DEĊIŻJONI TAL-BANK ĊENTRALI EWROPEW

tat-2 ta' Novembru 2010

li temenda d-Deċiżjoni BĊE/2007/7 dwar it-termini u l-kundizzjonijiet tat-TARGET2-BĊE

(BĊE/2010/19)

(2010/673/UE)

IL-BORD EŻEKUTTIV TAL-BANK ĊENTRALI EWROPEW,

Wara li kkunsidra t-Trattat dwar il-Funzjonament tal-Unjoni Ewropea, u partikolarment l-Artikolu 127(2) tiegħu,

Wara li kkunsidra l-Istatut tas-Sistema Ewropea tal-Banek Ċentrali u tal-Bank Ċentrali Ewropew, u partikolarment l-Artikolu 11.6 u l-Artikoli 17, 22 u 23 tiegħu,

Wara li kkunsidra l-Linja ta' Gwida BĊE/2007/2 tas-26 ta' April 2007 dwar sistema Trans-European Automated Real-time Gross settlement Express Transfer (TARGET2) [1],

Wara li kkunsidra d-Deċiżioni BĊE/2007/7 tal-24 ta' Lulju 2007 dwar it-termini u l-kundizzjonijiet tat-TARGET2-BĊE [2],

Billi:

(1) Fil-15 ta' Settembru 2010, il-Kunsill Governattiv tal-Bank Ċentrali Ewropew (BĊE) adotta l-Linja ta' Gwida BĊE/2010/12 li temenda l-Linja ta' Gwida BĊE/2007/2 dwar sistema Trans-European Automated Real-time Gross settlement Express Transfer (TARGET2) [3], *inter alia,* (a) biex jieħu kont tal-aġġornamenti għal TARGET2 verżjoni 4.0, partikolarment sabiex parteċipanti jitħallew ikollhom aċċess għal kont PM wieħed jew aktar permezz ta' aċċess ibbażat fuq l-Internet; u (b) biex jirrifletti numru ta' bidliet tekniċi wara d-dħul fis-seħħ tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea u jiġu ċċarati xi kwistjonijiet.

(2) Huwa meħtieġ li jsiru emendi ta' konformità lil Deċiżjoni BĊE/2007/7, sabiex jiġu implimentati uħud mill-elementi tal-Linja ta' Gwida BĊE/2010/12 fit-termini u l-kundizzjonijiet tat-TARGET2-BĊE,

ADOTTA DIN ID-DEĊIŻJONI:

Artikolu 1

Emenda tat-termini u l-kundizzjonijiet tat-TARGET2-BĊE

L-Anness tad-Deċiżjoni BĊE2007/7 li fih it-termini u l-kundizzjonijiet tat-TARGET2-BĊE għandu jiġi emendat skont l-Anness ta' din id-Deċiżjoni.

Artikolu 2

Dħul fis-seħħ

Din id-Deċiżjoni għandha tidħol fis-seħħ fil-jum wara l-pubblikazzjoni tagħha f'*Il-Ġurnal Uffiċjali tal-Unjoni Ewropea*.

Magħmul fi Frankfurt am Main, it-2 ta' Novembru 2010.

Il-President tal-BĊE

Jean-Claude TRICHET

[1] ĠU L 237, 8.9.2007, p. 1.
[2] ĠU L 237, 8.9.2007, p. 71.
[3] ĠU L 261, 5.10.2010, p. 6.

ANNESS

It-termini u l-kundizzjonijiet tat-TARGET2-BĊE għandhom jiġu emendati kif ġej:

1. L-Artikolu 1 huwa emendat kif ġej:

   (a) Id-definizzjonijiet li ġejjin huma mibdulin:

   "— 'addressable BIC holder' means an entity which: (a) holds a Business Identifier Code (BIC); (b) is not recognised as an indirect participant; and (c) is a correspondent or customer of a direct participant or a branch of a direct or indirect participant, and is able to submit payment orders to and receive payments from a TARGET2 component system via the direct participant,"

   "— 'credit institution' means either: (a) a credit institution within the meaning of §1 (1) of the KWG that is subject to supervision by a competent authority; or (b) another credit institution within the meaning of Article 123(2) of the Treaty on the Functioning of the European Union that is subject to scrutiny of a standard comparable to supervision by a competent authority,"

   "— 'public sector body' means an entity within the 'public sector', the latter term as defined in 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 104b(1) of the Treaty (*);

   (*) OJ L 332, 31.12.1993, p. 1."

   (b) "— 'Bank Identifier Code (BIC)' means a code as defined by ISO Standard No 9362," is replaced by the following: "— 'Business Identifier Code (BIC)' means a code as defined by ISO Standard No 9362";

   (c) Fid-definizzjoni ta' "technical malfunction of TARGET2", il-punt huwa sostitwit minn virgola.

   (d) Id-definizzjoni li ġejja hija miżjuda:

   "— 'User Detailed Functional Specifications (UDFS)' means the most up-to-date version of the UDFS, which is the technical documentation that details how a participant interacts with TARGET2.".

2. L-Artikolu 28(2) huwa emendat kif ġej:

   (a) F'punt (d) il-kliem "and/or" huma mħassra u huma miżjudin ma' punt (e).

   (b) Il-punt (f) li ġej huwa miżjud:

   "(f) the ECB suspends or terminates the participant's access to intraday credit pursuant to paragraph 12 of Annex III to Guideline ECB/2007/2.".

3. Fl-Artikolu 32(2), il-kelma "Community" tinbidel bil-kelma "Union".

4. L-Artikolu 33(1) huwa mibdul b'li ġej:

   "1. Participants shall be deemed to be aware of, and shall comply with, all obligations on them relating to legislation on data protection, prevention of money laundering, the financing of terrorism, proliferation-sensitive nuclear activities and the development of nuclear weapons delivery systems, in particular in terms of implementing appropriate measures concerning any payments debited or credited on their PM accounts. Participants shall also acquaint themselves with the network service provider's data retrieval policy prior to entering into the contractual relationship with the network service provider.".

5. Fl-Artikolu 34(1), il-kelma "SWIFT" hija mibdula bil-kelma "BIC".

6. L-Artikolu 38(2) huwa mibdul b'li ġej:

   "2. Without prejudice to the competence of the Court of Justice of the European Union, any dispute arising from a matter relating to the relationship referred to in paragraph 1 falls under the exclusive competence of the courts of Frankfurt am Main".

7. F'Appendiċi I, l-aħħar tliet ringieli tat-tabella fil-paragrafu 2(1) huma mibdulin b'li ġej:

"MT 900	Optional	Confirmation of Debit/Credit line change
MT 910	Optional	Confirmation of Credit/Credit line change
MT 940/950	Optional	(Customer) Statement Message"

8. F'Appendiċi V, l-aħħar ringiela tat-tabella fil-paragrafu 3 hija mibdula b'li ġej:

"1.00 - 7.00	Settlement procedure of night-time ancillary system operations (only for ancillary system settlement procedure 6)"