2023/2532 16.11.2023

DECISÃO (UE) 2023/2532 DO BANCO CENTRAL EUROPEU

de 9 de novembro de 2023

que altera a Decisão (UE) 2022/911 relativa aos termos e condições do TARGET-ECB (BCE/2022/22) *(BCE/2023/27)*

A COMISSÃO EXECUTIVA DO BANCO CENTRAL EUROPEU,

Tendo em conta o Tratado sobre o Funcionamento da União Europeia, nomeadamente o artigo 127.º, n.º 2, primeiro e quarto travessões,

Tendo em conta os Estatutos do Sistema Europeu de Bancos Centrais e do Banco Central Europeu, nomeadamente o artigo 3.º-1 e os artigos 17.º, 22.º e 23.º,

Considerando o seguinte:

(1) Em 24 de fevereiro de 2022, o Conselho do BCE adotou a Orientação (UE) 2022/912 do Banco Central Europeu (BCE/2022/8) ([1]), que prevê a entrada em funcionamento de um sistema de transferências automáticas transeuropeias de liquidação por bruto em tempo real de nova geração (TARGET).

(2) Em 7 de setembro de 2023, o Conselho do BCE adotou a Orientação (UE) 2023/2415 do Banco Central Europeu (BCE/2023/22) ([2]), que altera a Orientação (UE) 2022/912 (BCE/2022/8). Estas alterações tiveram por objetivo: a) esclarecer determinados aspetos relacionados com a utilização das marcas comerciais relativas aos serviços do TARGET; b) especificar melhor que os bancos centrais do Eurosistema (BC do Eurosistema) estão obrigados a assegurar que não sejam abertas outras contas para além das contas TARGET aos participantes elegíveis para participar no TARGET para efeitos da prestação dos serviços abrangidos pelo âmbito de aplicação da referida orientação; c) introduzir medidas para atenuar os efeitos de uma eventual falha na ligação de um BC do Eurosistema ao TARGET; d) estabelecer a utilização obrigatória, a partir de 21 de março de 2025, da Solução de Contingência para todos os titulares de contas em numerário dedicadas e para os sistemas periféricos que participem no TARGET; e) introduzir esclarecimentos no que respeita às partes contactáveis designadas pelos sistemas periféricos que utilizam o serviço de liquidação de pagamentos imediatos do TARGET (*Target Instant Payment Settlement* — TIPS); f) introduzir a política revista de fixação de preços do serviço TIPS; e g) introduzir determinadas alterações de ordem redacional.

(3) As alterações introduzidas na Orientação (UE) 2022/912 (BCE/2022/8) que afetam os termos e condições do TARGET-ECB deveriam ser refletidas na Decisão (UE) 2022/912 do Banco Central Europeu (BCE/2022/911) ([3]).

(4) A fim de garantir o alinhamento com as disposições da Orientação (UE) 2023/2415(BCE/2023/22), a presente decisão entra em vigor em 20 de novembro de 2023.

(5) Havendo, por conseguinte, que alterar em conformidade a Decisão (UE) 2022/911 (BCE/2022/22),

ADOTOU A PRESENTE DECISÃO:

Artigo 1.º

Alterações

A Decisão (UE) 2022/911 (BCE/2022/22) é alterada do seguinte modo:

1) No artigo 3.º, o n.º 2 passa a ter a seguinte redação:

([1]) Orientação (UE) 2022/912 do Banco Central Europeu, de 24 de fevereiro de 2022, relativa a um sistema de transferências automáticas transeuropeias de liquidação por bruto em tempo real de nova geração (TARGET) e que revoga a Orientação BCE/2012/27 (BCE/2022/8) (JO L 163 de 17.6.2022, p. 84).

