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GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 26 April 2001

on a Trans-European Automated Real-time Gross Settlement Express Transfer system (►**C1** TARGET ◄)

(ECB/2001/3)

(2001/401/EC)

(OJ L 140, 24.5.2001, p. 72)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Guideline of the European Central Bank of 27 February 2002 (ECB/2002/1)	L 67	74	9.3.2002
►**M2**	Guideline of the European Central Bank of 4 April 2003 (ECB/2003/6)	L 113	10	7.5.2003
►**M3**	Guideline of the European Central Bank of 21 April 2004 (ECB/2004/4)	L 205	1	9.6.2004
►**M4**	Guideline of the European Central Bank of 21 January 2005 (ECB/2005/1)	L 30	21	3.2.2005

Corrected by:

►**C1** Corrigendum, OJ L 167, 22.6.2001, p. 34 (ECB/2001/401)

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GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 26 April 2001

on a Trans-European Automated Real-time Gross Settlement Express Transfer system (►C1 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) ►C1 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 (►C1 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:

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— '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

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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',

— 'CCBM' shall mean the correspondent central banking model for the cross-border use of collateral as established by the ESCB,

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— 'connected NCB' shall mean an NCB real-time gross settlement (RTGS) system of which is connected to TARGET via a service-providing NCB,

▼M2

— '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,

— 'deposit facility' shall mean the deposit facility organised by the Eurosystem,

— 'deposit facility rate' shall mean the interest rate applicable from time to time for the Eurosystem deposit facility,

— 'domestic payments' shall mean payments effected or to be effected within one national RTGS system or within the ECB payment mechanism,

— 'ECB payment mechanism' shall mean the payment arrangements organised within the ECB and connected to ►C1 TARGET ◄ for the purpose of effecting (i) payments between accounts held at the ECB; and (ii) payments through ►C1 TARGET ◄ between accounts held at the ECB and at the NCBs,

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— '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,

▼M2

— '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,

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— 'finality' or 'final' shall mean that the settlement of a payment order cannot be revoked, reversed or made void by the connected NCB, 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,

▼M2

— '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 ►C1 TARGET ◄; all transactions of an indirect participant are settled on the account of a participant (as defined in this Article) which has accepted to represent the indirect participant,

— '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 ►C1 TARGET ◄,

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— ‘inter-NCB accounts’ shall mean the accounts that, without prejudice to Article 4a of this Guideline, 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,

▼M2

— ‘intraday credit’ shall mean credit extended and reimbursed within a period of less than one business day,

— ‘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,

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‘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 a bilateral link, or any other event related to any national RTGS system or the ECB payment mechanism, interlinking or any bilateral link, 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),

▼M2

— ‘marginal lending facility’ shall mean the marginal lending facility organised by the Eurosystem,

— ‘marginal lending rate’ shall mean the interest rate applicable from time to time for the Eurosystem marginal lending facility,

— ‘national RTGS systems’ shall mean those Real-time Gross Settlement systems which are component parts of ►C1 TARGET ◄ as identified in Annex I of this Guideline,

— ‘NCBs’ shall mean 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 inter-linking,

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— ‘non-participating Member States’ shall mean the Member States which have not adopted the single currency in accordance with the Treaty,

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— ‘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,

— ‘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,

— ‘receiving NCB/ECB’ shall mean the ECB or the NCB at which the receiving participant maintains its RTGS account,

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— ‘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,

— ‘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,

— ‘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,

— ‘RTGS rules’ shall mean the regulations and/or contractual provisions, which are applied to a national RTGS system,

— ‘sending NCB/ECB’ shall mean the ECB or the NCB at which the sending participant maintains its RTGS account,

— ‘sending participant’ shall mean the participant which has initiated a payment by giving a payment order,

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— ‘service-providing NCB’ shall mean an NCB: (i) the RTGS system of which is connected to Target via interlinking; and (ii) which provides services to a connected NCB for the processing of cross-border payments within TARGET, thereby establishing a bilateral link,

— ‘standing facilities’ shall mean the marginal lending facility and the deposit facility provided by the Eurosystem.

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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 ►C1 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.

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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. RTGS systems may connect to Target via interlinking or through a bilateral link.

2. The RTGS systems of non-participating Member States may connect to Target in so far as such RTGS systems comply with the minimum common features set out in Article 3 and are able to process the euro alongside their respective national currency. Any connection to Target of an RTGS system of a non-participating Member State 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).

