EUROOPA KESKPANGA OTSUS (EL) 2019/1848

29. oktoober 2019,

millega muudetakse otsust EKP/2007/7 TARGET2-ECB tingimuste kohta (EKP/2019/32)

EUROOPA KESKPANGA JUHATUS,

võttes arvesse Euroopa Liidu toimimise lepingut, eelkõige selle artikli 127 lõike 2 esimest ja neljandat taanet,

võttes arvesse Euroopa Keskpankade Süsteemi ja Euroopa Keskpanga põhikirja, eelkõige selle artikleid 11.6, 17, 22 ja 23,

ning arvestades järgmist:

(1) 4. oktoobril 2019 muutis EKP nõukogu ([1]) suunist EKP/2012/27 ([2]) järgmisel eesmärgil: a) ühisplatvormi uue funktsionaalsuse sisseviimine, mis võimaldab töödelda erakorralise tähtsusega ja tähtsaid makseid eriolukorras, mida eurosüsteemi keskpangad peavad järgima; b) tingimuste selgitamine, mille alusel investeerimisühingud võivad osaleda TARGET2s, sh õigusliku arvamuse nõue väljaspool Euroopa Majanduspiirkonda (EMP) asutatud investeerimisühingute jaoks, kes on esitanud TARGET2 osasüsteemis otseosalemise taotluse; c) selgitus, et TARGET2 osasüsteemide osalejad peavad kohaldama TARGET2 enesesertifitseerimise nõuet ja TARGET2 võrguteenuse osutajate turvalisuse kasutajanõudeid; samuti teavitama asjaomast eurosüsteemi keskpanka igast nende suhtes kohaldatavast kriisiennetuse või kriisilahenduse meetmest, ja d) teatavate muude suunise EKP/2012/27 aspektide selgitamine ja ajakohastamine.

(2) Muudatusi suunises EKP/2012/27, mis mõjutavad TARGET2-ECB tingimusi, tuleb kajastada otsuses EKP/2007/7 ([3]).

(3) Seetõttu tuleb otsust EKP/2007/7 vastavalt muuta,

ON VASTU VÕTNUD KÄESOLEVA OTSUSE:

Artikkel 1

Muudatused

Otsuse EKP/2007/7 I, II ja III lisa muudetakse kooskõlas käesoleva otsuse lisaga.

([1]) 4. oktoobri 2019. aasta suunis (EL) 2019/1849, millega muudetakse suunist EKP/2012/27 üleeuroopalise automatiseeritud reaalajalise brutoarvelduste kiirülekandesüsteemi (TARGET2) kohta (EKP/2019/30) (vt käesoleva *Euroopa Liidu Teataja* lk 64).

([2]) 5. detsembri 2012. aasta suunis EKP/2012/27 üleeuroopalise automatiseeritud reaalajalise brutoarvelduste kiirülekandesüsteemi (TARGET2) kohta (ELT L 30, 30.1.2013, lk 1).

([3]) 24. juuli 2007. aasta otsus EKP/2007/7 TARGET2-ECB tingimuste kohta (ELT L 237, 8.9.2007, lk 71).

Artikkel 2

Lõppsätted

Käesolev otsus jõustub järgmisel päeval pärast selle avaldamist *Euroopa Liidu Teatajas*.

Seda kohaldatakse alates 17. novembrist 2019.

Frankfurt Maini ääres, 29. oktoober 2019

EKP president
Mario DRAGHI

Lisa

Otsuse EKP/2007/7 I, II ja III lisa muudetakse järgmiselt.

1. I lisa muudetakse järgmiselt:

   a) artiklis 1 jäetakse välja mõiste „Contingency Module“;

   b) artiklis 1 asendatakse mõiste „Information and Control Module (ICM)“ järgmisega:

   „—‘ 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) ariklisse 1 lisatakse järgmine mõiste:

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

   d) artikli 9 lõige 8 asendatakse järgmisega:

   „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) artikkel 21 asendatakse järgmisega:

   „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) artiklit 22 muudetakse järgmiselt:

      i) lõige 3 asendatakse järgmisega:

      „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) lisatakse järgmine lõige 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) artikli 23 lõike 1 punkt c asendatakse järgmisega:

   „(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) artikli 32 lõike 2 punkt c asendatakse järgmisega:

„(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) I liidet muudetakse järgmiselt:

i) punkti 2 alapunktis 1 asendatakse tabeli viies rida järgmisega:

„MT 202COV	Mandatory	Cover payment“;

ii) punkti 8 alapunkt 7 asendatakse järgmisega:

„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 liites pealkirja „Terms of reference for country opinions for non-EEA participants in TARGET2“ all asendatakse punkt 3.2 pealkirjaga „General insolvency issues“ järgmisega:

„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) IV liite punkti 6 muudetakse järgmiselt:

i) alapunktid a ja b asendatakse järgmisega:

„(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) alapunktid d ja e asendatakse järgmisega:

„(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) IV liite punkti 7 alapunktid a ja b asendatakse järgmisega:

„(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) VI liite punkti 5 tabelis asendatakse kolmas ja neljas rida järgmisega:

„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. II lisa muudetakse järgmiselt:

a) artiklit 1 muudetakse järgmiselt:

i) mõiste „Information and Control Module (ICM)“ asendatakse järgmisega:

„—' 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) lisatakse järgmine mõiste:

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

b) artikli 10 lõige 9 asendatakse järgmisega:

„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) artikli 18 lõige 3 asendatakse järgmisega:

„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) artikli 27 lõike 2 punkt c asendatakse järgmisega:

„(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 liites pealkirja „Terms of reference for country opinions for non-EEA T2S DCA holders in TARGET2“ all asendatakse punkt 3.2 pealkirjaga „General insolvency issues“ järgmisega:

„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) VI liite tabelis asendatakse kolmas ja neljas rida järgmisega:

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

3. III lisa muudetakse järgmiselt:

a) artikli 14 lõige 8 asendatakse järgmisega:

„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) artiklit 21 muudetakse järgmiselt:

i) lõige 5 asendatakse järgmisega:

„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) lisatakse järgmine lõige 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) artikli 26 lõige 4 asendatakse järgmisega:

„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) artikli 29 lõike 3 punkt c asendatakse järgmisega:

„(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 liites pealkirja „Terms of reference for country opinions for non-EEA TIPS DCA holders in TARGET2“ all asendatakse punkt 3.2 pealkirjaga „General insolvency issues“ järgmisega:

„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].“