
- 'Eurosystem' shall mean the ECB and the national central banks of the Member States which have adopted the single currency in accordance with the Treaty,
- 'network service provider' shall mean the undertaking appointed by the ECB to provide computerised network connections for interlinking,
- 'inter-NCB accounts' shall mean the accounts that each NCB and the ECB shall open for each other on their respective books for the operation of cross-border Target payments; each such inter-NCB account is held for the benefit of the ECB or the NCB in whose name the account is opened,
- 'domestic payments' shall mean payments effected or to be effected within one national RTGS system or within the ECB payment mechanism,
- 'cross-border payments' shall mean payments effected or to be effected between two national RTGS systems or between a national RTGS system and the ECB payment mechanism,
- 'RTGS rules' shall mean the regulations and/or contractual provisions, which are applied to a national RTGS system,
- 'RTGS account' shall mean an account (or, to the extent permitted in accordance with the relevant RTGS rules in question, any group of consolidated accounts, provided that all such account holders are jointly and severally liable vis-à-vis the RTGS system in case of default) opened in the name of a participant on the books of an NCB or the ECB on which domestic payments and/or cross-border payments are settled,
- 'payment order' shall mean an instruction by a participant in accordance with the applicable RTGS rules to place at the disposal of a receiving participant, including an NCB or the ECB, an amount of money by means of a book entry on an RTGS account,
- 'sending participant' shall mean the participant which has initiated a payment by giving a payment order,
- 'sending NCB/ECB' shall mean the ECB or the NCB at which the sending participant maintains its RTGS account,
- 'receiving participant' shall mean the participant designated by the sending participant as the participant to whose RTGS account the amount specified in the relevant payment order shall be credited,
- 'receiving NCB/ECB' shall mean the ECB or the NCB at which the receiving participant maintains its RTGS account,
- 'EEA' shall mean the European Economic Area as defined in the Agreement on the European Economic Area concluded on 2 May 1992 between the European Community and its Member States and the Member States of the European Free Trade Association, as amended by the Protocol adjusting the Agreement on the European Economic Area of 17 March 1993,
- 'remote participant' shall mean an institution established in an EEA country which participates directly in a national RTGS system of an (other) EU Member State ('host Member State') and, for that purpose, has an RTGS account in euro in its own name with the NCB of the host Member State, without necessarily having established a branch in the host Member State,
- 'indirect participant' shall mean an institution without its own RTGS account which is nevertheless recognised by a national RTGS system and subject to its RTGS rules and which can be directly addressed in Target; all transactions of an indirect participant are settled on the account of a participant (as defined above in the fourth indent of this Article 1) which has accepted to represent the indirect participant,
- 'intraday credit' shall mean credit extended and reimbursed within a period of less than one business day,
- 'standing facilities' shall mean the marginal lending facility and the deposit facility organised by the Eurosystem,
- 'marginal lending rate' shall mean the interest rate applicable from time to time for the Eurosystem marginal lending facility,
- 'deposit facility rate' shall mean the interest rate applicable from time to time for the Eurosystem deposit facility,
- 'main refinancing operations rate' shall mean the marginal interest rate applicable from time to time for the Eurosystem's most recent main refinancing operation, whereby marginal interest rate shall mean the interest rate at which the total tender allotment is exhausted,
- 'CCBM' shall mean the correspondent central banking model for the cross-border use of collateral as established by the ESCB,
- 'blocking-of-funds procedure' shall mean the procedure according to which funds on deposit or available credit are earmarked and made unavailable for any transaction or purpose other than the execution of the payment order concerned, in order to ensure that the earmarked funds or available credit will be used for the execution of such payment order; the earmarking of funds or available credit is referred to in this Guideline as 'blocking',
- 'finality' or 'final' shall mean that the settlement of a payment order cannot be revoked, reversed or made void by the sending NCB/ECB, by the sending participant or by any third party, or even in the event of insolvency proceedings against a participant, except in cases of imperfections

- in the underlying transaction(s) or payment order(s) arising from criminal offences or fraudulent acts (whereby fraudulent acts shall also include preferences and transactions at under-value during suspect periods in the case of insolvency) provided that such has been decided on a case-by-case basis by a court of competent jurisdiction or another competent dispute resolution body, or arising from error,
- 'malfunctioning of a national RTGS system' or 'malfunctioning of Target' or 'malfunctioning' shall mean technical difficulties, defects or failures in the technical infrastructure and/or the computer systems of any national RTGS system or the ECB payment mechanism or the computerised network connections for interlinking, or any other event related to any national RTGS system or the ECB payment mechanism or interlinking, that makes it impossible to execute and complete the same day processing of payment orders within Target; the definition shall also cover cases where a malfunctioning occurs simultaneously in more than one national RTGS system (due to, for instance, a breakdown related to the network service provider),
 - 'Target reimbursement scheme' or the 'reimbursement scheme' or the 'scheme' shall mean the scheme for reimbursement in cases of malfunctioning of Target referred to in Article 3(h) of this Guideline.

2. The Annexes to this Guideline may be amended from time to time by the Governing Council of the ECB. Additional documents containing, *inter alia*, technical provisions and specifications for Target may be adopted by the Governing Council of the ECB, whereby such amendments and additional documents shall enter into force as an integral part of this Guideline on the date specified by the Governing Council of the ECB, after communication to the NCBs.

Article 2

Description of Target

1. The Trans-European Automated Real-time Gross Settlement Express Transfer system is a Real-time Gross Settlement system for the euro. Target is composed of the national RTGS systems, the ECB payment mechanism and interlinking, and has been established by the Guideline ECB/1998/NP13 of 16 November 1998 on Target, as amended, which was repealed and replaced by Guideline ECB/2000/NP9. Target shall henceforth be governed by this Guideline.

