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II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 26 April 2007

on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2)

(ECB/2007/2)

(2007/600/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular the first and fourth indents of Article 105(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 3.1 and Articles 17, 18 and 22 thereof,

Whereas:

(1) The existing Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET) has a decentralised structure linking together national real-time gross settlement (RTGS) systems and the ECB Payment Mechanism (EPM). Guideline ECB/2005/16 of 30 December 2005 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET) [1] is the main legal instrument governing TARGET.

(2) From 19 November 2007 onwards, TARGET will be replaced by TARGET2, characterised by a single technical platform called the Single Shared Platform (SSP). Although TARGET2 will, like TARGET, be legally structured as a multiplicity of payment systems, the Governing Council has decided that the rules of the TARGET2 component systems will be harmonised to the greatest extent possible, with certain derogations in the event of national law constraints.

(3) There are three separate levels of governance for both the establishment and the operational phases of TARGET2. Level 1 (Governing Council) has final competence in relation to TARGET2 and safeguards its public function. Level 2 (Eurosystem CBs) has subsidiary competence for TARGET2, while Level 3 (SSP-providing CBs) builds and operates the SSP for the Eurosystem's benefit.

(4) Acting on the Eurosystem's behalf, the European Central Bank (ECB) will enter into a Framework Agreement, as well as a Confidentiality and Non-Disclosure Agreement, with the network service provider designated by the Governing Council, which stipulates the main elements relating to network provision to the participants, including pricing.

(5) As was the case with TARGET, the establishment of TARGET2 is essential for the performance of certain basic Eurosystem tasks, i.e. implementing the Community's monetary policy and promoting the smooth operation of payment systems.

(6) Migration from the national RTGS systems to the SSP will take place in stages and Guideline ECB/2005/16 will therefore continue to apply to such systems until the relevant central banks have migrated to the SSP. In order to cater for compensation claims if there is a technical malfunction before the end of migration to the SSP, it is necessary to make some minor amendments to Guideline ECB/2005/16,

[1] OJ L 18, 23.1.2006, p. 1. Guideline as amended by Guideline ECB/2006/11 (OJ L 221, 12.8.2006, p. 17).

HAS ADOPTED THIS GUIDELINE:

SECTION I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. TARGET2 provides real-time gross settlement for payments in euro, with settlement in central bank money. It is established and functions on the basis of the SSP, through which all payment orders are submitted and processed and through which payments are received in the same technical manner.

2. TARGET2 is legally structured as a multiplicity of RTGS systems.

Article 2

Definitions

For the purposes of this Guideline:

— 'SSP-providing CBs' means the Deutsche Bundesbank, the Banque de France and the Banca d'Italia in their capacity as the NCBs building and operating the SSP for the Eurosystem's benefit,

— 'Single Shared Platform (SSP)' means the single technical platform infrastructure provided by the SSP-providing CBs,

— 'TARGET2 component system' means any of the Eurosystem CBs' RTGS systems that form part of TARGET2,

— 'participating NCB' means the national central bank (NCB) of a Member State that has adopted the euro,

— 'Eurosystem' means the ECB and the participating NCBs,

— 'Eurosystem CB' means the ECB or a participating NCB,

— 'network service provider' means the provider of computerised network connections for the purpose of submitting payment messages in TARGET2,

— 'participant' (or 'direct participant') means an entity that holds at least one PM account with a Eurosystem CB,

— 'Payments Module (PM)' means an SSP module in which payments of TARGET2 participants are settled on PM accounts,

— 'PM account' means an account held by a TARGET2 participant in the PM with a Eurosystem CB which is necessary for such TARGET2 participant to:

  (a) submit payment orders or receive payments via TARGET2; and

  (b) settle such payments with such Eurosystem CB,

— 'non-participating Member State' means a Member State that has not adopted the euro,

— 'connected CB' means an NCB, other than a participating NCB, which is connected to TARGET2 pursuant to a specific agreement,

— 'Bank Identifier Code (BIC)' means a code as defined by ISO Standard No 9362,

— 'indirect participant' means a credit institution established in the European Economic Area (EEA), which has entered into an agreement with a direct participant to submit payment orders and receive payments via such direct participant's PM account, and which has been recognised by a TARGET2 component system as an indirect participant,

— 'addressable BIC holder' means a n entity which: (a) holds a Bank 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,

— 'business day' means any day on which TARGET2 is open for the settlement of payment orders, as set out in Appendix V of Annex II,

— 'intraday credit' means credit extended for a period of less than one business day,

— 'ancillary system (AS)' means a system managed by an entity established in the EEA that is subject to supervision and/or oversight by a competent authority, in which payments and/or financial instruments are exchanged and/or cleared while the resulting monetary obligations are settled in TARGET2 in accordance with this Guideline and a bilateral arrangement between the ancillary system and the relevant Eurosystem CB,

— 'transition period' means, in respect of each Eurosystem CB, the period of four years starting from the moment the Eurosystem CB migrates to the SSP,

— 'Home Account' means an account opened outside the PM by a participating NCB for an entity that is eligible to become an indirect participant,

— 'Ancillary System Interface (ASI)' means the technical device allowing an AS to use a range of special, predefined services for the submission and settlement of AS payment instructions; it may also be used by a participating NCB for the settlement of cash operations resulting from cash deposits and withdrawals,

— 'Participant Interface (PI)' means the technical device allowing direct participants to submit and settle payment orders via the services offered in the PM,

— 'core TARGET2 services' means the processing of payment orders in TARGET2 component systems, the settlement of ancillary system-related transactions, and liquidity pooling features.

Article 3

TARGET2 component systems

1. Each Eurosystem CB shall operate its own TARGET2 component system.

2. Each TARGET2 component system shall be a system designated as such under the relevant national legislation implementing Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems ([2]).

3. The names of the TARGET2 component systems shall only include 'TARGET2' and the name or abbreviation of the relevant Eurosystem CB or of the Member State of such Eurosystem CB. The ECB's TARGET2 component system shall be called TARGET2-ECB.

Article 4

Connection of NCBs of non-participating Member States

The NCBs of non-participating Member States may only connect to TARGET2 if they conclude an agreement with the Eurosystem CBs. Such agreement shall specify that the connected CBs will comply with this Guideline, subject to any mutually agreed appropriate specifications and modifications.

SECTION II

GOVERNANCE

Article 5

Governance levels

1. Without prejudice to Article 8 of the Statute, the management of TARGET2 shall be based on a three-level governance scheme. The tasks assigned to the Governing Council (Level 1), the Eurosystem CBs (Level 2) and the SSP-providing CBs (Level 3) are laid down in Annex I.

2. The Governing Council shall be responsible for the direction, management and control of TARGET2. The tasks assigned to Level 1 fall within the exclusive competence of the Governing Council. The ESCB's Payment and Settlement Systems Committee (PSSC) shall assist the Governing Council as an advisory body in all matters relating to TARGET2.

3. In accordance with the third paragraph of Article 12.1 of the Statute, the Eurosystem CBs shall be responsible for the tasks assigned to Level 2, within the general framework defined by the Governing Council. In addition to its advisory role, the PSSC shall conduct the execution of the tasks assigned to Level 2. The connected CBs shall participate without voting rights on Level 2-related issues. Member States' NCBs that are neither Eurosystem CBs nor connected CBs shall have observer status only at Level 2.

4. The Eurosystem CBs organise themselves through the conclusion of appropriate agreements. Within the context of such agreements, decision-making shall be based on a simple majority, and each Eurosystem CB shall have one vote.

5. In accordance with the third paragraph of Article 12.1 of the Statute, the SSP-providing CBs shall be responsible for the tasks assigned to Level 3, within the general framework defined by the Governing Council.

6. The SSP-providing CBs shall conclude an agreement with the Eurosystem CBs governing the services to be provided by the former to the latter. Such agreement shall also include, where appropriate, the connected CBs.

SECTION III

OPERATION OF TARGET2

Article 6

Harmonised Conditions for participation in TARGET2

1. Each participating NCB shall adopt arrangements implementing the Harmonised Conditions for participation in TARGET2 that are laid down in Annex II. These arrangements shall exclusively govern the relationship between the relevant participating NCB and its participants in respect of the processing of payments in the PM.

2. The ECB shall adopt the terms and conditions of TARGET2-ECB by implementing the Harmonised Conditions, except that TARGET2-ECB shall only provide services to clearing and settlement organisations, including entities established outside the EEA, provided that they are subject to oversight by a competent authority and their access to TARGET2-ECB has been approved by the Governing Council.

3. The arrangements adopted by the Eurosystem CBs implementing the Harmonised Conditions shall be made public.

4. The Eurosystem CBs may request derogations from the Harmonised Conditions on the basis of national law constraints. The Governing Council shall consider such requests on a case-by-case basis and shall grant derogations where appropriate.

([2]) OJ L 166, 11.6.1998, p. 45.

5. Subject to the relevant monetary agreement, the ECB may determine appropriate conditions for participation in TARGET2 of entities referred to in Article 4(2)(e) of Annex II.

6. The Eurosystem CBs shall not allow any entity to be an indirect participant or to be registered as an addressable BIC holder in their TARGET2 component system if this entity acts via a direct participant that is an NCB of an EU Member State but is neither a Eurosystem CB nor a connected CB.

Article 7

Intraday credit

1. The participating NCBs may grant intraday credit, provided that this is done in accordance with the arrangements implementing the rules on the provision of intraday credit laid down in Annex III.

2. The eligibility criteria for intraday credit of ECB counterparties are defined in Decision ECB/2003/NP2 of 28 January 2003 amending Decision ECB/1999/NP3 on the European Central Bank Payment Mechanism. Intraday credit granted by the ECB shall remain limited to the day in question with no possibility of an extension to overnight credit.

Article 8

Ancillary systems

1. The Eurosystem CBs shall provide fund transfer services in central bank money to ancillary systems in the PM or, during the transition period and if applicable, on Home Accounts. Such services shall be governed by bilateral arrangements between the Eurosystem CBs and the respective ancillary systems.

2. Bilateral arrangements with ancillary systems that use the ASI shall be in conformity with Annex IV. In addition, the Eurosystem CBs shall ensure that in such bilateral arrangements the following provisions of Annex II apply *mutatis mutandis*:

— Article 8(1) (technical and legal requirements),

— Article 8(2) to (5) (application procedure), except that instead of being required to meet the access criteria in Article 4 the ancillary system shall be required to meet the access criteria in the definition of 'ancillary system' set out in Article 1 of Annex II,

— the operating schedule in Appendix V,

— Article 11 (requirements for cooperation and information exchange), except paragraph 8,

— Articles 27 and 28 (business continuity and contingency procedures and security requirements),

— Article 31 (liability regime),

— Article 32 (evidence rules),

— Articles 33 and 34 (duration, termination and suspension of participation), except Article 34(1)(b),

— Article 35, where relevant (closure of PM accounts),

— Article 38 (confidentiality rules),

— Article 39 (requirements for data protection, prevention of money laundering and related issues),

— Article 40 (requirements for notices),

— Article 41 (contractual relationship with the network service provider), and

— Article 44 (rules for governing law, jurisdiction and place of performance).

3. Bilateral arrangements with ancillary systems that use the PI shall be in conformity with:

(a) Annex II, with the exception of Title V and Appendices VI and VII; and

(b) Article 18 of Annex IV.

Article 9

Cost methodology

1. The Governing Council shall determine the rules applicable to the financing of the SSP. Any surplus or deficit resulting from the functioning of the SSP shall be distributed among the participating NCBs in accordance with the key for subscription to the ECB's capital, pursuant to Article 29 of the Statute.

2. The Governing Council shall determine a common cost methodology and pricing structure for core TARGET2 services.

Article 10

Security provisions

1. The Governing Council shall specify the security policy and security requirements and controls for the SSP and, during the transition period, for the Home Account technical infrastructure.

2. The Eurosystem CBs shall comply with, and shall ensure that the SSP complies with, the measures referred to in paragraph 1.

Article 11

Audit rules

Audit assessments shall be performed in accordance with the principles and arrangements set out in the Governing Council's ESCB Audit Policy.

SECTION IV

TRANSITIONAL AND FINAL PROVISIONS

Article 12

Dispute resolution and applicable law

1. In the event of a dispute between Eurosystem CBs in relation to this Guideline, the affected parties shall seek to settle the dispute in accordance with the Memorandum of Understanding on an Intra-ESCB Dispute Settlement Procedure.

2. By derogation from paragraph 1, if a dispute relating to the division of the tasks between Level 2 and Level 3 cannot be settled by agreement between the affected parties, the Governing Council shall resolve the dispute.

3. In the event of a dispute of the type referred to in paragraph 1, the parties' respective rights and obligations shall primarily be determined by the rules and procedures laid down in this Guideline. In disputes concerning payments between TARGET2 component systems, the law of the Member State where the seat of the Eurosystem CB of the payee is located shall apply in a supplementary manner, provided that it does not conflict with this Guideline.

Article 13

Migration to the SSP

1. Migration from the current TARGET systems to the SSP shall take effect on the following dates:

(a) 19 November 2007 for the Oesterreichische Nationalbank, the Deutsche Bundesbank, the Banque centrale du Luxembourg and Banka Slovenije;

(b) 18 February 2008 for the Nationale Bank van België/ Banque Nationale de Belgique, Suomen Pankki, the Banque de France, the Central Bank and Financial Services Authority of Ireland, De Nederlandsche Bank, the Banco de Portugal and the Banco de España; and

(c) 19 May 2008 for the ECB, the Bank of Greece and the Banca d'Italia.

2. Any Eurosystem CB that has not migrated to the SSP by 19 May 2008 as a result of unforeseen circumstances shall migrate by 15 September 2008.

Article 14

Entry into force and application

1. This Guideline shall enter into force on 30 April 2007, subject to the transitional provisions laid down in Article 15.

2. Without prejudice to Article 15, Guidelines ECB/2005/16 and ECB/2006/11 shall be repealed with effect from 15 September 2008.

Article 15

Miscellaneous and transitional provisions

1. Accounts opened outside the PM by a participating NCB for credit institutions and ancillary systems shall be governed by the rules of such participating NCB, subject to the provisions of this Guideline which relate to Home Accounts and other decisions of the Governing Council. Accounts opened outside the PM by a participating NCB for entities other than credit institutions and ancillary systems shall be governed by the rules of such participating NCB.

2. Guideline ECB/2005/16 shall continue to apply to a Eurosystem CB until its national RTGS system (or the EPM, in the ECB's case) has migrated to the SSP and its transition period starts. Thereafter, only this Guideline shall apply to such Eurosystem CB, subject to paragraphs 3 and 4, and references to Guideline ECB/2005/16 shall be construed as references to this Guideline in relation to that Eurosystem CB.

3. The fee schedule specified in Guideline ECB/2005/16 shall apply to all Eurosystem CBs until close of business on 18 May 2008, regardless of whether they have migrated to the SSP by that date. From 19 May 2008, the fee schedule specified in Appendix VI of Annex II and paragraph 18 of Annex IV shall apply to all Eurosystem CBs.

4. The Eurosystem CBs' rights and obligations in relation to payments effected via interlinking, as defined in Guideline ECB/ 2005/16, shall continue to be governed by Guideline ECB/2005/ 16, regardless of whether or not the relevant national RTGS system (or the EPM, in the ECB's case) has already migrated to the SSP.

5. Regardless of whether or not the relevant Eurosystem CBs have already migrated to the SSP, any difficulty or dispute arising between any Eurosystem CBs from 19 November 2007 until 19 May 2008 shall be resolved in accordance with Article 12.

6. During its transition period, each Eurosystem CB may continue to settle payments and other transactions on its Home Accounts, including the following:

(a) payments between credit institutions;

(b) payments between credit institutions and ancillary systems; and

(c) payments in relation to Eurosystem open market operations.

7. On expiry of the transition period, the following shall cease:

(a) registration as an addressable BIC holder by a Eurosystem CB, in the case of entities referred to in Article 4(1)(a) and (b) of Annex II;

(b) indirect participation with a Eurosystem CB; and

(c) settlement on Home Accounts of all payments mentioned in paragraph 6(a) to (c).

8. The definition of 'malfunctioning of a national RTGS system' in Article 1(1) of Guideline ECB/2005/16 is replaced by the following:

'— "malfunctioning of a national RTGS system" or "malfunctioning of TARGET" or "malfunctioning" means technical or any other difficulties, defects or failures in the technical infrastructure and/or the computer systems of any national RTGS system or the ECB payment mechanism or the computerised network connections for interlinking or a bilateral link, or any other event related to any national RTGS system or the ECB payment mechanism, interlinking or any bilateral link, that makes it impossible to execute and complete the same day processing of payment orders within TARGET; the definition shall also cover cases where malfunctioning occurs simultaneously in more than one national RTGS system (due to, for instance, a breakdown related to the network service provider) or where, before migration to TARGET2, malfunctioning occurs in the Single Shared Platform of TARGET2, as defined in Guideline ECB/2007/2'.

9. Subparagraphs (b) and (c) of Article 8(4) of Guideline ECB/2005/16 are replaced by the following:

'(b) TARGET participants shall submit their claim form(s) to the NCB where the RTGS account that has or should have been debited or credited is maintained (the home NCB) within four weeks of the date of the malfunctioning. Any additional information and evidence requested by the home NCB shall be supplied within two weeks of such request being made;

(c) The Governing Council of the ECB carries out the assessment of all claims received and decides whether compensation offers shall be made. Unless otherwise decided by the Governing Council of the ECB and communicated to the TARGET participants, such assessment shall be made no later than 14 weeks after the malfunctioning.'

Article 16

Addressees, implementing measures and annual reports

1. This Guideline applies to all Eurosystem CBs.

2. The participating NCBs shall by 31 July 2007 send to the ECB the measures by which they intend to comply with this Guideline.

3. The ECB shall prepare annual reports for review by the Governing Council on the overall functioning of TARGET2.

Done at Frankfurt am Main, 26 April 2007.

For the Governing Council of the ECB

The President of the ECB

Jean-Claude TRICHET

ANNEX I

TARGET2 GOVERNANCE ARRANGEMENTS

Level 1 — Governing Council	Level 2 — Eurosystem CBs	Level 3 — SSP-providing CBs
0. **General provisions**		
Level 1 has final competence in relation to domestic and cross-border TARGET2 issues and is responsible for safeguarding the public function of TARGET2	Level 2 has subsidiary competence in relation to issues left to its discretion by Level 1	Level 3 takes decisions on the daily running of the Single Shared Platform (SSP) on the basis of the service levels defined in the agreement referred to in Article 5(6) of this Guideline
1. **Cost and pricing policy**		
— Deciding on common cost methodology — Deciding on single price structure	— Deciding on pricing of additional services and/or modules	(Not applicable)
2. **Service level**		
— Deciding on core services	— Deciding on additional services and/or modules	— Delivering input according to Level 1/Level 2 needs
3. **Risk management**		
— Deciding on the general framework for risk management and acceptance of remaining risks	— Conducting the actual risk management — Conducting risk analysis and follow-up	— Providing the necessary information for risk analysis according to Level 1/Level 2 requests
4. **Governance and financing**		
— Defining rules for ownership, decision-making and financing of the SSP — Establishing and ensuring adequate implementation of the ESCB's legal framework for TARGET2	— Drawing up the rules on governance and financing decided at Level 1 — Drawing up the budget, its approval and implementation — Having ownership and/or control of the application — Collecting funds and remuneration of services	— Providing cost figures to Level 2 for the service provision
5. **Development**		
— Being consulted by Level 2 on the location of the SSP — Approving the overall project plan	— Deciding on the initial design and development of the SSP — Deciding on establishing from scratch against establishing on the basis of an existing platform — Deciding on the choice of the SSP operator — Establishing — in agreement with Level 3 — the service levels of the SSP — Deciding on the location of the SSP after consultation of Level 1	— Proposing the initial design of the SSP — Proposing whether to establish from scratch or establish on the basis of an existing platform — Proposing the location of the SSP — Drafting the general and the detailed functional specifications (internal detailed functional specifications and user detailed functional specifications)

Level 1 — Governing Council	Level 2 — Eurosystem CBs	Level 3 — SSP-providing CBs
	— Approving the specification process methodology and the 'deliverables' of Level 3 deemed appropriate in order to specify and, later on, test and accept the product (in particular general and detailed user specifications) — Establishing a milestone project plan — Evaluating and accepting the deliverables — Establishing test scenarios — Central banks' and users' test coordination, in close cooperation with Level 3	— Drafting the detailed technical specifications — Providing (initial and ongoing) input for milestone project planning and control — Technical and operational support for tests (performing tests on the SSP, input on SSP-related test scenarios, supporting Eurosystem CBs in their SSP test activities)
	6. **Implementation and migration**	
— Deciding on the migration strategy	— Preparing and coordinating migration to the SSP, in close cooperation with Level 3	— Providing input on migration issues in accordance with Level 2 requests — Performing SSP-related migration work; additional support for joining NCBs
	7. **Operation**	
— Managing severe crisis situations	— Management with regard to system-owner responsibilities — Maintaining contacts with users at European level (subject to the sole responsibility of Eurosystem CBs for the business relationship with their customers) and monitoring daily user activity from a business perspective (Eurosystem CB task) — Monitoring business developments — Budgeting, financing, invoicing (Eurosystem CB task) and other administrative tasks	— Managing the system on the basis of the agreement referred to in Article 5(6) of this Guideline

ANNEX II

HARMONISED CONDITIONS FOR PART ICIPATION IN TARGET2

TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of these Harmonised Conditions (hereinafter the 'Conditions'), the following definitions apply:

— 'addressable BIC holder' means an entity which: (a) holds a Bank 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,

— "AL agreement" means the multilateral aggregated liquidity agreement entered into by the AL group members and their respective AL NCBs, for the purposes of the AL mode,

— "AL group" means a group composed of AL group members that use the AL mode,

— "AL group manager" means an AL group member appointed by the other AL group members to manage available liquidity within the AL group during the business day,

— "AL group member" means a TARGET2 participant which has entered into an AL agreement,

— "AL mode" means the aggregation of available liquidity on PM accounts,

— "AL NCB" means a participating NCB that is party to an AL agreement and acts as the counterparty for the AL group members which participate in its TARGET2 component system,

— "ancillary system (AS)" means a system managed by an entity established in the European Economic Area (EEA) that is subject to supervision and/or oversight by a competent authority, in which payments and/or financial instruments are exchanged and/or cleared while the resulting monetary obligations are settled in TARGET2 in accordance with Guideline ECB/2007/2 and a bilateral arrangement between the ancillary system and the relevant CB,

— "available liquidity" (or "liquidity") means a credit balance on a TARGET2 participant's PM account and, if applicable, any intraday credit line granted by the relevant CB in relation to such account,

— "Banking Directive" means Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) ([1]),

— "Bank Identifier Code (BIC)" means a code as defined by ISO Standard No 9362,

— "branch" means a branch within the meaning of [insert national law provisions implementing Article 4(3) of the Banking Directive],

— "business day" means any day on which TARGET2 is open for the settlement of payment orders, as set out in Appendix V,

— "CAI group" means a group composed of TARGET2 participants that use the CAI mode,

— "CAI group manager" means a CAI group member appointed by the other members of the CAI group to monitor and distribute the available liquidity within the CAI group during the business day,

— "CAI mode" means the provision of consolidated account information in relation to PM accounts via the ICM,

— "capacity opinion" means a participant-specific opinion that contains an assessment of a participant's legal capacity to enter into and carry out its obligations under these Conditions,

([1]) OJ L 177, 30.6.2006, p. 1.

— "central banks (CBs)" means the Eurosystem CBs and the connected CBs,

— "connected CB" means a national central bank (NCB), other than a Eurosystem CB, which is connected to TARGET2 pursuant to a specific agreement,

— "Contingency Module" means the SSP module enabling the processing of critical and very critical payments in contingency situations,

— "credit institution" means a credit institution within the meaning of [insert national law provisions implementing Article 4(1)(a) and, if relevant, Article 2 of the Banking Directive] that is subject to supervision by a competent authority,

— "credit transfer order" means an instruction by a payer to make funds available to a payee by means of a book entry on a PM account,

— "direct debit authorisation" means a general instruction by a payer to its CB entitling and obliging that CB to debit the payer's account upon a direct debit instruction from a payee,

— "direct debit instruction" means an instruction from a payee submitted to its CB pursuant to which the CB of the payer debits the payer's account by the amount specified in the instruction, on the basis of a direct debit authorisation,

— "enforcement event" means, with regard to an AL group member:

  (a) any event of default referred to in Article 34(1);

  (b) any other event of default or event referred to in Article 34(2) in relation to which the [insert name of CB] has decided, taking into account the seriousness of the event of default or event, [Insert if applicable: [a pledge should be enforced in accordance with Article 25b] [collateral should be enforced in accordance with Article 25c] and] a set-off of claims should be triggered in accordance with Article 26; or

  (c) any decision to suspend or terminate access to intraday credit;

— "entry disposition" means a payment processing phase during which TARGET2-[insert CB/country reference] attempts to settle a payment order which has been accepted pursuant to Article 14, by means of specific procedures, as described in Article 20,

— "Eurosystem CB" means the ECB or the NCB of a Member State that has adopted the euro,

— "event of default" means any impending or existing event, the occurrence of which may threaten the performance by a participant of its obligations under these Conditions or any other rules applying to the relationship between that participant and the [insert name of CB] or any other CB, including:

  (a) where the participant no longer meets the access criteria laid down in Article 4 or the requirements laid down in Article 8(1)(a)(i);

  (b) the opening of insolvency proceedings in relation to the participant;

  (c) the submission of an application relating to the proceedings referred to in subparagraph (b);

  (d) the issue by the participant of a written declaration of its inability to pay all or any part of its debts or to meet its obligations arising in relation to intraday credit;

  (e) the entry of the participant into a voluntary general agreement or arrangement with its creditors;

  (f) where the participant is, or is deemed by its CB to be, insolvent or unable to pay its debts;

  (g) where the participant's credit balance on its PM account or all or a substantial part of the participant's assets are subject to a freezing order, attachment, seizure or any other procedure that is intended to protect the public interest or the rights of the participant's creditors;

  (h) where participation of the participant in another TARGET2 component system and/or in an ancillary system has been suspended or terminated;

  (i) where any material representation or pre-contractual statement made by the participant or which is implied to have been made by the participant under the applicable law is incorrect or untrue; or

(j) the assignment of all or a substantial part of the participant's assets,

— "group" means:

(a) a composition of credit institutions included in the consolidated financial statements of a parent company where the parent company is obliged to present consolidated financial statements under International Accounting Standard 27 (IAS 27), adopted pursuant to Commission Regulation (EC) No 2238/2004 ([2]) and consisting of either:

(i) a parent company and one or more subsidiaries; or

(ii) two or more subsidiaries of a parent company; or

(b) a composition of credit institutions as referred to in subparagraphs (a)(i) or (ii), where a parent company does not present consolidated financial statements in accordance with IAS 27, but may be able to satisfy the criteria defined in IAS 27 for inclusion in consolidated financial statements, subject to the verification of the CB of the direct participant or, in the case of an AL group, the managing NCB; or

(c) a bilateral or multilateral network of credit institutions that is:

(i) organised through a statutory framework determining the affiliation of credit institutions to such a network; or

(ii) characterised by self-organised mechanisms of cooperation (promoting, supporting and representing the business interests of its members) and/or economic solidarity going beyond the ordinary cooperation usual between credit institutions whereby such cooperation and solidarity are permitted by credit institutions' by-laws or articles of incorporation or established by virtue of separate agreements;

and in each case referred to in (c) the ECB's Governing Council has approved an application to be considered as constituting a group,

— "Home Account" means an account opened outside the PM by a CB for an entity that is eligible to become an indirect participant,

— "Information and Control Module (ICM)" means the SSP module that allows participants to obtain on-line information and gives them the possibility to submit liquidity transfer orders, manage liquidity and initiate backup payment orders in contingency situations,

— "ICM broadcast message" means information made simultaneously available to all or a selected group of TARGET2 participants via the ICM,

— "indirect participant" means a credit institution established in the EEA, which has entered into an agreement with a direct participant to submit payment orders and receive payments via such direct participant's PM account, and which has been recognised by a TARGET2 component system as an indirect participant,

— "insolvency proceedings" means insolvency proceedings within the meaning of Article 2(j) of the Settlement Finality Directive,

— "instructing participant" means a TARGET2 participant that has initiated a payment order,

— "intraday credit" means credit extended for a period of less than one business day,

— "investment firm" means an investment firm within the meaning of [insert national law provisions implementing Article 4(1)(1) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC ([3])], excluding the institutions specified in [insert national law provisions implementing Article 2(1) of Directive 2004/39/EC], provided that the investment firm in question is:

(a) authorised and supervised by a recognised competent authority, which has been designated as such under Directive 2004/39/EC; and

([2]) Commission Regulation (EC) No 2238/2004 of 29 December 2004 amending Regulation (EC) No 1725/2003 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council, as regards IASs IFRS 1, IASs Nos 1 to 10, 12 to 17, 19 to 24, 27 to 38, 40 and 41 and SIC Nos 1 to 7, 11 to 14, 18 to 27 and 30 to 33 (OJ L 394, 31.12.2004, p. 1).

([3]) OJ L 145, 30.4.2004, p. 1.

(b) entitled to carry out the activities referred to under [insert national law provisions implementing items 2, 3, 6 and 7 of Section A of Annex I to Directive 2004/39/EC],

— "liquidity transfer order" means a payment order, the main purpose of which is to transfer liquidity between different accounts of the same participant or within a CAI or AL group,

— "managing NCB" means the AL NCB of the TARGET2 component system in which the AL group manager participates,

— "marginal lending facility" means a Eurosystem standing facility which counterparties may use to receive overnight credit from a Eurosystem CB at the pre-specified marginal lending rate,

— "marginal lending rate" means the interest rate applicable to the marginal lending facility,

— "multi-addressee access" means the facility by which branches or credit institutions established in the EEA can access the relevant TARGET2 component system by submitting payment orders and/or receiving payments directly to and from the TARGET2 component system; this facility authorises these entities to submit their payment orders through the direct participant's PM account without that participant's involvement,

— "network service provider" means the undertaking appointed by the ECB's Governing Council to provide computerised network connections for the purpose of submitting payment messages in TARGET2,

— "non-settled payment order" means a payment order that is not settled on the same business day as that on which it is accepted,

— "participant" (or "direct participant") means an entity that holds at least one PM account with the [insert name of CB],

— "payee" means a TARGET2 participant whose PM account will be credited as a result of a payment order being settled,

— "payer" means a TARGET2 participant whose PM account will be debited as a result of a payment order being settled,

— "payment order" means a credit transfer order, a liquidity transfer order or a direct debit instruction,

— "Payments Module (PM)" means an SSP module in which payments of TARGET2 participants are settled on PM accounts,

— "PM account" means an account held by a TARGET2 participant in the PM with a CB which is necessary for such TARGET2 participant to:

(a) submit payment orders or receive payments via TARGET2; and

(b) settle such payments with such CB,

— "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 ([4]) (now Articles 101 and 103(1)),

— "Settlement Finality Directive" means Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems ([5]),

— "Single Shared Platform (SSP)" means the single technical platform infrastructure provided by the SSP-providing CBs,

— "SSP-providing CBs" means the Deutsche Bundesbank, the Banque de France and the Banca d'Italia in their capacity as the CBs building and operating the SSP for the Eurosystem's benefit,

— "static data collection form" means a form developed by [insert name of CB] for the purpose of registering applicants for TARGET2-[insert CB/country reference] services and registering any changes in relation to the provision of such services,

— "suspension" means the temporary freezing of the rights and obligations of a participant for a period of time to be determined by the [insert name of CB],

— "TARGET2-[insert CB/country reference]" means the TARGET2 component system of [insert CB name],

([4]) OJ L 332, 31.12.1993, p. 1.
([5]) OJ L 166, 11.6.1998, p. 45.