([2]) Orientação (UE) 2023/2415 do Banco Central Europeu, de 7 de setembro de 2023, que altera a Orientação (UE) 2022/912 relativa a um sistema de transferências automáticas transeuropeias de liquidação por bruto em tempo real de nova geração (TARGET) (BCE/2022/8) (BCE/2023/22) (JO L, 2023/2415, 27.10.2023, ELI: http://data.europa.eu/eli/guideline/2023/2415/oj

([3]) Decisão (UE) 2022/911 do Banco Central Europeu, de 19 de abril de 2022, relativa aos termos e condições do TARGET-ECB e que revoga a Decisão BCE/2007/7 (BCE/2022/22) (JO L 163 de 17.6.2022, p. 1).

«2. Nos termos do artigo 9.º, n.º 2, da Orientação (UE) 2022/912 (BCE/2022/8), a partir da data de início das operações do sistema de gestão de ativos de garantia do Eurosistema (Eurosystem Collateral Management System — ECMS), tal como comunicada no sítio *Web* do BCE, o BCE não abrirá contas que não sejam contas TARGET a participantes elegíveis para participar no TARGET com a finalidade de prestar os serviços que se inserem no âmbito de aplicação da Orientação (UE) 2022/912 (BCE/2022/8), com exceção das contas utilizadas para a detenção de fundos penhorados ou dados em penhor a um credor terceiro ou dos fundos referidos no artigo 3.º, n.º 1, alínea d), do Regulamento (EU) 2021/378 do Banco Central Europeu (BCE/2021/1) (*).

(*) Regulamento (UE) 2021/378 do Banco Central Europeu, de 22 de janeiro de 2021, relativo à aplicação dos requisitos de reservas mínimas (BCE/2021/1) (JO L 73 de 3.3.2021, p. 1).»;

2) O anexo I da Decisão (UE) 2022/911 (BCE/2022/22) é alterado de acordo com o anexo I da presente decisão;

3) O anexo II da Decisão (UE) 2022/911 (BCE/2022/22) é alterado de acordo com o anexo II da presente decisão;

4) O anexo III da Decisão (UE) 2022/911 (BCE/2022/22) é alterado de acordo com o anexo III da presente decisão.

Artigo 2.º

Entrada em vigor

A presente Decisão entra em vigor em 20 de novembro de 2023.

Feito em Frankfurt am Main, em 9 de novembro de 2023.

A Presidente do BCE
Christine LAGARDE

ANEXO I

O anexo I da Decisão (UE) 2022/911 (BCE/2022/22) é alterado do seguinte modo:

1) A parte I é alterada do seguinte modo:

a) No artigo 18.º, o n.º 4 passa a ter a seguinte redação:

«4. The Eurosystem provides a Contingency Solution for use if the events described in paragraph 1 occur. Connection to and use of the Contingency Solution may be made on request by a participant, and shall be mandatory in the following cases:

(a) for participants considered by the ECB to be critical and for participants that settle very critical transactions as set out in Appendix IV;

(b) with effect from 21 March 2025, for all AS and for all RTGS DCA holders.»;

b) O artigo 23.º passa a ter a seguinte redação:

«*Article 23*

Duration and ordinary termination of participation and closure of accounts

1. Without prejudice to Article 24, participation in TARGET-ECB shall be for an indefinite period of time.

2. A participant may terminate any of the following at any time giving 14 business days' notice thereof, unless it agrees a shorter notice period with the ECB:

(a) its entire participation in TARGET-ECB;

(b) one or more of its DCAs, RTGS AS technical accounts and/or TIPS AS technical accounts;

(c) one or more of its MCAs, except where the participant is an institution falling within the scope of Article 1 of Regulation (EU) 2021/378 (ECB/2021/1), in which case the participant shall continue to hold at least one MCA for the purpose of complying with the applicable minimum reserve requirements, provided that the participant continues to comply with Articles 4 and 5.

3. The ECB may terminate any of the following at any time giving three months' notice thereof, unless it agrees a different notice period with the relevant participant:

(a) a participant's entire participation in TARGET-ECB;

(b) one or more of a participant's DCAs, RTGS AS technical accounts or TIPS AS technical accounts;

(c) one or more of a participant's MCAs, provided that the participant continues to hold at least one MCA.