2. The RTGS systems of the EU Member States which were existing members of the EU at the start of Stage III of EMU, but which have not adopted the single currency, are allowed connection to Target, in so far as such RTGS systems comply with the minimum common features set out in Article 3 of this Guideline and are able to process the euro as a foreign currency alongside their respective national currency. Any such connection to Target is subject to an agreement whereby the national central banks concerned agree to adhere to the rules and procedures for Target referred to in this Guideline (with specifications and modifications, where appropriate, as referred to in such an agreement).

Article 3

Minimum common features of national RTGS systems

Each NCB shall ensure that its respective national RTGS system complies with the features set out below.

(a) Access criteria

1. Only supervised credit institutions, as defined in Article 1(1) of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions⁽¹⁾, which are established in the EEA shall be admitted as participants in a national RTGS system. As an exception, and without prejudice to Article 7(1) of this Guideline, the following entities may also be admitted as participants in a national RTGS system upon approval by the relevant NCB:
 - (i) treasury departments of central or regional governments of Member States active in the money markets;
 - (ii) public sector bodies of Member States authorised to hold accounts for customers; for the purposes of this Guideline, 'public sector' shall have the meaning of Article 3 of Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104(b)(1) of the Treaty⁽²⁾;
 - (iii) investment firms as defined in Article 1(2) of Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field⁽³⁾, established in the EEA and authorised and supervised by a recognised competent authority designated as such under the terms of the abovementioned Council Directive (with the exclusion of the institutions defined under Article 2(2) of the abovementioned Directive), provided the investment firm in question is entitled to carry out the activities referred to under items 1(b), 2 or 4 of Section A of the Annex to Directive 93/22/EEC;
 - (iv) organisations providing clearing or settlement services subject to oversight by a competent authority.
2. The criteria for access to a national RTGS system and the procedure for the assessment thereof shall be set out in the RTGS rules concerned and be made available to interested parties. In addition to the criteria mentioned in Article 3(a)(1), these national criteria may include, *inter alia*:
 - adequate financial strength,
 - expected minimum number of transactions,
 - the payment of an entry fee,
 - legal, technical and operational aspects.

The RTGS rules shall also require that legal opinions, based on the Eurosystem's harmonised terms of reference for legal opinions, shall be obtained in respect of applicants for review by the relevant NCB as determined and specified by the Governing Council of the ECB. The terms of reference for legal opinions shall be made available by the respective NCB to interested parties.

⁽¹⁾ OJ L 126, 26.5.2000, p. 1.

⁽²⁾ OJ L 332, 31.12.1993, p. 1.

⁽³⁾ OJ L 141, 11.6.1993, p. 27.

3. A participant in a national RTGS system pursuant to this Article 3(a)(1) and (2) shall have access to the cross-border payment facilities of Target.
4. The RTGS rules shall contain the grounds and procedures for removing a participant from the national RTGS system concerned. The grounds for removing a participant from a national RTGS system (by way of suspension or expulsion) should cover any event which entails systemic risk or could otherwise cause serious operational problems, including:
- (i) where a participant enters into insolvency proceedings, or where such proceedings are impending;
 - (ii) where a participant is in breach of the RTGS rules in question; or
 - (iii) where one or more access criteria for participation in the relevant national RTGS system are no longer fulfilled.
- (b) Currency unit
- All cross-border payments to be processed through interlinking shall be in the euro unit. NCBs shall ensure that payment orders denominated in their respective national currency units of the euro to be effected through interlinking are converted into and transmitted in euro units.
- (c) Pricing rules
1. The pricing policy of the Target system shall be determined by the Governing Council of the ECB with reference to the principles of cost recovery, transparency and non-discrimination.
 2. Domestic payments in euro effected through the national RTGS system are subject to the pricing rules of the national RTGS system concerned, which, in turn, shall respect the policy on pricing set out in Annex II.
 3. Cross-border payments effected within Target shall be subject to a common price established by the Governing Council of the ECB and specified in Annex III.
 4. Prices shall be made available to interested parties.
- (d) Time of operation
1. Operating days
- Target as a whole shall be closed on Saturdays, Sundays, New Year's Day, Good Friday (according to the calendar applicable at the seat of the ECB), Easter Monday (according to the calendar applicable at the seat of the ECB), 1 May (Labour Day), Christmas Day and on 26 December.
- However, on 26 December 2001 the following shall apply:
- (i) interlinking shall be closed;
 - (ii) the ECB payment mechanism shall be closed;
 - (iii) no settlement may be provided for large-value net settlement systems in euro;
 - (iv) the national RTGS systems shall be closed in all Member States subject to Article 3(d)(1)(v) below;
 - (v) in participating Member States in which 26 December 2001 is not a public holiday, the NCB shall endeavour to close its national RTGS system; if this is deemed impossible by the NCB in question, it shall submit a proposal to the Executive Board and the Governing Council of the ECB outlining how it can limit domestic payments activities as much as possible; in assessing such a proposal, the Executive Board and the Governing Council shall take the relevant national legislation into account;
 - (vi) the standing facilities shall be available at the NCBs that remain open for such limited activities; and
 - (vii) the CCBM shall be closed.
2. Hours of operation
- The hours of operation of national RTGS systems shall comply with the specifications set out in Annex IV.
- (e) Payment rules
1. All payments directly resulting from or made in connection with (i) monetary policy operations; (ii) the settlement of the euro leg of foreign exchange operations involving the Eurosystem; and (iii) the settlement of cross-border large-value netting systems handling euro transfers shall be effected through Target. Other payments may also be effected through Target.
 2. A national RTGS system and the ECB payment mechanism shall not process a payment order unless sufficient funds are available on the account of the sending participant with the sending NCB/ECB, either through immediately available funds already credited to that account, through the intraday mobilisation of reserves maintained to fulfil reserve requirements or through intraday credit granted by such NCB/ECB, as the case may be, to that participant in accordance with Article 3(f).
 3. RTGS rules and the rules for the ECB payment mechanism shall specify the point in time at which payment orders become irrevocable, which must not be later than the point in time at which the RTGS account of the sending participant held at the sending NCB/ECB is debited with the amount concerned. Where national RTGS systems apply a blocking-of funds procedure before debiting the RTGS account, such irrevocability shall be provided from that earlier point in time at which blocking takes place.