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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;

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   (v) central banks established in the EU, the RTGS systems of which are not connected to TARGET.

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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

([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.

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opinions shall be made available by the respective NCB to interested parties.

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 ►C1 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.

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(b) Currency unit

All cross-border payments shall be in euro.

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(c) Pricing rules

1. The pricing policy of the

►C1 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.

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3. Any 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.

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4. Prices shall be made available to interested parties.

(d) Time of operation

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1. Operating days

From 2002, Target as a whole shall be closed on Saturdays, Sundays, New Year's Day, Good Friday and Easter Monday (according to the calendar applicable at the seat of the ECB), 1 May (Labour Day), Christmas Day and 26 December.

Without prejudice to the above, only the following limited settlement services may, extraordinarily, during the years 2002 to 2004, be undertaken in Hermes, the Greek RTGS system, on Good Friday and Easter Monday (according to the calendar applicable at the seat of the ECB), when these days do not coincide with the Orthodox Easter:

(a) settlement of domestic customer payments, and

(b) settlement of payments related to the delivery of cash from and return of cash to the Bank of Greece, and

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(c) settlement operations of the Athens Clearing Office and the ▼B DIAS retail payment systems.

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 ►C1 TARGET ◄. Other payments may also be effected through ►C1 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 ►C1 TARGET ◄ for the first time within any 12-month period, then the following

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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.

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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 and as applied for monetary policy operations.

Each of the national central banks of the non-participating Member States the RTGS systems of which are 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.

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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.

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5. Intraday credit provided in accordance with Article 3(f) shall be free of interest.

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6. Intraday credit shall not be granted to any remote participant.

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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.

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Article 4

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Arrangements for cross-border payments effected via interlinking

The provisions of this Article shall apply to the arrangements for cross-border payments effected or to be effected via interlinking.

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(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 ►C1 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.

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

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(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

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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 inter-linking 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.

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(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.

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Article 4a

Arrangements for cross-border payments effected through a service-providing NCB

The provisions of this Article shall apply to the arrangements for cross-border payments effected or to be effected through a bilateral link.

(a) Description of the connection

When effecting a cross-border payment through a bilateral link:

— the service-providing NCB shall be regarded as the receiving or sending NCB, as the case may be, as regards the obligations and liabilities relating to the processing of the cross-border payment via interlinking vis-à-vis either the sending or receiving NCB/ECB,

— the connected NCB shall be regarded as the receiving NCB or the sending NCB, as the case may be, as regards the obligations and liabilities relating to the crediting/debiting of the receiving/sending participant's RTGS account.

(b) Opening and operation of an account for the connected NCB.

1. The service-providing NCB shall open an account in euro on its books for the connected NCB.

2. The service-providing NCB shall grant an unlimited and uncollateralised credit facility to the connected NCB.

3. To effect cross-border payments initiated by a participant in the connected NCB's RTGS system, the service-providing NCB shall debit the connected NCB's account and credit an RTGS account of the service-providing NCB's participant or credit the receiving NCB/ECB's inter-NCB account held with the service-providing NCB. To effect cross-border payments to a participant in the connected NCB's RTGS system, the service-providing NCB shall debit the sending NCB/ECB's inter-NCB account or debit an RTGS account of the service-providing NCB's participant and credit the connected NCB's account.

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(c) Obligations and liabilities of the service-providing NCB and the connected NCB

1. Verification

(a) Both the connected NCB and the service-providing NCB shall be responsible for the accuracy and syntax of the data which they provide to each other, and they shall agree standards to be applied to such data.

(b) On receipt of a payment order submitted by the connected NCB, the service-providing NCB shall check without delay all the details contained in the payment order which are necessary for its appropriate processing. If the service-providing NCB detects syntactical errors or other grounds for rejecting a payment order, it shall not process such a payment order and shall handle the data and the payment order in accordance with specific rules to be agreed between the service-providing NCB and the connected NCB.

2. Settlement

(a) To effect a cross-border payment initiated by a participant in the connected NCB's RTGS system, the connected NCB shall debit its participant's account and, in accordance with the terms and conditions agreed between the connected NCB and the service-providing NCB, submit a corresponding payment order to the service-providing NCB.

(b) As soon as the service-providing NCB has checked the validity of the payment order submitted pursuant to Article 4a(c)(1)(b), the service-providing NCB shall without delay:

(i) debit the connected NCB's account; and

(ii) send a positive acknowledgement to the connected NCB.

