EIROPAS CENTRĀLĀS BANKAS LĒMUMS (ES) 2019/1848

(2019. gada 29. oktobris),

ar ko groza Lēmumu ECB/2007/7 par *TARGET2*-ECB noteikumiem un nosacījumiem (ECB/2019/32)

EIROPAS CENTRĀLĀS BANKAS VALDE,

ņemot vērā Līgumu par Eiropas Savienības darbību un jo īpaši tā 127. panta 2. punkta pirmo un ceturto ievilkumu,

ņemot vērā Eiropas Centrālo banku sistēmas un Eiropas Centrālās bankas Statūtus un jo īpaši to 11.6. pantu, kā arī 17., 22. un 23. pantu,

tā kā:

(1) ECB Padome 2019. gada 4. oktobrī grozīja ([1]) Pamatnostādni ECB/2012/27 ([2]), lai: a) izveidotu jaunu SSP funkcionalitāti, kura dod iespēju veikt ļoti kritisku un kritisku maksājumu apstrādi ārkārtas situācijās un kura jāievēro Eurosistēmas centrālajām bankām; b) precizētu nosacījumus, saskaņā ar kuriem ieguldījumu sabiedrības var piedalīties *TARGET2*, t. sk. prasību sniegt juridisku atzinumu par ieguldījumu sabiedrībām, kas reģistrētas ārpus Eiropas Ekonomikas zonas (EEZ) un iesniegušas pieteikumu tiešai dalībai *TARGET2* komponentsistēmā; c) izskaidrotu, ka *TARGET2* komponentsistēmu dalībniekiem stingri jāievēro *TARGET2* pašnovērtējuma prasības un *TARGET2* tīkla pakalpojumu sniedzēju galalietotāju drošības prasības, kā arī jāinformē attiecīgā Eurosistēmas centrālā banka par visiem attiecībā uz tiem piemērotajiem krīzes novēršanas vai vadības pasākumiem; un d) precizētu un atjaunotu dažus citus Pamatnostādnes ECB/2012/27 aspektus.

(2) Pamatnostādnē ECB/2012/27 veiktie grozījumi, kuri ietekmē *TARGET2*-ECB noteikumus un nosacījumus, jāatspoguļo Eiropas Centrālās bankas Lēmumā ECB/2007/7 ([3]).

(3) Tādēļ attiecīgi jāgroza Lēmums ECB/2007/7,

IR PIEŅĒMUSI ŠO LĒMUMU.

1. pants

Grozījumi

Lēmuma ECB/2007/7 I, II un III pielikumu groza saskaņā ar šī lēmuma pielikumu.

([1]) Pamatnostādne (ES) 2019/1849 (2019. gada 4. oktobris), ar ko groza Pamatnostādni ECB/2012/27 par Eiropas automatizēto reālā laika bruto norēķinu sistēmu (*TARGET2*) (ECB/2019/30) (skatīt šā *Oficiālā Vēstneša* 64. lpp.).

([2]) Eiropas Centrālās bankas Pamatnostādne ECB/2012/27 (2012. gada 5. decembris) par Eiropas automatizēto reālā laika bruto norēķinu sistēmu (*TARGET2*) (OV L 30, 30.1.2013., 1. lpp.).

([3]) Lēmums ECB/2007/7 (2007. gada 24. jūlijs) par *TARGET2*-ECB noteikumiem un nosacījumiem (OV L 237, 8.9.2007., 71. lpp.).

2. pants

Nobeiguma noteikumi

Šis lēmums stājas spēkā dienā pēc tā publicēšanas *Eiropas Savienības Oficiālajā Vēstnesī*.

To piemēro no 2019. gada 17. novembra.

Frankfurtē pie Mainas, 2019. gada 29. oktobrī

ECB prezidents
Mario DRAGHI

PIELIKUMS

Šādi groza Lēmuma ECB/2007/7 I, II un III pielikumu:

1) šādi groza I pielikumu:

a) 1. pantā svītro ārkārtas apstākļu moduļa definīciju;

b) 1. pantā ar šādu definīciju aizstāj informācijas un kontroles moduļa (IKM) definīciju:

"—" 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) ar šādu definīciju papildina 1. pantu:

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

d) ar šādu punktu aizstāj 9. panta 8. punktu:

"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 (OV L 173, 12.6.2014., 190. lpp.).";

e) ar šādu pantu aizstāj 21. pantu:

"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) šādi groza 22. pantu:

i) ar šādu punktu aizstāj 3. punktu:

"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) pievieno šādu 4. punktu:

"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) ar šādu apakšpunktu aizstāj 23. panta 1. punkta c) apakšpunktu:

"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) ar šādu apakšpunktu aizstāj 32. panta 2. punkta c) apakšpunktu:

"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) šādi groza I papildinājumu.

i) piekto rindu 2. punkta 1) apakšpunkta tabulā aizstāj ar šādu:

"MT 202COV	Mandatory	Cover payment";

ii) ar šādu apakšpunktu aizstāj 8. punkta 7) apakšpunktu:

"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) III papildinājuma "Norādījumos attiecībā uz ārpus EEZ esošo *TARGET2* dalībnieku valstu atzinumiem" 3.2. apakšpunktu Vispārīgie maksātnespējas jautājumi aizstāj ar šādu apakšpunktu:

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

3.2.a. *Types of insolvency and crisis managementproceedings*

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].";

k) šādi groza IV papildinājuma 6. punktu:

i) ar šādiem apakšpunktiem aizstāj a) un b) apakšpunktu:

"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) ar šādiem apakšpunktiem aizstāj d) un e) apakšpunktu:

"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-pasts, as well as via authenticated fakss:. 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) ar šādiem apakšpunktiem aizstāj IV papildinājuma 7. punkta a) un b) apakšpunktu:

"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) trešo un ceturto rindu VI papildinājuma 5. punkta tabulā aizstāj ar šādu tekstu:

"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) šādi groza II pielikumu:

a) šādi groza 1. pantu:

i) ar šādu definīciju aizstāj informācijas un kontroles moduļa (IKM) definīciju:

— ""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) pievieno šādu definīciju:

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

b) ar šādu punktu aizstāj 10. panta 9. punktu:

"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) ar šādu punktu aizstāj 18. panta 3. punktu:

"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) ar šādu apakšpunktu aizstāj 27. panta 2. punkta c) apakšpunktu:

"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) III papildinājuma "Norādījumos par ārpus EEZ esošo *TARGET2* T2V NNK turētāju valstu atzinumiem" 3.2. apakšpunktu Vispārīgie maksātnespējas jautājumi aizstāj ar šādu apakšpunktu:

"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].";

f) trešo un ceturto rindu VI papildinājuma tabulā aizstāj ar šādu tekstu:

"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) šādi groza III pielikumu:

a) ar šādu punktu aizstāj 14. panta 8. punktu:

"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) šādi groza 21. pantu:

i) ar šādu punktu aizstāj 5. punktu:

"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) pievieno šādu 6. punktu:

"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) ar šādu punktu aizstāj 26. panta 4. punktu:

"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) ar šādu apakšpunktu aizstāj 29. panta 3. punkta c) apakšpunktu:

"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) II papildinājuma "Norādījumos par ārpus EEZ esošo *TARGET2* TIPS NNK turētāju valstu atzinumiem" 3.2. apakšpunktu Vispārīgie maksātnespējas jautājumi aizstāj ar šādu apakšpunktu:

"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]."