— "TARGET2" means the entirety resulting from all TARGET2 component systems of the CBs,

— "TARGET2 component system" means any of the CBs' real-time gross settlement (RTGS) systems that form part of TARGET2,

— 'TARGET2 CUG' means a subset of the network service provider's customers grouped for the purpose of their use of the relevant services and products of the network service provider when accessing the PM,

— 'TARGET2 participant' means any participant in any TARGET2 component system,

— 'technical malfunction of TARGET2' means any difficulty, defect or failure in the technical infrastructure and/or the computer systems used by TARGET2-[insert CB/country reference], or any other event that makes it impossible to execute and complete the same-day processing of payments in TARGET2-[insert CB/country reference] or, during the migration period, payments from national RTGS systems that have not yet migrated to TARGET2 and vice versa..

Article 2

Appendices

1. The following Appendices form an integral part of these Conditions:

Appendix I: Technical specifications for the processing of payment orders

Appendix II: TARGET2 compensation scheme

Appendix III: Terms of reference for capacity and country opinions

Appendix IV: Business continuity and contingency procedures

Appendix V: Operating schedule

Appendix VI: Fee schedule and invoicing

Appendix VII: Aggregated liquidity agreement

2. In the event of any conflict or inconsistency between the content of any appendix and the content of any other provision in these Conditions, the latter shall prevail.

Article 3

General description of TARGET2-[insert CB/country reference] and TARGET2

1. TARGET2 provides real-time gross settlement for payments in euro, with settlement in central bank money.

2. The following payment orders are processed in TARGET2-[insert CB/country reference]:

(a) payment orders directly resulting from or made in connection with Eurosystem monetary policy operations;

(b) settlement of the euro leg of foreign exchange operations involving the Eurosystem;

(c) settlement of euro transfers resulting from transactions in cross-border large-value netting systems;

(d) settlement of euro transfers resulting from transactions in euro retail payment systems of systemic importance; and

(e) any other payment orders in euro addressed to TARGET2 participants.

3. TARGET2 is established and functions on the basis of the SSP. The Eurosystem specifies the SSP's technical configuration and features. The SSP services are provided by the SSP-providing CBs for the benefit of the Eurosystem CBs, pursuant to separate agreements.

4. The [insert name of CB] is the provider of services under these Conditions. Acts and omissions of the SSP-providing CBs shall be considered acts and omissions of [insert name of CB], for which it shall assume liability in accordance with Article 31 below. Participation pursuant to these Conditions shall not create a contractual relationship between participants and the SSP-providing CBs when the latter act in that capacity. Instructions, messages or information which a participant receives from, or sends to, the SSP in relation to the services provided under these Conditions are deemed to be received from, or sent to, [insert name of CB].

5. TARGET2 is legally structured as a multiplicity of payment systems composed of all the TARGET2 component systems, which are designated as 'systems' under the national laws implementing the Settlement Finality Directive. TARGET2-[insert CB/country reference] is designated as a 'system' under [insert the relevant legal provision implementing the Settlement Finality Directive].

6. Participation in TARGET2 takes effect via participation in a TARGET2 component system. These Conditions describe the mutual rights and obligations of participants in TARGET2-[insert CB/country reference] and the [insert name of CB]. The rules on the processing of payment orders (Title IV) refer to all payment orders submitted or payments received by any TARGET2 participant.

TITLE II

PARTICIPATION

Article 4

Access criteria

1. The following types of entities are eligible for direct participation in TARGET2-[insert CB/country reference]:

(a) credit institutions established in the EEA, including when they act through a branch established in the EEA;

(b) credit institutions established outside the EEA, provided that they act through a branch established in the EEA; and

(c) NCBs of EU Member States and the ECB.

2. The [insert name of the CB] may, at its discretion, also admit the following entities as direct participants:

(a) treasury departments of central or regional governments of Member States active in the money markets;

(b) public sector bodies of Member States authorised to hold accounts for customers;

(c) investment firms established in the EEA;

(d) organisations providing clearing or settlement services that are established in the EEA and are subject to oversight by a competent authority; and

(e) credit institutions or any of the entities of the types listed under subparagraphs (a) to (d), in both cases where these are established in a country with which the European Community has entered into a monetary agreement allowing access by any of such entities to payment systems in the European Community, subject to the conditions set out in the monetary agreement and provided that the relevant legal regime applying in the country is equivalent to the relevant Community legislation.

3. Electronic money institutions, within the meaning of [insert national law provisions implementing Article 1(3)(a) of Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions ([6])], are not entitled to participate in TARGET2-[insert CB/country reference].

Article 5

Direct participants

1. Direct participants in TARGET2-[insert CB/country reference] shall comply with the requirements set out in Article 8(1) and (2). They shall have at least one PM account with the [insert name of CB].

2. Direct participants may designate addressable BIC holders, regardless of their place of establishment.

3. Direct participants may designate entities as indirect participants, provided that the conditions laid down in Article 6 are met.

4. Multi-addressee access through branches may be provided as follows:

(a) A credit institution within the meaning of Article 4(1)(a) or (b), which has been admitted as a direct participant, may grant access to its PM account to one or more of its branches established in the EEA in order to submit payment orders and/or receive payments directly, provided that [insert name of the CB] has been informed accordingly.

(b) Where a branch of a credit institution has been admitted as a direct participant, the other branches of the same legal entity and/or its head office, in both cases provided that they are established in the EEA, may access the branch's PM account, provided that it has informed the [insert name of CB].

([6]) OJ L 275, 27.10.2000, p. 39.

Article 6

Indirect participants

1. Credit institutions established in the EEA may each enter into a contract with one direct participant that is either a credit institution within the meaning of Article 4(1)(a) or (b), or a CB, in order to submit payment orders and/or receive payments, and to settle them via the PM account of that direct participant. TARGET2-[insert CB/country reference] shall recognise indirect participants by registering such indirect participation in the TARGET2 directory, the latter as described in Article 9.

2. Where a direct participant, which is a credit institution within the meaning of Article 4(1)(a) or (b), and an indirect participant belong to the same group, the direct participant may expressly authorise the indirect participant to use the direct participant's PM account directly to submit payment orders and/or receive payments by way of group-related multi-addressee access.

Article 7

Direct participant's responsibility

1. For the avoidance of doubt, payment orders submitted or payments received by indirect participants pursuant to Article 6, and by branches under Article 5(4), shall be deemed to have been submitted or received by the direct participant itself.

2. The direct participant shall be bound by such payment orders, regardless of the content of, or any non-compliance with, the contractual or other arrangements between that participant and any of the entities referred to in paragraph 1.

Article 8

Application procedure

1. To join TARGET2-[insert CB/country reference], applicant participants shall:

(a) fulfil the following technical requirements:

(i) install, manage, operate and monitor and ensure the security of the necessary IT infrastructure to connect to TARGET2-[insert CB/country reference] and submit payment orders to it. In doing so, applicant participants may involve third parties, but retain sole liability. In particular, applicant participants shall enter into an agreement with the network service provider to obtain the necessary connection and admissions, in accordance with the technical specifications in Appendix I; and

(ii) have passed the tests required by the [insert name of CB]; and

(b) fulfil the following legal requirements:

(i) provide a capacity opinion in the form specified in Appendix III, unless the information and representations to be provided in such capacity opinion have already been obtained by the [insert name of CB] in another context; and

(ii) for the entities referred to in Article 4(1)(b), provide a country opinion in the form specified in Appendix III, unless the information and representations to be provided in such country opinion have already been obtained by the [insert name of CB] in another context.

2. Applicants shall apply in writing to the [insert name of CB], as a minimum enclosing the following documents/information:

(a) completed static data collection forms as provided by [insert name of CB],

(b) the capacity opinion, if required by the [insert name of CB], and

(c) the country opinion, if required by the [insert name of CB].

3. The [insert name of CB] may also request any additional information it deems necessary to decide on the application to participate.

4. The [insert name of CB] shall reject the application to participate if:

(a) access criteria referred to in Article 4 are not met;

(b) one or more of the participation criteria referred to in paragraph 1 are not met; and/or

(c) in the [insert name of CB]'s assessment, such participation would endanger the overall stability, soundness and safety of TARGET2-[insert CB/country reference] or of any other TARGET2 component system, or would jeopardise the [insert name of CB]'s performance of its tasks as described in [refer to relevant national law] and the Statute of the European System of Central Banks and of the European Central Bank.

5. The [insert name of CB] shall communicate its decision on the application to participate to the applicant within one month of the [insert name of CB]'s receipt of the application to participate. Where the [insert name of CB] requests additional information pursuant to paragraph 3, the decision shall be communicated within one month of the [insert name of CB]'s receipt of this information from the applicant. Any rejection decision shall contain reasons for the rejection.

Article 9

TARGET2 directory

1. The TARGET2 directory is the database of BICs used for the routing of payment orders addressed to:

(a) TARGET2 participants and their branches with multi-addressee access;

(b) indirect participants of TARGET2, including those with multi-addressee access; and

(c) addressable BIC holders of TARGET2.

It shall be updated weekly.

2. Unless otherwise requested by the participant, BICs shall be published in the TARGET2 directory.

3. Participants may only distribute the TARGET2 directory to their branches and entities with multi-addressee access.

4. Entities specified in paragraph 1(b) and (c) shall only use their BIC in relation to one direct participant.

TITLE III

OBLIGATIONS OF THE PARTIES

Article 10

Obligations of the [insert name of CB] and the participants

1. The [insert name of CB] shall offer the services described in Title IV. Save where otherwise provided in these Conditions or required by law, the [insert name of CB] shall use all reasonable means within its power to perform its obligations under these Conditions, without guaranteeing a result.

2. Participants shall pay to the [insert name of CB] the fees laid down in Appendix VI.

3. Participants shall ensure that they are connected to TARGET2-[insert CB/country reference] on business days, in accordance with the operating schedule in Appendix V.

4. The participant represents and warrants to the [insert name of CB] that the performance of its obligations under these Conditions does not breach any law, regulation or by-law applicable to it or any agreement by which it is bound.

Article 11

Cooperation and information exchange

1. In performing their obligations and exercising their rights under these Conditions, the [insert name of CB] and participants shall cooperate closely to ensure the stability, soundness and safety of TARGET2-[insert CB/country reference]. They shall provide each other with any information or documents relevant for the performance of their respective obligations and the exercise of their respective rights under these Conditions, without prejudice to any banking secrecy obligations.

2. The [insert name of CB] shall establish and maintain a system support desk to assist participants in relation to difficulties arising in connection with system operations.

3. Up-to-date information on the SSP's operational status shall be available on the TARGET2 Information System (T2IS). The T2IS may be used to obtain information on any event affecting the normal operation of TARGET2.

4. The [insert name of CB] may either communicate messages to participants by means of an ICM broadcast or by any other means of communication.

5. Participants are responsible for the timely update of existing static data collection forms and the submission of new static data collection forms to the [insert name of CB]. Participants are responsible for verifying the accuracy of information relating to them that is entered into TARGET2-[insert CB/country reference] by the [insert name of CB].

6. The [insert name of CB] shall be deemed to be authorised to communicate to the SSP-providing CBs any information relating to participants which the SSP-providing CBs may need in their role as service administrators, in accordance with the contract entered into with the network service provider.

7. Participants shall inform the [insert name of CB] about any change in their legal capacity and relevant legislative changes affecting issues covered by the country opinion relating to them.

8. Participants shall inform the [insert name of CB] of:

(a) any new indirect participant, addressable BIC holder or entity with multi-addressee access which they register; and

(b) any changes to the entities listed in paragraph (a).

9. Participants shall immediately inform the [insert name of CB] if an event of default occurs in relation to them.

TITLE IV

MANAGEMENT OF PM ACCOUNTS AND PROCESSING OF PAYMENT ORDERS

Article 12

Opening and management of PM accounts

1. The [insert name of CB] shall open and operate at least one PM account and, if applicable, sub-accounts, for each participant.

2. [Insert if applicable: No debit balance shall be allowed on PM accounts].

3. [Insert if applicable: At the beginning and end of a business day, there shall be a zero balance on the PM accounts. Participants shall be deemed to have instructed the [insert name of CB] to transfer any balance at the end of a business day to the account designated by the participant].

4. [Insert if applicable: At the beginning of the next business day such balance shall be retransferred to the participant's PM account].

5. PM accounts and their sub-accounts shall be interest free, unless they are used to hold minimum reserves. In such a case, the calculation and payment of the remuneration of holdings of minimum reserves shall be governed by Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank ([7]) and Regulation ECB/2003/9 of 12 September 2003 on the application of minimum reserves ([8]).

6. In addition to the settlement of payment orders in the Payments Module, a PM account may be used to settle payment orders to and from Home Accounts, according to the rules laid down by the [insert name of CB].

7. Participants shall use the ICM to obtain information on their liquidity position. The [insert name of CB] shall provide a daily statement of accounts to any participant that has opted for such service.

([7]) OJ L 318, 27.11.1998, p. 1.
([8]) OJ L 250, 2.10.2003, p. 10.

Article 13

Types of payment orders

The following are classified as payment orders for the purposes of TARGET2:

(a) credit transfer orders;

(b) direct debit instructions carried out under a direct debit authorisation; and

(c) liquidity transfer orders.

Article 14

Acceptance and rejection of payment orders

1. Payment orders submitted by participants are deemed accepted by the [insert name of CB] if:

(a) the payment message complies with the rules established by the network service provider;

(b) the payment message complies with the formatting rules and conditions of TARGET2-[insert CB/country reference] and passes the double-entry check described in Appendix I; and

(c) in cases where a payer or a payee has been suspended, the suspended participant's CB's explicit consent has been obtained.

2. The [insert name of CB] shall immediately reject any payment order that does not fulfil the conditions laid down in paragraph 1. The [insert name of CB] shall inform the participant of any rejection of a payment order, as specified in Appendix I.

Article 15

Priority rules

1. Instructing participants shall designate every payment order as one of the following:

(a) normal payment order (priority class 2);

(b) urgent payment order (priority class 1); or

(c) highly urgent payment order (priority class 0).

If a payment order does not indicate the priority, it shall be treated as a normal payment order.

2. Highly urgent payment orders may only be designated by:

(a) CBs; and

(b) participants, in cases of payments to and from CLS International Bank and liquidity transfers in favour of ancillary systems.

All payment instructions submitted by an ancillary system through the Ancillary System Interface to debit or credit the participants' PM accounts shall be deemed to be highly urgent payment orders.

3. In the case of urgent and normal payment orders, the payer may change the priority via the ICM with immediate effect. It shall not be possible to change the priority of a highly urgent payment.

Article 16

Liquidity limits

1. A participant may limit the use of available liquidity for payment orders in relation to other TARGET2 participants, except any of the CBs, by setting bilateral or multilateral limits. Such limits may only be set in relation to normal payment orders.

2. Limits may only be set by or in relation to an AL group in its entirety. Limits shall not be set in relation to either a single PM account of an AL group member or by AL group members in relation to each other.

3. By setting a bilateral limit, a participant instructs the [insert name of CB] that an accepted payment order shall not be settled if the sum of its outgoing normal payment orders to another TARGET2 participant's PM account minus the sum of all incoming urgent and normal payments from such TARGET2 participant's PM account would exceed this bilateral limit.

4. A participant may set a multilateral limit for any relationship that is not subject to a bilateral limit. A multilateral limit may only be set if the participant has set at least one bilateral limit. If a participant sets a multilateral limit, it instructs the [insert name of CB] that an accepted payment order shall not be settled if the sum of its outgoing normal payment orders to all TARGET2 participants' PM accounts in relation to which no bilateral limit has been set, minus the sum of all incoming urgent and normal payments from such PM accounts would exceed this multilateral limit.

5. The minimum amount of any of the limits shall be EUR 1 million. A bilateral or a multilateral limit with an amount of zero shall be treated as if no limit has been set. Limits between zero and EUR 1 million are not possible.

6. Limits may be changed in real time with immediate effect or with effect from the next business day via the ICM. If a limit is changed to zero, it shall not be possible to change it again on the same business day. The setting of a new bilateral or multilateral limit shall only be effective from the next business day.

Article 17

Liquidity reservation facilities

1. Participants may reserve liquidity for highly urgent or urgent payment orders via the ICM.

2. The AL group manager may only reserve liquidity for the AL group in its entirety. Liquidity shall not be reserved for single accounts within an AL group.

3. By requesting to reserve a certain amount of liquidity for highly urgent payment orders, a participant instructs the [insert name of CB] only to settle urgent and normal payment orders if there is available liquidity after the amount reserved for highly urgent payment orders has been deducted.

4. By requesting to reserve a certain amount of liquidity for urgent payment orders, a participant instructs the [insert name of CB] only to settle normal payment orders if there is available liquidity after the amount reserved for urgent and highly urgent payment orders has been deducted.

5. After receipt of the reservation request the [insert name of CB] shall check whether the amount of liquidity on the participant's PM account is sufficient for the reservation. If this is not the case, only the liquidity available on the PM account shall be reserved. The rest of the requested liquidity reservation shall not be reserved automatically at any later point in time, even if the amount of liquidity available on the participant's PM account reaches the level of the initial reservation request.

6. The level of the liquidity reservation may be changed. Participants may make a request via the ICM to reserve new amounts with immediate effect or with effect from the next business day.

Article 18

Predetermined settlement times

1. Instructing participants may predetermine the settlement time of the payment orders within a business day by using the Earliest Debit Time Indicator or the Latest Debit Time Indicator.

2. When the Earliest Debit Time Indicator is used, the accepted payment order is stored and only entered into the entry disposition at the indicated time.

3. When the Latest Debit Time Indicator is used, the accepted payment order shall be returned as non-settled if it cannot be settled by the indicated debit time. 15 minutes prior to the defined debit time, the instructing participant shall be sent an automatic notification via the ICM. Instructing participant may also use the Latest Debit Time Indicator solely as a warning indicator. In such cases, the payment order concerned shall not be returned.

4. Instructing participants can change the Earliest Debit Time Indicator and the Latest Debit Time Indicator via the ICM.

5. Further technical details are contained in Appendix I.

Article 19

Payment orders submitted in advance

1. Payment orders may be submitted up to five business days before the specified settlement date (warehoused payment orders).

2. Warehoused payment orders shall be accepted and entered into the entry disposition on the date specified by the instructing participant at the start of daytime processing, as referred to in Appendix V. They shall be placed in front of payment orders of the same priority.

3. Articles 15(3), 22(2) and 29(1)(a) shall apply *mutatis mutandis* to warehoused payment orders.

Article 20

Settlement of payment orders in the entry disposition

1. Unless instructing participants have indicated the settlement time in the manner described in Article 18, accepted payment orders shall be settled immediately or at the latest by the end of the business day on which they were accepted, provided that sufficient funds are available on the payer's PM account and taking into account any liquidity limits and liquidity reservations as referred to in Articles 16 and 17.

2. Funding may be provided by:

(a) the available liquidity on the PM account; or

(b) incoming payments from other TARGET2 participants, subject to the applicable optimisation procedures.

3. For highly urgent payment orders the 'first in, first out' (FIFO) principle shall apply. This means that highly urgent payment orders shall be settled in chronological order. Urgent and normal payment orders shall not be settled for as long as highly urgent payment orders are queued.

4. For urgent payment orders the FIFO principle shall also apply. Normal payment orders shall not be settled if urgent and highly urgent payment orders are queued.

5. By derogation from paragraphs 3 and 4, payment orders with a lower priority (or of the same priority but accepted later) may be settled before payment orders with a higher priority (or of the same priority which were accepted earlier), if the payment orders with a lower priority would net out with payments to be received and result on balance in a liquidity increase for the payer.

6. Normal payment orders shall be settled in accordance with the FIFO by-passing principle. This means that they may be settled immediately (independently of other queued normal payments accepted at an earlier time) and may therefore breach the FIFO principle, provided that sufficient funds are available.

7. Further details on the settlement of payment orders in the entry disposition are contained in Appendix I.

Article 21

Settlement and return of queued payment orders

1. Payment orders that are not settled immediately in the entry disposition shall be placed in the queues in accordance with the priority to which they were designated by the relevant participant, as referred to in Article 15.

2. To optimise the settlement of queued payment orders, the [insert name of CB] may use the optimisation procedures described in Appendix I.

3. The payer may change the queue position of payment orders in a queue (i.e. reorder them) via the ICM. Payment orders may be moved either to the front or to the end of the respective queue with immediate effect at any time during daytime processing, as referred to in Appendix V.

4. Liquidity transfer orders initiated in the ICM shall be immediately returned as non-settled if there is insufficient liquidity. Other payment orders shall be returned as non-settled if they cannot be settled by the cut-off times for the relevant message type, as specified in Appendix V.

Article 22

Entry of payment orders into the system and their irrevocability

1. For the purposes of the first sentence of Article 3(1) of the Settlement Finality Directive and [insert national law provisions implementing this Article of the Settlement Finality Directive], payment orders are deemed entered into TARGET2-[insert CB/country reference] at the moment that the relevant participant's PM account is debited.

2. Payment orders may be revoked until they are entered into TARGET2-[insert CB/country reference] in accordance with paragraph 1. Payment orders that are included in an algorithm, as referred to in Appendix I, may not be revoked during the period that the algorithm is running.

TITLE V

LIQUIDITY POOLING

Article 23

Liquidity pooling modes

The [insert name of CB] shall offer a consolidated account information (CAI) mode and an aggregated liquidity (AL) mode.

Article 24

Consolidated account information mode

1. The following may use the CAI mode:

(a) a credit institution and/or its branches (whether or not such entities participate in the same TARGET2 component system), provided that the entities concerned have several PM accounts identified by different BICs; or

(b) two or more credit institutions which belong to the same group and/or their branches, each having one or more PM accounts identified by different BICs.

2 (a) Under the CAI mode, each member of the CAI group and their respective CBs are provided with the list of PM accounts of the group members and the following additional information consolidated at the level of the CAI group:

(i) intraday credit lines (if applicable);

(ii) balances, including balances on sub-accounts;

(iii) turnover;

(iv) settled payments; and

(v) queued payment orders.

(b) The CAI group manager and its respective CB shall have access to information on each of the above items in relation to any PM account of the CAI group.

(c) Information referred to in this paragraph is provided via the ICM.

3. The CAI group manager shall be entitled to initiate liquidity transfers via the ICM between the PM accounts, including their sub-accounts, forming part of the same CAI group.

4. A CAI group may also include PM accounts which are included in an AL group. In such a case, all the PM accounts of the AL group shall form part of the CAI group.

5. Where two or more PM accounts form part of an AL group and, at the same time, of a CAI group (comprising additional PM accounts), the rules applicable to the AL group shall prevail as to the relationship within the AL group.

6. A CAI group, which includes PM accounts of an AL group, may appoint a CAI group manager that is different from the AL group manager.

7. The procedure for obtaining authorisation to use the AL mode, set out in Article 25(4) and (5), shall apply *mutatis mutandis* to the procedure for obtaining authorisation to use the CAI mode.

Article 25

Aggregated liquidity mode

1. The following may use the AL mode:

(a) a credit institution and/or its branches (whether or not such entities participate in the same TARGET2 component system), provided that the entities concerned are established in the euro area and have several PM accounts identified by different BICs;

(b) branches established in the euro area (whether or not such branches participate in the same TARGET2 component system) of a credit institution established outside the euro area, provided that such branches have several PM accounts identified by different BICs; or

(c) two or more credit institutions referred to in subparagraph (a) and/or branches referred to in subparagraph (b) which belong to the same group.

In each case referred in subparagraphs (a) to (c) it shall also be a requirement that the entities concerned have established intraday credit arrangements with the respective participating NCB.

2. Under the AL mode, for the purpose of checking whether a payment order is sufficiently covered, available liquidity on all the AL group members' PM accounts is aggregated. Notwithstanding the above, the bilateral PM account relationship between the AL group member and its AL NCB shall continue to be governed by the arrangements of the relevant TARGET2 component system, subject to the modifications set out in the AL agreement. Intraday credit extended to any AL group member on its PM account may be covered by the available liquidity on the other PM accounts held by such AL group member or PM accounts held by any other AL group members with the same or any other AL NCB.

3. In order to use the AL mode, one or more TARGET2 participants meeting the criteria in paragraph 1 shall enter into an AL agreement with the [insert name of CB] and, if applicable, other CB(s) of the TARGET2 component systems in which other AL group members participate. A TARGET2 participant may only enter into one AL agreement in relation to a particular PM account. The AL agreement shall be in conformity with the relevant template in Appendix VII.

4. Each AL group shall designate an AL group manager. In the event that the AL group consists of only one participant, this participant shall act as the AL group manager. The AL group manager shall address to the managing NCB a written request to use the AL mode (containing static data collection forms as provided by [insert name of CB]), together with the executed AL agreement on the basis of the template provided by the managing NCB. The remaining AL group members shall address their written requests (containing static data collection forms as provided by [insert name of CB]) to their respective AL NCBs. The managing NCB may request any additional information or document that it deems appropriate in order to decide on the request. In addition, the managing NCB, in agreement with the other AL NCBs, may require the insertion of any additional provision in the AL agreement that it deems appropriate in order to ensure the proper and timely discharge of any existing and/or future obligation of all AL group members towards any AL NCB.

5. The managing NCB shall verify whether the applicants fulfil the requirements to form an AL group and whether the AL agreement has been properly executed. To this end, the managing NCB may liaise with the other AL NCBs. The managing NCB's decision shall be addressed, in writing, to the AL group manager within one month of receipt of the request referred to in paragraph 4 by the managing NCB, or, if the managing NCB requests additional information, within one month of receipt of such information by the managing NCB. Any rejection decision shall contain reasons for the rejection.

6. AL group members shall automatically have access to the CAI mode.

7. The provision of information and all interactive control measures within an AL group shall be accessed via the ICM.

[Insert if applicable:

Article 25a

Pledge/enforcement

1. The [insert name of CB]'s current and future claims arising from the legal relationship between an AL group member and the [insert name of CB] and which are secured by the [insert the applicable term: pledge/floating charge] under Article 36(1) and (2) of these Conditions shall include the [insert name of CB]'s claims against such AL group member arising under the AL agreement to which both are party.

2. [Insert if required under the laws of the relevant jurisdiction: Without prejudice to the AL agreement, such pledge shall not prevent the participant from using the cash deposited in its PM account(s) during the business day.]

3. [Insert if required under the laws of the relevant jurisdiction: Special allocation clause: The AL group member allocates the cash deposited in its PM account for the execution of all its obligations arising from the [insert reference to the arrangements implementing the Harmonised Conditions].]

[If applicable and if required under the laws of the relevant jurisdiction:

Article 25b

Enforcement of the pledge

Upon the occurrence of an enforcement event, the [insert name of CB] shall have an unrestricted right to realise the pledge without any prior notice. [Insert if deemed appropriate under the laws of the relevant jurisdiction: in accordance with [insert relevant national law provisions governing enforcement of the pledge].]

[If applicable and if required under the laws of the relevant jurisdiction:

Article 25c

Enforcement of collateral

Upon occurrence of the enforcement event, the [insert name of the CB] shall have the right to realise collateral under Article 36.]

Article 26

Set-off of claims under Article 36(4) and (5)

On the occurrence of an enforcement event, any claim of the [insert name of CB] against such AL group member shall be automatically and immediately accelerated and shall be subject to Article 36(4) and (5) of these Conditions.

TITLE VI

SECURITY REQUIREMENTS AND CONTINGENCY ISSUES

Article 27

Business continuity and contingency procedures

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.

Article 28

Security requirements

1. Participants shall implement adequate security controls to protect their systems from unauthorised access and use. Participants shall be exclusively responsible for the adequate protection of the confidentiality, integrity and availability of their systems.

2. Participants shall inform the [insert name of CB] of any security-related incidents in their technical infrastructure and, where appropriate, security-related incidents that occur in the technical infrastructure of the third party providers. The [insert name of CB] may request further information about the incident and, if necessary, request that the participant take appropriate measures to prevent a recurrence of such an event.

3. The [insert name of CB] may impose additional security requirements on all participants and/or on participants that are considered critical by the [insert name of CB].

TITLE VII

THE INFORMATION AND CONTROL MODULE

Article 29

Use of the ICM

1. The ICM:

(a) allows participants to access information relating to their accounts and to manage liquidity;

(b) may be used to initiate liquidity transfer orders; and

(c) allows participants to initiate backup lump sum and backup contingency payments in the event of a failure of the participant's payment infrastructure.

2. Further technical details relating to the ICM are contained in Appendix I.

TITLE VIII

COMPENSATION, LIABILITY REGIME AND EVIDENCE

Article 30

Compensation scheme

If a payment order cannot be settled on the same business day on which it was accepted due to a technical malfunction of TARGET2, the [insert name of CB] shall offer to compensate the direct participants concerned in accordance with the special procedure laid down in Appendix II.

Article 31

Liability regime

1. In performing their obligations pursuant to these Conditions, the [insert name of CB] and the participants shall be bound by a general duty of reasonable care in relation to each other.

2. The [insert name of CB] shall be liable to its participants in cases of fraud (including but not limited to wilful misconduct) or gross negligence, for any loss arising out of the operation of TARGET2-[insert CB/country reference]. In cases of ordinary negligence, the [insert name of CB]'s liability shall be limited to the participant's direct loss, i.e. the amount of the transaction in question and/or the loss of interest thereon, excluding any consequential loss.

3. The [insert name of CB] is not liable for any loss that results from any malfunction or failure in the technical infrastructure (including but not limited to the [insert name of CB]'s computer infrastructure, programmes, data, applications or networks), if such malfunction or failure arises in spite of the [insert name of CB] having adopted those measures that are reasonably necessary to protect such infrastructure against malfunction or failure, and to resolve the consequences of such malfunction or failure (the latter including but not limited to initiating and completing the business continuity and contingency procedures referred to in Appendix IV).

4. The [insert name of CB] shall not be liable:

(a) to the extent that the loss is caused by the participant; or

(b) if the loss arises out of external events beyond the [insert name of CB]'s reasonable control *(force majeure)*.

5. Notwithstanding the [insert national law provisions implementing Directive 97/5/EC of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers ([9])], paragraphs 1 to 4 shall apply to the extent that the [insert name of CB]'s liability can be excluded.

6. The [insert name of CB] and the participants shall take all reasonable and practicable steps to mitigate any damage or loss referred to in this Article.

([9]) OJ L 43, 14.2.1997, p. 25.

7. In performing some or all of its obligations under these Conditions, the [insert name of CB] may commission third parties in its own name, particularly telecommunications or other network providers or other entities, if this is necessary to meet the [insert name of CB]'s obligations or is standard market practice. The [insert name of CB]'s obligation shall be limited to the due selection and commissioning of any such third parties and the [insert name of CB]'s liability shall be limited accordingly. For the purposes of this paragraph, the SSP-providing CBs shall not be considered as third parties.