(f) Intraday credit

1. Subject to the provisions of this Guideline, each NCB shall provide intraday credit to the supervised credit institutions referred to in Article 3(a) participating in the national RTGS system of such NCB provided that such credit institution is an eligible counterparty for Eurosystem monetary policy operations and has access to the marginal lending facility. Provided that it is a clear condition that intraday credit shall remain limited to the day in question and that no extension to overnight credit shall be possible, intraday credit may also be granted to:

- (i) treasury departments referred to in Article 3(a)(1)(i);
- (ii) public sector bodies referred to in Article 3(a)(1)(ii);
- (iii) investment firms referred to in Article 3(a)(1)(iii), on condition that such investment firm submits satisfactory written evidence that:
 - (a) either it has concluded a formal agreement with a Eurosystem monetary policy counterparty to cover any residual debit position at the end of the day in question; or
 - (b) access to intraday credit is limited to investment firms which hold an account with a central securities depository, and the investment firm in question is subject to a liquidity deadline or the amount of intraday credit is subject to a ceiling.

Should an investment firm for any reason be unable to reimburse the intraday credit on time, it shall be subject to penalties set in accordance with the following. If such an investment firm has a debit balance on its RTGS account as at the close of business of Target for the first time within any 12-month period, then the following shall apply. The relevant NCB shall promptly impose a penalty on that participant calculated at a rate five percentage points above the marginal lending rate on the amount of such debit balance (e.g. should the marginal lending rate be 4 %, the penalty would be 9 %). Should such an investment firm repeatedly be in such a debit position, then the penalty interest rate applied to that participant would be increased by a further 2,5 percentage points each time such a debit position were to occur within the 12-month period referred to above;

- (iv) supervised credit institutions referred to in Article 3(a)(1), which are not eligible counterparties for Eurosystem monetary policy operations and/or do not have access to the marginal lending facility. All provisions of the penalty regime set out in Article 3(f)(1)(iii) for investment firms shall apply identically to such credit institutions when, for any reason, they are unable to reimburse the intraday credit on time;
- (v) organisations providing clearing or settlement services (and subject to oversight by a competent authority) on condition that the arrangements for granting intraday credit to such organisations are

submitted in advance to the Governing Council of the ECB for approval.

- 2. Each NCB shall provide intraday credit by means of collateralised intraday overdrafts at the NCB and/or intraday repurchase transactions with NCBs in compliance with the criteria laid down below and with the further minimum common features that the Governing Council of the ECB may specify from time to time.
- 3. Intraday credit shall be based on adequate collateral. Eligible collateral shall be the same assets and instruments and be subject to the same valuation and risk control rules as those prescribed for eligible collateral for monetary policy operations. Except for treasury departments and public sector bodies referred to respectively in Article 3(a)(1)(i) and (ii), an NCB shall not accept as underlying assets debt instruments issued or guaranteed by the participant, or by any other entity with which the counterparty has close links, as defined in Article 1(26) of Directive 2000/12/EC, as applied for monetary policy operations.

Each of the national central banks of the EU Member States whose RTGS system is connected to Target pursuant to Article 2(2) is allowed to establish and maintain a list of eligible assets which can be used by institutions participating in their relevant national RTGS system connected to Target to collateralise euro credits granted by such national central banks, provided that the assets on such list meet the same quality standards and are subject to the same valuation and risk control rules as those prescribed for eligible collateral for monetary policy operations. The national central bank in question shall submit such list of eligible assets for prior approval by the ECB.

- 4. The Governing Council of the ECB may exempt treasury departments, referred to in Article 3(a)(1)(i), from the requirement of collateralisation in relation to the provision of intraday credit set out in Article 3(f)(3) upon a proposal from the relevant NCB.
- 5. Intraday credit provided in accordance with Articles 3(f) and (g) shall be free of interest.
- 6. Intraday credit shall not be granted to any remote participant.
- 7. The RTGS rules shall contain the grounds on the basis of which the relevant NCB may decide that the access of a participant to intraday credit may be suspended or terminated. Such a decision in respect of an eligible counterparty for Eurosystem monetary policy operations shall be approved by the ECB before it becomes effective.

The grounds for such suspension or termination shall cover any event which entails systemic risk or which could otherwise endanger the smooth operation of payment systems, including:

- (i) where a participant enters into insolvency proceedings;

- (ii) where a participant is in breach of the RTGS rules in question;
 - (iii) where the entitlement of a participant to participate in the national RTGS system is suspended or terminated; and
 - (iv) where, in case of a participant which is an eligible counterparty for Eurosystem monetary policy operations, the participant ceases to be eligible or is excluded or suspended from access to any or all such operations.
- (g) Intraday credit against assets outside the euro area

The ECB may authorise NCBs to grant intraday credit against assets outside the euro area contained in the list approved by the ECB and referred to in Article 3(f)(3), provided that the assets are: (i) located in EEA countries; (ii) issued by entities established in EEA countries; and (iii) denominated in EEA currencies or other widely traded currencies. The NCBs having received the authorisation to accept these assets and the lists of such assets are set out in Annex V.