(c) On debiting the connected NCB's account, the service-providing NCB shall without delay credit the RTGS account of the participant in its national RTGS system or process the payment order via interlinking in accordance with Article 4. When the service-providing NCB receives a positive or negative acknowledgement from the receiving NCB/ECB it shall forward such an acknowledgement to the connected NCB.

(d) To effect a cross-border payment, which has been initiated by a participant in the service-providing NCB's RTGS system, to a participant in the connected NCB's RTGS system, the service-providing NCB shall credit the connected NCB's account immediately on receipt of such a payment order. The connected NCB shall thereafter immediately credit the account of the participant in the connected NCB's RTGS system.

(e) To effect a cross-border payment, which has been initiated by a participant in an RTGS system other than the service-providing NCB's RTGS system, to a participant in the connected NCB's RTGS system, the service-providing NCB shall, on receipt of a payment order from the sending NCB/ECB:

(i) carry out the procedures described in Article 4(d)(1) and 4(d)(2)(a);

(ii) thereafter credit the connected NCB's account and notify the connected NCB thereof; and

(iii) thereafter send a positive acknowledgement to the sending NCB/ECB.

On receipt of notification pursuant to point (ii), the connected NCB shall immediately credit the account of a participant in its RTGS system.

▼M4

(f) The service-providing NCB shall take all necessary measures, as agreed with the connected NCB, in order to ensure that all information and data necessary to credit the account of the participant in the connected NCB's RTGS system in any circumstances are made available to the connected NCB.

(g) The hours of operation of the connected NCB's RTGS system shall comply with the specifications laid down in Annex IV.

3. Finality

The finality of cross-border payments processed through a bilateral link shall be determined in accordance with the rules laid down in Articles 4(c)(2) and 4(d)(2).

4. Transfer of responsibility for the execution of a payment order

For cross-border payments initiated by a participant in the connected NCB's RTGS system, responsibility for the execution of a payment order shall pass from the connected NCB to the service-providing NCB at the moment the connected NCB's account with the service-providing NCB is debited, and thereafter it shall pass to the receiving NCB/ECB in accordance with Article 4(e). For cross-border payments to a participant in the connected NCB's RTGS system, responsibility for the execution of a payment order shall pass from the sending NCB to the service-providing NCB on receipt by the sending NCB/ECB of a positive acknowledgement as described in Article 4a (c)(2)(e)(iii).

(d) Regime for errors

The regime specified in Article 4(f) shall apply to connected NCBs.

(e) Relation to the network service provider

The connected NCB shall be connected or have an entry point to the network service provider. It shall be the connected NCB's responsibility to claim compensation from the network service provider if the connected NCB suffers loss as a result of a breach of such rules and the connected NCB shall submit any claim directly to the network service provider.

(f) Information to participants

All NCBs shall inform participants in their RTGS systems that a positive acknowledgement issued by a service-providing NCB in relation to cross-border payments to participants in a connected NCB's RTGS system certifies the crediting of the connected NCB's account with the service-providing NCB but does not certify the crediting of a receiving participant's account with the connected NCB. To the extent necessary, the NCBs shall amend their national RTGS rules accordingly.

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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 ►C1 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 ►C1 TARGET ◄ components and arrangements referred to in this Guideline.

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Article 7

Management of ►C1 TARGET ◄

1. The direction, management and control of ►C1 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 ►C1 TARGET ◄ or be connected to ►C1 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 ►C1 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 ►C1 TARGET ◄ shall be entrusted to the ECB ►C1 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 ►C1 TARGET ◄ Coordinator as the daily manager of the central functions of ►C1 TARGET ◄.

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Article 8

TARGET Compensation Scheme

1. **General principles**

(a) In the event of a malfunctioning of TARGET, direct and indirect participants (for the purposes of this Article hereinafter referred to as TARGET participants) shall be entitled to submit claims for compensation in accordance with the rules laid down in this Article.

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(b) The Target Compensation Scheme shall apply to all national RTGS systems (regardless of whether such RTGS systems are connected to Target via interlinking or through a bilateral link) and to the ECB payment mechanism (EPM) and shall be available for all Target participants (including Target participants of national RTGS systems of participating Member States that are not counterparties to the Eurosystem monetary policy operations, and Target participants of national RTGS systems of non-participating Member States) in relation to all Target payments (without distinguishing between domestic payments and cross-border payments). The Target Compensation Scheme shall not apply to customers in the EPM in accordance with the Terms and Conditions governing the use of the EPM, which are available on the ECB's web site (www.ecb.int) and are updated from time to time.