Article 32

Evidence

1. Unless otherwise provided in these Conditions, all payment and payment processing-related messages in relation to TARGET2, such as confirmations of debits or credits, or statement messages, between the [insert name of CB] and participants shall be made through the network service provider.

2. Electronic or written records of the messages retained by the [insert name of CB] or by the network service provider shall be accepted as a means of evidence of the payments processed through the [insert name of CB]. The saved or printed version of the original message of the network service provider shall be accepted as a means of evidence, regardless of the form of the original message.

3. If a participant's connection to the network service provider fails, the participant shall use the alternative means of transmission of messages laid down in Appendix IV. In such cases, the saved or printed version of the message produced by the [insert name of CB] shall have the same evidential value as the original message, regardless of its form.

4. The [insert name of CB] shall keep complete records of payment orders submitted and payments received by participants for a period of [insert period required by relevant national law] from the time at which such payment orders are submitted and payments are received.

5. The [insert name of CB]'s own books and records (whether kept on paper, microfilm, microfiche, by electronic or magnetic recording, in any other mechanically reproducible form or otherwise) shall be accepted as a means of evidence of any obligations of the participants and of any facts and events that the parties rely on.

TITLE IX

TERMINATION OF PARTICIPATION AND CLOSURE OF ACCOUNTS

Article 33

Duration and ordinary termination of participation

1. Without prejudice to Article 34, participation in TARGET2-[insert CB/country reference] is for an indefinite period of time.

2. A participant may terminate its participation in TARGET2-[insert CB/country reference] at any time giving 14 business days' notice thereof, unless it agrees a shorter notice period with the [insert name of CB].

3. The [insert name of CB] may terminate a participant's participation in TARGET2-[insert CB/country reference] at any time giving three months' notice thereof, unless it agrees a different notice period with that participant.

4. On termination of participation, the confidentiality duties laid down in Article 38 remain in force for a period of five years starting on the date of termination.

5. On termination of participation, the PM accounts of the participant concerned shall be closed in accordance with Article 35.

Article 34

Suspension and extraordinary termination of participation

1. A participant's participation in TARGET2-[insert CB/country reference] shall be immediately terminated without prior notice or suspended if one of the following events of default occurs:

(a) the opening of insolvency proceedings; and/or

(b) the participant no longer meets the access criteria laid down in Article 4.

2. The [insert name of CB] may terminate without prior notice or suspend the participant's participation in TARGET2-[insert CB/country reference] if:

(a) one or more events of default (other than those referred to in paragraph 1) occur;

(b) the participant is in material breach of these Conditions;

(c) the participant fails to carry out any material obligation to the [insert name of CB];

(d) the participant is excluded from, or otherwise ceases to be a member of, a TARGET2 CUG; and/or

(e) any other participant-related event occurs which, in the [insert name of CB]'s assessment, would threaten the overall stability, soundness and safety of TARGET2-[insert CB/country reference] or of any other TARGET2 component system, or which would jeopardise the [insert name of CB]'s performance of its tasks as described in [refer to relevant national law] and the Statute of the European System of Central Banks and of the European Central Bank.

3. In exercising its discretion under paragraph 2, the [insert name of CB] shall take into account, *inter alia*, the seriousness of the event of default or events mentioned in subparagraphs (a) to (c).

4. (a) In the event that the [insert name of CB] suspends or terminates a participant's participation in TARGET2-[insert CB/country reference] under paragraph 1 or 2, the [insert name of CB] shall immediately inform that participant, other CBs and the other participants of such suspension or termination by means of an ICM broadcast message.

(b) In the event that the [insert name of CB] is informed by another CB of a suspension or termination of a participant in another TARGET2 component system, the [insert name of CB] shall immediately inform its participants of such suspension or termination by means of an ICM broadcast message.

(c) Once such an ICM broadcast message has been received by the participants, the latter shall be deemed informed of the termination/suspension of a participant's participation in TARGET2-[insert CB/country reference] or another TARGET2 component system. The participants shall bear any losses arising from the submission of a payment order to participants whose participation has been suspended or terminated if such payment order was entered into TARGET2-[insert CB/country reference] after receipt of the ICM broadcast message.

5. Upon termination of a participant's participation, TARGET2-[insert CB/country reference] shall not accept any new payment orders from such participant. Payment orders in the queue, warehoused payment orders or new payment orders in favour of such participant shall be returned.

6. If a participant is suspended from TARGET2-[insert CB/country reference], all its incoming payments and outgoing payment orders shall be stored and only entered into the entry disposition after they have been explicitly accepted by the suspended participant's CB.

Article 35

Closure of PM accounts

1. Participants may close their PM accounts at any time provided they give the [insert name of CB] 14 business days' notice thereof.

2. On termination of participation, pursuant to either Article 33 or 34, the [insert name of CB] shall close the PM accounts of the participant concerned, after having:

(a) settled or returned any queued payment orders; and

(b) made use of its rights of pledge and set-off under Article 36.

TITLE X

FINAL PROVISIONS

Article 36

The [insert name of CB]'s rights of pledge and set-off

1. [Insert if applicable: The [insert name of CB] shall have a pledge over the participant's existing and future credit balances on its PM accounts, thereby collateralising any current and future claims arising out of the legal relationship between the parties.]

1a. [Insert if applicable: A participant's current and future claims towards the [insert name of the CB] arising from a credit balance on the PM account shall be transferred to the [insert name of the CB] as collateral (i.e. as a fiduciary transfer) for any current or future claim of the [insert name of the CB] towards the participant arising out of the [insert reference to the arrangement implementing these Conditions]. Such collateral shall be established by the mere fact that the funds have been credited to the participant's PM account.]

1b. [Insert if applicable: The [insert name of CB] shall have a floating charge over the participant's existing and future credit balances on their PM accounts, thereby collateralising any current and future claims arising out of the legal relationship between the parties.]

2. [Insert if applicable: The [insert name of CB] shall have the right referred to in paragraph 1 even if its claims are only contingent or not yet due.]

3. [Insert if applicable: The participant, acting in its capacity as a PM account holder, hereby acknowledges the creation of a pledge in favour of [insert name of CB], with whom that account has been opened; this acknowledgement shall constitute the provision of pledged assets to the [insert name of CB] referred to under [insert relevant national adjective] law. Any amounts paid into the PM account whose balance is pledged shall, by the mere fact of being paid in, be irrevocably pledged, without any limitation whatsoever, as collateral security for the full performance of the secured obligations.]

4. On the occurrence of:

(a) an event of default, referred to in Article 34(1); or

(b) any other event of default or event referred to in Article 34(2) that has led to the termination or suspension of the participant's participation,

notwithstanding the commencement of any insolvency proceedings in respect of a participant and notwithstanding any assignment, judicial or other attachment or other disposition of or in respect of the participant's rights, all obligations of the participant shall be automatically and immediately accelerated, without prior notice and without the need for any prior approval of any authority, so as to be immediately due. In addition, the mutual obligations of the participant and the [insert name of CB] shall automatically be set off against each other, and the party owing the higher amount shall pay to the other the difference.

5. The [insert name of CB] shall promptly give the participant notice of any set-off pursuant to paragraph 4 after such set-off has taken place.

6. The [insert name of CB] may without prior notice debit any participant's PM account by any amount which the participant owes the [insert name of CB] resulting from the legal relationship between the participant and the [insert name of CB].

Article 37

Security rights in relation to funds on sub-accounts

1. The [insert name of CB] shall have [insert reference to a collateralisation technique under the applicable legal system] over the balance on a participant's sub-account opened for the settlement of AS-related payment instructions under the arrangements between the relevant ancillary system and its CB. Such balance shall collateralise the participant's obligation referred to in paragraph 7 towards the [insert name of CB] in relation to such settlement.

2. The [insert name of CB] shall freeze the balance on the sub-account of the participant upon communication by the ancillary system (via a 'start-of-cycle' message). Such freezing shall expire upon communication by the ancillary system (via an 'end-of-cycle' message).

3. By confirming the freezing of the balance on the participant's sub-account, the [insert name of CB] guarantees to the ancillary system payment up to the amount of this particular balance. The guarantee shall be irrevocable, unconditional and payable on first demand. If the [insert name of CB] is not the ancillary system's CB, the [insert name of CB] shall be deemed instructed to issue the abovementioned guarantee to the ancillary system's CB.

4. In the absence of any insolvency proceedings in relation to the participant, the AS-related payment instructions for the squaring of the participant's settlement obligation shall be settled without drawing on the guarantee and without recourse to the security right over the balance on the participant's sub-account.

5. In the event of the participant's insolvency, the AS-related payment instruction for the squaring of the participant's settlement obligation shall be a first demand for payment under the guarantee; the debiting of the instructed amount from the participant's sub-account (and crediting of the AS's technical account) shall therefore equally involve the discharge of the guarantee obligation by the [insert name of the CB] and a realisation of its collateral right over the balance on the participant's sub-account.

6. The guarantee shall expire upon communication by the ancillary system that the settlement has been completed (via an 'end-of-cycle' message).

7. The participant shall be obliged to reimburse to the [insert name of CB] any payment made by the latter under such guarantee.

Article 38

Confidentiality

1. The [insert name of CB] shall keep confidential all sensitive or secret information, including when such information relates to payment, technical or organisational information belonging to the participant or the participant's customers, unless the participant or its customer has given its written consent to disclose [insert the following phrase if applicable under national law: or such disclosure is permitted or required under [insert adjective relating to country name] law].

2. By derogation from paragraph 1, the participant agrees that the [insert name of CB] may disclose payment, technical or organisational information regarding the participant or the participant's customers obtained in the course of the operation of TARGET2-[insert CB/country reference] to other CBs or third parties that are involved in the operation of TARGET2-[insert CB/country reference], to the extent that this is necessary for the efficient functioning of TARGET2, or to supervisory and oversight authorities of Member States and the Community, 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. The [insert name of CB] shall not be liable for the financial and commercial consequences of such disclosure.

3. By derogation from paragraph 1 and provided this does not make it possible, whether directly or indirectly, to identify the participant or the participant's customers, the [insert name of CB] may use, disclose or publish payment information regarding the participant or the participant's customers for statistical, historical, scientific or other purposes in the exercise of its public functions or of functions of other public entities to whom the information is disclosed.

4. Information relating to the operation of TARGET2-[insert CB/country reference] to which participants have had access, may only be used for the purposes laid down in these Conditions. Participants shall keep such information confidential, unless the [insert name of CB] has explicitly given its written consent to disclose. Participants shall ensure that any third parties to whom they outsource, delegate or subcontract tasks which have or may have an impact on the performance of their obligations under these Conditions are bound by the confidentiality requirements in this Article.

5. The [insert name of CB] shall be authorised, in order to settle payment orders, to process and transfer the necessary data to the network service provider.

Article 39

Data protection, prevention of money laundering and related issues

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 and the financing of terrorism, 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.

2. Participants shall be deemed to have authorised the [insert name of CB] to obtain any information relating to them from any financial or supervisory authority or trade body, whether national or foreign, if such information is necessary for the participant's participation in TARGET2-[insert CB/country reference].

Article 40

Notices

1. Except where otherwise provided for in these Conditions, all notices required or permitted pursuant to these Conditions shall be sent by registered post, facsimile or otherwise in writing or by an authenticated message through the network service provider. Notices to the [insert name of CB] shall be submitted to the head of the [insert payment systems department or relevant CB unit] of [insert name of CB], [include relevant address of CB] or to the [insert SWIFT address of the CB]. Notices to the participant shall be sent to it at the address, fax number or its SWIFT address as the participant may from time to time notify to the [insert name of CB].

2. To prove that a notice has been sent, it shall be sufficient to prove that the notice was delivered to the relevant address or that the envelope containing such notice was properly addressed and posted.

3. All notices shall be given in [insert relevant national language and/or 'English'].

4. Participants shall be bound by all forms and documents of the [insert name of CB] that the participants have filled in and/or signed, including but not limited to static data collection forms, as referred to in Article 8(2)(a), and information provided under Article 11(5), which were submitted in compliance with paragraphs 1 and 2 and which the [insert name of CB] reasonably believes to have received from the participants, their employees or agents.

Article 41

Contractual relationship with network service provider

1. For the purposes of these Conditions, the network service provider is SWIFT. Each participant shall enter into a separate agreement with SWIFT regarding the services to be provided by SWIFT in relation to the participant's use of TARGET2-[insert CB/country reference]. The legal relationship between a participant and SWIFT shall be exclusively governed by SWIFT's terms and conditions.

2. Each participant shall also participate in a TARGET2 CUG, as specified by the SSP-providing CBs acting as the SWIFT service administrator for the SSP. Admission and exclusion of a participant to or from a TARGET2 CUG shall take effect once communicated to SWIFT by the SWIFT service administrator.

3. Participants shall comply with the TARGET2 SWIFT Service Profile, as made available by the [insert name of CB].

4. The services to be provided by SWIFT shall not form part of the services to be performed by the [insert name of CB] in respect of TARGET2.

5. The [insert name of CB] shall not be liable for any acts, errors or omissions of SWIFT (including its directors, staff and subcontractors) as provider of SWIFT services, or for any acts, errors or omissions of network providers selected by participants to gain access to the SWIFT network.

Article 42

Amendment procedure

The [insert name of CB] may at any time unilaterally amend these Conditions, including its Appendices. Amendments to these Conditions, including its Appendices, shall be announced by means of [insert relevant means of announcement]. Amendments shall be deemed to have been accepted unless the participant expressly objects within 14 days of being informed of such amendments. In the event that a participant objects to the amendment, the [insert name of CB] is entitled immediately to terminate that participant's participation in TARGET2-[insert CB/country reference] and close any of its PM accounts.

Article 43

Third party rights

1. Any rights, interests, obligations, responsibilities and claims arising from or relating to these Conditions shall not be transferred, pledged or assigned by participants to any third party without the [insert name of CB]'s written consent.

2. These Conditions do not create any rights in favour of or obligations in relation to any entity other than the [insert name of CB] and participants in TARGET2-[insert CB/country reference].

Article 44

Governing law, jurisdiction and place of performance

1. The bilateral relationship between the [insert name of CB] and participants in TARGET2-[insert CB/country reference] shall be governed by [insert adjective relating to country name] law.

2. Without prejudice to the competence of the Court of Justice of the European Communities, any dispute arising from a matter relating to the relationship referred to in paragraph 1 falls under the exclusive competence of the competent courts of [insert place of the seat of the CB].

3. The place of performance concerning the legal relationship between the [insert reference to CB] and the participants shall be [insert place of the seat of the CB].

Article 45

Severability

If any provision in these Conditions is or becomes invalid, this shall not prejudice the applicability of all the other provisions of these Conditions.

Article 46

Entry into force and binding nature

1. These Conditions become effective from [insert relevant date].

2. [Insert if appropriate under relevant national law: By participating in TARGET2-[insert CB/country reference], participants automatically agree to these Conditions between themselves and in relation to the [insert name of CB].]

Appendix I

TECHNICAL SPECIFICATIONS FOR THE PROCESSING OF PAYMENT ORDERS

In addition to the Harmonised Conditions, the following rules shall apply to the processing of payment orders:

1. **Technical requirements for participation in TARGET2-[insert CB/country reference] regarding infrastructure, network and formats**

(1) TARGET2 uses SWIFT services for the exchange of messages. Each participant therefore needs a connection to SWIFT's Secure IP Network. Each participant's PM account shall be identified by an eight- or 11-digit SWIFT BIC. Furthermore, each participant shall pass a series of tests to prove its technical and operational competence before it may participate in TARGET2-[insert CB/country reference].

(2) For the submission of payment orders and the exchange of payment messages in the PM the SWIFTNet FIN Y-copy service shall be used. A dedicated SWIFT Closed User Group (CUG) shall be set up for this purpose. Payment orders within such TARGET2 CUG shall be directly addressed to the receiving TARGET2 participant by entering its BIC in the header of the SWIFTNet FIN message.

(3) For the information and control services the following SWIFTNet services may be used:

(a) SWIFTNet InterAct;

(b) SWIFTNet FileAct; and/or

(c) SWIFTNet Browse.

(4) The security of the message exchange between participants shall rely exclusively on SWIFT's Public Key Infrastructure (PKI) service. Information on the PKI service is available in the documentation provided by SWIFT.

(5) The 'bilateral relationship management' service provided by SWIFT's Relationship Management Application (RMA) shall only be used with the central destination BIC of the SSP and not for payment messages between TARGET2 participants.

2. **Payment message types**

(1) The following SWIFTNet FIN/SWIFT system message types are processed:

Message type	Type of use	Description
MT 103	Mandatory	Customer payment
MT 103+	Mandatory	Customer payment (Straight Through Processing)
MT 202	Mandatory	Bank-to-bank payment
MT 204	Optional	Direct debit payment
MT 011	Optional	Delivery notification
MT 012	Optional	Sender notification
MT 019	Mandatory	Abort notification
MT 900	Optional	Confirmation of debit
MT 910	Optional	Confirmation of credit
MT 940/950	Optional	(Customer) statement message

MT 011, MT 012 and MT 019 are SWIFT system messages.

(2) When they register with TARGET2-[insert CB/country reference], direct participants shall declare which optional message types they will use, with the exception of MT 011 and MT 012 messages in relation to which direct participants shall decide from time to time whether or not to receive them with reference to specific messages.

(3) Participants shall comply with the SWIFT message structure and field specifications, as defined in the SWIFT documentation and under the restrictions set out for TARGET2, as described in Chapter 9.1.2.2 of the User Detailed Functional Specifications (UDFS), Book 1.

(4) Field contents shall be validated at the level of TARGET2-[insert country/CB reference] in accordance with the UDFS requirements. Participants may agree among each other on specific rules regarding the field contents. However, in TARGET2-[insert country/CB reference] there shall be no specific checks as to whether participants comply with any such rules.

3. **Double-entry check**

(1) All payment orders shall pass a double-entry check, the aim of which is to reject payment orders that have been submitted more than once by mistake.

(2) The following fields of the SWIFT message types shall be checked:

Details	Part of the SWIFT message	Field
Sender	Basic hheader	LT address
Message type	Application header	Message type
Receiver	Application header	Destination address
Transaction reference number (TRN)	Text block	:20
Related rreference	Text block	:21
Value date	Text block	:32
Amount	Text block	:32

(3) If all the fields described in subparagraph 2 in relation to a newly submitted payment order are identical to those in relation to a payment order that has already been accepted, the newly submitted payment order shall be returned.

4. **Error codes**

If a payment order is rejected, the instructing participant shall receive an abort notification (MT 019) indicating the reason for the rejection by using error codes. The error codes are defined in Chapter 9.4.2 of the UDFS.

5. **Predetermined settlement times**

(1) For payment orders using the Earliest Debit Time Indicator, the codeword '/FROTIME/'shall be used.

(2) For payment orders using the Latest Debit Time Indicator, two options shall be available.

(a) Codeword '/REJTIME/': if the payment order cannot be settled by the indicated debit time, the payment order shall be returned.

(b) Codeword '/TILTIME/': if the payment order cannot be settled by the indicated debit time, the payment order shall not be returned but shall be kept in the relevant queue.

Under both options, if a payment order with a Latest Debit Time Indicator is not settled 15 minutes prior to the time indicated therein, a notification shall automatically be sent via the ICM.

(3) If the codeword '/CLSTIME/' is used, the payment shall be treated in the same way as a payment order referred to in subparagraph 2(b).

6. **Settlement of payment orders in the entry disposition**

(1) Offsetting checks and, if appropriate, extended offsetting checks (both terms as defined in paragraphs 2 and 3) shall be carried out on payment orders entered into the entry disposition to provide quick, liquidity-saving gross settlement of payment orders.

(2) An offsetting check shall determine whether the payee's payment orders that are at the front of the highly urgent or, if inapplicable, the urgent queue are available to be offset against the payer's payment order (hereinafter 'offsetting payment orders'). If an offsetting payment order does not provide sufficient funds for the respective payer's payment order in the entry disposition, it shall be determined whether there is sufficient available liquidity on the payer's PM account.

(3) If the offsetting check fails, the [insert name of CB] may apply an extended offsetting check. An extended offsetting check determines whether offsetting payment orders are available in any of the payee's queues regardless of when they joined the queue. However, if in the queue of the payee there are higher priority payment orders addressed to other TARGET2 participants, the FIFO principle may only be breached if settling such an offsetting payment order would result in a liquidity increase for the payee.

7. **Settlement of payment orders in the queue**

(1) The treatment of payment orders placed in queues depends on the priority class to which it was designated by the instructing participant.

(2) Payment orders in the highly urgent and urgent queues shall be settled by using the offsetting checks described in paragraph 6, starting with the payment order at the front of the queue in cases where there is an increase in liquidity or there is an intervention at queue level (change of queue position, settlement time or priority, or revocation of the payment order).

(3) Payments orders in the normal queue shall be settled on a continuous basis including all highly urgent and urgent payment orders that have not yet been settled. Different optimisation mechanisms (algorithms) are used. If an algorithm is successful, the included payment orders will be settled; if an algorithm fails, the included payment orders will remain in the queue. Three algorithms (1 to 3) shall be applied to offset payment flows. By means of Algorithm 4, settlement procedure 5 (as defined in Chapter 2.8.1 of the UDFS) shall be available for the settlement of payment instructions of ancillary systems. To optimise the settlement of highly urgent ancillary system transactions on participants' sub-accounts, a special algorithm (Algorithm 5) shall be used.

(a) Under Algorithm 1 ('all-or-nothing') the [insert name of CB] shall, both for each relationship in respect of which a bilateral limit has been set and also for the total sum of relationships for which a multilateral limit has been set:

(i) calculate the overall liquidity position of each TARGET2 participant's PM account by establishing whether the aggregate of all outgoing and incoming payment orders pending in the queue is negative or positive and, if it is negative, check whether it exceeds that participant's available liquidity (the overall liquidity position shall constitute the 'total liquidity position'); and

(ii) check whether limits and reservations set by each TARGET2 participant in relation to each relevant PM account are respected.

If the outcome of these calculations and checks is positive for each relevant PM account, the [insert name of CB] and other CBs involved shall settle all payments simultaneously on the PM accounts of the TARGET2 participants concerned.

(b) Under Algorithm 2 ('partial') the [insert name of CB] shall:

(i) calculate and check the liquidity positions, limits and reservations of each relevant PM account as under Algorithm 1; and

(ii) if the total liquidity position of one or more relevant PM accounts is negative, extract single payment orders until the total liquidity position of each relevant PM account is positive.

Thereafter, the [insert name of CB] and the other CBs involved shall, provided there are sufficient funds, settle all remaining payments (except the extracted payment orders) simultaneously on the PM accounts of the TARGET2 participants concerned.

When extracting payment orders, the [insert name of CB] shall start from the TARGET2 participant's PM account with the highest negative total liquidity position and from the payment order at the end of the queue with the lowest priority. The selection process shall only run for a short time, to be determined by the [insert name of CB] at its discretion.

(c) Under Algorithm 3 ('multiple') the [insert name of CB] shall:

(i) compare pairs of TARGET2 participants' PM accounts to determine whether queued payment orders can be settled within the available liquidity of the two TARGET2 participants' PM accounts concerned and within the limits set by them (by starting from the pair of PM accounts with the smallest difference between the payment orders addressed to each other), and the CB(s) involved shall book those payments simultaneously on the two TARGET2 participants' PM accounts; and

(ii) if, in relation to a pair of PM accounts as described under point (i), liquidity is insufficient to fund the bilateral position, extract single payment orders until there is sufficient liquidity. In this case the CB(s) involved shall settle the remaining payments, except the extracted ones, simultaneously on the two TARGET2 participants' PM accounts.

After performing the checks specified under subparagraphs (i) to (ii), the [insert name of CB] shall check the multilateral settlement positions (between a participant's PM account and other TARGET2 participants' PM accounts in relation to which a multilateral limit has been set). For this purpose, the procedure described under subparagraphs (i) to (ii) shall apply *mutatis mutandis*.

(d) Under Algorithm 4 ('partial plus ancillary system settlement') the [insert name of CB] shall follow the same procedure as for Algorithm 2, but without extracting payment orders in relation to the settlement of an ancillary system (which settles on a simultaneous multilateral basis).

(e) Under Algorithm 5 ('ancillary system settlement via sub-accounts') the [insert name of CB] shall follow the same procedure as for Algorithm 1, subject to the modification that the [insert name of CB] shall start Algorithm 5 via the Ancillary System Interface and shall only check whether sufficient funds are available on participants' sub-accounts. Moreover, no limits and reservations shall be taken into account. Algorithm 5 shall also run during night-time settlement.

(4) Payment orders entered into the entry disposition after the start of any of algorithms 1 to 4 may nevertheless be settled immediately in the entry disposition if the positions and limits of the TARGET2 participants' PM accounts concerned are compatible with both the settlement of these payment orders and the settlement of payment orders in the current optimisation procedure. However, two algorithms shall not run simultaneously.

(5) During daytime processing the algorithms shall run sequentially. As long as there is no pending simultaneous multilateral settlement of an ancillary system, the sequence shall be as follows:

(a) algorithm 1,

(b) if algorithm 1 fails, then algorithm 2,

(c) if algorithm 2 fails, then algorithm 3, or if algorithm 2 succeeds, repeat algorithm 1.

When simultaneous multilateral settlement ('procedure 5') in relation to an ancillary system is pending, Algorithm 4 shall run.

(6) The algorithms shall run flexibly by setting a pre-defined time lag between the application of different algorithms to ensure a minimum interval between the running of two algorithms. The time sequence shall be automatically controlled. Manual intervention shall be possible.

(7) While included in a running algorithm, a payment order shall not be reordered (change of the position in a queue) or revoked. Requests for reordering or revocation of a payment order shall be queued until the algorithm is complete. If the payment order concerned is settled while the algorithm is running, any request to reorder or revoke shall be rejected. If the payment order is not settled, the participant's requests shall be taken into account immediately.

8. **Use of the ICM**

(1) The ICM may be used for obtaining information and managing liquidity. SWIFT's Secure IP Network (SIPN) shall be the underlying technical communications network for exchanging information and running control measures.

(2) With the exception of warehoused payment orders and static data information, only data in relation to the current business day shall be available via the ICM. The screens shall be offered in English only.

(3) Information shall be provided in 'pull' mode, which means that each participant has to ask to be provided with information.

(4) The following modes shall be available for using the ICM:

(a) application-to-application mode (A2A)

In A2A, information and messages are transferred between the PM and the participant's internal application. The participant therefore has to ensure that an appropriate application is available for the exchange of XML messages (requests and responses) with the ICM via a standardised interface. Further details are contained in the ICM User Handbook and in Book 4 of the UDFS.

(b) user-to-application mode (U2A)

U2A permits direct communication between a participant and the ICM. The information is displayed in a browser running on a PC system (SWIFT Alliance WebStation). For U2A access through the SWIFT Alliance WebStation the IT infrastructure has to be able to support cookies and JavaScript. Further details are described in the ICM User Handbook.

(5) Each participant shall have at least one SWIFT Alliance WebStation to have access to the ICM via U2A.

(6) Access rights to the ICM shall be granted by using SWIFT's 'Role Based Access Control'. The SWIFT 'Non Repudiation of Emission' (NRE) service, which may be used by participants, allows the recipient of an XML message to prove that such message has not been altered.

(7) If a participant has technical problems and is unable to submit any payment order, it may generate preformatted backup lump sum and backup contingency payments by using the ICM. The [insert name of CB] shall open such functionality upon request of the participant.

(8) Participants may also use the ICM to transfer liquidity:

(a) [insert if applicable] from their PM account to their account outside the PM;

(b) between the PM account and the participant's sub-accounts; and

(c) from the PM account to the mirror account managed by the ancillary system.

9. **The UDFS and the ICM User Handbook**

Further details and examples explaining the above rules are contained in the UDFS and the ICM User Handbook, as amended from time to time and published on the [insert name of CB]'s website and the ECB's website in English.

Appendix II

TARGET2 COMPENSATION SCHEME

1. **General principles**

(a) If there is a technical malfunction of TARGET2, direct participants may submit claims for compensation in accordance with the TARGET2 compensation scheme laid down in this Appendix.

(b) Unless otherwise decided by the ECB's Governing Council, the TARGET2 compensation scheme shall not apply if the technical malfunction of TARGET2 arises out of external events beyond the reasonable control of the CBs concerned or as a result of acts or omissions by third parties.

(c) Compensation under the TARGET2 compensation scheme shall be the only compensation procedure offered in the event of a technical malfunction of TARGET2. Participants may, however, use other legal means to claim for losses. If a participant accepts a compensation offer under the TARGET2 compensation scheme, this shall constitute the participant's irrevocable agreement that it thereby waives all claims in relation to the payment orders concerning which it accepts compensation (including any claims for consequential loss) it may have against any CB, and that the receipt by it of the corresponding compensation payment constitutes full and final settlement of all such claims. The participant shall indemnify the CBs concerned, up to a maximum of the amount received under the TARGET2 compensation scheme, in respect of any further claims which are raised by any other participant or any other third party in relation to the payment order or payment concerned.

(d) The making of a compensation offer shall not constitute an admission of liability by the [insert name of CB] or any other CB in respect of a technical malfunction of TARGET2.

2. **Conditions for compensation offers**

(a) A payer may submit a claim for an administration fee and interest compensation if, due to a technical malfunction of TARGET2:

(i) a payment order was not settled on the business day on which it was accepted; or

(ii) during the migration period a payer can show that it intended to submit a payment order to TARGET2-[insert CB/country reference], but was unable to do so due to the stop-sending status of a national RTGS system that had not yet migrated to TARGET2.

(b) A payee may submit a claim for an administration fee if due to a technical malfunction of TARGET2 it did not receive a payment that it was expecting to receive on a particular business day. The payee may also submit a claim for interest compensation if one or more of the following conditions are met:

(i) in the case of participants that have access to the marginal lending facility: due to a technical malfunction of TARGET2, a payee had recourse to the marginal lending facility; and/or

(ii) in the case of all participants: it was technically impossible to have recourse to the money market or such refinancing was impossible on other, objectively reasonable grounds.

3. **Calculation of compensation**

(a) With respect to a compensation offer for a payer:

(i) the administration fee shall be EUR 50 for the first non-settled payment order, EUR 25 for each of the next four such payment orders and EUR 12,50 for each further such payment order. The administration fee shall be calculated separately in relation to each payee;

(ii) interest compensation shall be determined by applying a reference rate to be fixed from day to day. This reference rate shall be the lower of the euro overnight index average (EONIA) rate and the marginal lending rate. The reference rate shall be applied to the amount of the payment order not settled as a result of the technical malfunction of TARGET2 for each day in the period from the date of the actual or, in relation to payment orders referred to in paragraph 2(a)(ii), intended submission of the payment order until the date on which the payment order was or could have been successfully settled. Any proceeds

made by placing funds resulting from non-settled payment orders on deposit with the Eurosystem shall be deducted from the amount of any compensation; and

(iii) no interest compensation shall be payable if and in so far as funds resulting from non-settled payment orders were placed in the market or used to fulfil minimum reserve requirements.

