DECISION OF THE EUROPEAN CENTRAL BANK

of 2 November 2010

amending Decision ECB/2007/7 concerning the terms and conditions of TARGET2-ECB

(ECB/2010/19)

(2010/673/EU)

THE EXECUTIVE BOARD OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 11.6 and Articles 17, 22 and 23 thereof,

Having regard to Guideline ECB/2007/2 of 26 April 2007 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) [1],

Having regard to Decision ECB/2007/7 of 24 July 2007 concerning the terms and conditions of TARGET2-ECB [2],

Whereas:

(1) On 15 September 2010, the Governing Council of the European Central Bank (ECB) adopted Guideline ECB/2010/12 amending Guideline ECB/2007/2 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) [3], inter alia: (a) to take into account the updates for TARGET2 release 4.0, in particular to allow participants to access one or more PM accounts using Internet-based access; and (b) to reflect a number of technical changes following the entry into force of the Treaty on the Functioning of the European Union and clarify a few issues.

(2) It is necessary to make conforming amendments to Decision ECB/2007/7, in order to implement certain of the elements of Guideline ECB/2010/12 in the terms and conditions of TARGET2-ECB,

HAS ADOPTED THIS DECISION:

Article 1

Amendment of the terms and conditions of TARGET2-ECB

The Annex to Decision ECB/2007/7 which contains the terms and conditions of TARGET2-ECB shall be amended in accordance with the Annex to this Decision.

Article 2

Entry into force

This Decision shall enter into force on the day following its publication in the *Official Journal of the European Union*.

Done at Frankfurt am Main, 2 November 2010.

The President of the ECB

Jean-Claude TRICHET

[1] OJ L 237, 8.9.2007, p. 1.
[2] OJ L 237, 8.9.2007, p. 71.
[3] OJ L 261, 5.10.2010, p. 6.

ANNEX

The terms and conditions of TARGET2-ECB shall be amended as follows:

1. Article 1 is amended as follows:

   (a) the following definitions are replaced:

   '— "addressable BIC holder" means an entity which: (a) holds a Business Identifier Code (BIC); (b) is not recognised as an indirect participant; and (c) is a correspondent or customer of a direct participant or a branch of a direct or indirect participant, and is able to submit payment orders to and receive payments from a TARGET2 component system via the direct participant,'

   '— "credit institution" means either: (a) a credit institution within the meaning of §1 (1) of the KWG that is subject to supervision by a competent authority; or (b) another credit institution within the meaning of Article 123(2) of the Treaty on the Functioning of the European Union that is subject to scrutiny of a standard comparable to supervision by a competent authority,'

   '— "public sector body" means an entity within the "public sector", the latter term as defined in Article 3 of Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b(1) of the Treaty (*),

   (*) OJ L 332, 31.12.1993, p. 1.';

   (b) '— "Bank Identifier Code (BIC)" means a code as defined by ISO Standard No 9362,' is replaced by the following: '— "Business Identifier Code (BIC)" means a code as defined by ISO Standard No 9362,';

   (c) in the definition 'technical malfunction of TARGET2', the full stop is replaced by a comma;

   (d) the following definition is added:

   '— "User Detailed Functional Specifications (UDFS)" means the most up-to-date version of the UDFS, which is the technical documentation that details how a participant interacts with TARGET2.'.

2. Article 28(2) is amended as follows:

   (a) in point (d) the words 'and/or' are deleted and are added to point (e);

   (b) the following point (f) is added:

   '(f) the ECB suspends or terminates the participant's access to intraday credit pursuant to paragraph 12 of Annex III to Guideline ECB/2007/2.'.

3. In Article 32(2), the term 'Community' is replaced by the term 'Union'.

4. Article 33(1) is replaced by the following:

   '1. Participants shall be deemed to be aware of, and shall comply with, all obligations on them relating to legislation on data protection, prevention of money laundering, the financing of terrorism, proliferation-sensitive nuclear activities and the development of nuclear weapons delivery systems, in particular in terms of implementing appropriate measures concerning any payments debited or credited on their PM accounts. Participants shall also acquaint themselves with the network service provider's data retrieval policy prior to entering into the contractual relationship with the network service provider.'.

5. In Article 34(1), the term 'SWIFT' is replaced by the term 'BIC'.

6. Article 38(2) is replaced by the following:

   '2. Without prejudice to the competence of the Court of Justice of the European Union, any dispute arising from a matter relating to the relationship referred to in paragraph 1 falls under the exclusive competence of the courts of Frankfurt am Main.'.

7. In Appendix I, the last three rows of the table in paragraph 2(1) are replaced by the following:

'MT 900	Optional	Confirmation of Debit/Credit line change
MT 910	Optional	Confirmation of Credit/Credit line change
MT 940/950	Optional	(Customer) Statement Message'

8. In Appendix V, the last row of the table in paragraph 3 is replaced by the following:

'1.00 — 7.00	Settlement procedure of night-time ancillary system operations (only for ancillary system settlement procedure 6)'