The authorisation by the ECB is subject to the following conditions:

- (i) preservation of operational efficiency and the exercise of appropriate control over the specific legal risks relating to such assets and over the mechanisms to prevent such assets from being used in monetary policy operations;
- (ii) these assets shall not be used on a cross-border basis (i.e. counterparties may use such assets only to receive funds directly from the national central bank which has been authorised by the ECB to grant intraday credit against these assets);
- (iii) in addition, these assets shall only be used by participants to secure intraday credits granted by the relevant NCB and may not be used to secure overnight credit. In case intraday credit secured by these assets needs to be extended overnight, the assets in question need to be substituted with collateral eligible for monetary policy operations as prescribed under the relevant guidelines of the ECB. If extension of overnight credit occurs without such assets being simultaneously substituted with eligible collateral for monetary policy operations, penalties set in accordance with the following will be imposed on such participant. If the participant commits the violation described above for the first time within any 12-month period, then the relevant NCB shall promptly impose a penalty on that participant calculated at a rate 2,5 percentage points above the marginal lending rate on the amount of the overnight credit secured by these assets. Should the participant repeatedly be in such violation, then the penalty interest rate applied to that participant would be increased by a further 1,25 percentage points each time such a violation were to occur within the 12-month period referred to above. Should an investment firm or a credit institution referred to in Article 3(f)(1)(iv) commit the violation described above, only

the penalties set out in either Article 3(f)(1)(iii) or Article 3(f)(1)(iv) will apply to such a participant.

(h) Target reimbursement scheme

1. Establishment of a Target reimbursement scheme

In the event of malfunctioning of Target, and by way of derogation from Article 8 of this Guideline, the following rules, constituting the Target reimbursement scheme, shall apply. For the purposes of the scheme and its application, the terms 'reimburse', 'reimbursement' and 'reimbursement payments' are used to denote the payments made to participants under the scheme in order to adjust and address certain negative effects of malfunctioning as specified in the following.

The reimbursement scheme is not intended to exclude the possibility for participants to avail themselves of other legal means to claim compensation in a case of malfunctioning. Participants should either (i) accept the arrangements of the scheme, and any receipt of reimbursement payments thereunder, without any further legal action; or (ii) reject the arrangements of the scheme if the participant instead wishes to seek other legal means for compensation of damages, to the extent such is possible. Any reimbursement payment under the scheme shall be made on condition that the receipt of such payment is in full and final settlement of all the participant's claims arising from the specific payment affected by the malfunctioning.

2. Scope of application of the scheme

- (a) For cases of malfunctioning which negatively affects both domestic and cross-border payments, the scheme shall apply to both categories of affected payments and be the only such Target reimbursement arrangement offered by the members of the ESCB. Conversely, NCBs may apply alternative regimes for cases of malfunctioning which only affects domestic payments within the malfunctioning national RTGS system.
- (b) The scheme is only available to the sending participants and/or the receiving participants of a national RTGS system that have had recourse (subject to Articles 3(h)(5) and 3(h)(6)) to the standing facilities due to the malfunctioning of Target. The scheme does not cover indirect participants, unless such indirect participants have had recourse to the standing facilities due to the malfunctioning of Target.

3. Conditions for eligibility under the scheme

- (a) As a condition for a sending participant to be eligible to receive reimbursement under the scheme, it must be able to establish that it has entered a payment order (i) which was not processed on the same day, or (ii) which was returned without successful completion on the same day due to the malfunctioning of Target, or (iii) which triggered the debiting of the sending participant's account for the payment order entered into a national RTGS system

but which was thereafter neither executed nor returned on the same day due to the malfunctioning. In the case of a stop-sending status of a national RTGS system, a sending participant may, alternatively, not have been able to enter a certain payment order. Such a participant may still lodge a claim under the scheme provided that the participant can submit supporting evidence to the NCB of its national RTGS system that shows to the satisfaction of the ESCB that it had the intention to enter the payment order in question but was unable to do so due to the malfunctioning and the stop-sending message.

- (b) As a condition for a receiving participant to be eligible to receive reimbursement under the scheme, it must be able to establish that it was expecting to receive a payment through Target as a result of a payment order entered into a national RTGS system on the relevant date (or otherwise as provided for under Article 3(h)(3)(a)) and that it did not receive such payment on the relevant date due to the malfunctioning of Target.

4. Rules regarding the calculation of reimbursement under the scheme

- (a) In the event of malfunctioning of Target, the sending participant may have a temporary excess of liquidity with the sending NCB, whilst the NCB of the receiving participant may have to provide the amounts of the failed payment to that receiving participant. Therefore, the deposit facility may be activated in the first case, and the marginal lending facility in the second case. In both these cases, the rates applied are more favourable to the ESCB than the market rate (which, for the purposes of the scheme, is considered to be the main refinancing operations rate).
- (b) The amounts to be reimbursed to the participants under the scheme shall be determined by applying:
- (i) the difference in rate from day to day between the main refinancing operations rate and the rate applied by the Eurosystem for amounts lent or deposited under the standing facilities (the marginal lending rate or the deposit rate, respectively);
- (ii) to the amount representing the effective use of the relevant standing facility by the sending or the receiving participant and up to the amount of the payment orders not processed as a result of the malfunctioning of Target,

for the period starting at the date of the entering of the payment order until the date when the payment order was or could have been successfully completed (the 'period of malfunctioning').