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(c) Unless otherwise decided by the Governing Council of the ECB, the TARGET Compensation Scheme shall not apply where the malfunctioning of TARGET is caused by:

(i) external events beyond the control of the ESCB; or

(ii) the failure of a third party other than the operator of the national RTGS system where the malfunctioning occurred.

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(c)a For the purposes of Article 8(1)(c)(ii), a service-providing NCB shall not be regarded as a third party.

▼M2

(d) Offers under the TARGET Compensation Scheme (compensation offers) shall be the only compensation offered by the ESCB in cases of a malfunctioning. The TARGET Compensation Scheme does not exclude the possibility for TARGET participants to avail themselves of other legal means to claim compensation in case of a malfunctioning of TARGET. However, the acceptance of a compensation offer by a TARGET participant shall constitute its irrevocable agreement that it thereby waives all claims (including any claims for consequential damages) it may have against any member of the ESCB, in accordance with national laws or otherwise, and that the receipt by it of the corresponding compensation payment shall be in full and final settlement of all such claims. The TARGET participant shall indemnify the ESCB up to the amount received under the TARGET Compensation Scheme from any further compensation which might be claimed by any other TARGET participant concerning the respective payment order.

(e) The making of any compensation offers and/or payments shall not constitute an admission of liability by any NCB or the ECB in respect of a malfunctioning.

▼M4

(f) If a connected NCB cannot process cross-border payments due to a malfunctioning of the service-providing NCB's RTGS system, the service-providing NCB shall be regarded as the malfunctioning NCB in relation to such payments.

▼M3

2. **Conditions for compensation**

(a) With respect to a sending TARGET participant, a claim for an administration fee and an interest compensation shall be considered if due to a malfunctioning:

(i) the same day processing of a payment order was not completed;

or

(ii) such TARGET participant can show that it had the intention to enter a payment order into TARGET but was unable to do so due to a stop-sending status of a national RTGS system.

(b) With respect to a receiving TARGET participant, a claim for an administration fee shall be considered if due to a malfunctioning such TARGET participant did not receive a TARGET payment that it was expecting to receive on the day of malfunctioning. In this event a claim for an interest compensation shall also be considered if:

(i) such TARGET participant had recourse to the marginal lending facility or, if a TARGET participant does not have access to the marginal lending facility, such TARGET participant was left with a debit balance or had a spill-over from intraday credit into overnight credit on its RTGS account at the close of business of TARGET or had to borrow amounts from the respective NCB;

and

(ii) either the NCB of the national RTGS system where the malfunctioning occurred (the 'malfunctioning NCB') was the receiving NCB, or the malfunctioning occurred so late in the TARGET operating day that it was technically impossible or impracticable for the receiving TARGET participant to have recourse to the money market.

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3. **Calculation of compensation**

3.1. **Compensation of sending TARGET participants**

(a) The compensation offer under the TARGET Compensation Scheme shall consist of an administration fee only or an administration fee and an interest compensation.

▼M3

(b) The administration fee shall be determined at EUR 50 for the first payment order not completed on the processing date, and, in case of multiple adjustments, EUR 25 for each of the next four such payment orders and EUR 12,50 for each further such payment order. The administration fee shall be determined by reference to each receiving TARGET participant.

▼M2

(c) The interest compensation shall be determined by applying the rate (the reference rate), from day-to-day whichever is the lower of the EONIA rate (the euro overnight index average) and the marginal lending rate, to the amount of the payment order not processed as a result of a malfunctioning for each day in the period starting on the date of the entering or the intended entering of the payment order into TARGET and ending on the date that the payment order was or could have been successfully completed (the period of malfunctioning). When calculating the interest compensation, the proceeds of any actual use of funds by having recourse to the deposit facility (or, in the case of TARGET participants of national RTGS systems of participating Member States that are not counterparties to the Eurosystem monetary policy operations, the remuneration received on excess funds in the settlement account, or, in the case of TARGET participants of national RTGS systems of non-participating Member States, the remuneration received for incurring additional positive end-of-day balances on the RTGS account) shall be deducted from the amount of compensation.

(d) In the case of the placing of funds in the market or using the funds for the fulfilment of minimum reserve requirements, the TARGET participant shall not receive any interest compensation.

