DEĊIŻJONI (UE) 2019/1848TAL-BANK ĊENTRALI EWROPEW

tad-29 ta' Ottubru 2019

li temenda d-Deċiżjoni BĊE/2007/7 dwar il-kundizzjonijiet tat-TARGET2-BĊE (BĊE/2019/32)

IL-BORD EŻEKUTTIV TAL-BANK ĊENTRALI EWROPEW,

Wara li kkunsidra t-Trattat dwar il-Funzjonament tal-Unjoni Ewropea, u b'mod partikolari l-ewwel u r-raba' inċiżi tal-Artikolu 127(2) tiegħu,

Wara li kkunsidra l-Istatut tas-Sistema Ewropea tal-Banek Ċentrali u tal-Bank Ċentrali Ewropew, u b'mod partikolari l-Artikolu 11.6 u l-Artikoli 17, 22 u 23 tiegħu,

Billi:

(1) Fl-4 ta' Ottubru 2019, il-Kunsill Governattiv emenda ([1]) l-Linja Gwida BĊE/2012/27 ([2]) sabiex: (a) jintroduċi funzjonalità ta' SSP ġdida, li tippermetti l-ipproċessar ta' pagamenti kritiċi ħafna u pagamenti kritiċi f'kontinġenza, li l-banek ċentrali tal-Eurosistem a jridu jaderixxu miegħu; (b) jiġu ċċarati l-kundizzjonijiet li taħthom id-ditti ta' investiment jistgħu jipparteċipaw fit-TARGET2, inkluż ir-rekwiżit għal opinjoni legali rigward ditti ta' investiment stabbiliti barra ż-Żona Ekonomika Ewropea (ŻEE) u li japplikaw għal parteċipazzjoni diretta f'sistema komponenti tat-TARGET2; (c) jiġi ċċarat li l-parteċipanti f'sistemi komponenti tat-TARGET2 għandhom jaderixxu mar-rekwiżit ta' awtoċertifikazzjoni TARGET2 u mar-rekwiżiti ta' sigurtà tal-punt tat-tmiem ta' fornituri ta' servizz ta' netwerk tat-TARGET2, u jinformaw lill-bank ċentrali tal-Eurosistema rilevanti dwar kwalunkwe miżuri ta' prevenzjoni ta' kriżi jew miżuri ta' ġestjoni ta' kriżi li huma soġġetti għalihom; u (d) jiġu ċċarati u aġġornati ċerti aspetti oħra tal-Linja Gwida BĊE/2012/27.

(2) Emendi li jsiru għal-Linja Gwida BĊE/2012/27 li jaffettwaw it-termini u kundizzjonijiet tat-TARGET2-BĊE għandhom jiġu riflessi fid-Deċiżjoni BĊE/2007/7 ([3]).

(3) Għaldaqstant, id-Deċiżjoni BĊE/2007/7 għandha tiġi emendata kif meħtieġ,

ADOTTA DIN ID-DEĊIŻJONI:

Artikolu 1

Emendi

L-Annessi I, II u III tad-Deċiżjoni BĊE/2007/7 huma emendati skont l-Anness ta' din id-Deċiżjoni.

([1]) Linja gwida (UE) 2019/1849 tal-4 ta' Ottubru 2019 li temenda l-Linja Gwida BĊE/2012/27 dwar sistema Trans-European Automated Real-time Gross settlement Express Transfer (TARGET2) (BĊE/2019/30) (Ara paġna 64 ta' dan il-Ġurnal Uffiċjali).

([2]) Linja Gwida BĊE/2012/27 tal-Bank Ċentrali Ewropew tal-5 ta' Diċembru 2012 dwar sistema Trans-European Automated Real-time Gross settlement Express Transfer (TARGET2) (ĠU L 30, 30.1.2013, p. 1).

([3]) Deċiżjoni BĊE/2007/7 tal-24 ta' Lulju 2007 dwar il-kundizzjonijiet tat-TARGET2-BĊE (ĠU L 237, 8.9.2007, p. 71).

Artikolu 2

Dispożizzjonijiet finali

Din id-Deċiżjoni għandha tidħol fis-seħħ fil-jum wara dak tal-pubblikazzjoni tagħha f'*Il-Ġurnal Uffiċjali tal-Unjoni Ewropea*.

Għandha tapplika mis-17 ta' Novembru 2019.

Magħmul fi Frankfurt am Main, id-29 ta' Ottubru 2019.