(b) With respect to a compensation offer for a payee:

(i) the administration fee shall be EUR 50 for the first non-settled payment order, EUR 25 for each of the next four such payment orders and EUR 12,50 for each further such payment order. The administration fee shall be calculated separately in relation to each payer;

(ii) the method set out in subparagraph (a)(ii) for calculating interest compensation shall apply except that interest compensation shall be payable at a rate equal to the difference between the marginal lending rate and the reference rate, and shall be calculated on the amount of any recourse to the marginal lending facility occurring as a result of the technical malfunction of TARGET2.

4. **Procedural rules**

(a) A claim for compensation shall be submitted on the claim form available on the website of the [insert name of CB] in English (see [insert reference to website of CB]). Payers shall submit a separate claim form in respect of each payee and payees shall submit a separate claim form in respect of each payer. Sufficient additional information and documents shall be provided to support the information indicated in the claim form. Only one claim may be submitted in relation to a specific payment or payment order.

(b) Within four weeks of a technical malfunction of TARGET2, participants shall submit their claim form(s) to the [insert name of CB]. Any additional information and evidence requested by the [insert name of CB] shall be supplied within two weeks of such request being made.

(c) The [insert name of CB] shall review the claims and forward them to the ECB. Unless otherwise decided by the ECB's Governing Council and communicated to the participants, all received claims shall be assessed no later than 14 weeks after the technical malfunction of TARGET2 occurs.

(d) The [insert name of CB] shall communicate the result of the assessment referred to in subparagraph (c) to the relevant participants. If the assessment entails a compensation offer, the participants concerned shall, within four weeks of the communication of such offer, either accept or reject it, in respect of each payment or payment order comprised within each claim, by signing a standard letter of acceptance (in the form available on the website of the [insert name of CB] (see [insert reference to website of CB]). If such letter has not been received by the [insert name of CB] within four weeks, the participants concerned shall be deemed to have rejected the compensation offer.

(e) The [insert name of CB] shall make compensation payments on receipt of a participant's letter of acceptance of compensation. No interest shall be payable on any compensation payment.

Appendix III

TERMS OF REFERENCE FOR CAPACITY AND COUNTRY OPINIONS

Terms of reference for capacity opinions for participants in TARGET2

[Insert name of CB]

[address]

Participation in the [name of the system]

[location], [date]

Dear Sir or Madam,

We have been asked to provide this Opinion as [in-house or external] legal advisers to [specify name of Participant or branch of Participant] in respect of issues arising under the laws of [jurisdiction in which the Participant is established; hereinafter the 'jurisdiction'] in connection with the participation of [specify name of Participant] (hereinafter the 'Participant') in the [name of the TARGET2 component system] (hereinafter the 'System').

This Opinion is confined to the laws of [jurisdiction] as they exist as on the date of this Opinion. We have made no investigation of the laws of any other jurisdiction as a basis for this Opinion, and do not express or imply any opinion in this regard. Each of the statements and opinions presented below applies with equal accuracy and validity under the laws of [jurisdiction], whether or not the Participant acts through its head office or one or more branches established inside or outside of [jurisdiction] in submitting payment orders and receiving payments.

I. DOCUMENTS EXAMINED

For the purposes of this Opinion, we have examined:

(1) a certified copy of the [specify relevant constitutional document(s)] of the Participant such as is/are in effect on the date hereof;

(2) [if applicable] an extract from the [specify relevant company register] and [if applicable] [register of credit institutions or analogous register];

(3) [to the extent applicable] a copy of the Participant's licence or other proof of authorisation to provide banking, investment, funds transfer or other financial services in [jurisdiction];

(4) [if applicable] a copy of a resolution adopted by the board of directors or the relevant governing body of the Participant on [insert date], [insert year], evidencing the Participant's agreement to adhere to the System Documents, as defined below; and

(5) [specify all powers of attorney and other documents constituting or evidencing the requisite power of the person or persons signing the relevant System Documents (as defined below) on behalf of the Participant];

and all other documents relating to the Participant's constitution, powers, and authorisations necessary or appropriate for the provision of this Opinion (hereinafter the 'Participant Documents').

For the purposes of this Opinion, we have also examined:

(1) the [insert reference to the arrangements implementing the Harmonised Conditions for participation in TARGET2] for the System dated [insert date] (hereinafter the 'Rules'); and

(2) […].

The Rules and the […] shall be referred to hereinafter as the 'System Documents' (and collectively with the Participant Documents as the 'Documents').

II. ASSUMPTIONS

For the purposes of this Opinion we have assumed in relation to the Documents that:

(1) the System Documents with which we have been provided are originals or true copies;

(2) the terms of the System Documents and the rights and obligations created by them are valid and legally binding under the laws of [insert reference to the Member State of the System] by which they are expressed to be governed, and the choice of the laws of [insert reference to the Member State of the System] to govern the System Documents is recognised by the laws of [insert reference to the Member State of the System];

(3) the Participant Documents are within the capacity and power of and have been validly authorised, adopted or executed and, where necessary, delivered by the relevant parties; and

(4) the Participant Documents are binding on the parties to which they are addressed, and there has been no breach of any of their terms.

III. OPINIONS REGARDING THE PARTICIPANT

A. The Participant is a corporation duly established and registered or otherwise duly incorporated or organised under the laws of [jurisdiction].

B. The Participant has all the requisite corporate powers to execute and perform the rights and obligations under the System Documents to which it is party.

C. The adoption or execution and the performance by the Participant of the rights and obligations under the System Documents to which the Participant is party will not in any way breach any provision of the laws or regulations of [jurisdiction] applicable to the Participant or the Participant Documents.

D. No additional authorisations, approvals, consents, filings, registrations, notarisations or other certifications of or with any court or governmental, judicial or public authority that is competent in [jurisdiction] are required by the Participant in connection with the adoption, validity or enforceability of any of the System Documents or the execution or performance of the rights and obligations thereunder.

E. The Participant has taken all necessary corporate action and other steps necessary under the laws of [jurisdiction] to ensure that its obligations under the System Documents are legal, valid and binding.

This Opinion is stated as of its date and is addressed solely to [insert name of CB] and the [Participant]. No other persons may rely on this Opinion, and the contents of this Opinion may not be disclosed to persons other than its intended recipients and their legal counsel without our prior written consent, with the exception of the European Central Bank and the national central banks of the European System of Central Banks [and [the national central bank/relevant regulatory authorities] of [jurisdiction]].

Yours faithfully,

[signature]

Terms of reference for country opinions for non-EEA participants in TARGET2

[Insert name of CB]

[address]

[name of the system]

[location], [date]

Dear Sir or Madam,

We have been asked as [external] legal advisers to [specify name of Participant or branch of Participant] (the 'Participant') in respect of issues arising under the laws of [jurisdiction in which the Participant is established; hereinafter the 'jurisdiction'] to provide this Opinion under the laws of [jurisdiction] in connection with the participation of the Participant in a system

which is a component of TARGET2 (hereinafter the 'System'). References herein to the laws of [jurisdiction] include all applicable regulations of [jurisdiction]. We express an opinion herein under the law of [jurisdiction], with particular regard to the Participant established outside [insert reference to the Member State of the System] in relation to rights and obligations arising from participation in the System, as presented in the System Documents defined below.

This Opinion is confined to the laws of [jurisdiction] as they exist on the date of this Opinion. We have made no investigation of the laws of any other jurisdiction as a basis for this Opinion, and do not express or imply any opinion in this regard. We have assumed that there is nothing in the laws of another jurisdiction which affects this Opinion.

1. DOCUMENTS EXAMINED

For the purposes of this Opinion, we have examined the documents listed below and such other documents as we have deemed necessary or appropriate:

(1) the [insert reference to the arrangements implementing the Harmonised Conditions for participation in TARGET2] for the System dated [insert date] (hereinafter the 'Rules'); and

(2) any other document governing the System and/or the relationship between the Participant and other participants in the System, and between the participants in the System and the [insert name of CB].

The Rules and the […] shall be referred to hereinafter as the 'System Documents'.

2. ASSUMPTIONS

For the purposes of this Opinion we have assumed in relation to the System Documents that:

(1) the System Documents are within the capacity and power of and have been validly authorised, adopted or executed and, where necessary, delivered by the relevant parties;

(2) the terms of the System Documents and the rights and obligations created by them are valid and legally binding under the laws of [insert reference to the Member State of the System], by which they are expressed to be governed, and the choice of the laws of [insert reference to the Member State of the System] to govern the System Documents is recognised by the laws of [insert reference to the Member State of the System];

(3) the participants in the System through which any payment orders are sent or payments are received, or through which any rights or obligations under the System Documents are executed or performed, are licensed to provide funds transfer services, in all relevant jurisdictions; and

(4) the documents submitted to us in copy or as specimens conform to the originals.

3. OPINION

Based on and subject to the foregoing, and subject in each case to the points set out below, we are of the opinion that:

3.1 **Country-specific legal aspects [to the extent applicable]**

The following characteristics of the legislation of [jurisdiction] are consistent with and in no way set aside the obligations of the Participant arising out of the System Documents: [list of country-specific legal aspects].

3.2 **General insolvency issues**

3.2.a. *Types of insolvency 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 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].

3.3 **Enforceability of System Documents**

Subject to the points set out below, all provisions of the System Documents will be binding and enforceable in accordance with their terms under the laws of [jurisdiction], in particular in the event of the opening of any Insolvency Proceedings or Proceedings with respect to the Participant.

In particular, we are of the opinion that:

3.3.a. *Processing of payment orders*

The provisions on processing of payment orders [list of sections] of the Rules are valid and enforceable. In particular, all payment orders processed pursuant to such sections will be valid, binding and will be enforceable under the laws of [jurisdiction]. The provision of the Rules which specifies the precise point in time at which payment orders submitted by the Participant to the System become enforceable and irrevocable ([add section of the Rules]) is valid, binding and enforceable under the laws of [jurisdiction].

3.3.b. *Authority of the [insert name of CB] to perform its functions*

The opening of Insolvency Proceedings or Proceedings in respect of the Participant will not affect the authority and powers of the [insert name of CB] arising out of the System Documents. [Specify [to the extent applicable] that: the same opinion is also applicable in respect of any other entity which provides the Participants with services directly and necessarily required for participating in the System (e.g. network service provider)].

3.3.c. *Remedies in the event of default*

[Where applicable to the Participant, the provisions contained in [list of sections] of the Rules regarding accelerated performance of claims which have not yet matured, the set-off of claims for using the deposits of the Participant, the enforcement of a pledge, suspension and termination of participation, claims for default interest, and termination of agreements and transactions ([insert other relevant clauses of the Rules or the System Documents]) are valid and enforceable under the laws of [jurisdiction].]

3.3.d. *Suspension and termination*

Where applicable to the Participant, the provisions contained in [list of sections] of the Rules (in respect of suspension and termination of the Participant's participation in the System on the opening of Insolvency Proceedings or Proceedings or other events of default, as defined in the System Documents, or if the Participant represents any kind of systemic risk or has serious operational problems) are valid and enforceable under the laws of [jurisdiction].

3.3.e. *Penalty regime*

Where applicable to the Participant, the provisions contained in [list of sections] of the Rules in respect of penalties imposed on a Participant which is unable to reimburse intraday credit or overnight credit, where applicable, on time are valid and enforceable under the laws of [jurisdiction].

3.3.f. *Assignment of rights and obligations*

The rights and obligations of the Participant cannot be assigned, altered or otherwise transferred by the Participant to third parties without the prior written consent of the [insert name of CB].

3.3.g. *Choice of governing law and jurisdiction*

The provisions contained in [list of sections] of the Rules, and in particular in respect of the governing law, the resolution of a dispute, competent courts, and service of process are valid and enforceable under the laws of [jurisdiction].

3.4 **Voidable preferences**

We are of the opinion that no obligation arising out of the System Documents, the performance thereof, or compliance therewith prior to the opening of any Insolvency Proceedings or Proceedings in respect of the Participant may be set aside in any such proceedings as a preference, voidable transaction or otherwise under the laws of [jurisdiction].

In particular, and without limitation to the foregoing, we express this opinion in respect of any payment orders submitted by any participant in the System. In particular, we are of the opinion that the provisions of [list of sections] of the Rules establishing the enforceability and irrevocability of payment orders will be valid and enforceable and that a payment order submitted by any participant and processed pursuant to [list of sections] of the Rules may not be set aside in any Insolvency Proceedings or Proceedings as a preference, voidable transaction or otherwise under the laws of [jurisdiction].

3.5 **Attachment**

If a creditor of the Participant seeks an attachment order (including any freezing order, order for seizure or any other public or private law procedure that is intended to protect the public interest or the rights of the Participant's creditors) — hereinafter referred to as an 'Attachment' — under the laws of [jurisdiction] from a court or governmental, judicial or public authority that is competent in [jurisdiction], we are of the opinion that [insert the analysis and discussion].

3.6 **Collateral [if applicable]**

3.6.a. *Assignment of rights or deposit of assets for collateral purposes, pledge, repo and/or guarantee*

Assignments for collateral purposes will be valid and enforceable under the laws of [jurisdiction]. Specifically, the creation and enforcement of a pledge or repo under the [insert reference to the relevant arrangement with the CB] will be valid and enforceable under the laws of [jurisdiction]. In the event that a guarantee from another legal entity is required for adherence of the Participant in the System, this guarantee will be binding on the guarantor and fully enforceable against it, without any limit with regard to the amount of the guarantee, whatever the Participant's situation.

3.6.b. *Priority of assignees', pledgees' or repo purchasers' interest over that of other claimants*

In the event of Insolvency Proceedings or Proceedings in respect of the Participant, the rights or assets assigned for collateral purposes, or pledged by the Participant in favour of the [insert reference to CB] or other participants in the System, will rank in priority of payment above the claims of all other creditors of the Participant and will not be subject to priority or preferential creditors.

3.6.c. *Enforcing title to security*

Even in the event of Insolvency Proceedings or Proceedings in respect of the Participant, other participants in the System and the [insert name of CB] as [assignees, pledgees or repo purchasers as applicable] will still be free to enforce and collect the Participant's rights or assets through the action of the [insert name of CB] pursuant to the Rules.

3.6.d. *Form and registration requirements*

There are no form requirements for the assignment for collateral purposes of, or the creation and enforcement of a pledge or repo over the Participant's rights or assets and it is not necessary for the [assignment for collateral purposes, pledge or repo, as applicable], or any particulars of such [assignment, pledge or repo, as applicable,] to be registered or filed with any court or governmental, judicial or public authority that is competent in [jurisdiction].

3.7 **Branches [to the extent applicable]**

3.7.a. *Opinion applies to action through branches*

Each of the statements and opinions presented above with regard to the Participant applies with equal accuracy and validity under the laws of [jurisdiction] in situations where the Participant acts through its one or more of its branches established outside [jurisdiction].

3.7.b. *Conformity with law*

Neither the execution and performance of the rights and obligations under the System Documents nor the submission, transmission or receipt of payment orders by a branch of the Participant will in any respect breach the laws of [jurisdiction].

3.7.c. *Required authorisations*

Neither the execution and performance of the rights and obligations under the System Documents nor the submission, transmission or receipt of payment orders by a branch of a Participant will require any additional authorisations, approvals, consents, filings, registrations, notarisations or other certifications of or with any court or governmental, judicial or public authority that is competent in [jurisdiction].

This Opinion is stated as of its date and is addressed solely to the [insert name of CB] and the [Participant]. No other persons may rely on this Opinion, and the contents of this Opinion may not be disclosed to persons other than its intended recipients and their legal counsel without our prior written consent, with the exception of the European Central Bank and the national central banks of the European System of Central Banks [and [the national central bank/relevant regulatory authorities] of [jurisdiction]].

Yours faithfully,

[signature]

Appendix IV

BUSINESS CONTINUITY AND CONTINGENCY PROCEDURES

1. **General provisions**

(a) This Appendix sets out the arrangements between the [insert name of CB] and participants, or ancillary systems, if one or more components of the SSP or the telecommunications network fail or are affected by an abnormal external event, or if the failure affects any participant or ancillary system.

(b) All references to specific times in this Appendix refer to European Central Bank time, i.e. the local time at the seat of the ECB.

2. **Measures of business continuity and contingency processing**

(a) In the event that an abnormal external event occurs and/or there is a failure of the SSP or the telecommunications network which affects the normal operation of TARGET2, the [insert name of CB] shall be entitled to adopt business continuity and contingency processing measures.

(b) The following main business continuity and contingency processing measures shall be available in TARGET2:

(i) relocating the operation of the SSP to an alternative site;

(ii) changing the SSP's operating hours; and

(iii) initiating contingency processing of very critical and critical payments, as defined in paragraph 6(c) and (d) respectively.

(c) In relation to business continuity and contingency processing measures, the [insert name of CB] shall have full discretion regarding whether and which measures are adopted to settle payment orders.

3. **Incident communication**

(a) Information about the failure of the SSP and/or an abnormal external event shall be communicated to participants through the domestic communication channels, the ICM and T2IS. In particular, communications to participants shall include the following information:

(i) a description of the event;

(ii) the anticipated delay in processing (if known);

(iii) information on the measures already taken; and

(iv) the advice to participants.

(b) In addition, the [insert name of CB] may notify participants of any other existing or anticipated event which has the potential to affect the normal operation of TARGET2.

4. **Relocation the operation of the SSP to an alternative site**

(a) In the event that any of the events referred to in paragraph 2(a) occurs, the operation of the SSP may be relocated to an alternative site, either within the same region or in another region.

(b) In the event that the operation of the SSP is relocated to another region, the participants shall use best efforts to reconcile their positions up to the point of the failure or the occurrence of the abnormal external event and provide to the [insert name of CB] all relevant information in this respect.

5. **Change of operating hours**

(a) The daytime processing of TARGET2 may be extended or the opening time of a new business day may be delayed. During any extended operating time of TARGET2, payment orders shall be processed in accordance with the [insert reference to arrangements implementing the Harmonised Conditions], subject to the modifications contained in this Appendix.

(b) Daytime processing may be extended and the closing time thereby delayed if an SSP failure has occurred during the day but has been resolved before 18.00. Such a closing time delay shall in normal circumstances not exceed two hours and shall be announced as early as possible to participants. If such a delay is announced before 16.50, the minimum period of one hour between the cut-off time for customer and interbank payment orders shall remain in place. Once such a delay is announced it may not be withdrawn.

(c) The closing time shall be delayed in cases where an SSP failure has occurred before 18:00 and has not been resolved by 18.00. The [insert name of CB] shall immediately communicate the delay of closing time to participants.

(d) Upon recovery of the SSP, the following steps shall take place:

(i) The [insert name of CB] shall seek to settle all queued payments within one hour; this time is reduced to 30 minutes in the event that the SSP failure occurs at 17.30 or later (in cases where the SSP failure was ongoing at 18.00).

(ii) Participants' final balances shall be established within one hour; this time shall be reduced to 30 minutes in the event that the SSP failure occurs at 17.30 or later, in cases where the SSP failure was ongoing at 18.00.

(iii) At the cut-off time for interbank payments, the end-of-day processing, including recourse to the Eurosystem standing facilities shall take place.

(e) Ancillary systems that require liquidity in the early morning need to have established means to cope with cases where the daytime processing cannot be started in time due to an SSP failure on the previous day.

6. **Contingency processing**

(a) If it deems it necessary to do so, the [insert name of CB] shall initiate the contingency processing of payment orders in the Contingency Module of the SSP. In such cases, only a minimum service level shall be provided to participants. The [insert name of CB] shall inform its participants of the start of contingency processing by means of any available means of communication.

(b) In contingency processing, payment orders shall be processed manually by the [insert name of CB].

(c) The following payments shall be considered as 'very critical' and the [insert name of CB] shall use best efforts to process them in contingency situations:

(i) CLS Bank International-related payments;

(ii) end-of-day settlement of EURO1; and

(iii) central counterparty margin calls.

(d) The following types of payments shall be considered as 'critical' and the [insert name of CB] may decide to initiate contingency processing in relation to them:

(i) payments in relation to the real-time settlement of interfaced securities settlement systems; and

(ii) additional payments, if required to avoid systemic risk.

(e) Participants shall submit payment orders for contingency processing and information to payees shall be provided through [insert communication means]. Information concerning account balances and debit and credit entries may be obtained via the [insert name of CB].

(f) Payment orders that have already been submitted to TARGET2-[insert CB/country reference], but are queued, may also undergo contingency processing. In such cases the [insert name of CB] shall endeavour to avoid the double processing of payment orders, but the participants shall bear the risk of such double processing if it occurred.

(g) For contingency processing of payment orders, participants shall provide additional collateral. During contingency processing, incoming contingency payments may be used to fund outgoing contingency payments. For the purposes of contingency processing, participants' available liquidity may not be taken into account by the [insert name of CB].

7. **Failures linked to participants or ancillary systems**

(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 lump sum payments and backup contingency payments (CLS, EURO1, STEP2 pre-fund).

(b) If a participant decides to use the ICM functionality for making backup lump sum payments, the [insert name of CB] shall, if the participant so requests, open this functionality via the ICM. If the participant so requests, the [insert name of CB] shall transmit an ICM broadcast message to inform other participants about the participant's use of backup lump sum payments. The participant shall be responsible for sending such backup lump sum payments 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.

(c) If the measures referred to in subparagraph (a) are exhausted or if they are inefficient, the participant may request support from the [insert name of CB].

(d) In the event that a failure affects an ancillary system, that ancillary system shall be responsible for resolving the failure. If the ancillary system so requests, the [insert name of CB] may act on its behalf. The [insert name of CB] shall have discretion to decide what support it gives to the ancillary system, including during the night-time operations of the ancillary system. The following contingency measures may be taken:

(i) the ancillary system initiates clean payments (i.e. payments that are not linked to the underlying transaction) via the Participant Interface;

(ii) the [insert name of CB] creates and/or processes XML instructions/files on behalf of the ancillary system; and/or

(iii) the [insert name of CB] makes clean payments on behalf of the ancillary system.

(e) The detailed contingency measures with respect to ancillary systems shall be contained in the bilateral arrangements between the [insert name of CB] and the relevant ancillary system.

8. **Other provisions**

(a) In the event that certain data are unavailable because one of the events referred to in paragraph 3(a) has occurred, the [insert name of CB] is entitled to start or continue processing payment orders and/or operate TARGET2-[insert CB/country reference] on the basis of the last available data, as determined by the [insert name of CB]. If so requested by the [insert name of CB], participants and ancillary systems shall resubmit their FileAct/Interact messages or take any other action deemed appropriate by the [insert name of CB].

(b) In the event of a failure of the [insert name of CB], some or all of its technical functions in relation to TARGET2-[insert CB/country reference] may be performed by other Eurosystem CBs.

(c) The [insert name of CB] may require that the participants participate in regular or ad hoc testing of business continuity and contingency processing measures, training or any other preventive arrangements, as deemed necessary by the [insert name of CB]. Any costs incurred by the participants as a result of such testing or other arrangements shall be borne solely by the participants.

Appendix V

OPERATING SCHEDULE

1. TARGET2 is open on all days, except Saturdays, Sundays, New Year's Day, Good Friday and Easter Monday (according to the calendar applicable at the seat of the ECB), 1 May, Christmas Day and 26 December.

2. The reference time for the system is European Central Bank time, i.e. the local time at the seat of the ECB.

3. The current business day is opened during the evening of the previous business day and operates to the following schedule:

Time	Description
6.45 - 7.00	Business window to prepare daytime operations (*)
7.00 - 18.00	Daytime processing
17.00	Cut-off time for customer payments (i.e. payments where the originator and/or the beneficiary of a payment is not a direct or indirect participant as identified in the system by the use of an MT 103 or MT 103+ message)
18.00	Cut-off time for interbank payments (i.e. payments other than customer payments)
18.00 - 18.45 (**)	End-of-day processing
18.15 (**)	General cut-off time for the use of standing facilities
(Shortly after) 18.30 (***)	Data for the update of accounting systems are available to CBs
18.45 - 19.30 (***)	Start-of-day processing (new business day)
19.00 (***) - 19.30 (**)	Provision of liquidity on the PM account
19.30 (***)	'Start-of-procedure' message and settlement of the standing orders to transfer liquidity from the PM accounts to the sub-account(s)/mirror account (ancillary system-related settlement)
19.30 (***) - 22.00	Execution of additional liquidity transfers via the ICM before the ancillary system sends the 'start-of-cycle' message; settlement period of night-time ancillary system operations (only for ancillary system settlement procedure 6, as referred to in Annex IV)
22.00 - 1.00	Technical maintenance period
1.00 - 6.45	Settlement procedure of night-time ancillary system operations (only for ancillary system settlement procedure 6)

(*) Daytime operations means daytime processing and end-of-day processing.
(**) Ends 15 minutes later on the last day of the reserve maintenance period.
(***) Starts 15 minutes later on the last day of the reserve maintenance period.

4. The ICM is available for liquidity transfers from 19.30 ([1]) until 18.00 the next day, except during the technical maintenance period from 22.00 until 1.00.

5. The operating hours may be changed in the event that business continuity measures are adopted in accordance with paragraph 5 of Appendix IV.

([1]) Starts 15 minutes later on the last day of the reserve maintenance period.

Appendix VI

FEE SCHEDULE AND INVOICING

Fees for direct participants

1. The monthly fee for the processing of payment orders in TARGET2-[insert CB/country reference] for direct participants, depending on which option the direct participant has chosen, shall be either:

   (a) EUR 100 per PM account plus a flat fee per transaction (debit entry) of EUR 0,80; or

   (b) EUR 1 250 per PM account plus a fee per transaction (debit entry) determined as follows, based on the volume of transactions (number of processed items) per month:

Band	From	To	Price
1	1	10 000	EUR 0,60
2	10 001	25 000	EUR 0,50
3	25 001	50 000	EUR 0,40
4	50 001	100 000	EUR 0,20
5	Above 100 000	—	EUR 0,125

   Liquidity transfers between a participant's PM account and its sub-accounts shall not be subject to a charge.

2. The monthly fee for multi-addressee access shall be EUR 80 for each 8-digit BIC address other than the BIC of the direct participant's account.

3. There shall be an additional monthly fee for direct participants who do not wish the BIC of their account to be published in the TARGET2 directory of EUR 30 per account.

4. The fee for each registration by a direct participant of an indirect participant in the TARGET2 directory shall be EUR 20.

5. The fee for each registration in the TARGET2 directory of an addressable BIC holder, including branches of direct and indirect participants shall be EUR 5.

Fees for liquidity pooling

6. For the CAI mode, the monthly fee shall be EUR 100 for each account included in the group.

7. For the AL mode, the monthly fee shall be EUR 200 for each account included in the AL group. If the AL group uses the CAI mode, accounts not included in the AL mode shall pay the CAI monthly fee of EUR 100 per account.

8. For both the AL mode and the CAI mode, the degressive transaction fee structure set out in the table in paragraph 1(b) shall apply to all payments by the participants in the group, as if these payments were sent from one participant's account.

9. The monthly fee of EUR 1 250 referred to in paragraph 1(b) shall be paid by the relevant group manager, and the monthly fee of EUR 100 referred to in paragraph 1(a) shall be paid by all other members of the group. If an AL group is part of a CAI group, and the AL group manager is the same as the CAI group manager, the monthly fee of EUR 1 250 shall only be paid once. If the AL group is a part of a CAI group and the CAI group manager is different from the AL group manager, then the CAI group manager shall pay an additional monthly fee of EUR 1 250. In such cases the invoice for the total fees for all the accounts in the CAI group (including the AL group accounts) shall be sent to the CAI group manager.

Invoicing

10. In the case of direct participants, the following invoicing rules apply. The direct participant (the AL group or CAI group manager in the event that the AL or CAI modes are used) shall receive the invoice for the previous month specifying the fees to be paid, no later than on the fifth business day of the following month. Payment shall be made at the latest on the tenth working day of that month to the account specified by the [insert name of CB] and shall be debited from that participant's PM account.

Appendix VII

AGGREGATED LIQUIDITY AGREEMENT — VARIANT A

Template for use of the AL mode by more than one credit institution

Between, on the one hand:

[participant], holder of PM account(s) No [.....], with [insert name of CB] represented by [.....], acting as [.....],

[participant], holder of PM account(s) No [.....], with [insert name of CB] represented by [.....], acting as [.....],

[participant], holder of PM account(s) No [.....], with [insert name of CB] represented by [.....], acting as [.....],

(hereinafter the 'AL group members')

and on the other hand,

[insert name of AL NCB]

[insert name of AL NCB]

[insert name of AL NCB]

(hereinafter the 'AL NCBs')

(AL group members and AL NCBs hereinafter collectively referred to as the 'Parties')

Whereas:

(1) TARGET2 is legally structured as a multiplicity of payment systems, each of which is designated as a system under the relevant national legislation implementing Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems ([1]).

(2) Participants in one or more TARGET2 component systems may, under certain conditions laid down in the respective conditions for participation in TARGET2 component systems, set up an AL group, whereby the liquidity on the PM accounts of the AL group members is aggregated.

(3) Aggregation of liquidity enables the AL group members to settle payment orders for an amount exceeding the available liquidity on their respective PM accounts, provided that the total value of all such payment orders never exceeds the aggregate amount of the available liquidity on all such PM accounts. The resulting debit position on one or more of these PM accounts constitutes intraday credit, the provision of which is governed by the respective national arrangements, subject to the modifications described in this agreement; in particular, such debit position is collateralised with the available liquidity on the PM accounts of other AL group members.

(4) The effect of this mechanism is in no way to merge the various PM accounts, which, subject to the limitations described in this agreement, continue to be exclusively held by their respective holders.

(5) Such a mechanism aims to avoid the fragmentation of liquidity in the different TARGET2 component systems and simplify the liquidity management within a group of credit institutions.

(6) This mechanism improves the overall efficiency of settlement of payments in TARGET2.

(7) [Participant], [participant] and [participant] are respectively connected to TARGET2-[insert CB/country reference], TARGET2-[insert CB/country reference], and TARGET2-[insert CB/country reference] and are bound by the [insert reference to the arrangement(s) implementing the Harmonised Conditions] of [insert relevant dates],

([1]) OJ L 166, 11.6.1998, p. 45.

Now, therefore, the Parties agree the following:

Article 1

Effectiveness of this agreement

This agreement and any amendment made hereto shall only be effective when the managing NCB, after having obtained any information or documents that it deems appropriate, confirms in writing that this agreement or amendments thereto comply with the requirements laid down in the respective conditions for participation in the TARGET2 component systems.

Article 2

Mutual interest of AL group members and of AL NCBs

1. The AL group members expressly declare and acknowledge that their entry into this agreement serves their mutual economic, social and financial interests since the payment orders of all AL group members may be settled in their respective TARGET2 component systems, up to an amount corresponding to the available liquidity on all the AL group members' PM accounts, thereby leveraging the liquidity available in other TARGET2 component systems.

2. The AL NCBs have a mutual interest in providing intraday credit to the AL group members, as this promotes the overall efficiency of settling payments in TARGET2. The intraday credit is collateralised in accordance with Article 18 of the Statute of the European System of Central Banks and of the European Central Bank since the debit balance resulting from the execution of a payment order is covered by the available liquidity on the PM accounts held by the other AL group members with their respective AL NCBs, which are collateralised for the discharge of the obligations owed by any of the AL group members to the AL NCBs.

Article 3

AL group members' rights and obligations

1. AL group members shall be jointly and severally liable towards all AL NCBs in relation to all claims resulting from the settlement in their respective TARGET2 component system of the payment order of any AL group member. AL group members shall not be entitled to rely on any internal group arrangements on the division of liabilities to avoid any liability to the AL NCBs in relation to the aggregation of all abovementioned liabilities.