4. On termination of participation, the confidentiality duties laid down in Article 27 shall remain in force for a period of five years starting on the date of termination.

5. On termination of participation, the ECB shall close all TARGET accounts of the participant concerned in accordance with Article 25.»

c) No artigo 30.º, é inserido o seguinte n.º 1-A:

«1a. From 21 March 2026, participants that are considered critical by the ECB shall, in addition to the technical connection referred to in paragraph 1, establish a second technical connection for contingency purposes to TARGET-ECB through a second NSP in accordance with the modalities set out in paragraph 1. The second technical connection may be via the second NSP's low volume user to application (U2A) access.»;

2) A parte II é alterada do seguinte modo:

a) No artigo 2.º, o n.º 3 passa a ter a seguinte redação:

«3. An MCA holder acting as co-manager shall fulfil the obligations of the MCA holder of the co-managed MCA under Part I, Article 5(1), point (a), Part I, Article 10(4), and Part I, Article 30(1) and (1a).»;

b) No artigo 2.º, o n.º 4 passa a ter a seguinte redação:

«4. The MCA holder of a co-managed MCA shall fulfil the obligations of a participant under Part I and Part II in respect of the co-managed MCA. In the event that the MCA holder does not have a direct technical connection to TARGET, Part I, Article 5(1), point (a), Part I, Article 10(4), and Part I, Article 30(1) and (1a) shall not apply.»;

3) A parte VII é alterada do seguinte modo:

a) No artigo 1.º, o n.º 5 passa a ter a seguinte redação:

«5. An ancillary system may send instant payment orders, and positive recall answers to any TIPS DCA holder or TIPS AS technical account holder. An ancillary system shall receive and process instant payment orders, recall requests and positive recall answers from any TIPS DCA holder or TIPS AS technical account holder.»;

b) No artigo 7.º, o n.º 1 passa a ter a seguinte redação:

«1. A TIPS AS technical account holder may designate one or more reachable parties. Reachable parties shall have adhered to the SCT Inst scheme signing the SEPA Instant Credit Transfer Adherence Agreement and, if they are addressable in TARGET as RTGS DCA holders, addressable BIC holders or as entities referred to in Part III, Article 3(1), point (a) of Guideline (EU) 2022/912 (ECB/2022/8), having been authorised to use an RTGS DCA by way of multi-addressee access, they shall hold a TIPS DCA or be reachable via a TIPS DCA.»;

4) No apêndice VI, a secção 6 (FEES FOR TIPS DCA HOLDERS) passa a ter a seguinte redação:

«6. FEES FOR TIPS DCA HOLDERS

1. Until 31 December 2023, the following fees apply:

a) Fees for the operation of TIPS DCAs shall be charged to the party indicated as shown in the following table:

Item	Rule applied	Fee per item (EUR)
Settled instant payment order	Party to be charged: the owner of the TIPS DCA to be debited	0,002
Unsettled instant payment order	Party to be charged: the owner of the TIPS DCA to be debited	0,002
Settled positive recall answer	Party to be charged: the owner of the TIPS DCA to be credited	0,002
Unsettled positive recall answer	Party to be charged: the owner of the TIPS DCA to be credited	0,002

b) Liquidity transfer orders from TIPS DCAs to: MCAs; RTGS DCAs; sub-accounts; overnight deposit accounts; TIPS AS technical accounts; and T2S DCAs shall be free of charge.