- (c) For a sending participant, the scheme shall exclude from reimbursement any amounts such a participant has used for the fulfilment of reserve requirements and any amounts representing losses the participant may have incurred in depositing excess funds in the market.

- (d) For a receiving participant, the scheme shall exclude from compensation any amounts representing losses the participant may have incurred due to borrowing in the market.
- (e) The scheme shall not cover any losses incurred as a result of any underlying contractual or other arrangements that any participant may have with another participant or any other third party.
- (f) Reimbursement payments under the scheme to sending or receiving participants shall be made by the NCB/ECB of the malfunctioning national RTGS system.

5. Additional rules regarding calculation of reimbursement under the scheme in particular cases

- (a) A sending participant of the national RTGS system of a participating Member State which is a counterparty to the Eurosystem monetary policy operations shall receive reimbursement under the scheme for losses incurred due to such a participant remaining with non-remunerated current account holdings with its respective NCB where such holdings result from the malfunctioning of Target, provided that the participant in question (i) has already fulfilled its reserve requirements; and (ii) is no longer able to access the Eurosystem's deposit facility on the day in question as a result of the malfunctioning.
- (b) For participants of the national RTGS system of a participating Member State that are not monetary policy counterparties and/or have no access to the standing facilities, the following shall apply:
- (i) a sending participant which has remained in excess of funds with its NCB at the end of the day due to a malfunctioning of Target shall receive reimbursement at a rate representing the difference from day to day between the main refinancing operations rate and the interest rate applicable to the amount of funds which have not been sent as a result of the malfunctioning and which have, therefore, remained in the settlement account at its NCB for the period of malfunctioning;
- (ii) a receiving participant which was expecting to receive a payment through Target shall receive reimbursement at a rate representing the difference from day to day between the main refinancing operations rate and the interest rate applicable to amounts borrowed from the respective NCB, or overdrafts on the settlement account at its NCB, in respect of the amount of funds not received as a result of the malfunctioning for the period of malfunctioning. For such a receiving participant that has remained in a debit position with its NCB at the end of the day, that part of the applicable penalty rate above the marginal lending rate for such a spill-over of intraday credit into an overnight position, stipulated by the applicable RTGS rules, shall be waived (and disregarded in future cases of spillover) to the extent that the spill-over can be attributed to the occurrence of the malfunctioning.

(c) The scheme shall also apply where a sending participant is unable to recover funds which have been debited to its RTGS account, but which are subsequently blocked overnight in the national RTGS system due to malfunctioning, in which case reimbursement shall be made for the period until such funds are returned to the sending participant. The basis of payments in respect of such unavailability of funds for a sending participant shall be the main refinancing operations rate.

6. Application of the scheme to participants of national RTGS systems of non participating Member States

(a) For sending participants of a national RTGS system of a non-participating Member State, only the participants that have incurred additional positive end-of day balances with their respective NCB due to a case of malfunctioning may receive reimbursement under the scheme as set out in the following:

(i) any limit to the remuneration on the aggregate amount of overnight deposits on the RTGS accounts of such participants with the NCB of a non-participating Member State shall be disregarded to the extent that such amount can be attributed to the malfunctioning;

(ii) the rate of interest in respect of deposits that shall be used for the calculation of reimbursement payments to the sending participants of a national RTGS system of a non-participating Member State shall be the main refinancing operations rate;

(iii) the reimbursement payment shall represent an amount equal to the difference from day to day between the main refinancing operations rate and the deposit rate, respectively, for the period of malfunctioning and applied to the amount of the marginal increase of the deposit that such a sending participant will have with its respective NCB as a result of the malfunctioning.

(b) For receiving participants of national RTGS systems of non-participating Member States, that part of the applicable penalty rate above the marginal lending rate, stipulated by the applicable RTGS rules in case of spillover of intraday credit into overnight, shall be waived (and disregarded in future cases of spillover) to the extent that the spill-over can be attributed to the malfunctioning. The occurrence of such spillover shall be ignored for the purpose of access to intraday credit and/or continued participation in the national RTGS system concerned. The reimbursement payments under the scheme shall be calculated so as to reach a result whereby such a receiving participant will be paid at a rate representing the difference from day to day between the main refinancing operations rate and the marginal lending rate on the overdraft caused by the malfunctioning for the period of malfunctioning.

7. Procedural rules

(a) Any request for reimbursement lodged by a participant shall be supported by the necessary information in order to enable a proper assessment thereof, including:

(i) name, address and status of the participant (i.e. whether or not the participant is a counterparty for Eurosystem monetary policy operations);

(ii) time, place and other circumstances surrounding the submission of the relevant payment order to an NCB/ECB or system operator or of the relevant transmission through Target;

(iii) name and address of the counterparty (receiving participant in case the claimant is a sending participant and sending participant in case the claimant is a receiving participant);

(iv) amount for which recourse to the standing facility of the Eurosystem was made (or equivalent amounts for participants in national RTGS systems of non-participating Member States, or equivalent amounts for participants in national RTGS systems of participating Member States that are not monetary policy counterparties) and evidence that such recourse to the standing facility took place due to the malfunctioning of Target;

(v) if applicable, the amount of any non-remunerated funds on a current account holding which remained with an NCB/ECB owing to the closure of the deposit facility and a confirmation that the reserve requirements have already been fulfilled;

(vi) if applicable, the amount of funds blocked in the Target system and returned to the participant on a later value date;

(vii) the amount and calculation of the claim made for reimbursement by the participant.

