ROZHODNUTIE EURÓPSKEJ CENTRÁLNEJ BANKY (EÚ) 2019/1848

z 29. októbra 2019,

ktorým sa mení rozhodnutie ECB/2007/7 o podmienkach TARGET2-ECB(ECB/2019/32)

VÝKONNÁ RADA EURÓPSKEJ CENTRÁLNEJ BANKY,

so zreteľom na Zmluvu o fungovaní Európskej únie, a najmä na jej článok 127 ods. 2 prvú a štvrtú zarážku,

so zreteľom na Štatút Európskeho systému centrálnych bánk a Európskej centrálnej banky, a najmä na jeho článok 11.6. a články 17, 22 a 23,

keďže:

(1) Rada guvernérov zmenila ([1]) 4. októbra 2019 usmernenie ECB/2012/27 ([2]) s cieľom: a) zaviesť novú funkciu SSP, ktorá umožňuje spracovanie veľmi kritických a kritických platieb v rámci núdzovej prevádzky, ktorú musia centrálne banky Eurosystému používať; b) upraviť podmienky, za akých sa môžu investičné spoločnosti zúčastňovať na TARGET2, vrátane požiadavky na právne stanovisko týkajúce sa investičných spoločností usadených mimo Európskeho hospodárskeho priestoru (EHP), ktoré žiadajú o priamu účasť v systéme, ktorý je súčasťou TARGET2; c) upraviť, že účastníci systémov, ktoré sú súčasťou TARGET2, musia splniť požiadavku na vlastnú certifikáciu pre TARGET2 a spĺňať požiadavky poskytovateľov sieťových služieb TARGET2 na bezpečnosť koncového bodu, ako aj informovať príslušnú centrálnu banku Eurosystému, o každom opatrení na predchádzanie kríze alebo opatrení krízového riadenia, ktoré sa na nich vzťahujú a d) presnejšie upraviť a aktualizovať niektoré ďalšie aspekty usmernenia ECB/2012/27.

(2) Zmeny usmernenia ECB/2012/27, ktoré majú vplyv na podmienky TARGET2-ECB, by sa mali zohľadniť v rozhodnutí ECB/2007/7 ([3]).

(3) Rozhodnutie ECB/2007/7 by sa preto malo zodpovedajúcim spôsobom zmeniť,

PRIJALA TOTO ROZHODNUTIE:

Článok 1

Zmeny

Prílohy I a III k rozhodnutiu ECB/2007/7 sa menia v súlade s prílohou k tomuto rozhodnutiu.

([1]) Usmernenie (EÚ) 2019/1849 zo 4. októbra 2019, ktorým sa mení usmernenie ECB/2012/27 o Transeurópskom automatizovanom expresnom systéme hrubého vyrovnania platieb v reálnom čase (TARGET2) (ECB/2019/30) (pozri stranu 64 tohto úradného vestníka).
([2]) Usmernenie Európskej centrálnej banky ECB/2012/27 z 5. decembra 2012 o Transeurópskom automatizovanom expresnom systéme hrubého vyrovnania platieb v reálnom čase (TARGET2) (Ú. v. EÚ L 30, 30.1.2013, s. 1).
([3]) Rozhodnutie ECB/2007/7 z 24. júla 2007 o podmienkach TARGET2-ECB (Ú. v. EÚ L 237, 8.9.2007, s. 71).

Článok 2

Záverečné ustanovenia

Toto rozhodnutie nadobúda účinnosť v deň nasledujúci po jeho uverejnení v Úradnom vestníku Európskej únie.

Uplatňuje sa od 17. novembra 2019.

Vo Frankfurte nad Mohanom 29. októbra 2019

Prezident ECB
Mario DRAGHI

PRÍLOHA

Prílohy I a III k rozhodnutiu ECB/2007/7 sa menia takto:

1. Príloha I sa mení takto:

a) v článku 1 sa vypúšťa vymedzenie pojmu „Contingency Module“;

b) v článku 1 sa vymedzenie pojmu „Information and Control Module (ICM)“ nahrádza takto:

„—, 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) v článku 1 sa dopĺňa toto vymedzenie pojmu:

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

d) v článku 9 sa odsek 8 nahrádza takto:

„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, p. 190).“;

e) článok 21 sa nahrádza takto:

„*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) článok 22 sa mení takto:

i) odsek 3 sa nahrádza takto:

„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) vkladá sa tento odsek 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.“;

g) v článku 23 ods. 1 sa písmeno c) nahrádza takto:

„(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) v článku 32 ods. 2 sa písmeno c) nahrádza takto:

„(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) dodatok I sa mení takto:

i) piaty riadok v tabuľke v bode 2 odseku 1 sa nahrádza takto:

„MT 202COV	Mandatory	Cover payment“ ;

ii) v odseku 8 sa bod 7 nahrádza takto:

„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) v dodatku III pod názvom „Terms of reference for country opinions for non-EEA participants in TARGET2“ sa bod 3.2 s názvom„General insolvency issues“ nahrádza takto:

„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].“;

k) v dodatku IV sa bod 6 mení takto:

i) písmená a) a b) sa nahrádzajú takto:

„(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) písmená d) a e) sa nahrádzajú takto:

„(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 email, 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) v dodatku IV bode 7 sa písmená a) a b) nahrádzajú takto:

„(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) v dodatku VI sa tretí a štvrtý riadok tabuľky v bode 5 nahrádzajú takto:

„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. Príloha II sa mení takto:

a) článok 1 sa mení takto:

i) vymedzenie pojmu „Information and Control Module (ICM)" sa nahrádza takto:

„—, 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) pridáva sa toto vymedzenie pojmu:

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

b) v článku 10 sa odsek 9 nahrádza takto:

„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) v článku 18 sa odsek 3 nahrádza takto:

„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) v článku 27 ods. 2 sa písmeno c) nahrádza takto:

„(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) v dodatku III pod názvom „Terms of reference for country opinions for non-EEA T2S DCA holders in TARGET2" sa bod 3.2 s názvom „General insolvency issues" nahrádza takto:

„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) v dodatku VI sa tretí a štvrtý riadok tabuľky nahrádzajú takto:

„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. Príloha III sa mení takto:

a) v článku 14 sa odsek 8 nahrádza takto:

„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) článok 21 sa mení takto:

i) odsek 5 sa nahrádza takto:

„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) dopĺňa sa tento odsek 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.";

c) v článku 26 sa odsek 4 nahrádza takto:

„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) v článku 29 ods. 3 sa písmeno c) nahrádza takto:

„(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) v dodatku II pod názvom „Terms of reference for country opinions for non-EEA TIPS DCA holders in TARGET2“ sa bod 3.2 s názvom „General insolvency issues“ nahrádza takto:

„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').

Okrem konkurzného konania môže byť v [jurisdikcia] voči majiteľovi TIPS DCA, akýmkoľvek jeho aktívam alebo ktorejkoľvek pobočke, ktorú môže mať v [jurisdikcia], vedené [zoznam uplatniteľného moratória, nútenej správy alebo akéhokoľvek iného konania, v dôsledku ktorého môže dôjsť k pozastaveniu platobných príkazov od majiteľa TIPS DCA a/alebo majiteľovi TIPS DCA alebo môžu byť uložené obmedzenia v súvislosti s takýmito platobnými príkazmi alebo podobné konania, vrátane opatrení na predchádzanie kríze a opatrení krízového riadenia, ktoré sú rovnocenné s opatreniami vymedzenými v smernici 2014/59/EÚ v pôvodnom jazyku a anglickom preklade] (ďalej spoločne len „konanie“).

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].“.