2. With effect from 1 January 2024, fees for the operation of TIPS DCAs shall be charged as follows:

a) For each TIPS DCA a monthly fixed fee of EUR 800 shall be charged to the holder of the TIPS DCA;

b) For each reachable party designated by the TIPS DCA holder, up to a maximum of 50 reachable parties, a monthly fixed fee of EUR 20 shall be charged to the designating TIPS DCA holder. No fee shall be charged for the fifty-first or any subsequent reachable party;

c) For each instant payment order or positive recall answer accepted by the [insert name of CB] as set out in Part I, Article 17, a fee of 0,001 EUR shall be charged to both the holder of the TIPS DCA to be debited and to the holder of the TIPS DCA or TIPS AS technical account to be credited, whether or not the instant payment order or positive recall answer settles;

d) No fee shall be charged for liquidity transfer orders from TIPS DCAs to MCAs, RTGS DCAs, sub-accounts, overnight deposit accounts, TIPS AS technical accounts or T2S DCAs.»;

5) No apêndice VI, a secção 7 (FEES FOR AS USING TIPS AS SETTLEMENT PROCEDURE) passa a ter a seguinte redação:

«7. FEES FOR AS USING TIPS AS SETTLEMENT PROCEDURE

1. Until 31 December 2023, the following fees apply:

a) Fees for the use by an AS of the TIPS AS settlement procedure shall be charged to the party indicated as shown in the following table:

Item	Rule applied	Fee per item (EUR)
Settled instant payment order	Party to be charged: the owner of the TIPS AS technical account to be debited	0,002
Unsettled instant payment order	Party to be charged: the owner of the TIPS AS technical account to be debited	0,002
Settled positive recall answer	Party to be charged: the owner of the TIPS AS technical account to be credited	0,002
Unsettled positive recall answer	Party to be charged: the owner of the TIPS AS technical account to be credited	0,002

b) Liquidity transfer orders from TIPS AS technical accounts to TIPS DCAs shall be free of charge;

c) In addition to the fees set out above, each AS shall be subject to a monthly fee based on the gross underlying volume of instant payments, near instant payments and positive recall answers settled in the AS's own platform and enabled by the pre-funded positions on the TIPS AS technical account. The fee shall be EUR 0,0005 per settled instant payment, near instant payment or settled positive recall answer. For each month, each AS shall report the gross underlying volume of its settled instant payments, near instant payments and settled positive recall answers rounded down to the nearest ten thousand, at the latest by the third business day of the following month. The reported gross underlying volume shall be applied by the ECB to calculate the fee for the following month.

2. With effect from 1 January 2024, fees for the use by an AS of the TIPS AS settlement procedure shall be charged as follows:

a) For each TIPS AS technical account a monthly fixed fee of EUR 3 000 shall be charged to the holder of the TIPS AS technical account;

b) For each reachable party designated by the TIPS AS technical account holder, up to a maximum of 50 reachable parties, a monthly fixed fee of EUR 20 shall be charged to the designating TIPS AS technical account holder. No fee shall be charged for the fifty-first or any subsequent reachable party;

c) For each instant payment order or positive recall answer accepted by the [insert name of CB] as set out in Part I, Article 17, a fee of 0,001 EUR shall be charged to both the holder of the TIPS AS technical account to be debited and to the holder of the TIPS AS technical account or TIPS DCA to be credited, whether or not the instant payment order or positive recall answer settles;

d) No fee shall be charged for liquidity transfer orders from TIPS AS technical accounts to TIPS DCAs;

e) In addition to the fees set out above, each AS shall be subject to a monthly fee based on the gross underlying volume of instant payments, near inst ant payments and positive recall answers settled in the AS's own platform and enabled by the pre-funded positions on the TIPS AS technical account. For each month, each AS shall report the gross underlying volume of its settled instant payments, near instant payments and settled positive recall answers, rounded down to the nearest ten thousand, at the latest by the third business day of the following month. The reported gross underlying volume shall be applied by the ECB to calculate the unit fee per settled instant payment, near instant payment or settled positive recall answer for the previous month according to the following table:

Reported gross underlying volume		
From	To	Unit Fee (EUR)
0	10 000 000	0,00040
10 000 001	25 000 000	0,00030
25 000 001	100 000 000	0,00020
100 000 001		0,00015».

