РЕШЕНИЕ (ЕС) 2019/1848 НА ЕВРОПЕЙСКАТА ЦЕНТРАЛНА БАНКА

от 29 октомври 2019 година

за изменение на Решение ЕЦБ/2007/7 относно условията на TARGET2-ЕЦБ (ЕЦБ/2019/32)

ИЗПЪЛНИТЕЛНИЯТ СЪВЕТ НА ЕВРОПЕЙСКАТА ЦЕНТРАЛНА БАНКА,

като взе предвид Договора за функционирането на Европейския съюз, и по-специално член 127, параграф 2, първо и четвърто тире от него,

като взе предвид Устава на Европейската система на централните банки и на Европейската централна банка, и по-специално член 11.6 и членове 17, 22 и 23 от него,

като има предвид, че:

(1) На 4 октомври 2019 г. Управителният съвет ([1]) измени Насоки ЕЦБ/2012/27 ([2]), за да: а) въведе нова функционалност на ЕСП, която позволява обработването на много критични и критични плащания при извънредни ситуации, към която централните банки от Евросистемата трябва да се присъединят; б) изясни условията, съгласно които инвестиционните посредници могат да участват в TARGET2, включително изискването за правно становище във връзка с инвестиционните посредници, установени извън Европейско икономическо пространство (ЕИП), които кандидатстват за директно участие в системния компонент на TARGET2; в) поясни, че участниците в системните компоненти на TARGET2 трябва да изпълнят условието за предоставяне на декларация за съответствие с изискванията за сигурност на системата TARGET2, да спазят изискванията за сигурност при крайната точка, определени от доставчика на мрежови услуги на TARGET2, и да уведомят съответната централна банка от Евросистемата за мерките за предотвратяване на кризи или мерките за управление на кризи, които се прилагат към тях; и г) изясни и актуализира някои други аспекти на Насоки ЕЦБ/2012/27.

(2) Измененията на Насоки ЕЦБ/2012/27, които засягат условията на TARGET2-ЕЦБ, следва да се отразят в Решение ЕЦБ/2007/7 ([3]).

(3) Поради това Решение ЕЦБ/2007/7 следва да бъде съответно изменено,

ПРИЕ НАСТОЯЩОТО РЕШЕНИЕ:

Член 1

Изменения

Приложения I, II и III към Решение ЕЦБ/2007/7 се изменят в съответствие с приложението към настоящото решение.

([1]) Насоки (ЕС) 2019/1849 от 4 октомври 2019 г. за изменение на Насоки ЕЦБ/2012/27 относно Трансевропейската автоматизирана система за брутен сетълмент на експресни преводи в реално време (TARGET2) (ЕЦБ/2019/30) (вж. страница 64 от настоящия брой на Официален вестник).

([2]) Насоки ЕЦБ/2012/27 от 5 декември 2012 г. относно Трансевропейската автоматизирана система за брутен сетълмент на експресни преводи в реално време (TARGET2) (ОВ L 30, 30.1.2013 г., стр. 1).

([3]) Решение ЕЦБ/2007/7 от 24 юли 2007 г. относно условията на TARGET2 – ЕЦБ (ОВ L 237, 8.9.2007 г., стр. 71).

Член 2

Заключителни разпоредби

Настоящото решение влиза в сила в деня след публикуването му в *Официален вестник на Европейския съюз*.

Прилага се от 17 ноември 2019 г.

Съставено във Франкфурт на Майн на 29 октомври 2019 година.

Председател на ЕЦБ
Mario DRAGHI

ПРИЛОЖЕНИЕ

Приложения I, II и III към Решение ЕЦБ/2007/7 се изменят, както следва:

1. Приложение I се изменя, както следва:

а) в член 1 се заличава определението на Contingency Module;

б) в член 1 определението на Information and Control Module (ICM) се заменя със следното:

„—„ Information and Control Module (ICM)“ means the SSP module that allows PM account holders to obtain online information and gives them the possibility to submit liquidity transfer orders, manage liquidity and, if applicable, initiate backup payment orders or payment orders to the Contingency Solution in a contingency,“;

в) в член 1 се добавя следното определение:

„—„ Contingency Solution“ means the SSP functionality that processes very critical and critical payments in contingency,“;

г) в член 9 параграф 8 се заменя със следното:

„8. Participants shall immediately inform the ECB if an event of default occurs in relation to themselves or if they are subject to crisis prevention measures or crisis management measures within the meaning of Directive 2014/59/EU of the European Parliament and of the Council (*) or any other equivalent applicable legislation.