2. The total value of all payment orders settled by the AL group members on their PM accounts may never exceed the aggregate amount of all available liquidity on all such PM accounts.

3. AL group members shall be authorised to use the CAI mode, as described in the [insert the reference to the arrangement (s) implementing the Harmonised Conditions].

4. The AL group members shall ensure that there is an internal agreement between them containing *inter alia:*

(a) the rules of internal organisation of the AL group;

(b) the conditions under which the AL group manager has a duty to report to the AL group members;

(c) the costs of the AL mode (including their allocation between AL group members); and

(d) the fees to be paid as remuneration between the AL group members for the services under the AL agreement and the rules for calculating the financial consideration.

With the exception of subparagraph (d), the AL group members may decide whether or not to disclose this internal agreement or parts of it to the AL NCBs. The AL group members shall disclose information referred to in subparagraph (d) to the AL NCBs.

Article 4

AL NCBs' rights and obligations

1. When an AL group member submits a payment order to its respective TARGET2 component system for an amount exceeding the available liquidity on that AL group member's PM account, its respective AL NCB shall extend intraday credit that is collateralised with the available liquidity on other PM accounts held by the AL group member with its respective AL NCB or on the PM accounts held by the other AL group members with their respective AL NCBs. Such intraday credit shall be governed by the rules applicable to the provision of intraday credit by such AL NCB.

2. Payment orders submitted by any of the AL group members which have the effect of exceeding the available liquidity on all PM accounts of the AL group members shall be queued until sufficient liquidity is available.

3. Except on the opening of insolvency proceedings against one or more AL group members, an AL NCB may claim from each of the AL group members the full discharge of all obligations resulting from the settlement of payment orders of any AL group member in the latter's TARGET2 component system.

Article 5

Designation and role of the AL group manager

1. The AL group members hereby designate as AL group manager [indicate the participant designated as AL group manager], which shall be the contact point for all administrative matters relating to the AL group.

2. All AL group members shall provide their respective AL NCB, as well as the AL group manager, with any information which may affect the validity, enforceability and implementation of this agreement, including, without limitation, any modification or ending of the links between the AL group members needed to comply with the definition of a group laid down in the [insert reference to the relevant provisions in the arrangement(s) implementing the Harmonised Conditions], the occurrence of any events of default within the meaning of the [insert reference to the arrangement(s) implementing the Harmonised Conditions] or any event which may affect the validity and/or enforceability of the [insert reference to the pledge, close-out netting provisions or any other relevant provisions of the arrangement(s) implementing the Harmonised Conditions].

3. The AL group manager shall immediately convey to the managing NCB any information described in paragraph 2 relating to itself or to any other AL group member.

4. The AL group manager shall be responsible in respect of intraday monitoring of the liquidity available within the AL group.

5. The AL group manager shall have power of attorney over the PM accounts of the AL group members and, in particular, shall act as agent of the AL group members in respect of the following operations:

(a) any ICM operations in respect of the AL group members' PM accounts, including, but not limited to, any change in priority of a payment order, revocation, change of settlement time, liquidity transfers (including from and to sub-accounts), reordering of queued transactions, reservation of liquidity in respect of the AL group, and setting and changes of limits in respect of the AL group;

(b) aall end-of-day liquidity transactions between the PM accounts of the AL group members ensuring that all balances of the AL group members' PM accounts are levelled out, so that none of these accounts have a debit balance at the end of the day or, where applicable, a debit balance not secured by eligible collateral (hereinafter such procedure is referred to as 'levelling out');

(c) general instructions according to which automatic levelling out shall be performed, i.e. defining the sequence of AL group members' PM accounts with available liquidity to be debited within the levelling out;

(d) in the absence of any explicit instructions by the AL group manager, as set out in subparagraphs (b) and (c), automatic levelling out shall be performed starting with the PM account with the highest credit balance towards the PM account with the highest debit balance.

The same criteria as defined in subparagraphs (c) and (d) shall be used if an enforcement event, as defined in [insert reference to the relevant provisions in the arrangement(s) implementing the Harmonised Conditions], occurs.

6. The AL group members explicitly waive any rights they may have against the AL group manager under [insert, if applicable, a reference to the relevant provision of national law], resulting from the combination of such manager's capacity as a PM account holder and AL group member with its capacity as AL group manager.

Article 6

Role of the managing NCB

1. The managing NCB shall be the contact point for all administrative matters relating to the AL group.

2. All of the AL NCBs shall immediately provide the managing NCB with any information relating to their respective AL group member(s) which may affect the validity, enforceability and implementation of this agreement, including, but not limited to, any modification or ending of the links between the AL group members needed to comply with the definition of a group, the occurrence of any events of default within the meaning of the [insert reference to the arrangement(s) implementing the Harmonised Conditions] or events which may affect the validity and/or enforceability of the [insert

reference to the pledge, close-out netting or any other relevant provisions of the arrangement(s) implementing the Harmonised Conditions].

3. The managing NCB shall have access to all relevant information in respect of all PM accounts of the AL group members, including, but not limited to, information in respect of any credit line, the balance, total turnover, settled payments, queued payments, as well as information on the AL group members' limits and liquidity reservations.

Article 7

Duration and termination of this agreement

1. This agreement shall be of unlimited duration.

2. Each of the AL group members may unilaterally terminate its participation in this agreement, provided it gives 14 business days' written notice to the AL NCB in whose TARGET2 component system it participates and to the managing NCB. The managing NCB shall confirm to that AL group member the date of its termination of participation in the AL agreement and shall communicate such date to all AL NCBs which shall inform their AL group members accordingly. If that AL group member was the AL group manager, the remaining AL group members shall immediately appoint a new AL group manager.

3. This agreement or the participation of any AL group member in this agreement, as the case may be, shall automatically be terminated without prior notice and with immediate effect if one or more of the following events occurs:

(a) modification or ending of the links between all AL group members needed to comply with the definition of a group, as laid down in the [insert reference to the arrangement(s) implementing the Harmonised Conditions], or affecting one or more AL group members; and/or

(b) any other requirements for using the AL mode, as described in the [insert reference to the arrangement(s) implementing the Harmonised Conditions] are no longer met by all AL group members, or one or more AL group members.

4. Notwithstanding the occurrence of any of the events described in paragraph 3, a payment order that has already been submitted by any AL group member into the relevant TARGET2 component system shall remain valid and enforceable in respect of all AL group members and the AL NCBs. [Insert if relevant: In addition, the [insert reference to pledge and/or close-out netting or other relevant security arrangement] shall remain valid after the termination of this agreement until all debit positions on the PM accounts whose liquidity was aggregated are fully discharged by the AL group members.]

5. Without prejudice to paragraph 3, the managing NCB, in agreement with the relevant AL NCB, may at any time terminate without prior notice and with immediate effect the participation of any AL group member in this agreement if such AL group member is in breach of any of the provisions hereof. Such decision shall be addressed in writing to all the AL group members setting out the reasons for the decision. If participation is terminated in this way, the AL group members whose participation in this agreement has not been terminated are entitled to terminate their participation in this agreement provided that they give the managing NCB and the relevant AL NCB five business days' written notice thereof. If the AL group manager's participation is terminated, the remaining AL group members shall immediately appoint a new AL group manager.

6. The managing NCB, in agreement with the other AL NCBs, may terminate this agreement without prior notice and with immediate effect if the maintenance of it would endanger the overall stability, soundness and safety of TARGET2 or jeopardise the performance by the AL NCBs of their tasks pursuant to the Statute of the European System of Central Banks and of the European Central Bank. Any decision to do so shall be addressed in writing to the AL group members, setting out the reasons for the decision.

7. This agreement shall remain valid for as long as there are at least two AL group members.

Article 8

Amendment procedure

Any change to this agreement, including the extension of the AL group to other participants, shall only be valid and enforceable if expressly agreed to by all parties in writing.

Article 9

Governing law

This agreement shall be governed, construed and implemented in accordance with the [insert reference to the law governing the PM account of the AL group manager held with the managing NCB]. This shall be without prejudice to:

(a) the relationship between an AL group member and its respective AL NCB governed by the law of the respective AL NCB; and

(b) the rights and obligations between the AL NCBs governed by the law of the AL NCB which maintains the PM account of the AL group member whose available liquidity is used as collateral.

Article 10

Application of the [insert reference to the arrangement(s) implementing the Harmonised Conditions]

1. In relation to each of the AL group members and their respective AL NCBs, the relevant provisions of the [insert reference to the arrangement(s) implementing the Harmonised Conditions] shall govern any matter not expressly governed by this agreement.

2. [Insert reference to the arrangement(s) implementing the Harmonised Conditions] and this agreement shall be deemed to form part of the same contractual relationship.

Made, in as many copies as there are parties, the [*...date*….]

AGGREGATED LIQUIDITY AGREEMENT — VARIANT B

Template for use of the AL mode by one credit institution

Between, on the one hand: [name and address of a credit institution] represented by [.....], acting as

[participant], holder of PM account(s) No [.....], with [insert name of CB],

[participant], holder of PM account(s) No [.....], with [insert name of CB],

[participant], holder of PM account(s) No [.....], with [insert name of CB],

(the participants hereinafter mentioned as the 'AL group members')

and on the other hand,

[insert name of AL NCB]

[insert name of AL NCB]

[insert name of AL NCB]

(hereinafter the 'AL NCBs')

(AL group members and AL NCBs hereinafter collectively referred to as the 'Parties')

Whereas:

(1) TARGET2 is legally structured as a multiplicity of payment systems, each of which is designated as a system under the relevant national legislation implementing Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems ([2]).

(2) A credit institution with several PM accounts in one or more TARGET2 component systems may, under certain conditions laid down in the respective conditions for participation in TARGET2 component systems, set up an AL group, whereby the liquidity on such PM accounts of the AL group members is aggregated.

([2]) OJ L 166, 11.6.1998, p. 45.

(3) Aggregation of liquidity enables the AL group members to settle payment orders for an amount exceeding the available liquidity on one PM account, provided that the total value of all such payment orders never exceeds the aggregate amount of the available liquidity on all PM accounts of the AL group members. The resulting debit position on one or more of these PM accounts constitutes intraday credit, the provision of which is governed by the respective national arrangements, subject to the modifications described in this agreement; in particular, such debit position is collateralised with the available liquidity on all PM accounts of the AL group members.

(4) The effect of this mechanism is in no way to merge the various PM accounts, which, subject to the limitations described in this agreement, continue to be separately held by the AL group members.

(5) Such a mechanism aims to avoid the fragmentation of liquidity in the different TARGET2 component systems and simplify the liquidity management of the AL group members.

(6) This mechanism improves the overall efficiency of settlement of payments in TARGET2.

(7) [Participant], [participant] and [participant] are respectively connected to TARGET2-[insert CB/country reference], TARGET2-[insert CB/country reference], and TARGET2-[insert CB/country reference] and are bound by the [insert reference to the arrangement(s) implementing the Harmonised Conditions] of [insert relevant dates],

Now, therefore, the Parties agree the following:

Article 1

Effectiveness of this agreement

This agreement and any amendment made hereto shall only be effective when the managing NCB, after having obtained any information or documents that it deems appropriate, confirms in writing that this agreement or amendments thereto comply with the requirements laid down in the respective conditions for participation in TARGET2 component systems.

Article 2

Mutual interest of AL NCBs

The AL NCBs have a mutual interest in providing intraday credit to the AL group members, as this promotes the overall efficiency of settling payments in TARGET2. The intraday credit is collateralised in accordance with Article 18 of the Statute of the European System of Central Banks and of the European Central Bank since the debit balance resulting from the execution of a payment order is covered by the available liquidity on the PM accounts held by the AL group members with their respective AL NCBs, which are collateralised for the discharge of the obligations owed by the AL group members to the AL NCBs.

Article 3

AL group members' rights and obligations

1. AL group members shall be liable towards all AL NCBs in relation to all claims resulting from the settlement in their respective TARGET2 component systems of the payment orders of any AL group member.

2. The total value of all payment orders settled by the AL group members on their PM accounts may never exceed the aggregate amount of the available liquidity on all such PM accounts.

3. The AL group members shall be authorised to use the consolidated account information (CAI) mode, as described in the [insert the reference to the arrangement(s) implementing the Harmonised Conditions].

Article 4

AL NCBs' rights and obligations

1. When the AL group member submits a payment order to a TARGET2 component system for an amount exceeding the available liquidity on that AL group member's PM account, the relevant AL NCB shall extend intraday credit that is collateralised with the available liquidity on other PM accounts held by the AL group member with its respective AL NCB or on PM accounts held by other AL group members with their respective AL NCBs. Such intraday credit shall be governed by the rules applicable to the provision of intraday credit by such AL NCBs.

2. Payment orders submitted by the AL group members which have the effect of exceeding the available liquidity on all PM accounts of the AL group members shall be queued until sufficient liquidity is available.

3. Each AL NCB may claim from the AL group members the full discharge of all obligations resulting from the settlement of payment orders of the AL group members in the TARGET2 component systems in which they hold PM accounts.

Article 5

Designation and role of the AL group manager

1. The AL group members hereby designate as AL group manager [indicate the participant designated as AL group manager], which shall be the contact point for all administrative matters relating to the AL group.

2. The AL group members shall provide the relevant AL NCBs with any information which may affect the validity, enforceability and implementation of this agreement, including, without limitation, the occurrence of any events of default within the meaning of the [insert reference to the relevant provisions in the arrangement(s) implementing the Harmonised Conditions] or any event which may affect the validity and/or enforceability of the [insert reference to the pledge, close-out netting provisions or any other relevant provisions of the arrangement(s) implementing the Harmonised Conditions].

3. The AL group manager shall immediately convey to the managing NCB any information described in paragraph 2.

4. The AL group manager shall be responsible in respect of intraday monitoring of the liquidity available within the AL group.

5. The AL group manager shall have power of attorney over all PM accounts of the AL group members and, in particular, shall conduct the following operations:

(a) any ICM operations in respect of the AL group members' PM accounts, including, but not limited to, any change in priority of a payment order, revocation, change of settlement time, liquidity transfers (including from and to sub-accounts), reordering of queued transactions, reservation of liquidity in respect of the AL group, and setting and changes of limits in respect of the AL group;

(b) aall end-of-day liquidity transactions between the PM accounts of the AL group members ensuring that all balances of the AL group members' PM accounts are levelled out, so that none of these accounts have a debit balance at the end of the day or, where applicable, a debit balance not secured by eligible collateral (hereinafter such procedure is referred to as 'levelling out');

(c) general instructions according to which an automatic levelling out shall be performed, i.e. defining the sequence of AL group members' PM accounts with available liquidity to be debited within the levelling out;

(d) in the absence of any explicit instructions by the AL group manager, as set out in subparagraphs (b) and (c), an automatic levelling out shall be performed starting with the PM account with the highest credit balance towards the PM account with the highest debit balance.

The same criteria as defined in subparagraphs (c) and (d) shall be used if an enforcement event, as defined in [insert reference to the relevant provisions in the arrangement(s) implementing the Harmonised Conditions], occurs.

Article 6

Role of the managing NCB

1. The managing NCB shall be the contact point for all administrative matters relating to the AL group.

2. All of the AL NCBs shall immediately provide the managing NCB with any information relating to the AL group member which may affect the validity, enforceability and implementation of this agreement, including, but not limited to, the occurrence of any events of default within the meaning of the [insert reference to the relevant provisions in the arrangement(s) implementing the Harmonised Conditions] or events which may affect the validity and/or enforceability of the [insert reference to the pledge, close-out netting or any other relevant provisions of the arrangement(s) implementing the Harmonised Conditions].

3. The managing NCB shall have access to all relevant information in respect of all PM accounts of the AL group members, including, but not limited to, information in respect of any credit line, the balance, total turnover, settled payments, queued payments, as well as information on the AL group members' limits and liquidity reservations.

Article 7

Duration and termination of this agreement

1. This agreement shall be of unlimited duration.

2. Each of the AL group members may unilaterally terminate its participation in this agreement, provided it gives 14 business days' written notice to the AL NCB in whose TARGET2 component system it participates and to the managing NCB. The managing NCB shall confirm to the AL group member the date of its termination of participation in the AL agreement and shall communicate such date to all AL NCBs which shall inform their AL group members accordingly. If that AL group member was the AL group manager, the remaining AL group members shall immediately appoint a new AL group manager.

3. This agreement shall automatically be terminated without prior notice and with immediate effect if the requirements for using the AL mode, as described in the [insert reference to the arrangement(s) implementing the Harmonised Conditions] are no longer met.

4. Notwithstanding the occurrence of an event described in paragraph 3, a payment order that has already been submitted by the AL group member into the relevant TARGET2 component system shall remain valid and enforceable in respect of all AL group members and the AL NCBs. [Insert if relevant: In addition, the [insert reference to pledge and/or close-out netting or other relevant security arrangement] shall remain valid after the termination of this agreement until all debit positions on the PM accounts whose liquidity was aggregated are fully discharged by the AL group members.]

5. Without prejudice to paragraph 3, the managing NCB, in agreement with the AL NCBs, may at any time terminate this agreement if any AL group member is in breach of any of the provisions hereof. Such decision shall be addressed in writing to all the AL group members setting out the reasons for the decision.

6. The managing NCB, in agreement with the other AL NCBs, may terminate this agreement if the maintenance of it would endanger the overall stability, soundness and safety of TARGET2 or jeopardise the performance by the AL NCBs of their tasks pursuant to the Statute of the European System of Central Banks and of the European Central Bank. Any decision to terminate this agreement shall be addressed in writing to the AL group members, setting out the reasons for the decision.

Article 8

Amendment procedure

Any change to this agreement, including the extension of the AL group to other participants, shall only be valid and enforceable if expressly agreed to by all parties in writing.

Article 9

Governing law

This agreement shall be governed, construed and implemented in accordance with the [insert reference to the law governing the PM account of the AL group manager]. This shall be without prejudice to:

(a) the relationship between the AL group members and their respective AL NCBs governed by the law of the respective AL NCB; and

(b) the rights and obligations between the AL NCBs governed by the law of the AL NCB which maintains the PM account in which available liquidity is used as collateral.

Article 10

Application of the [insert reference to the arrangement(s) implementing the Harmonised Conditions]

1. In relation to each of the PM accounts of the AL group members, the relevant provisions of the [insert reference to the arrangement(s) implementing the Harmonised Conditions] shall govern any matter not expressly governed by this agreement.

2. The [insert reference to the arrangement(s) implementing the Harmonised Conditions] and this agreement shall be deemed to form part of the same contractual relationship.

Made, in as many copies as there are parties, the [...*date*….]

ANNEX III

PROVISION OF INTRADAY CREDIT

Definitions

For the purposes of this Annex:

— 'Banking Directive' means Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) ([1]),

— 'credit institution' means a credit institution within the meaning of Articles 2 and 4(1)(a) of the Banking Directive, as implemented in national law, that is subject to supervision by a competent authority,

— 'marginal lending facility' means a Eurosystem standing facility which counterparties may use to receive overnight credit from an NCB at the pre-specified marginal lending rate,

— 'marginal lending rate' means the interest rate applicable to the marginal lending facility,

— 'branch' means a branch within the meaning of Article 4(3) of the Banking Directive, as implemented in national law,

— '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 ([2]) (now Articles 101 and 103(1)),

— 'investment firm' means an investment firm within the meaning of Article 4(1)(1) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC ([3]), excluding the institutions specified in Article 2(1) of Directive 2004/39/EC, provided that the investment firm in question is: (a) authorised and supervised by a recognised competent authority, which has been designated as such under Directive 2004/39/EC; and (b) entitled to carry out the activities referred to under items 2, 3, 6 and 7 of Section A of Annex I to Directive 2004/39/EC,

— 'close links' means close links within the meaning of Chapter 6 of Annex I to Guideline ECB/2000/7 of 31 August 2000 on monetary policy instruments and procedures of the Eurosystem ([4]),

— 'insolvency proceedings' means insolvency proceedings within the meaning of Article 2(j) of Directive 98/26/EC,

— 'event of default' means any impending or existing event, the occurrence of which may threaten the performance by an entity of its obligations under the national arrangements implementing this Guideline or any other rules applying to the relationship between that entity and any of the Eurosystem CBs, including:

  (a) where the entity no longer meets the access criteria and/or technical requirements laid down in Annex II;

  (b) the opening of insolvency proceedings in relation to the entity;

  (c) the submission of an application relating to the proceedings referred to in subparagraph (b);

  (d) the issue by the entity of a written declaration of its inability to pay all or any part of its debts or to meet its obligations arising in relation to intraday credit;

  (e) the entry of the entity into a voluntary general agreement or an arrangement with its creditors;

  (f) where the entity is, or is deemed by the relevant participating NCB to be, insolvent or unable to pay its debts;

([1]) OJ L 177, 30.6.2006, p. 1.
([2]) OJ L 332, 31.12.1993, p. 1.
([3]) OJ L 145, 30.4.2004, p. 1.
([4]) OJ L 310, 11.12.2000, p. 1.

(g) where the entity's credit balance on its PM account or all or a substantial part of the entity's assets are subject to a freezing order, attachment, seizure or any other procedure that is intended to protect the public interest or the rights of the entity's creditors;

(h) where participation of the entity in a TARGET2 component system and/or in an ancillary system has been suspended or terminated;

(i) where any material representation or pre-contractual statement made by the entity or which is implied to have been made by the entity under the applicable law is incorrect or untrue; or

(j) the assignment of all or a substantial part of the entity's assets.

Eligible entities

1. Each participating NCB shall provide intraday credit to the entities referred to in paragraph 2 and which have an account with the relevant participating NCB. However, no intraday credit may be granted to an entity established in a country other than the Member State in which the seat of the participating NCB with which that entity has an account is located.

2. Intraday credit may only be granted to the following entities:

(a) credit institutions established in the EEA that are eligible counterparties for Eurosystem monetary policy operations and have access to the marginal lending facility, including when those credit institutions act through a branch established in the EEA and including branches established in the EEA of credit institutions that are established outside the EEA;

(b) credit institutions established in the EEA that are not eligible counterparties for Eurosystem monetary policy operations and/or do not have access to the marginal lending facility, including when they act through a branch established in the EEA and including branches established in the EEA of credit institutions that are established outside the EEA;

(c) treasury departments of central or regional governments of Member States active in the money markets and public sector bodies of Member States authorised to hold accounts for customers;

(d) investment firms established in the EEA provided that they have concluded an arrangement with a Eurosystem monetary policy counterparty to ensure that any residual debit position at the end of the relevant day is covered; and

(e) entities other than those falling within subparagraphs (a) and (b) that provide clearing or settlement services, which are established in the EEA and are subject to oversight by a competent authority, provided that the arrangements for granting intraday credit to such entities have been submitted to the Governing Council in advance and have been approved by the Governing Council.

3. For the entities mentioned in paragraph 2(b) to (e), intraday credit shall be limited to the day in question and no extension to overnight credit shall be possible.

Eligible collateral

4. Intraday credit shall be based on eligible collateral and granted by means of collateralised intraday overdrafts and/or intraday repurchase transactions in compliance with the minimum common features that the Governing Council specifies with respect to Eurosystem monetary policy operations. Eligible collateral shall consist of the same assets and instruments as eligible assets for Eurosystem monetary policy operations, and shall be subject to the same valuation and risk control rules as those laid down in Annex I to Guideline ECB/2000/7.

5. Debt instruments issued or guaranteed by the entity, or by any other third party with which the entity has close links, may only be accepted as eligible collateral in the situations laid down in Section 6.2 of Annex I to Guideline ECB/2000/7.

6. The Governing Council may, upon a proposal by the relevant participating NCB, exempt the treasury departments referred to in paragraph 2(c) from the requirement to provide adequate collateral before obtaining intraday credit.

Credit extension procedure

7. Access to intraday credit may only be granted on business days.

8. Intraday credit shall be provided free of interest.

9. The failure by an entity referred to in paragraph 2(a) to reimburse the intraday credit at the end of the day shall automatically be considered as a request by such entity for recourse to the marginal lending facility.

10. The failure by an entity referred to in paragraph 2(b), (d) or (e) to reimburse the intraday credit at the end of the day for whatever reason shall render that entity liable to the following penalties:

    (a) if the entity in question has a debit balance on its account at the end of the day for the first time within any twelve-month period, then this entity shall incur penalty interest calculated at a rate of five percentage points above the marginal lending rate on the amount of such debit balance;

    (b) if the entity in question has a debit balance on its account at the end of the day for at least the second time within the same twelve-month period, then the penalty interest mentioned in subparagraph (a) shall be increased by 2,5 percentage points for each time additional to the first that a debit position has occurred within this twelve-month period.

11. The Governing Council may decide to waive or reduce the penalties imposed pursuant to paragraph 10, if the end-of-day debit balance of the entity in question is attributable to *force majeure* and/or technical malfunction of TARGET2, the latter phrase as defined in Annex II.

Suspension or termination of intraday credit

12. Participating NCBs shall suspend or terminate access to intraday credit if an event of default and/or one of the following events occurs:

    (a) the account of the entity with the participating NCB is suspended or closed;

    (b) the entity concerned ceases to meet any of the requirements laid down in this Annex for the provision of intraday credit.

13. Where a participating NCB suspends or terminates a Eurosystem monetary policy counterparty's access to intraday credit, such suspension or termination shall not take effect until the ECB has approved it.

14. By derogation from paragraph 13, in urgent circumstances a participating NCB may suspend a Eurosystem monetary policy counterparty's access to intraday credit with immediate effect. In such cases the participating NCB concerned shall immediately notify the ECB thereof in writing. The ECB shall have the power to reverse the participating NCB's action. However, if the ECB does not send the participating NCB notice of such reversal within ten business days of the ECB's receipt of notification, the ECB shall be deemed to have approved the participating NCB's action.

ANNEX IV

SETTLEMENT PROCEDURES FOR ANCILLARY SYSTEMS

1. **Definitions**

For the purposes of this Annex and further to the definitions in Article 2:

— 'credit instruction' means a payment instruction submitted by an AS and addressed to the ASCB to debit one of the accounts kept and/or managed by the AS in the PM, and to credit a settlement bank's PM account or sub-account by the amount specified therein,

— 'debit instruction' means a payment instruction addressed to the SCB and submitted by an AS to debit a settlement bank's PM account or sub-account by the amount specified therein, on the basis of a debit mandate, and to credit either one of the AS's accounts in the PM or another settlement bank's PM account or sub-account,

— 'payment instruction' or 'AS payment instruction' means a credit instruction or a debit instruction,

— 'ancillary system central bank (ASCB)' means the Eurosystem CB with which the relevant AS has a bilateral arrangement for the settlement of AS payment instructions in the PM,

— 'settlement central bank (SCB)' means a Eurosystem CB holding a settlement bank's PM account,

— 'settlement bank' means a participant whose PM account or sub-account is used to settle AS payment instructions,

— 'Information and Control Module (ICM)' means the SSP module that allows participants to obtain on-line information and gives them the possibility to submit liquidity transfer orders, manage liquidity and initiate payment orders in contingency situations,

— 'ICM broadcast message' means information made simultaneously available to all or a selected group of TARGET2 participants via the ICM,

— 'debit mandate' means an authorisation by a settlement bank in the form provided by the Eurosystem CBs in the static data forms addressed to both its AS and its SCB, entitling the AS to submit debit instructions, and instructing the SCB to debit the settlement bank's PM account or sub-account as a result of debit instructions,

— 'short' means owing money during the settlement of AS payment instructions,

— 'long' means being owed money during the settlement of AS payment instructions.

2. **Role of SCBs**

Each Eurosystem CB shall act as the SCB in relation to any settlement bank for which it holds a PM account.

3. **Management of relationship between CBs, ASs and settlement banks**

(1) The ASCBs shall ensure that the ASs with which they have bilateral arrangements provide a list of settlement banks containing the settlement banks' PM account details, which the ASCB shall store in the Static Data (Management) Module of the SSP. Any AS may access the list of its respective settlement banks via the ICM.

(2) The ASCBs shall ensure that the ASs with which they have bilateral arrangements inform them without delay of any changes with regard to the list of settlement banks. The ASCBs shall inform the relevant SCB regarding any such changes via an ICM broadcast message.

(3) The ASCBs shall ensure that the ASs with which they have bilateral arrangements collect the debit mandates and other relevant documents from their settlement banks and submit them to the ASCB. Such documents shall be provided in English and/or the ASCB's relevant national language(s). If the ASCB's national language(s) is/are not

identical with the SCB's national language(s), the necessary documents shall be provided in English only or both in English and in the ASCB's relevant national language(s). In the case of ASs that settle via TARGET2-ECB, the documents shall be provided in English.

(4) If a settlement bank is a participant in the relevant ASCB's TARGET2 component system, the ASCB shall verify the validity of the debit mandate given by the settlement bank and make any necessary entries in the Static Data (Management) Module. If a settlement bank is not a participant in the relevant ASCB's TARGET2 component system, the ASCB shall forward the debit mandate (or an electronic copy thereof, if so agreed between ASCB and SCB) to the relevant SCB(s) for verification of its validity. The SCB(s) shall perform such verification and shall inform the relevant ASCB of the outcome of verification within five business days after receipt of such request. After verification, the ASCB shall update the list of settlement banks in the ICM.

(5) The verification undertaken by the ASCB shall be without prejudice to the AS's responsibility to restrict payment instructions to the list of settlement banks referred to in subparagraph 1.

(6) Unless they are one and the same, the ASCBs and SCBs shall exchange information regarding any significant event during the settlement process.

4. **Initiation of payment instructions via the ASI**

(1) All payment instructions submitted by an AS via the ASI shall be in the form of XML messages.

(2) All payment instructions submitted by an AS via the ASI shall be considered as 'highly urgent' and shall be settled in accordance with the provisions laid down in Annex II.

(3) A payment instruction shall be deemed accepted if:

(a) the payment instruction complies with the rules established by the network service provider;

(b) the payment instruction complies with the formatting rules and conditions of the ASCB's TARGET2 component system;

(c) the settlement bank is on the list of settlement banks referred to in paragraph 3(1); and

(d) in the event that a settlement bank's participation in TARGET2 has been suspended, the explicit consent of the SCB of the suspended settlement bank has been obtained.

5. **Entry of payment instructions into the system and their irrevocability**

(1) Credit instructions shall be deemed to be entered in the relevant TARGET2 component system at the moment and irrevocable from the moment that they are accepted by the ASCB. Debit instructions shall be deemed to be entered in the relevant TARGET2 component system at the moment and irrevocable from the moment that they are accepted by the SCB.

(2) The application of subparagraph 1 shall not have any effect on any rules of ASs which stipulate a moment of entry into the AS and/or irrevocability of transfer orders submitted to such AS at a point in time earlier than the moment of entry of the respective payment instruction in the relevant TARGET2 component system.

6. **Settlement procedures**

(1) If an AS requests use of a settlement procedure, the ASCB concerned shall offer one or more of the settlement procedures specified below:

(a) settlement procedure 1 (liquidity transfer);

(b) settlement procedure 2 (real-time settlement);

(c) settlement procedure 3 (bilateral settlement);

(d) settlement procedure 4 (standard multilateral settlement);

(e) settlement procedure 5 (simultaneous multilateral settlement);

(f) settlement procedure 6 (dedicated liquidity).