ANEXO II

O anexo II da Decisão (UE) 2022/911 (BCE/2022/22) passa a ter a seguinte redação:

«*ANNEX II*

TARGET GOVERNANCE ARRANGEMENTS

Level 1 — Governing Council	Level 2 — Technical and operational management body	Level 3 — Level 3 NCBs
1. *General provisions*		
Final competence in relation to all TARGET issues, in particular the rules for the decision making in TARGET, and responsible for safeguarding the public function of TARGET	— Conducting technical, functional, operational and financial management tasks in relation to TARGET and implementing the rules on governance decided by Level 1	— Taking decisions on the daily running of TARGET based on the service levels defined in the agreement referred to in Article 7(6) of Guideline ECB/2022/8
2. *Pricing policy*		
— Deciding on pricing structure/pricing policy — Deciding on the pricing envelopes	— Regular review of pricing structure/ pricing policy — Drafting and monitoring of pricing envelopes	*(Not applicable)*
3. *Financing*		
— Deciding on rules for the financial regime of TARGET — Deciding on the financial envelopes	— Drafting proposals for the main features of the financial regime as decided by Level 1. — Drafting and monitoring of financial envelopes — Approval and/or initiation of instalments payed by Eurosystem CBs to Level 3 for provision of services — Approval and/or initiation of reimbursement of fees to the Eurosystem CBs	— Providing cost figures to Level 2 for the service provision
4. *Service level*		
Deciding on the level of service	Verifying that the service was delivered in accordance with the agreed Service level	— Delivering the service in accordance with the agreed Service level
5. *Operation*		
	— Deciding on the rules applicable to incidents and crisis situations — Monitoring business developments	— Managing TARGET based on the agreement referred to in Article 7(6) of Guideline ECB/2022/8
6. *Change and release management*		
Deciding in case of escalation	— Approving the Change requests — Approving the release scoping — Approving the release plan and its execution	— Assessing the Change Requests — Implementing the Change requests in line with the agreed plan

Level 1 — Governing Council	Level 2 — Technical and operational management body	Level 3 — Level 3 NCBs
7. *Risk management*		
— approving the TARGET Risk Management Framework and the risk tolerance for TARGET as well as accepting remaining risks — assuming ultimate responsibility for the activities of the first and second lines of defence — establishing the organisational structure for roles and responsibilities related to risk and control	— Conducting the risk management following the roles defined in the applicable risk management frameworks — Conducting risk analysis and follow-up according to the allocated risk ownership — ensuring that all risk management arrangements are maintained and kept-up-to date — approving and reviewing the business continuity plan as outlined in the relevant operational documentation	— Conducting the risk management following the roles defined in the applicable risk management frameworks and related to Level 3 activities — Conducting risk analysis and follow-up according to the allocated risk ownership — Providing the necessary information for risk analysis according to Level 1/Level 2 requests and the risk management frameworks in place
8. *System rules*		
— Establishing and ensuring adequate implementation of the European System of Central Banks' legal framework for TARGET including the Harmonised Conditions for participation in TARGET	*(Not applicable)*	*(Not applicable)*».

ANEXO III

O anexo III da Decisão (UE) 2022/911 (BCE/2022/22) é alterado do seguinte modo:

1) O n.º 28 passa a ter a seguinte redação:

«(28) **"European Payments Council's SEPA Instant Credit Transfer (SCT Inst) scheme" or "SCT Inst scheme"** means an automated, open standards scheme providing a set of interbank rules to be complied with by SCT Inst scheme participants, allowing payment services providers in the Single Euro Payments Area (SEPA) to offer an automated SEPA-wide euro instant credit transfer product;»;

2) O n.º 54 passa a ter a seguinte redação:

«(54) "**recall request**" means a message from an RTGS DCA holder, a TIPS DCA holder or a TIPS AS technical account holder requesting reimbursement of a settled payment order or instant payment order respectively;».