_____

(*) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) № 1093/2010 and (EU) № 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).“;

д) член 21 се заменя със следното:

„*Член 21*

Business continuity and contingency procedures

1. In the event of an abnormal external event or any other event which affects the operation of the SSP, the business continuity and contingency procedures described in Appendix IV shall apply.

2. The Eurosystem provides a Contingency Solution if the events described in paragraph 1 occur. Connection to and use of the Contingency Solution shall be mandatory for participants considered by the ECB to be critical. Other participants may, on request, connect to the Contingency Solution.“;

е) член 22 се изменя, както следва:

i) параграф 3 се заменя със следното:

„3. The ECB may impose additional security requirements, in particular with regard to cybersecurity or the prevention of fraud, on all participants and/or on participants that are considered critical by the ECB.“;

ii) добавя се следният параграф 4:

„4. Participants shall provide the ECB with their TARGET2 self-certification and their attestation of adherence to the TARGET2 network service provider's endpoint security requirements. In the event of non-adherence to the latter, participants shall provide a document describing alternative mitigating measures to the satisfaction of the ECB.“;

ж) в член 23, параграф 1 буква (c) се заменя със следното:

„в) allows participants to initiate backup liquidity redistribution and backup contingency payments or payment orders to the Contingency Solution in the event of a failure of the participant's payment infrastructure.“;

з) в член 32, параграф 2 буква (c) се заменя със следното:

„в) supervisory, resolution and oversight authorities of Member States and the Union, including CBs, to the extent that this is necessary for the performance of their public tasks, and provided in all such cases that the disclosure is not in conflict with the applicable law.“;

и) допълнение I се изменя, както следва:

i) в параграф 2, точка 1 петият ред от таблицата се заменя със следното:

„MT 202COV	Mandatory	Cover payment“

ii) в параграф 8 точка 7 се заменя със следното:

„If a participant has technical problems and is unable to submit any payment order, it may generate preformatted backup liquidity redistribution and backup contingency payments by using the ICM. The ECB shall open such functionality upon request of the participant“;

й) в допълнение III под заглавието „Terms of reference for country opinions for non-EEA participants in TARGET2“ параграф 3.2, озаглавен „General insolvency issues“, се заменя със следното:

„3.2. **General insolvency and crisis management issues**

3.2.a. *Types of insolvency and crisis management proceedings*

The only types of insolvency proceedings (including composition or rehabilitation) which, for the purpose of this Opinion, shall include all proceedings in respect of the Participant's assets or any branch it may have in [jurisdiction] to which the Participant may become subject in [jurisdiction], are the following: [list proceedings in original language and English translation] (together collectively referred to as 'Insolvency Proceedings').

In addition to Insolvency Proceedings, the Participant, any of its assets, or any branch it may have in [jurisdiction] may become subject in [jurisdiction] to [list any applicable moratorium, receivership, or any other proceedings as a result of which payments to and/or from the Participant may be suspended, or limitations can be imposed in relation to such payments, or similar proceedings, including crisis prevention and crisis management measures equivalent to those defined in Directive 2014/59/EU, in original language and English translation] (hereinafter collectively referred to as 'Proceedings').

3.2.b. *Insolvency treaties*

[jurisdiction] or certain political subdivisions within [jurisdiction], as specified, is/are party to the following insolvency treaties: [specify, if applicable which have or may have an impact on this Opinion].“;

к) в допълнение IV параграф 6 се изменя, както следва:

i) букви (a) and (b) се заменят със следното:

„a) If the ECB deems it necessary to do so, it shall initiate the contingency processing of payment orders using the Contingency Solution of the SSP. In such cases, only a minimum service level shall be provided to participants. The ECB shall inform its participants of the start of contingency processing by any available means of communication.