(b) Requests for reimbursement shall be submitted within four weeks of the date of the malfunctioning in question. If a request is duly submitted in time but deemed incomplete, then the claimant will be required by the NCB of the national RTGS system where the claimant is a participant to provide the additional information needed within a time frame of two weeks.

(c) Participants shall submit any requests for reimbursement to the NCB/ECB where the participant placed the payment order or was to receive the payment, irrespective of where in the various components of Target the malfunctioning occurred.

(d) The NCB/ECB of the malfunctioning national RTGS system shall be the manager of the reimbursement procedure and all claims received by other NCBs/ECB will be transmitted to it for assessment.

- (e) In order to ensure a harmonised approach and a level playing field, the final assessment of the reimbursement requests received under the scheme shall be carried out under the responsibility of the Governing Council of the ECB in close cooperation with the NCB of the malfunctioning national RTGS system.
- (f) The NCB/ECB of the malfunctioning national RTGS system shall communicate the outcome of the assessment in respect of each claim to the participants concerned and the other NCB/ECB involved promptly and no later than 18 weeks after the malfunctioning, unless the Governing Council of the ECB decides otherwise and such decision is communicated to the participants concerned.
- (g) Reimbursement payments to the participants shall be made at, or as soon as reasonably practicable after, the time of the communication of the assessment to the participants, and in any event not later than five months after the malfunctioning, unless the Governing Council of the ECB decides otherwise and such decision is communicated to the participants concerned.
- (h) Payments to be made to Target participants under the reimbursement scheme shall be made in accordance with the national laws and procedures applicable to the abovementioned paying NCB/ECB. There shall be no interest payable on the amount of reimbursement under the scheme in respect of the time period between the occurrence of the case of malfunctioning and the actual payment of reimbursement to the participant.

Article 4

Interlinking provisions

The provisions of this Article shall apply to the arrangements for cross-border payments effected or to be effected through interlinking. Other provisions of this Guideline shall apply to such cross-border arrangements to the extent that such provisions are of relevance to them.

(a) Description of interlinking

The ECB and each of the NCBs shall operate an interlinking component to enable the processing of cross-border payments within Target. Such interlinking components shall comply with the technical provisions and specifications, which are available on the ECB's website (www.ecb.int) and updated from time to time.

(b) Opening and operation of inter-NCB accounts held at the NCBs and the ECB

1. The ECB and each of the NCBs shall open an inter-NCB account on their books for each of the other NCBs and for the ECB. In support of entries made on any inter-NCB account, each NCB and the ECB shall grant one another an unlimited and uncollateralised credit facility.

2. To effect a cross-border payment, the sending NCB/ECB shall credit the inter-NCB account of the receiving NCB/ECB held at the sending NCB/ECB; the receiving NCB/ECB shall debit the inter-NCB account of the sending NCB/ECB held at the receiving NCB/ECB.

3. All inter-NCB accounts shall be maintained in the euro unit.

(c) Obligations of the sending NCB/ECB

1. Verification

The sending NCB/ECB shall without delay check all details contained in the payment order which are necessary in order for the payment to be executed, in accordance with the technical provisions and specifications referred to in Article 4(a). If syntactical errors or other grounds for rejecting a payment order are detected by the sending NCB/ECB, the latter shall handle the data and the payment order in accordance with the RTGS rules of its national RTGS system. Each payment passing through interlinking shall have a unique identifier to facilitate message identification and error handling.

2. Settlement

As soon as the sending NCB/ECB has checked the validity of a payment order as referred to in Article 4(c)(1), and provided that funds or overdraft facilities are available, the sending NCB/ECB shall without delay:

- (a) debit the amount of the payment order from the RTGS account of the sending participant; and
- (b) credit the inter-NCB account of the receiving NCB/ECB, as maintained on the books of the sending NCB/ECB.

The point in time at which the sending NCB/ECB has carried out the debiting specified in (a) above shall be referred to as the settlement time. For national RTGS systems which apply a blocking-of funds procedure, the settlement time shall be the point in time at which blocking takes place as referred to in Article 3(e)(3).

For the purposes of this Guideline, and without prejudice to the provisions regarding irrevocability referred to in Article 3(e)(3), a payment shall become final (as defined in Article 1 of this Guideline) in relation to the sending participant concerned at the settlement time.

(d) Obligations of the receiving NCB/ECB

1. Verification

The receiving NCB/ECB shall check without delay all details contained in the payment order which are necessary for the appropriate credit entry to be made to the RTGS account of the receiving participant (including the unique identifier in order to avoid double crediting). The receiving NCB/ECB shall not process any payment orders, which it knows to have been made in error or more than once. It shall notify the sending NCB/ECB of any such payment orders and any payments received pursuant thereto (and shall return any such payments received without delay).

2. Settlement

As soon as the receiving NCB/ECB has checked the validity of a payment order as referred to in Article 4(d)(1), the receiving NCB/ECB shall without delay:

- (a) debit the amount of the payment order to the inter-NCB account of the sending NCB/ECB on its books;
- (b) credit the amount of the payment order to the RTGS account of the receiving participant; and
- (c) deliver a positive acknowledgement to the sending NCB/ECB.

For the purposes of this Guideline, and without prejudice to the provisions regarding irrevocability referred to in Article 3(e)(3), a payment shall become final (as defined by Article 1 of this Guideline) in relation to the receiving participant concerned at the moment at which its RTGS account referred to in (b) is credited.

(e) Transfer of responsibility for payment orders

Responsibility for the execution of a payment order shall pass to the receiving NCB/ECB upon receipt by the sending NCB/ECB of a positive acknowledgement from the receiving NCB/ECB.