(2) The SCBs shall support the settlement of AS payment instructions in accordance with the choice of settlement procedures referred to in subparagraph 1 by, *inter alia,* settling payment instructions on the settlement banks' PM accounts or sub-accounts.

(3) Further details relating to the settlement procedures referred to in subparagraph 1 are contained in paragraphs 9 to 14.

7. **No obligation to open PM account**

ASs shall not be obliged to become direct participants in a TARGET2 component system or to maintain a PM account while using the ASI.

8. **Accounts to support settlement procedures**

(1) In addition to PM accounts, the following types of accounts may be opened in the PM and used by ASCBs, ASs and settlement banks for the settlement procedures referred to in paragraph 6(1):

(a) technical accounts,

(b) mirror accounts,

(c) guarantee fund accounts,

(d) sub-accounts.

(2) When an ASCB offers settlement procedure 4, 5 or 6 for interfaced models, it shall open a technical account in its TARGET2 component system for the ASs concerned. Such accounts may be offered by the ASCB as an option for settlement procedures 2 and 3. Separate technical accounts shall be opened in respect of settlement procedures 4 and 5. The balance on technical accounts shall be zero or positive at the end of the relevant AS's settlement process and the end-of-day balance shall be zero. Technical accounts shall be identified by means of the relevant AS's BIC.

(3) When offering settlement procedure 1 or 6 for integrated models, an ASCB shall, and when offering settlement procedure 3 or 6 for interfaced models, an ASCB may open mirror accounts in its TARGET2 component system. Mirror accounts are specific PM accounts held by the ASCB in its TARGET2 component system for use by the AS. Mirror accounts are identified by the relevant ASCB's BIC.

(4) When offering settlement procedure 4 or 5, an ASCB may open a guarantee fund account in its TARGET2 component system for ASs. The balances of these accounts shall be used to settle the AS's payment instructions in the event that there is no available liquidity on the settlement bank's PM account. Guarantee fund account holders may be ASCBs, ASs or guarantors. Guarantee fund accounts are identified by the relevant accounts holder's BIC.

(5) When settlement procedure 6 is offered by an ASCB for interfaced models, SCBs shall open one or more sub-accounts in their TARGET2 component systems for settlement banks, to be used for dedicating liquidity. Sub-accounts shall be identified by the BIC of the PM account to which they relate, in combination with an account number that is specific to the relevant sub-account. The account number is composed of the country code plus up to 32 characters (depending on the relevant national bank account structure).

(6) The accounts referred to in subparagraph 1(a) to (d) shall not be published in the TARGET2 directory. If so requested by the participant, the relevant statements of accounts (MT 940 and MT 950) for all such accounts may be provided to the account holder at the end of every business day.

(7) The detailed rules on the opening of the account types mentioned in this paragraph and on their application while supporting the settlement procedures may be further specified in bilateral arrangements between the ASs and the ASCBs.

9. **Settlement procedure 1 — Liquidity transfer**

(1) When offering settlement procedure 1, the ASCBs and SCBs shall support the liquidity transfer from a mirror account to a settlement bank's PM account via the ASI. The liquidity transfer can be initiated either by the AS or by the ASCB acting on the AS's behalf.

(2) Settlement procedure 1 shall only be used for the integrated model where the relevant AS has to use a mirror account, firstly to collect the necessary liquidity that has been dedicated by its settlement bank and, secondly, to transfer this liquidity back to the PM account of the settlement bank.

(3) The ASCBs may offer the settlement of payment instructions within certain time limits to be defined by the AS, as referred to in paragraph 15(2) and (3).

(4) The settlement banks and ASs shall have access to information via the ICM. The ASs shall be notified on completion or failure of the settlement. If the AS initiates the liquidity transfer from the mirror account to the settlement bank's PM account, the settlement bank shall be informed of the crediting via a SWIFT MT 202 message.

10. **Settlement procedure 2 — Real-time settlement**

(1) When offering settlement procedure 2, the ASCBs and SCBs shall support the settlement of the cash leg of AS transactions by settling payment instructions submitted by the AS on an individualised basis, rather than in batches. If a payment instruction to debit a short settlement bank's PM account is queued in line with Annex II, the SCB concerned shall inform the settlement bank via an ICM broadcast message.

(2) Settlement procedure 2 may also be offered to the AS for the settlement of multilateral balances and in such cases the ASCB shall open a technical account for such AS. Furthermore, the ASCB shall not offer the AS the service of properly managing the sequence of incoming and outgoing payments as may be required for such multilateral settlement. The AS itself shall assume responsibility for the necessary sequencing.

(3) The ASCB may offer the settlement of payment instructions within certain time limits to be defined by the AS, as referred to in paragraph 15(2) and (3);

(4) The settlement banks and ASs shall have access to information via the ICM. The ASs shall be notified on completion or failure of the settlement. If they so request, settlement banks shall be notified of the successful settlement via a SWIFT MT 900 or MT 910 message.

11. **Settlement procedure 3 — Bilateral settlement**

(1) When offering settlement procedure 3, the ASCBs and SCBs shall support settlement of the cash leg of AS transactions by settling payment instructions which the AS submits in batch mode. If a payment instruction to debit a short settlement bank's PM account is queued in line with Annex II, the SCB concerned shall inform this settlement bank via an ICM broadcast message.

(2) Settlement procedure 3 may also be offered to the AS for the settlement of multilateral balances. Paragraph 10(2) shall apply *mutatis mutandis*, subject to the modifications that:

(a) payment instructions: (i) to debit the short settlement banks' PM accounts and credit the AS's technical account; and (ii) to debit the AS's technical account and credit the long settlement banks' PM accounts are submitted in separate files; and

(b) the long settlement banks' PM accounts shall be credited only after all short settlement banks' PM accounts are debited.

(3) If multilateral settlement fails (for example, because not all collections from short settlement banks' accounts are successful), the AS shall submit payment instructions in order to reverse already settled debit transactions.

(4) The ASCBs may offer:

(a) the settlement of payment instructions within certain time limits defined by the AS, as referred to in paragraph 15(3); and/or

(b) the 'information period' functionality, as referred to in paragraph 15(1).

(5) The settlement banks and ASs shall have access to information via the ICM. The ASs shall be notified on completion or failure of the settlement. If they so request, settlement banks shall be notified of the successful settlement via a SWIFT MT 900 or MT 910 message.

12. **Settlement procedure 4 — Standard multilateral settlement**

(1) When offering settlement procedure 4, the ASCBs and SCBs shall support the settlement of multilateral cash balances of AS transactions by settling payment instructions submitted by the AS in batch mode. The ASCBs shall open a specific technical account for such an AS.

(2) The ASCBs and SCBs shall ensure the required sequencing of payment instructions. They shall only book credits if all debits have been collected successfully. Payment instructions: (a) to debit short settlement banks' accounts and credit the AS's technical account; and (b) to credit long settlement banks' accounts and debit the AS's technical account are submitted in a single file.

(3) Payment instructions to debit the short settlement banks' PM account and to credit the AS's technical account will be settled first; only upon settlement of all such payment instructions (including possible funding of the technical account by a guarantee fund mechanism), the PM accounts of the long settlement banks shall be credited.

(4) If a payment instruction to debit a short settlement bank's PM account is queued in line with Annex II, the SCBs shall inform such settlement bank via an ICM broadcast message.

(5) If a short settlement bank has insufficient funds on its PM account, a guarantee fund mechanism shall be activated by the ASCB if that is provided for in the bilateral arrangement between the ASCB and the AS.

(6) If no guarantee fund mechanism is provided for and the entire settlement fails, then the ASCBs and SCBs shall be deemed to have been instructed to return all payment instructions in the file and shall reverse payment instructions which have already been settled.

(7) The ASCBs shall inform settlement banks of a settlement failure via an ICM broadcast message.

(8) The ASCBs may offer:

(a) the settlement of payment instructions within certain time limits defined by the AS, as referred to in paragraph 15(3);

(b) the 'information period' functionality, as referred to in paragraph 15(1);

(c) a guarantee fund mechanism, as referred to in paragraph 15(4).

(9) The settlement banks and ASs shall have access to information via the ICM. ASs shall be notified on completion or failure of the settlement. If they so request, settlement banks shall be notified of the successful settlement via a SWIFT MT 900 or MT 910 message.

13. **Settlement procedure 5 — Simultaneous multilateral settlement**

(1) When offering settlement procedure 5, the ASCBs and SCBs shall support the settlement of multilateral cash balances of AS transactions by settling payment instructions submitted by the AS. In order to settle relevant payment instructions Algorithm 4 shall be used (see Appendix I of Annex II). Unlike in settlement procedure 4, settlement procedure 5 operates on an 'all-or-nothing' basis. In this procedure the debiting of short settlement banks' PM accounts and the crediting of long settlement banks' PM accounts shall be done simultaneously (rather than sequentially, as in settlement procedure 4). Paragraph 12 shall apply *mutatis mutandis* subject to the following modification. If one or more of the payment instructions cannot be settled, all payment instructions shall be queued, and Algorithm 4, as described in paragraph 16(1), shall be repeated in order to settle the AS's payment instructions in the queue.

(2) The ASCBs may offer:

(a) the settlement of payment instructions within certain time limits defined by the AS, as referred to in paragraph 15(3);

(b) the 'information period' functionality, as referred to in paragraph 15(1);

(c) a guarantee fund mechanism, as referred to in paragraph 15(4).

(3) The settlement banks and ASs shall have access to information via the ICM. The ASs shall be notified on completion or failure of the settlement. If they so request, settlement banks shall be notified of successful settlement via a SWIFT MT 900 or 910 message.

(4) If a payment instruction to debit a short settlement bank's PM account is queued in line with Annex II, the SCB concerned shall inform the settlement banks via an ICM broadcast message.

14. **Settlement procedure 6 — Dedicated liquidity**

(1) Settlement procedure 6 can be used for both the interfaced and the integrated model, as described in subparagraphs 3 to 10 and 11 to 13 below, respectively. In the case of the integrated model, the relevant AS has to use a mirror account to collect the necessary liquidity set aside by its settlement banks. In the case of the interfaced model, the settlement bank has to open at least one sub-account relating to a specific AS.

(2) If they so request, the settlement banks shall be notified via a SWIFT MT 900 or MT 910 message of the crediting and debiting of their PM accounts and, if applicable, of their sub-accounts.

(A) *Interfaced model*

(3) When offering settlement procedure 6, the ASCBs and SCBs shall support the settlement of bilateral and/or multilateral cash balances of AS transactions by:

(a) enabling a settlement bank to pre-fund its prospective settlement obligation through liquidity transfers from its PM account into its sub-account (hereinafter 'dedicated liquidity') prior to the AS processing; and

(b) settling the AS's payment instructions subsequent to the completion of the AS processing: in relation to short settlement banks by debiting their sub-accounts (within the limits of the funds provided on such account) and crediting the AS's technical account and in relation to long settlement banks by crediting their sub-accounts and debiting the AS's technical account.

(4) When offering settlement procedure 6:

(a) the SCBs shall open at least one sub-account in relation to a single AS for each settlement bank; and

(b) the ASCB shall open a technical account for the AS for: (i) crediting funds collected from the sub-accounts of the short settlement banks; and (ii) debiting funds when making credits to the dedicated sub-accounts of the long settlement banks.

(5) Settlement procedure 6 shall be offered both for daytime processing and night-time operations of ASs. In the latter case, the new business day shall start immediately upon fulfilment of the minimum reserve requirements; any debit or credit made on the relevant accounts thereafter shall be for value of the new business day.

(6) Under settlement procedure 6 and with regard to dedicating liquidity, the ASCBs and SCBs shall offer the following types of liquidity transfer service into and from the sub-account:

(a) standing orders which settlement banks may submit or modify at any time during a business day via the ICM (when it is available). Standing orders submitted after the sending of the 'start-of-procedure' message on a given business day shall be valid only for the next business day. If there are several standing orders to

credit different sub-accounts, they shall be settled in the order of their amount, starting with the highest. During night-time ancillary system operations, if there are standing orders for which there are insufficient funds on the PM account, such orders shall be settled following a pro-rata reduction of all orders;

(b) current orders, which may only be submitted either by a settlement bank (via the ICM) or the relevant AS via an XML message during the running of settlement procedure 6 (identified by the time span from the 'start-of-procedure' to the 'end-of-procedure' message) and which will be settled only as long as the AS processing cycle has not yet started. If there is a current order submitted by the AS for which there are insufficient funds on the PM account, such order shall be partially settled; and

(c) SWIFT orders that go via an MT 202 message, which may only be submitted during the running of settlement procedure 6 and only during daytime processing. Such orders shall be settled immediately. In the case of a running cycle, this shall be done without the AS being notified.

(7) Settlement procedure 6 shall start by means of a 'start-of-procedure' message and finish by means of an 'end-of-procedure' message, with both messages to be sent by the AS. However, for night-time ancillary system operations, the 'start-of-procedure' message is sent by the ASCB. 'Start-of-procedure' messages shall trigger the settlement of standing orders for the transfer of liquidity into the sub-accounts. The 'end-of-procedure' message leads to an automatic retransfer of liquidity from the sub-account to the PM account.

(8) Under settlement procedure 6, dedicated liquidity on the sub-accounts shall be frozen as long as the AS processing cycle is running (starting with a 'start-of-cycle' message and ending with an 'end-of-cycle' message, both to be sent by the AS) and released thereafter.

(9) Within each AS processing cycle, payment instructions shall be settled out of dedicated liquidity whereby Algorithm 5 (as referred to in Appendix I of Annex II) shall be used as a rule.

(10) Within each AS processing cycle, a settlement bank's dedicated liquidity can be increased via the crediting of certain incoming payments directly to its sub-accounts (i.e. coupons and redemption payments). In such cases, the liquidity first has to be credited on the technical account, then debited from such account before crediting the liquidity on the sub-account (or on the PM account).

(B) *Integrated model*

(11) When offering settlement procedure 6 for integrated models, the ASCBs and SCBs shall support such settlement. In the event that settlement procedure 6 is used for the integrated model during daytime processing, only limited functionality is offered.

(12) Under settlement procedure 6 and with regard to the integrated model, the ASCBs and SCBs shall offer the following types of liquidity transfer service into a mirror account:

(a) standing orders (for daytime processing and for night-time ancillary system operations), which settlement banks may submit or modify at any time during a business day via the ICM (when it is available). Standing orders submitted after the sending of the 'start-of-procedure' message on a given business day shall be valid only for the next business day. If there are several standing orders, they shall be settled in the order of their amount, starting with the highest. If a standing order for daytime processing is not covered, it will be rejected. During night-time ancillary system operations, if there are standing orders for which there are insufficient funds on the PM account, such orders shall be settled following a pro-rata reduction of all orders;

(b) current orders, which may only be submitted either by a settlement bank (via the ICM) or the relevant AS via an XML message during the running of settlement procedure 6 (identified by the time span from the 'start-of-procedure' to the 'end-of-procedure' message) and which will only be settled provided that the AS processing cycle has not yet started. If there is a current order for which there are insufficient funds on the PM account, such order shall be partially settled; and

(c) SWIFT orders that go via an MT 202 message, which may only be submitted during daytime processing. Such orders shall be settled immediately.

(13) The rules regarding the 'start-of-procedure' and 'end-of-procedure' messages, as well as regarding the start and end of cycle for the interfaced model shall apply *mutatis mutandis*.

15. **Optional connected mechanisms**

(1) The optional connected mechanism 'Information period' may be offered by the ASCBs for settlement procedures 3, 4 and 5. If the AS (or its ASCB on its behalf) has specified an optional 'information period' time, the settlement bank shall receive an ICM broadcast message indicating the time until which the settlement bank may request a reversal of the relevant payment instruction. Such request shall be taken into account by the SCB only if it is communicated via and approved by the AS. The settlement shall start if the SCB does not receive such request until the 'Information Period' time has elapsed. Upon receipt by the SCB of such request within the 'Information Period':

(a) when settlement procedure 3 is used for bilateral settlement, the relevant payment instruction shall be reversed; and

(b) when settlement procedure 3 is used for the settlement of multilateral balances, or if in settlement procedure 4 the entire settlement fails, all payment instructions in the file shall be reversed and all settlement banks and the AS shall be informed via an ICM broadcast message.

(2) If an AS sends the settlement instructions before the scheduled settlement time ('from'), the instructions are stored until the scheduled time is reached. In this case, the payment instructions are only submitted to the entry disposition when the 'from' time is reached. This optional mechanism can be used in settlement procedures 1 and 2.

(3) The settlement period ('till') makes it possible to allocate a limited period of time for AS settlement in order not to prevent or delay the settlement of other AS-related or TARGET2 transactions. If any payment instruction is not settled until the 'till' time is reached, these payment instructions are either returned or, in the case of settlement procedures 4 and 5, the guarantee fund mechanism may be activated. The settlement period ('till') can be specified for settlement procedures 1 to 5.

(4) The guarantee fund mechanism may be used if a settlement bank's liquidity is insufficient to cover its obligations stemming from AS settlement. In order to allow the settlement of all payment instructions involved in an AS settlement, this mechanism is used to provide the complementary liquidity needed. This mechanism may be used for settlement procedures 4 and 5. If the guarantee fund mechanism is to be used, it is necessary to maintain a special guarantee fund account where 'emergency liquidity' is available or made available on demand.

16. **Algorithms used**

(1) Algorithm 4 supports settlement procedure 5. To facilitate settlement and to reduce the liquidity needed, all AS payment instructions are included (regardless of their priority). AS payment instructions to be settled following settlement procedure 5 bypass the entry disposition and are kept in the PM separately until the end of the current optimisation process. In the same run of Algorithm 4, several ASs using settlement procedure 5 will be included if they intend to settle at the same time.

(2) In settlement procedure 6, the settlement bank can dedicate a liquidity amount to settle balances coming from a specific AS. Dedication is brought about by setting aside the necessary liquidity on a specific sub-account (interfaced model). Algorithm 5 is used both for night-time ancillary system operations and daytime processing. The settlement process takes place by means of debiting the short settlement banks' sub-accounts in favour of the AS technical account and then debiting the AS technical account in favour of the long settlement banks' sub-accounts. In the case of credit balances the booking can take place directly — if indicated by the AS within the relevant transaction — on the settlement bank's PM account. If the settlement of one or more debit instructions is unsuccessful (i.e. as the result of an AS's error), the payment concerned is queued on the sub-account. Settlement procedure 6 can make use of Algorithm 5 running on sub-accounts. Furthermore, Algorithm 5 does not have to take account of any limits or reservations. For every settlement bank the total position is calculated and if all total positions are covered, all transactions will be settled. Transactions which are not covered are put back into the queue.

17. **Effect of suspension or termination**

If suspension or termination of the use of the ASI by an AS takes effect during the settlement cycle of AS payment instructions, the ASCB shall be deemed to be authorised to complete the settlement cycle on behalf of the AS.

18. **Fee schedule and invoicing**

(1) An ancillary system using the ASI or the Participant Interface, irrespective of the number of any accounts it may hold with the ASCB and/or the SCB, shall be subject to a fee schedule consisting of three elements, as set out below.

(a) A fixed monthly fee of EUR 1 000 to be charged to each AS (Fixed Fee I).

(b) A second monthly fixed fee of between EUR 417 and EUR 4 167, in proportion to the underlying gross value of the AS's euro cash settlement transactions (Fixed Fee II):

Band	From (EUR million/day)	To (EUR million/day)	Annual fee	Monthly fee
1	0	below 1 000	EUR 5 000	EUR 417
2	1 000	below 2 500	EUR 10 000	EUR 833
3	2 500	below 5 000	EUR 20 000	EUR 1 667
4	5 000	below 10 000	EUR 30 000	EUR 2 500
5	10 000	below 50 000	EUR 40 000	EUR 3 333
6	Above 50 000	—	EUR 50 000	EUR 4 167

The gross value of the AS's euro cash settlement transactions shall be calculated by the ASCB once a year on the basis of such gross value during the previous year and the calculated gross value shall be applied for calculating the fee as from 1 January of each calendar year.

(c) A transaction fee calculated on the same basis as the schedule established for TARGET2 participants in Appendix VI of Annex II. The AS may choose one of the two options: either to pay a flat EUR 0,80 fee per payment instruction (Option A) or to pay a fee calculated on a degressive basis (Option B), subject to the following modifications:

— for Option B, the limits of the bands relating to volume of payment instructions are divided by two, and

— a monthly fixed fee of EUR 100 (under Option A) or EUR 1 250 (under Option B) shall be charged in addition to Fixed Fee I and Fixed Fee II.

(2) Any fee payable in relation to a payment instruction submitted or payment received by an AS, via either the Participant Interface or the ASI, shall be exclusively charged to this AS. The Governing Council may establish more detailed rules for the determination of billable transactions settled via the ASI.

(3) Each AS shall receive an invoice from its respective ASCB for the previous month based on the fees referred to in subparagraph 1, no later than the fifth business day of the following month. Payments shall be made no later than the tenth business day of this month to the account specified by the ASCB or shall be debited from an account specified by the AS.

(4) For the purposes of this paragraph, each AS that has been designated under Directive 98/26/EC shall be treated separately, even if two or more of them are operated by the same legal entity. The same rule shall apply to the ASs that have not been designated under Directive 98/26/EC, in which case the ASs shall be identified by reference to the following criteria: (a) a formal arrangement, based on a contractual or legislative instrument (e.g. an agreement among the participants and the system operator); (b) with multiple membership; (c) common rules and standardised arrangements; and (d) for the clearing, netting and/or settlement of payments and/or securities between the participants.

DECISION OF THE EUROPEAN CENTRAL BANK

of 24 July 2007

concerning the terms and conditions of TARGET2-ECB

(ECB/2007/7)

(2007/601/EC)

THE EXECUTIVE BOARD OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular the fourth indent of Article 105(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,

Whereas:

(1) A single monetary policy entails the need for a payment arrangement through which the monetary policy operations between the national central banks (NCBs) and credit institutions can be effected in a timely and secure manner, and which fosters the singleness of the money market within the euro area.

(2) The original Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET) is being replaced by TARGET2, which is characterised by a single technical platform called the Single Shared Platform (SSP). TARGET2 will continue to fulfil the same underlying purposes as TARGET, providing a sound and efficient mechanism, functioning on the basis of the SSP, to settle payments in euro.

(3) The Governing Council adopted Guideline ECB/2007/2 of 26 April 2007 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) ([1]).

(4) The European Central Bank (ECB) will participate in TARGET2 in order to process the ECB's own payments and the payments of its customers in TARGET2, and to supply through TARGET2 settlement services to clearing and settlement organisations, including entities established outside the European Economic Area (EEA), provided that they are subject to oversight by a competent authority and their access to TARGET2-ECB has been approved by the Governing Council.

(5) The ECB may only accept central banks and European and international organisations as customers.

(6) The ECB may only grant intraday credit in accordance with this Decision to customers that are European or international organisations.

(7) The Governing Council has decided that the rules of the TARGET2 component systems will be harmonised to the greatest extent possible and made public,

HAS DECIDED AS FOLLOWS:

Article 1

Scope

1. TARGET2-ECB may only:

a) process the ECB's own payments;

b) process payments of customers of the ECB; and

c) supply settlement services to clearing and settlement organisations, including entities established outside the EEA, provided that they are subject to oversight by a competent authority and their access to TARGET2-ECB has been approved by the Governing Council.

2. The ECB may only accept central banks and European and international organisations as customers.

Article 2

Intraday credit

1. The ECB may only grant intraday credit to customers that are European or international organisations through overdrafts on such customers' account(s). Overdrafts shall not at any time during the day exceed the amount defined in the agreement with the customer for each of the accounts. Intraday credit granted by the ECB shall remain limited to the day in question, with no possibility of an extension to overnight credit.

2. Any granting of intraday credit by the ECB shall be done in accordance with the rules on the provision of intraday credit laid down in Annex III to Guideline ECB/2007/2.

Article 3

Terms and conditions of TARGET2-ECB

The terms and conditions of TARGET2-ECB shall be those contained in the Annex to this Decision.

([1]) See page 1 of this Official Journal

Article 4

Entry into force

1. This Decision shall enter into force on 19 May 2008.

2. Decision ECB/1999/NP 3 of 16 March 1999 on the European Central Bank Payment Mechanism and Decision ECB/2003/NP 2 of 28 January 2003 amending Decision ECB/1999/NP3 on the European Central Bank Payment Mechanism shall be repealed with effect from the date of entry into force of this Decision and references to Decisions ECB/1999/NP3 and ECB/2003/NP2 shall be construed as references to this Decision.

Done at Frankfurt am Main, 24 July 2007.

The President of the ECB

Jean-Claude TRICHET

ANNEX

TERMS AND CONDITIONS OF TARGET2-ECB

TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of these Terms and Conditions (hereinafter the 'Conditions'), the following definitions apply:

— 'addressable BIC holder' means an entity which: (a) holds a Bank 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,

— 'ancillary system (AS)' means a system managed by an entity that is subject to supervision and/or oversight by a competent authority, in which payments and/or financial instruments are exchanged and/or cleared while the resulting monetary obligations are settled in TARGET2 in accordance with Guideline ECB/2007/2 and a bilateral arrangement between the ancillary system and the relevant CB,

— 'ancillary system central bank (ASCB)' means the Eurosystem CB with which the relevant AS has a bilateral arrangement for the settlement of AS payment instructions in the PM,

— 'Ancillary System Interface (ASI)' means the technical device allowing an AS to use a range of special, predefined services for the submission and settlement of AS payment instructions,

— 'available liquidity' (or 'liquidity') means a credit balance on a TARGET2 participant's PM account and, if applicable, any intraday credit line granted by the relevant CB in relation to such account,

— 'Banking Directive' means Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) ([1]);

— 'Bank Identifier Code (BIC)' means a code as defined by ISO Standard No 9362,

— 'branch' means a branch within the meaning of § 24a of the Gesetz über das Kreditwesen (KWG, German Law on banking),

— 'business day' means any day on which TARGET2 is open for the settlement of payment orders, as set out in Appendix V,

— 'capacity opinion' means a participant-specific opinion that contains an assessment of a participant's legal capacity to enter into and carry out its obligations under these Conditions,

— 'central banks (CBs)' means the Eurosystem CBs and the connected CBs,

— 'connected CB' means a national central bank (NCB), other than a Eurosystem CB, which is connected to TARGET2 pursuant to a specific agreement,

— 'Contingency Module' means the SSP module enabling the processing of critical and very critical payments in contingency situations,

— 'credit institution' means a credit institution within the meaning of § 1(1) of the KWG,

— 'credit instruction' means a payment instruction submitted by an AS and addressed to the ASCB to debit one of the accounts kept and/or managed by the AS in the PM, and to credit a settlement bank's PM account or sub-account by the amount specified therein,

— 'credit transfer order' means an instruction by a payer to make funds available to a payee by means of a book entry on a PM account,

([1]) OJ L 177, 30.6.2006, p. 1.

— 'debit instruction' means a payment instruction addressed to the SCB and submitted by an AS to debit a settlement bank's PM account or sub-account by the amount specified therein, on the basis of a debit mandate, and to credit either one of the AS's accounts in the PM or another settlement bank's PM account or sub-account,

— 'direct debit authorisation' means a general instruction by a payer to its CB entitling and obliging that CB to debit the payer's account upon a direct debit instruction from a payee,

— 'direct debit instruction' means an instruction from a payee submitted to its CB pursuant to which the CB of the payer debits the payer's account by the amount specified in the instruction, on the basis of a direct debit authorization,

— 'debit mandate' means an authorisation by a settlement bank in the form provided by the Eurosystem CBs in the static data forms addressed to both its AS and its SCB, entitling the AS to submit debit instructions, and instructing the SCB to debit the settlement bank's PM account or sub-account as a result of debit instructions,

— 'entry disposition' means a payment processing phase during which TARGET2-ECB attempts to settle a payment order which has been accepted pursuant to Article 12, by means of specific procedures, as described in Article 18,

— 'Eurosystem CB' means the ECB or the NCB of a Member State that has adopted the euro,

— 'event of default' means any impending or existing event, the occurrence of which may threaten the performance by a participant of its obligations under these Conditions or any other rules applying to the relationship between that participant and the ECB or any other CB, including:

  (a) where the participant no longer meets the access criteria laid down in Article 4 or the requirements laid down in Article 6(1)(i);

  (b) the opening of insolvency proceedings in relation to the participant;

  (c) the submission of an application relating to the proceedings referred to in subparagraph (b);

  (d) the issue by the participant of a written declaration of its inability to pay all or any part of its debts or to meet its obligations arising in relation to intraday credit;

  (e) the entry of the participant into a voluntary general agreement or arrangement with its creditors;

  (f) where the participant is, or is deemed by its CB to be, insolvent or unable to pay its debts;

  (g) where the participant's credit balance on its PM account or all or a substantial part of the participant's assets are subject to a freezing order, attachment, seizure or any other procedure that is intended to protect the public interest or the rights of the participant's creditors;

  (h) where participation of the participant in another TARGET2 component system and/or in an ancillary system has been suspended or terminated;

  (i) where any material representation or pre-contractual statement made by the participant or which is implied to have been made by the participant under the applicable law is incorrect or untrue; or

  (j) the assignment of all or a substantial part of the participant's assets;

— 'Information and Control Module (ICM)' means the SSP module that allows participants to obtain on-line information and gives them the possibility to submit liquidity transfer orders, manage liquidity and initiate backup payment orders in contingency situations,

— 'ICM broadcast message' means information made simultaneously available to all or a selected group of TARGET2 participants via the ICM,

— 'indirect participant' means a credit institution established in the European Economic Area (EEA), which has entered into an agreement with a direct participant to submit payment orders and receive payments via such direct participant's PM account, and which has been recognised by a TARGET2 component system as an indirect participant,

— 'insolvency proceedings' means insolvency proceedings within the meaning of Article 2(j) of the Settlement Finality Directive,

— 'instructing participant' means a TARGET2 participant that has initiated a payment order,

— 'intraday credit' means credit extended for a period of less than one business day,

— 'liquidity transfer order' means a payment order, the main purpose of which is to transfer liquidity between different accounts of the same participant,

— 'marginal lending facility' means a Eurosystem standing facility which counterparties may use to receive overnight credit from a Eurosystem CB at the pre-specified marginal lending rate,

— 'marginal lending rate' means the interest rate applicable to the marginal lending facility,

— 'multi-addressee access' means the facility by which branches or credit institutions established in the EEA can access the relevant TARGET2 component system by submitting payment orders and/or receiving payments directly to and from the TARGET2 component system; this facility authorises these entities to submit their payment orders through the direct participant's PM account without that participant's involvement,

— 'network service provider' means the undertaking appointed by the ECB's Governing Council to provide computerised network connections for the purpose of submitting payment messages in TARGET2,

— 'non-settled payment order' means a payment order that is not settled on the same business day as that on which it is accepted,

— 'participant' (or 'direct participant') means an entity that holds at least one PM account with the ECB,

— 'Participant Interface (PI)' means the technical device allowing direct participants to submit and settle payment orders via the services offered in the PM,

— 'payee' means a TARGET2 participant whose PM account will be credited as a result of a payment order being settled,

— 'payer' means a TARGET2 participant whose PM account will be debited as a result of a payment order being settled,

— 'payment instruction' or 'AS payment instruction' means a credit instruction or a debit instruction,

— 'payment order' means a credit transfer order, a liquidity transfer order or a direct debit instruction,

— 'Payments Module (PM)' means an SSP module in which payments of TARGET2 participants are settled on PM accounts,

— 'PM account' means an account held by a TARGET2 participant in the PM with a CB which is necessary for such TARGET2 participant to:

  (a) submit payment orders or receive payments via TARGET2; and

  (b) settle such payments with such CB;

— '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 ([1]) (now Articles 101 and 103(1)),

— 'settlement bank' means a participant whose PM account or sub-account is used to settle AS payment instructions,

— 'settlement central bank (SCB)' means a Eurosystem CB holding a settlement bank's PM account,

— 'Settlement Finality Directive' means Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems ([2]);

— 'Single Shared Platform (SSP)' means the single technical platform infrastructure provided by the SSP-providing CBs,

— 'SSP-providing CBs' means the Deutsche Bundesbank, the Banque de France and the Banca d'Italia in their capacity as the CBs building and operating the SSP for the Eurosystem's benefit,

— 'static data collection form' means a form developed by the ECB for the purpose of registering applicants for TARGET2-ECB services and registering any changes in relation to the provision of such services,

— 'suspension' means the temporary freezing of the rights and obligations of a participant for a period of time to be determined by the ECB,

([1]) OJ L 332, 31.12.1993, p. 1.
([2]) OJ L 166, 11.6.1998, p. 45.