б) In contingency processing, payment orders shall be submitted by the participants and authorised by the ECB. In addition, the participants may submit files containing payment instructions, which may be uploaded into the Contingency Solution by the ECB.“;

ii) букви (d) и (e) се заменят със следното:

„г) Payments required to avoid systemic risk shall be considered as 'critical' and the ECB may decide to initiate contingency processing in relation to them.

д) Participants shall submit payment orders for contingency processing directly into the Contingency Solution and information to payees shall be provided through encrypted and authenticated e-mail, as well as via authenticated fax. Participants shall submit files which contain payment instructions to the ECB for uploading into the Contingency Solution and which authorise the ECB to do so. The ECB may, exceptionally, also manually input payments on behalf of participants. Information concerning account balances and debit and credit entries may be obtained via the ECB.";

л) в допълнение IV, параграф 7 букви (a) и (b) се заменят със следното:

„a) In the event that a participant has a problem that prevents it from settling payments in TARGET2 it shall be its responsibility to resolve the problem. In particular, a participant may use in-house solutions or the ICM functionality, i.e. backup liquidity redistribution and backup contingency payments (e.g. CLS, EURO1).

б) If a participant decides to use the ICM functionality for making backup liquidity redistribution, the ECB shall, if the participant so requests, open this functionality via the ICM. If the participant so requests, the ECB shall transmit an ICM broadcast message to inform other participants about the participant's use of backup liquidity redistribution. The participant shall be responsible for sending such backup liquidity redistribution exclusively to other participants with which it has bilaterally agreed on the use of such payments and for any further steps in relation to such payments.";

м) в допълнение VI, точка 5 третият и четвъртият ред от таблицата се заменят със следното:

„T2S DCA to T2S DCA liquidity transfer orders	14,1	per transfer
Intra-balance movement (i.e. blocking, unblocking, reservation of liquidity etc.)	9,4	per transaction"

2. Приложение II се изменя, както следва:

а) член 1 се изменя, както следва:

i) определението на Information and Control Module (ICM) се заменя със следното:

„—„ Information and Control Module (ICM)" means the SSP module that allows PM account holders to obtain online information and gives them the possibility to submit liquidity transfer orders, manage liquidity and, if applicable, initiate backup payment orders or payment orders to the Contingency Solution in a contingency,";

ii) добавя се следното определение:

„—„ Contingency Solution" means the SSP functionality that processes very critical and critical payments in contingency,";

б) в член 10 параграф 9 се заменя със следното:

„9. T2S DCA holders shall immediately inform the ECB if an event of default occurs in relation to themselves or if they are subject to crisis prevention measures or crisis management measures within the meaning of Directive 2014/59/EU or any other equivalent applicable legislation.";

в) в член 18 параграф 3 се заменя със следното:

„3. The ECB may impose additional security requirements, in particular with regard to cybersecurity or the prevention of fraud, on all T2S DCA holders and/or on T2S DCA holders that are considered critical by the ECB.";

г) в член 27, параграф 2 буква (c) се заменя със следното:

„в) supervisory, resolution and oversight authorities of Member States and the Union, including CBs, to the extent that this is necessary for the performance of their public tasks, and provided in all such cases that the disclosure is not in conflict with the applicable law.";

д) в допълнение III под заглавието „Terms of reference for country opinions for non-EEA T2S DCA holders in TARGET2" параграф 3.2, озаглавен „General insolvency issues", се заменя със следното:

„3.2. **General insolvency and crisis management issues**

3.2.a. *Types of insolvency and crisis management proceedings*

The only types of insolvency proceedings (including composition or rehabilitation) which, for the purpose of this Opinion, shall include all proceedings in respect of the T2S DCA holder's assets or any branch it may have in [jurisdiction] to which the T2S DCA holder may become subject in [jurisdiction], are the following: [list proceedings in original language and English translation] (together collectively referred to as 'Insolvency Proceedings').

