# EUROPEISKA CENTRALBANKENS BESLUT (EU) 2019/1848

## av den 29 oktober 2019

## om ändring av beslut ECB/2007/7 om villkoren för TARGET2-ECB (ECB/2019/32)

EUROPEISKA CENTRALBANKENS DIREKTION HAR ANTAGIT DETTA BESLUT

med beaktande av fördraget om Europeiska unionens funktionssätt, särskilt artikel 127.2 första och fjärde strecksatserna,

med beaktande av stadgan för Europeiska centralbankssystemet och Europeiska centralbanken, särskilt artikel 11.6 och artiklarna 17, 22 och 23, och

av följande skäl:

(1) Den 4 oktober 2019 ändrade ECB-rådet ([1]) riktlinje ECB/2012/27 ([2]) för att: a) introducera en ny SSP-funktion som gör det möjligt att verkställa viktiga och mycket viktiga betalningar med en reservrutin som Eurosystemets centralbanker måste beakta, b) förtydliga under vilka villkor värdepappersföretag får delta i TARGET2, inklusive kravet avseende ett juridiskt utlåtande för värdepappersföretag som är etablerade utanför Europeiska ekonomiska samarbetsområdet (EES) som ansöker om direkt deltagande i ett delsystem i TARGET2, c) förtydliga att deltagarna i ett delsystem i TARGET2 måste uppfylla kravet om TARGET2 självcertifiering och de säkerhetskrav som leverantörerna av nätverkstjänster till TARGET2 uppställer för slutanvändare, samt informera Eurosystemets centralbanker om alla krisförebyggande åtgärder eller krishanteringsåtgärder som de omfattas av, samt d) förtydliga och uppdatera vissa andra aspekter av riktlinje ECB/2012/27.

(2) De ändringar som gjorts av riktlinje ECB/2012/27 som påverkar villkoren för TARGET2-ECB bör återspeglas i beslut ECB/2007/7 ([3]).

(3) Beslut ECB/2007/7 bör därför ändras i enlighet med detta.

HÄRIGENOM FÖRESKRIVS FÖLJANDE.

*Artikel 1*

**Ändringar**

Bilagorna I, II och III till beslut ECB/2007/7 ska ändras i enlighet med bilagan till det här beslutet.

([1]) Riktlinje (EU) 2019/1849 av den 4 oktober 2019 om ändring av riktlinje ECB/2012/27 om ett transeuropeiskt automatiserat system för bruttoavveckling av betalningar i realtid (TARGET2) (ECB/2019/30) (se sidan 64 i detta nummer av EUT).

([2]) Riktlinje ECB/2012/27 av den 5 december 2012 om ett transeuropeiskt automatiserat system för bruttoavveckling av betalningar i realtid (TARGET2) (EUT L 30, 30.1.2013, s. 1).

([3]) Beslut ECB/2007/7 av den 24 juli 2007 om villkoren för TARGET2-ECB (EUT L 237, 8.9.2007, s. 71).

*Artikel 2*

**Slutbestämmelser**

Detta beslut träder i kraft dagen efter det att det har offentliggjorts i *Europeiska unionens officiella tidning*.

Det ska tillämpas från och med den 17 november 2019.

Utfärdat i Frankfurt am Main den 29 oktober 2019.

*ECB:s ordförande*
Mario DRAGHI

*BILAGA*

Bilagorna I, II och III till beslut ECB/2007/7 ska ändras på följande sätt:

1. Bilaga I ska ändras på följande sätt:

a) I artikel 1 ska definitionen av reservrutinsmodul utgå.

b) I artikel 1 ska definitionen av 'Information and Control Module (ICM)' ersättas med följande:

— " 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) I artikel 1 ska följande definition läggas till:

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

d) Artikel 9.8 ska ersättas med följande:

"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) Artikel 21 ska ersättas med följande:

*"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 ska ändras på följande sätt:

i) Punkt 3 ska ersättas med följande:

"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) Följande punkt 4 ska läggas till:

"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) I artikel 23.1 ska led c ersättas med följande:

"(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) I artikel 32.2 ska led c ersättas med följande:

”(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) Tillägg I ska ändras på följande sätt:

i) Rad fem i tabellen i punkt 2.1 ska ersättas med följande:

| | | |
|---|---|---|
| ”MT 202COV | Mandatory | Cover payment |

”ii) Punkt 8.7 ska ersättas med följande:

”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) I tillägg III, under rubriken ‘Terms of reference for country opinions for non-EEA participants in TARGET2” ska punkt 3.2 med rubriken ‘General insolvency issues” ersättas med följande:

‘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) I tillägg IV ska sjätte stycket ändras på följande sätt:

i) Punkterna a och b ska ersättas med följande:

‘(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) Punkterna d och e ska ersättas med följande:

'(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) I tillägg IV ska artikel 7 punkterna a och b ersättas med följande:

'(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) I tillägg VI ska tredje och fjärde raden i tabellen i punkt 5 ersättas med följande:

| | | |
|---|---|---|
| '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. Bilaga II ska ändras på följande sätt:

a) Artikel 1 ska ändras på följande sätt:

i) Definitionen av 'Information and Control Module (ICM)' ska ersättas med följande:

"—" 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) Följande definition ska läggas till:

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

b) Artikel 10.9 ska ersättas med följande:

"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 18.3 ska ersättas med följande:

"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) I artikel 27.2 ska led c ersättas med följande:

"(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) I tillägg III, under rubriken 'Terms of reference for country opinions for non-EEA T2S DCA holders in TARGET2" ska punkt 3.2 med rubriken 'General insolvency issues" ersättas med följande:

'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) I tillägg VI ska tredje och fjärde raden i tabellen ersättas med följande:

| | | |
|---|---|---|
| '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. Bilaga III ska ändras på följande sätt:

a) Artikel 14.8 ska ersättas med följande:

'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 ska ändras på följande sätt:

i) Punkt 5 ska ersättas med följande:

'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) Följande punkt 6 ska läggas till:

'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 26.4 ska ersättas med följande:

"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) I artikel 29.3 ska led c ersättas med följande:

”(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) I tillägg II, under rubriken ‘Terms of reference for country opinions for non-EEA TIPS DCA holders in TARGET2 ska punkt 3.2 med rubriken ’General insolvency issues’ ersättas med följande:

‘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].’