(e) With respect to sending TARGET participants of national RTGS systems of non-participating Member States, any limit to the remuneration on the aggregate amount of overnight deposits on the RTGS accounts of such TARGET participants shall be disregarded to the extent that such amount can be attributed to the malfunctioning.

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3.2. **Compensation of receiving TARGET participants**

(a) The compensation offer under the TARGET Compensation Scheme shall consist of an administration fee only or an administration fee and an interest compensation.

(b) The amount of the administration fee shall be as determined under paragraph 3.1(b) and the administration fee shall be determined by reference to each sending TARGET participant.

(c) The calculation method for the interest compensation as referred to in paragraph 3.1(c) above shall apply, except that the interest compensation shall be based on the difference between the marginal lending rate and the reference rate, and shall be calculated on the amount of the recourse to the marginal lending facility as a result of the malfunctioning.

(d) With respect to receiving TARGET participants of (i) national RTGS systems of participating Member States that are not counterparties to the Eurosystem monetary policy operations, and (ii) national RTGS systems of non-participating Member States, to the extent that a debit balance or a spill-over from intraday credit into overnight credit or the need to borrow amounts from the respective NCB can be attributed to the malfunctioning, that part of the applicable penalty rate (as stipulated by the applicable

▼M3

RTGS rules in such cases) which is above the marginal lending rate, shall be waived (and disregarded in future cases of spill-over) and for TARGET participants of national RTGS systems referred to in (ii) above, it shall be ignored for the purpose of access to intraday credit and/or continued participation in the national RTGS system concerned.

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4. **Procedural rules**

(a) Any claim for compensation shall be submitted on a claim form (the content and form of which shall be as determined and made public by the ECB from time to time) together with any relevant information and evidence required thereby. A sending TARGET participant shall submit one separate claim form in respect of each receiving TARGET participant. A receiving TARGET participant shall submit one separate claim form in respect of each sending TARGET participant. Claims in relation to a specific TARGET payment can be submitted only once, either by a direct or an indirect participant on their own behalf or by a direct participant on behalf of an indirect participant.

(b) TARGET participants shall submit their claim form(s) to the NCB where the RTGS account that has or should have been debited or credited is maintained (the home NCB) within two weeks of the date of the malfunctioning. Any additional information and evidence requested by the home NCB shall be supplied within two weeks of such request being made.

(c) The Governing Council of the ECB shall carry out the assessment of all claims received and decide whether compensation offers shall be made. Unless otherwise decided by the Governing Council of the ECB and communicated to the TARGET participants, such assessment shall be made no later than twelve weeks after the malfunctioning.

(d) The malfunctioning NCB shall communicate the result of the assessment referred to in (c) above to the relevant TARGET participants. If the assessment comprises a compensation offer, the TARGET participants concerned shall, within four weeks of the communication of such offer, either reject the offer or accept it, in respect of each payment order comprised within each claim, by signing a standard letter of acceptance (the content and form of which shall be determined and made public by the ECB from time to time). If such letter has not been received by the malfunctioning NCB within that four week period, the TARGET participants concerned shall be treated as having rejected the compensation offer.

(e) Compensation payments shall be made by the malfunctioning NCB upon receipt of the TARGET participant's letter of acceptance. There shall be no interest payable on any compensation payment.

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Article 9

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 error-handling procedures, referred to in Articles 4(f) and 4a(d), 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.

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Article ►M2 *10* ◄

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 ►C1 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).

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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, by the laws of the Member State of the seat of the receiving NCB/ECB.

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Article ►M2 *11* ◄

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*.

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ANNEX I

▼M3

NATIONAL RTGS 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	RTGS^{plus}	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 and Financial Services Authority of Ireland	Dublin
Italy	Sistema di regolamento lordo (BIREL)	Banca d'Italia	Rome
Luxembourg	Luxembourg Interbank Payment Systems (LIPS-Gross)	Banque centrale du Luxembourg	Luxembourg
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-RTGS)	Suomen Pankki	Helsinki

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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.

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ANNEX III

CROSS-BORDER PAYMENT FEES

The fee (excluding VAT) to be charged for cross-border payments through ►C1 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 settlment 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 ►C1 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.

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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 is '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 time for customer payments (both domestic and cross-border ([1])) 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 ([2])) 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.

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([1]) The cut-off time for cross-border customer payments sent from a participant in a connected NCB's RTGS system via a service-providing NCB is 16:52:30.

([2]) The cut-off time for cross-border interbank payments sent from a participant in a connected NCB's RTGS system via a service-providing NCB is 17:52:30.