(f) Regime for errors

1. Error handling procedures

Each NCB shall comply with, and ensure that its respective national RTGS system complies with, the error handling procedures adopted by the Governing Council of the ECB. The ECB shall ensure the same for the ECB payment mechanism.

2. Additional contingency measures

Each NCB shall ensure that its respective national RTGS system and procedures comply with the user requirements for the additional contingency measures, referred to in Article 4(a), and the terms and conditions and the procedures adopted by the Governing Council of the ECB. The ECB shall ensure the same for the ECB payment mechanism.

(g) Relation to network service provider

1. All NCBs and the ECB shall be connected or have an entry point to the network service provider.
2. As between themselves, neither NCBs nor the ECB shall assume any liability to each other for any failure of the network service provider. It shall be the responsibility of the NCB/ECB which has suffered the loss to claim compensation, if any, against the network service provider, whereby such an NCB shall make its claim through the ECB.

Article 5

Security provisions

Each NCB shall comply with, and shall ensure that its respective national RTGS system complies with, the provisions of the

security strategy and security requirements for Target. The ECB shall also ensure the same for the ECB payment mechanism.

Article 6

Audit rules

The internal auditors of the ECB and the NCBs shall assess compliance with the functional, technical and organisational features, including security provisions, as specified for the relevant Target components and arrangements referred to in this Guideline.

Article 7

Management of Target

1. The direction, management and control of Target shall fall within the competence of the Governing Council of the ECB. The Governing Council shall be entitled to determine the terms and conditions under which cross-border payment systems other than the national RTGS systems may use the cross-border facilities of Target or be connected to Target.

2. The Governing Council of the ECB is assisted by the Payment and Settlement Systems Committee (the 'PSSC') in all matters related to the Target system. For such purposes, the PSSC shall set up a subgroup composed of NCB representatives for the national RTGS systems.

3. The daily management of Target shall be entrusted to the ECB Target Coordinator and to the NCB settlement managers:

- each NCB and the ECB shall appoint a settlement manager for the administration and monitoring of its respective national RTGS system or, in the case of the ECB, the ECB payment mechanism,
- the settlement manager shall have responsibility for the daily management of such national RTGS system or, in the case of the ECB, the ECB payment mechanism and for handling abnormal situations and errors, and
- the ECB shall appoint the ECB Target Coordinator as the daily manager of the central functions of Target.

Article 8

Force majeure

There shall be no liability on the part of the NCBs/ECB for non-compliance with this Guideline to the extent that, and for so long as, there is an inability to perform the obligations in question under the Guideline, or such obligations are subject to suspension or delay, owing to the occurrence of any event arising from any reason or cause beyond reasonable control (including, but not limited to, equipment failure or malfunction, acts of God, natural disasters, strikes or labour disputes); provided that the above shall not prejudice the responsibility to have in place the back-up facilities required by this Guideline, to carry out the errorhandling procedures, referred to in Article 4(f), as far as possible despite the *force majeure* event, and to use all reasonable efforts to mitigate the effects of any such event while it is taking place.

*Article 9***Dispute resolution**

1. Without prejudice to the rights and prerogatives of the Governing Council of the ECB, any disputes arising between NCBs or between any NCB and the ECB in connection with Target which cannot be settled by agreement between the parties involved in the dispute shall be notified to the Governing Council of the ECB and referred for conciliation to the PSSC referred to in Article 7(2).

2. In the event of such a dispute between NCBs, or between an NCB and the ECB, the respective rights and obligations to one another in relation to payment orders processed through Target and all other matters referred to in this Guideline shall be determined: (i) by the rules and procedures referred to in this Guideline and its Annexes; and (ii) as a supplementary source in disputes concerning cross-border payments through interlinking, by the laws of the Member State of the seat of the receiving NCB/ECB.

*Article 10***Final provisions**

This Guideline is addressed to the national central banks of participating Member States.

This Guideline shall enter into force on 7 June 2001.

From that date, Guideline ECB/2000/9 shall be repealed and replaced.

This Guideline shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 26 April 2001.

*On behalf of the Governing Council of the
ECB*

The President

Willem F. DUISENBERG

ANNEX I

NATIONAL RIGS SYSTEMS

Member State	Name of system	Settlement agent	Location
Belgium	Electronic Large-value Interbank Payment system (ELLIPS)	Banque Nationale de Belgique/ Nationale Bank van België	Brussels
Germany	Euro Link System (ELS)	Deutsche Bundesbank	Frankfurt
Greece	Hellenic Real-time Money Transfer Express system (HERMES)	Bank of Greece	Athens
Spain	Servicios de Liquidación del Banco de España (SLBE)	Banco de España	Madrid
France	Transferts Banque de France (TBF)	Banque de France	Paris
Ireland	Irish Real-time Interbank Settlement system (IRIS)	Central Bank of Ireland	Dublin
Italy	Banca d'Italia Regolamento Lordo (BI-REL)	Banca d'Italia	Rome
Luxembourg	Luxembourg Interbank Payment systems (LIPS-Gross)	Banque centrale du Luxembourg	Luxembourg
The Netherlands	TOP	De Nederlandsche Bank	Amsterdam
Austria	Austrian Real-time Interbank Settlement system (ARTIS)	Oesterreichische Nationalbank	Vienna
Portugal	Sistema de Pagamentos de Grandes Transacções (SPGT)	Banco de Portugal	Lisbon
Finland	Bank of Finland (BoF)	Suomen Pankki	Helsinki

ANNEX II

DOMESTIC PAYMENT FEES

The price of domestic RTGS transfers in euro will continue to be determined at the national level, with reference to the principles of cost recovery, transparency and non-discrimination and taking into account the fact that the price for domestic and cross-border transfers in euro should be broadly in the same range so as not to affect the singleness of the money market.

