BESCHLUSS (EU) 2019/1848 DER EUROPÄISCHEN ZENTRALBANK

vom 29. Oktober 2019

zur Änderung des Beschlusses EZB/2007/7 über die Bedingungen von TARGET2-EZB (EZB/2019/32)

DAS DIREKTORIUM DER EUROPÄISCHEN ZENTRALBANK —

gestützt auf den Vertrag über die Arbeitsweise der Europäischen Union, insbesondere auf Artikel 127 Absatz 2 erster und vierter Gedankenstrich,

gestützt auf die Satzung des Europäischen Systems der Zentralbanken und der Europäischen Zentralbank, insbesondere auf die Artikel 11.6, 17, 22 und 23,

in Erwägung nachstehender Gründe:

(1) Am 4. Oktober 2019 änderte ([1]) der EZB-Rat die Leitlinie EZB/2012/27 ([2]) zum Zwecke der a) Einrichtung einer neuen SSP-Funktionalität, welche die Durchführung sehr kritischer und kritischer Zahlungen in Notfallsituationen ermöglicht und an der die Zentralbanken des Eurosystems teilnehmen müssen, b) Klarstellung der Voraussetzungen, unter denen Wertpapierfirmen an TARGET2 teilnehmen dürfen, einschließlich des Erfordernisses eines Rechtsgutachtens in Bezug auf Wertpapierfirmen, die außerhalb des Europäischen Wirtschaftsraums (EWR) niedergelassen sind und die direkte Teilnahme an einem TARGET2-Komponenten-System beantragen, c) Klarstellung, dass Teilnehmer an TARGET2-Komponenten-Systemen dem Erfordernis der TARGET2-Selbstzertifizierung nachkommen und die Endpunktsicherheitsanforderungen von TARGET2-Netzwerkdienstleistern einhalten sowie die maßgebliche Zentralbank des Eurosystems über etwaige Krisenpräventions- oder Krisenmanagementmaßnahmen informieren müssen, von denen sie betroffen sind, und d) näheren Erläuterung und Aktualisierung einiger weiterer Gesichtspunkte der Leitlinie EZB/2012/27.

(2) Änderungen der Leitlinie EZB/2012/27, welche die Bedingungen von TARGET2-EZB betreffen, sollten sich im Beschluss EZB/2007/7 ([3]) widerspiegeln.

(3) Daher soll der Beschluss EZB/2007/7 entsprechend geändert werden —

HAT FOLGENDEN BESCHLUSS ERLASSEN:

Artikel 1

Änderungen

Die Anhänge I, II und III des Beschlusses EZB/2007/7 werden entsprechend dem Anhang des vorliegenden Beschlusses geändert.

([1]) Leitlinie (EU) 2019/… der Europäischen Zentralbank vom 4. Oktober 2019 zur Änderung der Leitlinie EZB/2012/27 über ein transeuropäisches automatisiertes Echtzeit-Brutto-Express-Zahlungsverkehrssystem (TARGET2) (EZB/2019/30) (siehe Seite … dieses Amtsblatts).

([2]) Leitlinie EZB/2012/27 vom 5. Dezember 2012 über ein transeuropäisches automatisiertes Echtzeit-Brutto-Express-Zahlungsverkehrssystem (TARGET2) (ABl. L 30 vom 30.1.2013, S. 1).

([3]) Beschluss EZB/2007/7 vom 24. Juli 2007 über die Bedingungen von TARGET2-EZB (ABl. L 237 vom 8.9.2007, S. 71).

Artikel 2

Schlussbestimmungen

Dieser Beschluss tritt am Tag nach seiner Veröffentlichung im *Amtsblatt der Europäischen Union* in Kraft.

Er gilt ab dem 17. November 2019.

Geschehen zu Frankfurt am Main am 29. Oktober 2019.

Der Präsident der EZB
Mario DRAGHI

ANHANG

Die Anhänge I, II und III des Beschlusses EZB/2007/7 werden wie folgt geändert:

1. Anhang I wird wie folgt geändert:

a) In Artikel 1 wird die Begriffsbestimmung von „Contingency-Modul“ gestrichen;

b) In Artikel 1 erhält die Begriffsbestimmung von „Information and Control Module (ICM)“ folgende Fassung:

— „‚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,“;

c) In Artikel 1 wird die folgende Begriffsbestimmung angefügt:

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

d) Artikel 9 Absatz 8 erhält folgende Fassung:

„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) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, S. 190).“;

e) Artikel 21 erhält folgende Fassung:

„*Article 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.“;

f) Artikel 22 wird wie folgt geändert:

i) Absatz 3 erhält folgende Fassung:

„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) Der folgende Absatz 4 wird angefügt:

„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.“;

g) Artikel 23 Absatz 1 Buchstabe c erhält folgende Fassung:

„c) 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.“;

h) Artikel 32 Absatz 2 Buchstabe c erhält folgende Fassung:

„c) 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.“;

i) Anlage I wird wie folgt geändert:

i) In Abschnitt 2 Nummer 1 erhält Zeile 5 der Tabelle folgende Fassung:

„MT 202COV	Mandatory	Cover payment“;

ii) Abschnitt 8 Nummer 7 erhält folgende Fassung:

„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.“;

j) In Anlage III mit der Überschrift „Terms of reference for country opinions for non-EEA participants in TARGET2“ erhält der Abschnitt 3.2 „General insolvency issues“ folgende Fassung:

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

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').

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].“;

k) In Anlage IV wird Abschnitt 6 wie folgt geändert:

i) Die Buchstaben a und b erhalten folgende Fassung:

„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.

b) 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) Die Buchstaben d und e erhalten folgende Fassung:

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

e) 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.";

l) In Anlage IV erhält der Abschnitt 7 Buchstaben a and b folgende Fassung:

„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).

b) 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.";

m) In Anlage VI Abschnitt 5 erhalten die Zeilen 3 und 4 der Tabelle folgende Fassung:

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

2. Anhang II wird wie folgt geändert:

a) Artikel 1 wird wie folgt geändert:

i) Die Begriffsbestimmung von „Information and Control Module (ICM)" erhält folgende Fassung:

— „‚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) Die folgende Begriffsbestimmung wird angefügt:

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

b) Artikel 10 Absatz 9 erhält folgende Fassung:

„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.";

c) Artikel 18 Absatz 3 erhält folgende Fassung:

„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.";

d) Artikel 27 Absatz 2 Buchstabe c erhält folgende Fassung:

„c) 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.";

e) In Anlage III mit der Überschrift „Terms of reference for country opinions for non-EEA participants in TARGET2" erhält der Abschnitt 3.2 „General insolvency issues" folgende Fassung:

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

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').

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].";

f) In Anlage VI erhalten die Zeilen 3 und 4 der Tabelle folgende Fassung:

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

3. Anhang III wird wie folgt geändert:

a) Artikel 14 Absatz 8 erhält folgende Fassung:

„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.";

b) Artikel 21 wird wie folgt geändert:

i) Absatz 5 erhält folgende Fassung:

„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) Der folgende Absatz 6 wird angefügt:

„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.";

c) Artikel 26 Absatz 4 erhält folgende Fassung:

„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.";

d) Artikel 29 Absatz 3 Buchstabe c erhält folgende Fassung:

„c) 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.";

e) In Anlage II mit der Überschrift „Terms of reference for country opinions for non-EEA participants in TARGET2" erhält der Abschnitt 3.2 „General insolvency issues" folgende Fassung:

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

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").

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]."