— 'TARGET2-ECB' means the TARGET2 component system of the ECB,

— 'TARGET2' means the entirety resulting from all TARGET2 component systems of the CBs,

— 'TARGET2 component system' means any of the CBs' real-time gross settlement (RTGS) systems that form part of TARGET2,

— 'TARGET2 CUG' means a subset of the network service provider's customers grouped for the purpose of their use of the relevant services and products of the network service provider when accessing the PM,

— 'TARGET2 participant' means any participant in any TARGET2 component system,

— 'technical malfunction of TARGET2' means any difficulty, defect or failure in the technical infrastructure and/or the computer systems used by TARGET2-ECB, or any other event that makes it impossible to execute and complete the same-day processing of payments in TARGET2-ECB or, during the migration period, payments from national RTGS systems that have not yet migrated to TARGET2 and vice versa.

Article 2

Appendices

1. The following Appendices form an integral part of these Conditions:

Appendix I: Technical specifications for the processing of payment orders

Appendix II: TARGET2 compensation scheme

Appendix III: Terms of reference for capacity and country opinions

Appendix IV: Business continuity and contingency procedures

Appendix V: Operating schedule

Appendix VI: Fee schedule and invoicing

2. In the event of any conflict or inconsistency between the content of any appendix and the content of any other provision in these Conditions, the latter shall prevail.

Article 3

General description of TARGET2-ECB and TARGET2

1. TARGET2 provides real-time gross settlement for payments in euro, with settlement in central bank money.

2. The following payment orders are processed in TARGET2-ECB:

(a) payment orders directly resulting from or made in connection with Eurosystem monetary policy operations;

(b) settlement of the euro leg of foreign exchange operations involving the Eurosystem;

(c) settlement of euro transfers resulting from transactions in cross-border large-value netting systems;

(d) settlement of euro transfers resulting from transactions in euro retail payment systems of systemic importance; and

(e) any other payment orders in euro addressed to TARGET2 participants.

3. TARGET2 is established and functions on the basis of the SSP. The Eurosystem specifies the SSP's technical configuration and features. The SSP services are provided by the SSP-providing CBs for the benefit of the Eurosystem CBs, pursuant to separate agreements.

4. The ECB is the provider of services under these Conditions. Acts and omissions of the SSP-providing CBs shall be considered acts and omissions of the ECB, for which it shall assume liability in accordance with Article 25 below. Participation pursuant to these Conditions shall not create a contractual relationship between participants and the SSP-providing CBs when the latter act in that capacity. Instructions, messages or information which a participant receives from, or sends to, the SSP in relation to the services provided under these Conditions are deemed to be received from, or sent to, the ECB.

5. TARGET2 is legally structured as a multiplicity of payment systems composed of all the TARGET2 component systems, which are designated as 'systems' under the national laws implementing the Settlement Finality Directive. TARGET2-ECB is designated as a 'system' under § 1(16) of the KWG.

6. Participation in TARGET2 takes effect via participation in a TARGET2 component system. These Conditions describe the mutual rights and obligations of participants in TARGET2-ECB and the ECB. The rules on the processing of payment orders (Title IV) refer to all payment orders submitted or payments received by any TARGET2 participant.

7. No intraday credit is provided to participants in TARGET2-ECB.

TITLE II

PARTICIPATION

Article 4

Access criteria

Organisations providing clearing or settlement services (including entities established outside the EEA) that are subject to oversight by a competent authority and whose access to TARGET2-ECB has been approved by the Governing Council, shall be the only entities that are eligible for participation in TARGET2-ECB.

Article 5

Direct participants

Direct participants in TARGET2-ECB shall comply with the requirements set out in Article 6(1) and (2). They shall have at least one PM account with the ECB.

Article 6

Application procedure

1. To join TARGET2-ECB, applicant participants shall fulfil the following technical and legal requirements:

(a) install, manage, operate and monitor and ensure the security of the necessary IT infrastructure to connect to TARGET2-ECB and submit payment orders to it. In doing so, applicant participants may involve third parties, but retain sole liability. In particular, applicant participants shall enter into an agreement with the network service provider to obtain the necessary connection and admissions, in accordance with the technical specifications in Appendix I; and

(b) have passed the tests required by the ECB;

(c) provide a capacity opinion in the form specified in Appendix III, unless the information and representations to be provided in such capacity opinion have already been obtained by the ECB in another context; and

(d) for entities established outside the EEA, provide a country opinion in the form specified in Appendix III, unless the information and representations to be provided in such country opinion have already been obtained by the ECB in another context.

2. Applicants shall apply in writing to the ECB, as a minimum enclosing the following documents/information:

(a) completed static data collection forms as provided by the ECB,

(b) the capacity opinion, if required by the ECB, and

(c) the country opinion, if required by the ECB.

3. The ECB may also request any additional information it deems necessary to decide on the application to participate.

4. The ECB shall reject the application to participate if:

(a) access criteria referred to in Article 4 are not met;

(b) one or more of the participation criteria referred to in paragraph 1 are not met; and/or

(c) in the ECB's assessment, such participation would endanger the overall stability, soundness and safety of TARGET2-ECB or of any other TARGET2 component system, or would jeopardise the ECB's performance of its tasks as described in the Statute of the European System of Central Banks and of the European Central Bank.

5. The ECB shall communicate its decision on the application to participate to the applicant within one month of the ECB's receipt of the application to participate. Where the ECB requests additional information pursuant to paragraph 3, the decision shall be communicated within one month of the ECB's receipt of this information from the applicant. Any rejection decision shall contain reasons for the rejection.

Article 7

TARGET2 directory

1. The TARGET2 directory is the database of BICs used for the routing of payment orders addressed to:

(a) TARGET2 participants and their branches with multi-addressee access;

(b) indirect participants of TARGET2, including those with multi-addressee access; and

(c) addressable BIC holders of TARGET2.

It shall be updated weekly.

2. Unless otherwise requested by the participant, BICs shall be published in the TARGET2 directory.

3. Participants may only distribute the TARGET2 directory to their branches and entities with multi-addressee access.

4. Entities specified in paragraph 1(b) and (c) shall only use their BIC in relation to one direct participant.

TITLE III

OBLIGATIONS OF THE PARTIES

Article 8

Obligations of the ECB and the participants

1. The ECB shall offer the services described in Title IV. Save where otherwise provided in these Conditions or required by law, the ECB shall use all reasonable means within its power to perform its obligations under these Conditions, without guaranteeing a result.

2. Participants shall pay to the ECB the fees laid down in Appendix VI.

3. Participants shall ensure that they are connected to TARGET2-ECB on business days, in accordance with the operating schedule in Appendix V.

4. The participant represents and warrants to the ECB that the performance of its obligations under these Conditions does not breach any law, regulation or by-law applicable to it or any agreement by which it is bound.

Article 9

Cooperation and information exchange

1. In performing their obligations and exercising their rights under these Conditions, the ECB and participants shall cooperate closely to ensure the stability, soundness and safety of TARGET2-ECB. They shall provide each other with any information or documents relevant for the performance of their respective obligations and the exercise of their respective rights under these Conditions, without prejudice to any banking secrecy obligations.

2. The ECB shall establish and maintain a system support desk to assist participants in relation to difficulties arising in connection with system operations.

3. Up-to-date information on the SSP's operational status shall be available on the TARGET2 Information System (T2IS). The T2IS may be used to obtain information on any event affecting the normal operation of TARGET2.

4. The ECB may either communicate messages to participants by means of an ICM broadcast or by any other means of communication.

5. Participants are responsible for the timely update of existing static data collection forms and the submission of new static data collection forms to the ECB. Participants are responsible for verifying the accuracy of information relating to them that is entered into TARGET2-ECB by the ECB.

6. The ECB shall be deemed to be authorised to communicate to the SSP-providing CBs any information relating to participants which the SSP-providing CBs may need in their role as service administrators, in accordance with the contract entered into with the network service provider.

7. Participants shall inform the ECB about any change in their legal capacity and relevant legislative changes affecting issues covered by the country opinion relating to them.

8. Participants shall immediately inform the ECB if an event of default occurs in relation to them.

TITLE IV

MANAGEMENT OF PM ACCOUNTS AND PROCESSING OF PAYMENT ORDERS

Article 10

Opening and management of PM accounts

1. The ECB shall open and operate at least one PM account and, if applicable, sub-accounts, for each participant.

2. No debit balance shall be allowed on PM accounts.

3. PM accounts and their sub-accounts shall be interest free.

4. Participants shall use the ICM to obtain information on their liquidity position. The ECB shall provide a daily statement of accounts to any participant that has opted for such service.

Article 11

Types of payment orders

The following are classified as payment orders for the purposes of TARGET2:

(a) credit transfer orders;

(b) direct debit instructions carried out under a direct debit authorisation; and

(c) liquidity transfer orders.

Article 12

Acceptance and rejection of payment orders

1. Payment orders submitted by participants are deemed accepted by the ECB if:

(a) the payment message complies with the rules established by the network service provider;

(b) the payment message complies with the formatting rules and conditions of TARGET2-ECB and passes the double-entry check described in Appendix I; and

(c) in cases where a payer or a payee has been suspended, the suspended participant's CB's explicit consent has been obtained.

2. The ECB shall immediately reject any payment order that does not fulfil the conditions laid down in paragraph 1. The ECB shall inform the participant of any rejection of a payment order, as specified in Appendix I.

Article 13

Priority rules

1. Instructing participants shall designate every payment order as one of the following:

(a) normal payment order (priority class 2);

(b) urgent payment order (priority class 1); or

(c) highly urgent payment order (priority class 0).

If a payment order does not indicate the priority, it shall be treated as a normal payment order.

2. Highly urgent payment orders may only be designated by:

(a) CBs; and

(b) participants, in cases of payments to and from CLS International Bank and liquidity transfers in favour of ancillary systems.

All payment instructions submitted by an ancillary system through the Ancillary System Interface to debit or credit the participants' PM accounts shall be deemed to be highly urgent payment orders.

3. In the case of urgent and normal payment orders, the payer may change the priority via the ICM with immediate effect. It shall not be possible to change the priority of a highly urgent payment.

Article 14

Liquidity limits

1. A participant may limit the use of available liquidity for payment orders in relation to other TARGET2 participants, except any of the CBs, by setting bilateral or multilateral limits. Such limits may only be set in relation to normal payment orders.

2. By setting a bilateral limit, a participant instructs the ECB that an accepted payment order shall not be settled if the sum of its outgoing normal payment orders to another TARGET2 participant's PM account minus the sum of all incoming urgent and normal payments from such TARGET2 participant's PM account would exceed this bilateral limit.

3. A participant may set a multilateral limit for any relationship that is not subject to a bilateral limit. A multilateral limit may only be set if the participant has set at least one bilateral limit. If a participant sets a multilateral limit, it instructs the ECB that an accepted payment order shall not be settled if the sum of its outgoing normal payment orders to all TARGET2 participants' PM accounts in relation to which no bilateral limit has been set, minus the sum of all incoming urgent and normal payments from such PM accounts would exceed this multilateral limit.

4. The minimum amount of any of the limits shall be EUR 1 million. A bilateral or a multilateral limit with an amount of zero shall be treated as if no limit has been set. Limits between zero and EUR 1 million are not possible.

5. Limits may be changed in real time with immediate effect or with effect from the next business day via the ICM. If a limit is changed to zero, it shall not be possible to change it again on the same business day. The setting of a new bilateral or multilateral limit shall only be effective from the next business day.

Article 15

Liquidity reservation facilities

1. Participants may reserve liquidity for highly urgent or urgent payment orders via the ICM.

2. By requesting to reserve a certain amount of liquidity for highly urgent payment orders, a participant instructs the ECB only to settle urgent and normal payment orders if there is available liquidity after the amount reserved for highly urgent payment orders has been deducted.

3. By requesting to reserve a certain amount of liquidity for urgent payment orders, a participant instructs the ECB only to settle normal payment orders if there is available liquidity after the amount reserved for urgent and highly urgent payment orders has been deducted.

4. After receipt of the reservation request the ECB shall check whether the amount of liquidity on the participant's PM account is sufficient for the reservation. If this is not the case, only the liquidity available on the PM account shall be reserved. The rest of the requested liquidity reservation shall not be reserved automatically at any later point in time, even if the amount of liquidity available on the participant's PM account reaches the level of the initial reservation request.

5. The level of the liquidity reservation may be changed. Participants may make a request via the ICM to reserve new amounts with immediate effect or with effect from the next business day.

Article 16

Predetermined settlement times

1. Instructing participants may predetermine the settlement time of the payment orders within a business day by using the Earliest Debit Time Indicator or the Latest Debit Time Indicator.

2. When the Earliest Debit Time Indicator is used, the accepted payment order is stored and only entered into the entry disposition at the indicated time.

3. When the Latest Debit Time Indicator is used, the accepted payment order shall be returned as non-settled if it cannot be settled by the indicated debit time. 15 minutes prior to the defined debit time, the instructing participant shall be sent an automatic notification via the ICM. Instructing participant may also use the Latest Debit Time Indicator solely as a warning indicator. In such cases, the payment order concerned shall not be returned.

4. Instructing participants can change the Earliest Debit Time Indicator and the Latest Debit Time Indicator via the ICM.

5. Further technical details are contained in Appendix I.

Article 17

Payment orders submitted in advance

1. Payment orders may be submitted up to five business days before the specified settlement date (warehoused payment orders).

2. Warehoused payment orders shall be accepted and entered into the entry disposition on the date specified by the instructing participant at the start of daytime processing, as referred to in Appendix V. They shall be placed in front of payment orders of the same priority.

3. Articles 13(3), 20(2) and 23(1)(a) shall apply mutatis mutandis to warehoused payment orders.

Article 18

Settlement of payment orders in the entry disposition

1. Unless instructing participants have indicated the settlement time in the manner described in Article 16, accepted payment orders shall be settled immediately or at the latest by the end of the business day on which they were accepted, provided that sufficient funds are available on the payer's PM account and taking into account any liquidity limits and liquidity reservations as referred to in Articles 14 and 15.

2. Funding may be provided by:

(a) the available liquidity on the PM account; or

(b) incoming payments from other TARGET2 participants, subject to the applicable optimisation procedures.

3. For highly urgent payment orders the 'first in, first out' (FIFO) principle shall apply. This means that highly urgent payment orders shall be settled in chronological order. Urgent and normal payment orders shall not be settled for as long as highly urgent payment orders are queued.

4. For urgent payment orders the FIFO principle shall also apply. Normal payment orders shall not be settled if urgent and highly urgent payment orders are queued.

5. By derogation from paragraphs 3 and 4, payment orders with a lower priority (or of the same priority but accepted later) may be settled before payment orders with a higher priority (or of the same priority which were accepted earlier), if the payment orders with a lower priority would net out with payments to be received and result on balance in a liquidity increase for the payer.

6. Normal payment orders shall be settled in accordance with the FIFO by-passing principle. This means that they may be settled immediately (independently of other queued normal payments accepted at an earlier time) and may therefore breach the FIFO principle, provided that sufficient funds are available.

7. Further details on the settlement of payment orders in the entry disposition are contained in Appendix I.

Article 19

Settlement and return of queued payment orders

1. Payment orders that are not settled immediately in the entry disposition shall be placed in the queues in accordance with the priority to which they were designated by the relevant participant, as referred to in Article 13.

2. To optimise the settlement of queued payment orders, the ECB may use the optimisation procedures described in Appendix I.

3. The payer may change the queue position of payment orders in a queue (i.e. reorder them) via the ICM. Payment orders may be moved either to the front or to the end of the respective queue with immediate effect at any time during daytime processing, as referred to in Appendix V.

4. Liquidity transfer orders initiated in the ICM shall be immediately returned as non-settled if there is insufficient liquidity. Other payment orders shall be returned as non-settled if they cannot be settled by the cut-off times for the relevant message type, as specified in Appendix V.

Article 20

Entry of payment orders into the system and their irrevocability

1. For the purposes of the first sentence of Article 3(1) of the Settlement Finality Directive and the third sentence of § 116, § 96(2), § 82 and § 340(3) of the Insolvenzordnung (German Insolvency Code) and the sixth sentence of § 46a(1) of the KWG, payment orders are deemed entered into TARGET2-ECB at the moment that the relevant participant's PM account is debited.

2. Payment orders may be revoked until they are entered into TARGET2-ECB in accordance with paragraph 1. Payment orders that are included in an algorithm, as referred to in Appendix I, may not be revoked during the period that the algorithm is running.

TITLE V

SECURITY REQUIREMENTS AND CONTINGENCY ISSUES

Article 21

Business continuity and contingency procedures

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.

Article 22

Security requirements

1. Participants shall implement adequate security controls to protect their systems from unauthorised access and use. Participants shall be exclusively responsible for the adequate protection of the confidentiality, integrity and availability of their systems.

2. Participants shall inform the ECB of any security-related incidents in their technical infrastructure and, where appropriate, security-related incidents that occur in the technical infrastructure of the third party providers. The ECB may request further information about the incident and, if necessary, request that the participant take appropriate measures to prevent a recurrence of such an event.

3. The ECB may impose additional security requirements on all participants and/or on participants that are considered critical by the ECB.

TITLE VI

THE INFORMATION AND CONTROL MODULE

Article 23

Use of the ICM

1. The ICM:

(a) allows participants to access information relating to their accounts and to manage liquidity;

(b) may be used to initiate liquidity transfer orders; and

(c) allows participants to initiate backup lump sum and backup contingency payments in the event of a failure of the participant's payment infrastructure.

2. Further technical details relating to the ICM are contained in Appendix I.

TITLE VII

COMPENSATION, LIABILITY REGIME AND EVIDENCE

Article 24

Compensation scheme

If a payment order cannot be settled on the same business day on which it was accepted due to a technical malfunction of TARGET2, the ECB shall offer to compensate the direct participants concerned in accordance with the special procedure laid down in Appendix II.

Article 25

Liability regime

1. In performing their obligations pursuant to these Conditions, the ECB and the participants shall be bound by a general duty of reasonable care in relation to each other.

2. The ECB shall be liable to its participants in cases of fraud (including but not limited to wilful misconduct) or gross negligence, for any loss arising out of the operation of TARGET2-ECB. In cases of ordinary negligence, the ECB's liability shall be limited to the participant's direct loss, i.e. the amount of the transaction in question and/or the loss of interest thereon, excluding any consequential loss.

3. The ECB is not liable for any loss that results from any malfunction or failure in the technical infrastructure (including but not limited to the ECB's computer infrastructure, programmes, data, applications or networks), if such malfunction or failure arises in spite of the ECB having adopted those measures that are reasonably necessary to protect such infrastructure against malfunction or failure, and to resolve the consequences of such malfunction or failure (the latter including but not limited to initiating and completing the business continuity and contingency procedures referred to in Appendix IV).

4. The ECB shall not be liable:

(a) to the extent that the loss is caused by the participant; or

(b) if the loss arises out of external events beyond the ECB's reasonable control (force majeure).

5. Notwithstanding § § 676a, 676b, 676c, 676e and 676g of the Bürgerliches Gesetzbuch (German Civil Code), paragraphs 1 to 4 shall apply to the extent that the ECB's liability can be excluded.

6. The ECB and the participants shall take all reasonable and practicable steps to mitigate any damage or loss referred to in this Article.

7. In performing some or all of its obligations under these Conditions, the ECB may commission third parties in its own name, particularly telecommunications or other network providers or other entities, if this is necessary to meet the ECB's obligations or is standard market practice. The ECB's obligation shall be limited to the due selection and commissioning of any such third parties and the ECB's liability shall be limited accordingly. For the purposes of this paragraph, the SSP-providing CBs shall not be considered as third parties.

Article 26

Evidence

1. Unless otherwise provided in these Conditions, all payment and payment processing-related messages in relation to TARGET2, such as confirmations of debits or credits, or statement messages, between the ECB and participants shall be made through the network service provider.

2. Electronic or written records of the messages retained by the ECB or by the network service provider shall be accepted as a means of evidence of the payments processed through the ECB. The saved or printed version of the original message of the network service provider shall be accepted as a means of evidence, regardless of the form of the original message.

3. If a participant's connection to the network service provider fails, the participant shall use the alternative means of transmission of messages laid down in Appendix IV. In such cases, the saved or printed version of the message produced by the ECB shall have the same evidential value as the original message, regardless of its form.

4. The ECB shall keep complete records of payment orders submitted and payments received by participants for a period of 10 years from the time at which such payment orders are submitted and payments are received.

5. The ECB's own books and records (whether kept on paper, microfilm, microfiche, by electronic or magnetic recording, in any other mechanically reproducible form or otherwise) shall be accepted as a means of evidence of any obligations of the participants and of any facts and events that the parties rely on.

TITLE VIII

TERMINATION OF PARTICIPATION AND CLOSURE OF ACCOUNTS

Article 27

Duration and ordinary termination of participation

1. Without prejudice to Article 28, participation in TARGET2-ECB is for an indefinite period of time.

2. A participant may terminate its participation in TARGET2-ECB at any time giving 14 business days' notice thereof, unless it agrees a shorter notice period with the ECB.

3. The ECB may terminate a participant's participation in TARGET2-ECB at any time giving three months' notice thereof, unless it agrees a different notice period with that participant.

4. On termination of participation, the confidentiality duties laid down in Article 32 remain in force for a period of five years starting on the date of termination.

5. On termination of participation, the PM accounts of the participant concerned shall be closed in accordance with Article 29.

Article 28

Suspension and extraordinary termination of participation

1. A participant's participation in TARGET2-ECB shall be immediately terminated without prior notice or suspended if one of the following events of default occurs:

(a) the opening of insolvency proceedings; and/or

(b) the participant no longer meets the access criteria laid down in Article 4.

2. The ECB may terminate without prior notice or suspend the participant's participation in TARGET2-ECB if:

(a) one or more events of default (other than those referred to in paragraph 1) occur;

(b) the participant is in material breach of these Conditions;

(c) the participant fails to carry out any material obligation to the ECB;

(d) the participant is excluded from, or otherwise ceases to be a member of, a TARGET2 CUG; and/or

(e) any other participant-related event occurs which, in the ECB's assessment, would threaten the overall stability, soundness and safety of TARGET2-ECB or of any other TARGET2 component system, or which would jeopardise the ECB's performance of its tasks as described in the Statute of the European System of Central Banks and of the European Central Bank.

3. In exercising its discretion under paragraph 2, the ECB shall take into account, inter alia, the seriousness of the event of default or events mentioned in subparagraphs (a) to (c).

4. (a) In the event that the ECB suspends or terminates a participant's participation in TARGET2-ECB under paragraph 1 or 2, the ECB shall immediately inform that participant, other CBs and the other participants of such suspension or termination by means of an ICM broadcast message.

(b) In the event that the ECB is informed by another CB of a suspension or termination of a participant in another TARGET2 component system, the ECB shall immediately inform its participants of such suspension or termination by means of an ICM broadcast message.

(c) Once such an ICM broadcast message has been received by the participants, the latter shall be deemed informed of the termination/suspension of a participant's participation in TARGET2-ECB or another TARGET2 component system. The participants shall bear any losses arising from the submission of a payment order to participants whose participation has been suspended or terminated if such payment order was entered into TARGET2-ECB after receipt of the ICM broadcast message.

5. Upon termination of a participant's participation, TARGET2-ECB shall not accept any new payment orders from such participant. Payment orders in the queue, warehoused payment orders or new payment orders in favour of such participant shall be returned.

6. If a participant is suspended from TARGET2-ECB, all its incoming payments and outgoing payment orders shall be stored and only entered into the entry disposition after they have been explicitly accepted by the suspended participant's CB.

Article 29

Closure of PM accounts

1. Participants may close their PM accounts at any time provided they give the ECB 14 business days' notice thereof.

2. On termination of participation, pursuant to either Article 27 or 28, the ECB shall close the PM accounts of the participant concerned, after having:

(a) settled or returned any queued payment orders; and

(b) made use of its rights of pledge and set-off under Article 30.

TITLE IX

FINAL PROVISIONS

Article 30

The ECB's rights of pledge and set-off

1. The ECB shall have a pledge over the participant's existing and future credit balances on its PM accounts, thereby collateralising any current and future claims arising out of the legal relationship between the parties.

2. On the occurrence of:

(a) an event of default referred to in Article 28(1); or

(b) any other event of default or event referred to in Article 28(2) that has led to the termination or suspension of the participant's participation in TARGET2-ECB

notwithstanding the commencement of any insolvency proceedings in respect of a participant and notwithstanding any assignment, judicial or other attachment or other disposition of or in respect of the participant's rights, all obligations of the participant shall be automatically and immediately accelerated, without prior notice and without the need for any prior approval of any authority, so as to be immediately due. In addition, the mutual obligations of the participant and the ECB shall automatically be set off against each other, and the party owing the higher amount shall pay to the other the difference.

3. The ECB shall promptly give the participant notice of any set-off pursuant to paragraph 2 after such set-off has taken place.

4. The ECB may without prior notice debit any participant's PM account by any amount which the participant owes the ECB resulting from the legal relationship between the participant and the ECB.

Article 31

Security rights in relation to funds on sub-accounts

1. The ECB shall have a pledge over the balance on a participant's sub-account opened for the settlement of AS-related payment instructions under the arrangements between the relevant ancillary system and its CB. Such balance shall collateralise the participant's obligation referred to in paragraph 7 towards the ECB in relation to such settlement.

2. The ECB shall freeze the balance on the sub-account of the participant upon communication by the ancillary system (via a 'start-of-cycle' message). Such freezing shall expire upon communication by the ancillary system (via an 'end-of-cycle' message).

3. By confirming the freezing of the balance on the participant's sub-account, the ECB guarantees to the ancillary system payment up to the amount of this particular balance. The guarantee shall be irrevocable, unconditional and payable on first demand. If the ECB is not the ancillary system's CB, the ECB shall be deemed instructed to issue the abovementioned guarantee to the ancillary system's CB.

4. In the absence of any insolvency proceedings in relation to the participant, the AS-related payment instructions for the squaring of the participant's settlement obligation shall be settled without drawing on the guarantee and without recourse to the security right over the balance on the participant's sub-account.

5. In the event of the participant's insolvency, the AS-related payment instruction for the squaring of the participant's settlement obligation shall be a first demand for payment under the guarantee; the debiting of the instructed amount from the participant's sub-account (and crediting of the AS's technical account) shall therefore equally involve the discharge of the guarantee obligation by the ECB and a realisation of its collateral right over the balance on the participant's sub-account.

6. The guarantee shall expire upon communication by the ancillary system that the settlement has been completed (via an 'end-of-cycle' message).

7. The participant shall be obliged to reimburse to the ECB any payment made by the latter under such guarantee.

Article 32

Confidentiality

1. The ECB shall keep confidential all sensitive or secret information, including when such information relates to payment, technical or organisational information belonging to the participant or the participant's customers, unless the participant or its customer has given its written consent to disclose.

2. By derogation from paragraph 1, the participant agrees that the ECB may disclose payment, technical or organisational information regarding the participant or the participant's customers obtained in the course of the operation of TARGET2-ECB to other CBs or third parties that are involved in the operation of TARGET2-ECB, to the extent that this is necessary for the efficient functioning of TARGET2, or to supervisory and oversight authorities of Member States and the Community, 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. The ECB shall not be liable for the financial and commercial consequences of such disclosure.

3. By derogation from paragraph 1 and provided this does not make it possible, whether directly or indirectly, to identify the participant or the participant's customers, the ECB may use, disclose or publish payment information regarding the participant or the participant's customers for statistical, historical, scientific or other purposes in the exercise of its public functions or of functions of other public entities to whom the information is disclosed.

4. Information relating to the operation of TARGET2-ECB to which participants have had access, may only be used for the purposes laid down in these Conditions. Participants shall keep such information confidential, unless the ECB has explicitly given its written consent to disclose. Participants shall ensure that any third parties to whom they outsource, delegate or subcontract tasks which have or may have an impact on the performance of their obligations under these Conditions are bound by the confidentiality requirements in this Article.

5. The ECB shall be authorised, in order to settle payment orders, to process and transfer the necessary data to the network service provider.

Article 33

Data protection, prevention of money laundering and related issues

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 and the financing of terrorism, 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.

2. Participants shall be deemed to have authorised the ECB to obtain any information relating to them from any financial or supervisory authority or trade body, whether national or foreign, if such information is necessary for the participant's participation in TARGET2-ECB.

Article 34

Notices

1. Except where otherwise provided for in these Conditions, all notices required or permitted pursuant to these Conditions shall be sent by registered post, facsimile or otherwise in writing or by an authenticated message through the network service provider. Notices to the ECB shall be submitted to Director General of the ECB's Directorate General Payment Systems and Market Infrastructure, Kaiserstrasse 29, D-60311 Frankfurt am Main, Germany or to the SWIFT address of the ECB: ECBFDEFF. Notices to the participant shall be sent to it at the address, fax number or its SWIFT address as the participant may from time to time notify to the ECB.

2. To prove that a notice has been sent, it shall be sufficient to prove that the notice was delivered to the relevant address or that the envelope containing such notice was properly addressed and posted.

3. All notices shall be given in English.

4. Participants shall be bound by all forms and documents of the ECB that the participants have filled in and/or signed, including but not limited to static data collection forms, as referred to in Article 6(2)(a), and information provided under Article 9(5), which were submitted in compliance with paragraphs 1 and 2 and which the ECB reasonably believes to have received from the participants, their employees or agents.

Article 35

Contractual relationship with network service provider

1. For the purposes of these Conditions, the network service provider is SWIFT. Each participant shall enter into a separate agreement with SWIFT regarding the services to be provided by SWIFT in relation to the participant's use of TARGET2-ECB. The legal relationship between a participant and SWIFT shall be exclusively governed by SWIFT's terms and conditions.

2. Each participant shall also participate in a TARGET2 CUG, as specified by the SSP-providing CBs acting as the SWIFT service administrator for the SSP. Admission and exclusion of a participant to or from a TARGET2 CUG shall take effect once communicated to SWIFT by the SWIFT service administrator.