National RTGS systems shall disclose their fee structure to the ECB, to all other participating NCBs, to participants in national RTGS systems, and to other interested parties.

Methodologies to determine the costs of national RTGS systems will be harmonised to an adequate level.

ANNEX III

CROSS-BORDER PAYMENT FEES

The fee (excluding VAT) to be charged for cross-border payments through Target between direct participants will be based on the number of transactions sent by a participant within a single RTGS system, according to a degressive scale.

The degressive scale is as follows:

- EUR 1,75 for each of the first 100 transactions per month,
- EUR 1,00 for each of the next 900 transactions per month,
- EUR 0,80 for each subsequent transaction in excess of 1 000 per month.

For the purpose of the application of the degressive tariff, the payment volume to be considered is the number of transactions entered into by a same legal entity within a single RTGS system or the payment transactions entered by different entities for execution through the same settlement account.

The application of the above tariff scheme will be reviewed from time to time.

Fees are charged only by the sending NCB/ECB to the sending participants in the national RTGS system/ECB payment mechanism (EPM). No fees are charged by the receiving NCB/ECB to the receiving participant. There will be no charge for inter-NCB transfers, i.e. where the sending NCB/ECB is acting on its own behalf.

Fees will cover the queuing of the payment instruction (if applicable), the debiting of the sender, the crediting of the inter-NCB account of the receiving NCB/ECB on the books of the sending NCB/ECB, the sending of the payment settlement message request (PSMR) via the interlinking network, the debiting of the inter-NCB account of the sending NCB/ECB on the books of the receiving NCB/ECB, the crediting of the RTGS participant, the sending of the payment settlement message notification (PSMN) via the interlinking network, the communication of the payment message to the RTGS participant/receiver and confirmation of settlement (if applicable).

The cross-border Target fee structure does not cover the costs of the telecommunications link between the sender and the national RTGS system in which the sender is a participant. The fee for this telecommunications link will continue to be paid according to the domestic rules.

National RTGS systems may not charge any fee for the conversion of transfer orders from national currency units into euro units or vice versa.

RTGS systems may charge extra fees for additional services they may provide (e.g. the entering of paper-based payment instructions).

The possibility of applying different fees according to the time of execution of the payment instructions will be considered on the basis of experience gained during the operation of the system.

ANNEX IV

TARGET HOURS OF OPERATION

Target and, therefore, NCBs and national RTGS systems participating in or connected to Target, applies the following rules with respect to the time of operation.

1. The reference time for Target shall be 'European Central Bank time', defined as the local time at the seat of the ECB.
 2. Target will have common operating hours from 07.00 to 18.00.
 3. Early opening, before 07.00, may take place after prior notification has been sent to the ECB:
 - (i) for domestic reasons (e.g. in order to facilitate settlement of securities transactions, to settle balances of net settlement systems, or to settle other domestic transactions, such as batch transactions channelled by NCBs into RTGS systems during the night); or
 - (ii) for ESCB-related reasons (e.g. on days when exceptional payment volumes are expected, or in order to reduce foreign exchange settlement risk when processing the euro leg of foreign exchange deals involving Asian currencies).
 4. A cut-off for customer payments (both domestic and cross-border) of one hour before the normal Target closing time will apply; the remaining time will be used only for interbank payments (both domestic and cross-border) to transfer liquidity between participants. Customer payments are defined as payment messages in the MT100 format, or equivalent national message format (which would use the MT100 format for cross-border transmission). The implementation of the 17.00 cut-off time for domestic payments is to be decided by each NCB in cooperation with its banking community. In addition, NCBs may continue to process domestic customer payments that were in a queue at 17.00.
-

ANNEX V

LIST OF 'OUT' COLLATERAL

which can be used to collateralise intra-day credit for each NCB of a participating Member State that has declared its intention to use certain collateral located in the country of a national central bank of a Member State which has not adopted the euro and whose intention has been approved by the ECB pursuant to Article 3(f)(3) and Article 3(g) of the Target Guideline:

Participating NCB	Approved use of 'out' collateral
DEUTSCHE BUNDESBANK	<ul style="list-style-type: none"> — Danish Government and mortgage credit bonds — Swedish Government debt instruments and mortgage institutions' bonds — UK Government gilt-edged securities — UK Treasury bills
BANCO DE ESPAÑA	<ul style="list-style-type: none"> — UK Government gilt-edged securities — UK Treasury bills
BANQUE DE FRANCE	<ul style="list-style-type: none"> — Danish Government and mortgage credit bonds — Swedish Government debt instruments and mortgage institutions' bonds — UK Government gilt-edged securities — UK Treasury bills
CENTRAL BANK OF IRELAND	<ul style="list-style-type: none"> — UK Government gilt-edged securities — UK Treasury bills
BANQUE CENTRALE DU LUXEMBOURG	<ul style="list-style-type: none"> — Danish Government and mortgage credit bonds
DE NEDERLANDSCHE BANK NV	<ul style="list-style-type: none"> — Danish Government and mortgage credit bonds — Swedish Government debt instruments and mortgage institutions' bonds
SUOMEN PANKKI	<ul style="list-style-type: none"> — Danish Government and mortgage credit bonds — Swedish Government debt instruments and mortgage institutions' bonds — UK Government gilt-edged securities — UK Treasury bills