In addition to Insolvency Proceedings, the T2S DCA holder, any of its assets, or any branch it may have in [jurisdiction] may become subject in [jurisdiction] to [list any applicable moratorium, receivership, or any other proceedings as a result of which payment orders to and/or from the T2S DCA holder may be suspended, or limitations can be imposed in relation to such payment orders, or similar proceedings, including crisis prevention and crisis management measures equivalent to those defined in Directive 2014/59/EU, in original language and English translation] (hereinafter collectively referred to as 'Proceedings').

3.2.b. *Insolvency treaties*

[jurisdiction] or certain political subdivisions within [jurisdiction], as specified, is/are party to the following insolvency treaties: [specify, if applicable which have or may have an impact on this Opinion].";

е) в допълнение VI третият и четвъртият ред от таблицата се заменят със следното:

„T2S DCA to T2S DCA liquidity transfer orders	14,1 euro cent	per transfer
Intra-balance movement (i.e. blocking, unblocking, reservation of liquidity etc.)	9,4 euro cent	per transaction"

3. Приложение III се изменя, както следва:

а) в член 14 параграф 8 се заменя със следното:

„8. TIPS DCA holders shall immediately inform the ECB if an event of default occurs in relation to themselves or if they are subject to crisis prevention measures or crisis management measures within the meaning of Directive 2014/59/EU or any other equivalent applicable legislation.";

б) член 21 се изменя, както следва:

i) параграф 5 се заменя със следното:

„5. The ECB may impose additional security requirements, in particular with regard to cybersecurity or the prevention of fraud, on all TIPS DCA holders.";

ii) добавя се следният параграф 6:

„6. TIPS DCA holders using instructing parties in line with Article 7(2) or (3), or allowing access to their TIPS DCA as set out in Article 8(1), shall be deemed to have addressed the risk stemming from such use or access in accordance with the additional security requirements imposed upon them.";

в) в член 26 параграф 4 се заменя със следното:

„4. In the event that the ECB suspends or terminates a TIPS DCA holder's participation in TARGET2-ECB under paragraph 1 or 2, the ECB shall immediately inform, by means of a ICM broadcast message, other CBs and PM account holders in all of the TARGET2 component systems of such suspension or termination. Such message shall be deemed to have been issued by the home CB of the PM account holder that received the message.

Linked PM account holders shall have the responsibility to inform their Linked TIPS DCA holders of the suspension or termination of any TIPS DCA holder's participation in TARGET2-ECB.

In the event that the suspension or termination of a TIPS DCA holder's participation in TARGET2-ECB occurs during the technical maintenance window, the ICM broadcast message shall be sent after the start of daytime processing on the next TARGET2 business day.";

г) в член 29, параграф 3 буква (c) се заменя със следното:

„в) supervisory, resolution and oversight authorities of Member States and the Union, including CBs, to the extent that this is necessary for the performance of their public tasks, and provided in all such cases that the disclosure is not in conflict with the applicable law.“;

д) в допълнение II под заглавието „Terms of reference for country opinions for non-EEA TIPS DCA holders in TARGET2“ параграф 3.2, озаглавен „General insolvency issues“, се заменя със следното:

„3.2. **General insolvency and crisis management issues**

3.2.a. *Types of insolvency and crisis management proceedings*

The only types of insolvency proceedings (including composition or rehabilitation) which, for the purpose of this Opinion, shall include all proceedings in respect of the TIPS DCA holder's assets or any branch it may have in [jurisdiction] to which the TIPS DCA holder may become subject in [jurisdiction], are the following: [list proceedings in original language and English translation] (together collectively referred to as 'Insolvency Proceedings').

In addition to Insolvency Proceedings, the TIPS DCA holder, any of its assets, or any branch it may have in [jurisdiction] may become subject in [jurisdiction] to [list any applicable moratorium, receivership, or any other proceedings as a result of which payment orders to and/or from the TIPS DCA holder may be suspended, or limitations can be imposed in relation to such payment orders, or similar proceedings, including crisis prevention and crisis management measures equivalent to those defined in Directive 2014/59/EU, in original language and English translation] (hereinafter collectively referred to as „Proceedings“).

3.2.b. *Insolvency treaties*

[jurisdiction] or certain political subdivisions within [jurisdiction], as specified, is/are party to the following insolvency treaties: [specify, if applicable which have or may have an impact on this Opinion].“