Il-President tal-BĊE
*Mario*DRAGHI

ANNESS

L-Annessi I, II u III tad-Deċiżjoni BĊE/2007/7 huma emendati kif gej:

1. L-Anness I huwa emendat kif ġej:

   (a) fl-Artikolu 1, id-definizzjoni ta' Modulu ta' Kontingenza hija mħassra;

   (b) fl-Artikolu 1, id-definizzjoni ta' "Modulu ta' Informazzjoni u Kontroll (ICM)" hija ssostitwita b'dan li ġej:

   "—' 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) fl-Artikolu 1 qed tiżdied id-definizzjoni li ġejja:

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

   (d) L-Artikolu 9(8) qed jiġi mibdul b'li ġej:

   "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.

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   (*) 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) L-Artikolu 21 huwa ssostitwit b'dan li ġej:

   "*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) L-Artikolu 22 huwa emendat skont kif ġej:

      (i) il-paragrafu 3 huwa sostitwit b'dan li ġej:

      "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) jiżdied il-paragrafu 4 li ġej:

      "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) fl-Artikolu 23(1), il-punt (c) huwa ssostitwit b'dan li ġej:

   "(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) fl-Artikolu 32(2), il-punt (c) huwa ssostitwit b'dan li ġej:

“(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) L-Appendiċi I huwa emendat kif gej:

(i) il-ħames linja tat-tabella fil-paragrafu 2(1) hija ssostitwita b'dan li ġej:

“MT 202COV	Mandatory	Cover payment”;

(ii) il-paragrafu 8(7) huwa ssostitwit b'li gej:

“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) fl-Appendiċi III, taħt l-intestatura “Termini ta referenza għall-opinjonijiet nazzjonali għal parteċipanti li mhumiex fiż-ŻEE fit-TARGET2”, il-paragrafu 3.2 intitolat “Kwistjonijiet ġenerali ta' insolvenza” huwa ssostitwit b'dan li ġej:

“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) fl-Appendiċi IV, il-paragrafu 6 huwa emendat kif ġej:

(i) il-punti (a) u (b) huma ssostitwiti b'dan li ġej:

“(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) il-punti (d) u (e) huma ssostitwiti b'dan li ġej:

"(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) fl-Appendiċi IV, il-punti (a) u (b) tal-paragrafu 7 huma ssostitwiti b'dan li ġej:

"(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) fl-Appendiċi VI, it-tielet u r-raba' linji tat-tabella fil-punt 5 huma mibdulin b'li ġej:

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

2. L-Anness II huwa emendat kif gej:

(a) L-Artikolu 1 huwa emendat skont kif ġej:

(i) id-definizzjoni ta' "Modulu ta' Informazzjoni u Kontroll (ICM)" hija sostitwita b'li ġej:

"—' 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) id-definizzjoni li ġejja hija miżjuda:

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

(b) L-Artikolu 10(9) qed jiġi mibdul b'li ġej:

"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) L-Artikolu 18(3) huwa ssostitwit b'dan li ġej:

"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) fl-Artikolu 27(2), il-punt (c) huwa ssostitwit b'dan li ġej:

"(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) fl-Appendiċi III, taħt l-intestatura "Termini ta' referenza għall-opinjonijiet nazzjonali għal detenturi T2S DCA li mhumiex fiż-ŻEE fit-TARGET2", il-paragrafu 3.2 intitolat "Kwistjonijiet ġenerali ta' insolvenza" huwa ssostitwit b'dan li ġej:

"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) fl-Appendiċi VI, it-tielet u r-raba' linji tat-tabella huma ssostitwiti b'dan li ġej:

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

3. L-Anness III huwa emendat kif gej:

(a) L-Artikolu 14(8) huwa ssostitwit b'dan li ġej:

"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) L-Artikolu 21 huwa emendat skont kif ġej:

(i) il-paragrafu 5 huwa mibdul b'dan li ġej:

"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) il-paragrafu 6 li ġej huwa miżjud:

"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) L-Artikolu 26(4) huwa ssostitwit b'dan li ġej:

"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) fl-Artikolu 29(3), il-punt (c) huwa ssostitwit b'dan li ġej:

"(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) fl-Appendiċi II, taħt l-intestatura "Termini ta' referenza għall-opinjonijiet nazzjonali għal detenturi TIPS DCA li mhumiex fiż-ŻEE fit-TARGET2", il-paragrafu 3.2 intitolat "Kwistjonijiet ġenerali ta' insolvenza" huwa ssostitwit b'dan li ġej:

"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].".