3. Participants shall comply with the TARGET2 SWIFT Service Profile, as made available by the ECB.

4. The services to be provided by SWIFT shall not form part of the services to be performed by the ECB in respect of TARGET2.

5. The ECB shall not be liable for any acts, errors or omissions of SWIFT (including its directors, staff and subcontractors) as provider of SWIFT services, or for any acts, errors or omissions of network providers selected by participants to gain access to the SWIFT network.

Article 36

Amendment procedure

The ECB may at any time unilaterally amend these Conditions, including its Appendices. Amendments to these Conditions, including its Appendices, shall be announced by means of communication in writing to the participants. Amendments shall be deemed to have been accepted unless the participant expressly objects within 14 days of being informed of such amendments. In the event that a participant objects to the amendment, the ECB is entitled immediately to terminate that participant's participation in TARGET2-ECB and close any of its PM accounts.

Article 37

Third party rights

1. Any rights, interests, obligations, responsibilities and claims arising from or relating to these Conditions shall not be transferred, pledged or assigned by participants to any third party without the ECB's written consent.

2. These Conditions do not create any rights in favour of or obligations in relation to any entity other than the ECB and participants in TARGET2-ECB.

Article 38

Governing law, jurisdiction and place of performance

1. The bilateral relationship between the ECB and participants in TARGET2-ECB shall be governed by the law of the Federal Republic of Germany.

2. 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, without prejudice to the competence of the Court of Justice of the European Communities.

3. The place of performance concerning the legal relationship between the ECB and the participants shall be Frankfurt am Main, Federal Republic of Germany.

Article 39

Severability

If any provision in these Conditions is or becomes invalid, this shall not prejudice the applicability of all the other provisions of these Conditions.

Article 40

Entry into force and binding nature

1. These Conditions become effective from 19 May 2008, unless the ECB communicates another date of entry into force to the participants.

2. By participating in TARGET2-ECB, participants automatically agree to these Conditions between themselves and in relation to the ECB.

Appendix I

TECHNICAL SPECIFICATIONS FOR THE PROCESSING OF PAYMENT ORDERS

In addition to the terms and conditions of TARGET2-ECB, the following rules shall apply to the processing of payment orders:

1. **Technical requirements for participation in TARGET2-ECB regarding infrastructure, network and formats**

(1) TARGET2 uses SWIFT services for the exchange of messages. Each participant therefore needs a connection to SWIFT's Secure IP Network. Each participant's PM account shall be identified by an eight- or 11-digit SWIFT BIC. Furthermore, each participant shall pass a series of tests to prove its technical and operational competence before it may participate in TARGET2-ECB.

(2) For the submission of payment orders and the exchange of payment messages in the PM the SWIFTNet FIN Y-copy service shall be used. A dedicated SWIFT Closed User Group (CUG) shall be set up for this purpose. Payment orders within such TARGET2 CUG shall be directly addressed to the receiving TARGET2 participant by entering its BIC in the header of the SWIFTNet FIN message.

(3) For the information and control services the following SWIFTNet services may be used:

(a) SWIFTNet InterAct;

(b) SWIFTNet FileAct; and/or

(c) SWIFTNet Browse.

(4) The security of the message exchange between participants shall rely exclusively on SWIFT's Public Key Infrastructure (PKI) service. Information on the PKI service is available in the documentation provided by SWIFT.

(5) The 'bilateral relationship management' service provided by SWIFT's Relationship Management Application (RMA) shall only be used with the central destination BIC of the SSP and not for payment messages between TARGET2 participants.

2. **Payment message types**

(1) The following SWIFTNet FIN/SWIFT system message types are processed:

Message Type	Type of use	Description
MT 103	Mandatory	Customer payment
MT 103+	Mandatory	Customer payment (Straight Through Processing)
MT 202	Mandatory	Bank-to-bank payment
MT 204	Optional	Direct debit payment
MT 011	Optional	Delivery notification
MT 012	Optional	Sender notification
MT 019	Mandatory	Abort notification
MT 900	Optional	Confirmation of debit
MT 910	Optional	Confirmation of credit
MT 940/950	Optional	(Customer) statement message
MT 011, MT 012 and MT 019 are SWIFT system messages.		

(2) When they register with TARGET2-ECB, direct participants shall declare which optional message types they will use, with the exception of MT 011 and MT 012 messages in relation to which direct participants shall decide from time to time whether or not to receive them with reference to specific messages.

(3) Participants shall comply with the SWIFT message structure and field specifications, as defined in the SWIFT documentation and under the restrictions set out for TARGET2, as described in Chapter 9.1.2.2 of the User Detailed Functional Specifications (UDFS), Book 1.

(4) Field contents shall be validated at the level of TARGET2-ECB in accordance with the UDFS requirements. Participants may agree among each other on specific rules regarding the field contents. However, in TARGET2-ECB there shall be no specific checks as to whether participants comply with any such rules.

3. **Double-entry check**

(1) All payment orders shall pass a double-entry check, the aim of which is to reject payment orders that have been submitted more than once by mistake.

(2) The following fields of the SWIFT message types shall be checked:

Details	Part of the SWIFT message	Field
Sender	Basic Header	LT Address
Message Type	Application Header	Message Type
Receiver	Application Header	Destination Address
Transaction Reference Number (TRN)	Text Block	:20
Related Reference	Text Block	:21
Value Date	Text Block	:32
Amount	Text Block	:32

(3) If all the fields described in subparagraph 2 in relation to a newly submitted payment order are identical to those in relation to a payment order that has already been accepted, the newly submitted payment order shall be returned.

4. **Error codes**

If a payment order is rejected, the instructing participant shall receive an abort notification (MT 019) indicating the reason for the rejection by using error codes. The error codes are defined in Chapter 9.4.2 of the UDFS.

5. **Predetermined settlement times**

(1) For payment orders using the Earliest Debit Time Indicator, the codeword '/FROTIME/'shall be used.

(2) For payment orders using the Latest Debit Time Indicator, two options shall be available.

(a) Codeword '/REJTIME/': if the payment order cannot be settled by the indicated debit time, the payment order shall be returned.

(b) Codeword '/TILTIME/': if the payment order cannot be settled by the indicated debit time, the payment order shall not be returned but shall be kept in the relevant queue.

Under both options, if a payment order with a Latest Debit Time Indicator is not settled 15 minutes prior to the time indicated therein, a notification shall automatically be sent via the ICM.

(3) If the codeword '/CLSTIME/' is used, the payment shall be treated in the same way as a payment order referred to in subparagraph 2(b).

6. **Settlement of payment orders in the entry disposition**

(1) Offsetting checks and, if appropriate, extended offsetting checks (both terms as defined in paragraphs 2 and 3) shall be carried out on payment orders entered into the entry disposition to provide quick, liquidity-saving gross settlement of payment orders.

(2) An offsetting check shall determine whether the payee's payment orders that are at the front of the highly urgent or, if inapplicable, the urgent queue are available to be offset against the payer's payment order (hereinafter 'offsetting payment orders'). If an offsetting payment order does not provide sufficient funds for the respective payer's payment order in the entry disposition, it shall be determined whether there is sufficient available liquidity on the payer's PM account.

(3) If the offsetting check fails, the ECB may apply an extended offsetting check. An extended offsetting check determines whether offsetting payment orders are available in any of the payee's queues regardless of when they joined the queue. However, if in the queue of the payee there are higher priority payment orders addressed to other TARGET2 participants, the FIFO principle may only be breached if settling such an offsetting payment order would result in a liquidity increase for the payee.

7. **Settlement of payment orders in the queue**

(1) The treatment of payment orders placed in queues depends on the priority class to which it was designated by the instructing participant.

(2) Payment orders in the highly urgent and urgent queues shall be settled by using the offsetting checks described in paragraph 6, starting with the payment order at the front of the queue in cases where there is an increase in liquidity or there is an intervention at queue level (change of queue position, settlement time or priority, or revocation of the payment order).

(3) Payments orders in the normal queue shall be settled on a continuous basis including all highly urgent and urgent payment orders that have not yet been settled. Different optimisation mechanisms (algorithms) are used. If an algorithm is successful, the included payment orders will be settled; if an algorithm fails, the included payment orders will remain in the queue. Three algorithms (1 to 3) shall be applied to offset payment flows. By means of Algorithm 4, settlement procedure 5 (as defined in Chapter 2.8.1 of the UDFS) shall be available for the settlement of payment instructions of ancillary systems. To optimise the settlement of highly urgent ancillary system transactions on participants' sub-accounts, a special algorithm (Algorithm 5) shall be used.

(a) Under Algorithm 1 ('all-or-nothing') the ECB shall, both for each relationship in respect of which a bilateral limit has been set and also for the total sum of relationships for which a multilateral limit has been set:

(i) calculate the overall liquidity position of each TARGET2 participant's PM account by establishing whether the aggregate of all outgoing and incoming payment orders pending in the queue is negative or positive and, if it is negative, check whether it exceeds that participant's available liquidity (the overall liquidity position shall constitute the 'total liquidity position'); and

(ii) check whether limits and reservations set by each TARGET2 participant in relation to each relevant PM account are respected.

If the outcome of these calculations and checks is positive for each relevant PM account, the ECB and other CBs involved shall settle all payments simultaneously on the PM accounts of the TARGET2 participants concerned.

(b) Under Algorithm 2 ('partial') the ECB shall:

(i) calculate and check the liquidity positions, limits and reservations of each relevant PM account as under Algorithm 1; and

(ii) if the total liquidity position of one or more relevant PM accounts is negative, extract single payment orders until the total liquidity position of each relevant PM account is positive.

Thereafter, the ECB and the other CBs involved shall, provided there are sufficient funds, settle all remaining payments (except the extracted payment orders) simultaneously on the PM accounts of the TARGET2 participants concerned.

When extracting payment orders, the ECB shall start from the TARGET2 participant's PM account with the highest negative total liquidity position and from the payment order at the end of the queue with the lowest priority. The selection process shall only run for a short time, to be determined by the ECB at its discretion.

(c) Under Algorithm 3 ('multiple') the ECB shall:

(i) compare pairs of TARGET2 participants' PM accounts to determine whether queued payment orders can be settled within the available liquidity of the two TARGET2 participants' PM accounts concerned and within the limits set by them (by starting from the pair of PM accounts with the smallest difference between the payment orders addressed to each other), and the CB(s) involved shall book those payments simultaneously on the two TARGET2 participants' PM accounts; and

(ii) if, in relation to a pair of PM accounts as described under point (i), liquidity is insufficient to fund the bilateral position, extract single payment orders until there is sufficient liquidity. In this case the CB(s) involved shall settle the remaining payments, except the extracted ones, simultaneously on the two TARGET2 participants' PM accounts.

After performing the checks specified under subparagraphs (i) to (ii), the ECB shall check the multilateral settlement positions (between a participant's PM account and other TARGET2 participants' PM accounts in relation to which a multilateral limit has been set). For this purpose, the procedure described under subparagraphs (i) to (ii) shall apply mutatis mutandis.

(d) Under Algorithm 4 ('partial plus ancillary system settlement') the ECB shall follow the same procedure as for Algorithm 2, but without extracting payment orders in relation to the settlement of an ancillary system (which settles on a simultaneous multilateral basis).

(e) Under Algorithm 5 ('ancillary system settlement via sub-accounts') the ECB shall follow the same procedure as for Algorithm 1, subject to the modification that the ECB shall start Algorithm 5 via the Ancillary System Interface and shall only check whether sufficient funds are available on participants' sub-accounts. Moreover, no limits and reservations shall be taken into account. Algorithm 5 shall also run during night-time settlement.

(4) Payment orders entered into the entry disposition after the start of any of algorithms 1 to 4 may nevertheless be settled immediately in the entry disposition if the positions and limits of the TARGET2 participants' PM accounts concerned are compatible with both the settlement of these payment orders and the settlement of payment orders in the current optimisation procedure. However, two algorithms shall not run simultaneously.

(5) During daytime processing the algorithms shall run sequentially. As long as there is no pending simultaneous multilateral settlement of an ancillary system, the sequence shall be as follows:

(a) algorithm 1,

(b) if algorithm 1 fails, then algorithm 2,

(c) if algorithm 2 fails, then algorithm 3, or if algorithm 2 succeeds, repeat algorithm 1.

When simultaneous multilateral settlement ('procedure 5') in relation to an ancillary system is pending, Algorithm 4 shall run.

(6) The algorithms shall run flexibly by setting a pre-defined time lag between the application of different algorithms to ensure a minimum interval between the running of two algorithms. The time sequence shall be automatically controlled. Manual intervention shall be possible.

(7) While included in a running algorithm, a payment order shall not be reordered (change of the position in a queue) or revoked. Requests for reordering or revocation of a payment order shall be queued until the algorithm is complete. If the payment order concerned is settled while the algorithm is running, any request to reorder or revoke shall be rejected. If the payment order is not settled, the participant's requests shall be taken into account immediately.

8. **Use of the ICM**

(1) The ICM may be used for obtaining information and managing liquidity. SWIFT's Secure IP Network (SIPN) shall be the underlying technical communications network for exchanging information and running control measures.

(2) With the exception of warehoused payment orders and static data information, only data in relation to the current business day shall be available via the ICM. The screens shall be offered in English only.

(3) Information shall be provided in 'pull' mode, which means that each participant has to ask to be provided with information.

(4) The following modes shall be available for using the ICM:

(a) *Application-to-application mode (A2A)*

In A2A, information and messages are transferred between the PM and the participant's internal application. The participant therefore has to ensure that an appropriate application is available for the exchange of XML messages (requests and responses) with the ICM via a standardised interface. Further details are contained in the ICM User Handbook and in Book 4 of the UDFS.

(b) *User-to-application mode (U2A)*

U2A permits direct communication between a participant and the ICM. The information is displayed in a browser running on a PC system (SWIFT Alliance WebStation). For U2A access through the SWIFT Alliance WebStation the IT infrastructure has to be able to support cookies and JavaScript. Further details are described in the ICM User Handbook.

(5) Each participant shall have at least one SWIFT Alliance WebStation to have access to the ICM via U2A.

(6) Access rights to the ICM shall be granted by using SWIFT's 'Role Based Access Control'. The SWIFT 'Non Repudiation of Emission' (NRE) service, which may be used by participants, allows the recipient of an XML message to prove that such message has not been altered.

(7) If a participant has technical problems and is unable to submit any payment order, it may generate preformatted backup lump sum and backup contingency payments by using the ICM. The ECB shall open such functionality upon request of the participant.

(8) Participants may also use the ICM to transfer liquidity:

(a) from their PM account to their account outside the PM;

(b) between the PM account and the participant's sub-accounts; and

(c) from the PM account to the mirror account managed by the ancillary system.

9. **The UDFS and the ICM User Handbook**

Further details and examples explaining the above rules are contained in the UDFS and the ICM User Handbook, as amended from time to time and published on the ECB's website in English.

Appendix II

TARGET2 COMPENSATION SCHEME

1. **General principles**

(a) If there is a technical malfunction of TARGET2, direct participants may submit claims for compensation in accordance with the TARGET2 compensation scheme laid down in this Appendix.

(b) Unless otherwise decided by the ECB's Governing Council, the TARGET2 compensation scheme shall not apply if the technical malfunction of TARGET2 arises out of external events beyond the reasonable control of the CBs concerned or as a result of acts or omissions by third parties.

(c) Compensation under the TARGET2 compensation scheme shall be the only compensation procedure offered in the event of a technical malfunction of TARGET2. Participants may, however, use other legal means to claim for losses. If a participant accepts a compensation offer under the TARGET2 compensation scheme, this shall constitute the participant's irrevocable agreement that it thereby waives all claims in relation to the payment orders concerning which it accepts compensation (including any claims for consequential loss) it may have against any CB, and that the receipt by it of the corresponding compensation payment constitutes full and final settlement of all such claims. The participant shall indemnify the CBs concerned, up to a maximum of the amount received under the TARGET2 compensation scheme, in respect of any further claims which are raised by any other participant or any other third party in relation to the payment order or payment concerned.

(d) The making of a compensation offer shall not constitute an admission of liability by the ECB or any other CB in respect of a technical malfunction of TARGET2.

2. **Conditions for compensation offers**

(a) A payer may submit a claim for an administration fee and interest compensation if, due to a technical malfunction of TARGET2:

(i) a payment order was not settled on the business day on which it was accepted; or

(ii) during the migration period a payer can show that it intended to submit a payment order to TARGET2-ECB, but was unable to do so due to the stop-sending status of a national RTGS system that had not yet migrated to TARGET2.

(b) A payee may submit a claim for an administration fee if due to a technical malfunction of TARGET2 it did not receive a payment that it was expecting to receive on a particular business day. The payee may also submit a claim for interest compensation if one or more of the following conditions are met:

(i) in the case of participants that have access to the marginal lending facility: due to a technical malfunction of TARGET2, a payee had recourse to the marginal lending facility; and/or

(ii) in the case of all participants: it was technically impossible to have recourse to the money market or such refinancing was impossible on other, objectively reasonable grounds.

3. **Calculation of compensation**

(a) With respect to a compensation offer for a payer:

(i) the administration fee shall be EUR 50 for the first non-settled payment order, EUR 25 for each of the next four such payment orders and EUR 12,50 for each further such payment order. The administration fee shall be calculated separately in relation to each payee;

(ii) interest compensation shall be determined by applying a reference rate to be fixed from day to day. This reference rate shall be the lower of the euro overnight index average (EONIA) rate and the marginal lending rate. The reference rate shall be applied to the amount of the payment order not settled as a result of the technical malfunction of TARGET2 for each day in the period from the date of the actual or, in relation to payment orders referred to in paragraph 2(a)(ii), intended submission of the payment order until the date on which the payment order was or could have been successfully settled. Any proceeds made by placing funds resulting from non-settled payment orders on deposit with the Eurosystem shall be deducted from the amount of any compensation; and

(iii) no interest compensation shall be payable if and in so far as funds resulting from non-settled payment orders were placed in the market or used to fulfil minimum reserve requirements.

(b) With respect to a compensation offer for a payee:

(i) the administration fee shall be EUR 50 for the first non-settled payment order, EUR 25 for each of the next four such payment orders and EUR 12,50 for each further such payment order. The administration fee shall be calculated separately in relation to each payer;

(ii) the method set out in subparagraph (a)(ii) for calculating interest compensation shall apply except that interest compensation shall be payable at a rate equal to the difference between the marginal lending rate and the reference rate, and shall be calculated on the amount of any recourse to the marginal lending facility occurring as a result of the technical malfunction of TARGET2.

4. **Procedural rules**

(a) A claim for compensation shall be submitted on the claim form available on the website of the ECB in English (see www.ecb.int). Payers shall submit a separate claim form in respect of each payee and payees shall submit a separate claim form in respect of each payer. Sufficient additional information and documents shall be provided to support the information indicated in the claim form. Only one claim may be submitted in relation to a specific payment or payment order.

(b) Within four weeks of a technical malfunction of TARGET2, participants shall submit their claim form(s) to the ECB. Any additional information and evidence requested by the ECB shall be supplied within two weeks of such request being made.

(c) Unless otherwise decided by the ECB's Governing Council and communicated to the participants, all received claims shall be assessed no later than 14 weeks after the technical malfunction of TARGET2 occurs.

(d) The ECB shall communicate the result of the assessment referred to in subparagraph (c) to the relevant participants. If the assessment entails a compensation offer, the participants concerned shall, within four weeks of the communication of such offer, either accept or reject it, in respect of each payment or payment order comprised within each claim, by signing a standard letter of acceptance (in the form available on the website of the ECB (see www.ecb.int). If such letter has not been received by the ECB within four weeks, the participants concerned shall be deemed to have rejected the compensation offer.

(e) The ECB shall make compensation payments on receipt of a participant's letter of acceptance of compensation. No interest shall be payable on any compensation payment.

Appendix III

TERMS OF REFERENCE FOR CAPACITY AND COUNTRY OPINIONS

Terms of reference for capacity opinions for participants in TARGET2

The European Central Bank
Kaiserstrasse 29
D-60311 Frankfurt am Main
Germany

Participation in TARGET2-ECB

[location], [date]

Dear Sir or Madam,

We have been asked to provide this Opinion as [in-house or external] legal advisers to [specify name of Participant or branch of Participant] in respect of issues arising under the laws of [jurisdiction in which the Participant is established; hereinafter the 'jurisdiction'] in connection with the participation of [specify name of Participant] (hereinafter the 'Participant') in TARGET2-ECB (hereinafter the 'System').

This Opinion is confined to the laws of [jurisdiction] as they exist as on the date of this Opinion. We have made no investigation of the laws of any other jurisdiction as a basis for this Opinion, and do not express or imply any opinion in this regard. Each of the statements and opinions presented below applies with equal accuracy and validity under the laws of [jurisdiction], whether or not the Participant acts through its head office or one or more branches established inside or outside of [jurisdiction] in submitting payment orders and receiving payments.

I. DOCUMENTS EXAMINED

For the purposes of this Opinion, we have examined:

(1) a certified copy of the [specify relevant constitutional document(s)] of the Participant such as is/are in effect on the date hereof;

(2) [if applicable] an extract from the [specify relevant company register] and [if applicable] [register of credit institutions or analogous register];

(3) [to the extent applicable] a copy of the Participant's licence or other proof of authorisation to provide banking, investment, funds transfer or other financial services in [jurisdiction];

(4) [if applicable] a copy of a resolution adopted by the board of directors or the relevant governing body of the Participant on [insert date], [insert year], evidencing the Participant's agreement to adhere to the System Documents, as defined below; and

(5) [specify all powers of attorney and other documents constituting or evidencing the requisite power of the person or persons signing the relevant System Documents (as defined below) on behalf of the Participant];

and all other documents relating to the Participant's constitution, powers, and authorisations necessary or appropriate for the provision of this Opinion (hereinafter the 'Participant Documents').

For the purposes of this Opinion, we have also examined:

(1) the terms and conditions of TARGET2-ECB dated [insert date] (hereinafter the 'Rules'); and

(2) […].

The Rules and the […] shall be referred to hereinafter as the 'System Documents' (and collectively with the Participant Documents as the 'Documents').

II. ASSUMPTIONS

For the purposes of this Opinion we have assumed in relation to the Documents that:

(1) the System Documents with which we have been provided are originals or true copies;

(2) the terms of the System Documents and the rights and obligations created by them are valid and legally binding under the laws of the Federal Republic of Germany by which they are expressed to be governed, and the choice of the laws of the Federal Republic of Germany to govern the System Documents is recognised by the laws of the Federal Republic of Germany;

(3) the Participant Documents are within the capacity and power of and have been validly authorised, adopted or executed and, where necessary, delivered by the relevant parties; and

(4) the Participant Documents are binding on the parties to which they are addressed, and there has been no breach of any of their terms.

III. OPINIONS REGARDING THE PARTICIPANT

A. The Participant is a corporation duly established and registered or otherwise duly incorporated or organised under the laws of [jurisdiction].

B. The Participant has all the requisite corporate powers to execute and perform the rights and obligations under the System Documents to which it is party.

C. The adoption or execution and the performance by the Participant of the rights and obligations under the System Documents to which the Participant is party will not in any way breach any provision of the laws or regulations of [jurisdiction] applicable to the Participant or the Participant Documents.

D. No additional authorisations, approvals, consents, filings, registrations, notarisations or other certifications of or with any court or governmental, judicial or public authority that is competent in [jurisdiction] are required by the Participant in connection with the adoption, validity or enforceability of any of the System Documents or the execution or performance of the rights and obligations thereunder.

E. The Participant has taken all necessary corporate action and other steps necessary under the laws of [jurisdiction] to ensure that its obligations under the System Documents are legal, valid and binding

This Opinion is stated as of its date and is addressed solely to the ECB and the [Participant]. No other persons may rely on this Opinion, and the contents of this Opinion may not be disclosed to persons other than its intended recipients and their legal counsel without our prior written consent, with the exception of the national central banks of the European System of Central Banks [and [the national central bank/relevant regulatory authorities] of [jurisdiction]].

Yours faithfully,

[signature]

Terms of reference for country opinions for non-EEA participants in TARGET2

The European Central Bank
Kaiserstrasse 29
D-60311 Frankfurt am Main
Germany

TARGET2-ECB

[location], [date]

Dear Sir or Madam,

We have been asked as [external] legal advisers to [specify name of Participant or branch of Participant] (the Participant) in respect of issues arising under the laws of [jurisdiction in which the Participant is established; hereinafter the 'jurisdiction'] to provide this Opinion under the laws of [jurisdiction] in connection with the participation of the Participant in a system

which is a component of TARGET2 (hereinafter the 'System'). References herein to the laws of [jurisdiction] include all applicable regulations of [jurisdiction]. We express an opinion herein under the law of [jurisdiction], with particular regard to the Participant established outside the Federal Republic of Germany in relation to rights and obligations arising from participation in the System, as presented in the System Documents defined below.

This Opinion is confined to the laws of [jurisdiction] as they exist on the date of this Opinion. We have made no investigation of the laws of any other jurisdiction as a basis for this Opinion, and do not express or imply any opinion in this regard. We have assumed that there is nothing in the laws of another jurisdiction which affects this Opinion.

1. DOCUMENTS EXAMINED

For the purposes of this Opinion, we have examined the documents listed below and such other documents as we have deemed necessary or appropriate:

(1) the terms and conditions of TARGET2-ECB dated [insert date] (hereinafter the 'Rules'); and

(2) any other document governing the System and/or the relationship between the Participant and other participants in the System, and between the participants in the System and the ECB.

The Rules and the […] shall be referred to hereinafter as the 'System Documents'.

2. ASSUMPTIONS

For the purposes of this Opinion we have assumed in relation to the System Documents that:

(1) the System Documents are within the capacity and power of and have been validly authorised, adopted or executed and, where necessary, delivered by the relevant parties;

(2) the terms of the System Documents and the rights and obligations created by them are valid and legally binding under the laws of the Federal Republic of Germany, by which they are expressed to be governed, and the choice of the laws of the Federal Republic of Germany to govern the System Documents is recognised by the laws of the Federal Republic of Germany;

(3) the participants in the System through which any payment orders are sent or payments are received, or through which any rights or obligations under the System Documents are executed or performed, are licensed to provide funds transfer services, in all relevant jurisdictions; and

(4) the documents submitted to us in copy or as specimens conform to the originals.

3. OPINION

Based on and subject to the foregoing, and subject in each case to the points set out below, we are of the opinion that:

3.1. ***Country-specific legal aspects [to the extent applicable]***

The following characteristics of the legislation of [jurisdiction] are consistent with and in no way set aside the obligations of the Participant arising out of the System Documents: [list of country-specific legal aspects].

3.2. ***General insolvency issues***

3.2.a *Types of insolvency 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 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].

3.3. ***Enforceability of System Documents***

Subject to the points set out below, all provisions of the System Documents will be binding and enforceable in accordance with their terms under the laws of [jurisdiction], in particular in the event of the opening of any Insolvency Proceedings or Proceedings with respect to the Participant.

In particular, we are of the opinion that:

3.3.a *Processing of payment orders*

The provisions on processing of payment orders [list of sections] of the Rules are valid and enforceable. In particular, all payment orders processed pursuant to such sections will be valid, binding and will be enforceable under the laws of [jurisdiction]. The provision of the Rules which specifies the precise point in time at which payment orders submitted by the Participant to the System become enforceable and irrevocable (Article 20 of the Rules) is valid, binding and enforceable under the laws of [jurisdiction].

3.3.b *Authority of the ECB to perform its functions*

The opening of Insolvency Proceedings or Proceedings in respect of the Participant will not affect the authority and powers of the ECB arising out of the System Documents. [Specify [to the extent applicable] that: the same opinion is also applicable in respect of any other entity which provides the Participants with services directly and necessarily required for participating in the System (e.g. network service provider)].

3.3.c *Remedies in the event of default*

[Where applicable to the Participant, the provisions contained in Article 30 of the Rules regarding accelerated performance of claims which have not yet matured, the set-off of claims for using the deposits of the Participant, the enforcement of a pledge, suspension and termination of participation, claims for default interest, and termination of agreements and transactions (Articles 27-31 of the Rules) are valid and enforceable under the laws of [jurisdiction].]

3.3.d *Suspension and termination*

Where applicable to the Participant, the provisions contained in Articles 27 and 28 of the Rules (in respect of suspension and termination of the Participant's participation in the System on the opening of Insolvency Proceedings or Proceedings or other events of default, as defined in the System Documents, or if the Participant represents any kind of systemic risk or has serious operational problems) are valid and enforceable under the laws of [jurisdiction].

3.3.e *Assignment of rights and obligations*

The rights and obligations of the Participant cannot be assigned, altered or otherwise transferred by the Participant to third parties without the prior written consent of the ECB.

3.3.f *Choice of governing law and jurisdiction*

The provisions contained in Articles 34 and 38 of the Rules, and in particular in respect of the governing law, the resolution of a dispute, competent courts, and service of process are valid and enforceable under the laws of [jurisdiction].

3.4. ***Voidable preferences***

We are of the opinion that no obligation arising out of the System Documents, the performance thereof, or compliance therewith prior to the opening of any Insolvency Proceedings or Proceedings in respect of the Participant may be set aside in any such proceedings as a preference, voidable transaction or otherwise under the laws of [jurisdiction].

In particular, and without limitation to the foregoing, we express this opinion in respect of any payment orders submitted by any participant in the System. In particular, we are of the opinion that the provisions of Article 20 of the Rules establishing the enforceability and irrevocability of payment orders will be valid and enforceable and that a payment order submitted by any participant and processed pursuant to Title IV of the Rules may not be set aside in any Insolvency Proceedings or Proceedings as a preference, voidable transaction or otherwise under the laws of [jurisdiction].

3.5. ***Attachment***

If a creditor of the Participant seeks an attachment order (including any freezing order, order for seizure or any other public or private law procedure that is intended to protect the public interest or the rights of the Participant's creditors) — hereinafter referred to as an 'Attachment' — under the laws of [jurisdiction] from a court or governmental, judicial or public authority that is competent in [jurisdiction], we are of the opinion that [insert the analysis and discussion].

3.6. ***Collateral [if applicable]***

3.6.a *Assignment of rights or deposit of assets for collateral purposes, pledge, repo and/or guarantee*

Assignments for collateral purposes will be valid and enforceable under the laws of [jurisdiction]. Specifically, the creation and enforcement of a pledge or repo under the Rules will be valid and enforceable under the laws of [jurisdiction]. In the event that a guarantee from another legal entity is required for adherence of the Participant in the System, this guarantee will be binding on the guarantor and fully enforceable against it, without any limit with regard to the amount of the guarantee, whatever the Participant's situation.

3.6.b *Priority of assignees', pledgees' or repo purchasers' interest over that of other claimants*

In the event of Insolvency Proceedings or Proceedings in respect of the Participant, the rights or assets assigned for collateral purposes, or pledged by the Participant in favour of the ECB or other participants in the System, will rank in priority of payment above the claims of all other creditors of the Participant and will not be subject to priority or preferential creditors.

3.6.c *Enforcing title to security*

Even in the event of Insolvency Proceedings or Proceedings in respect of the Participant, other participants in the System and the ECB as pledgees will still be free to enforce and collect the Participant's rights or assets through the action of the ECB pursuant to the Rules.

3.6.d *Form and registration requirements*

There are no form requirements for the assignment for collateral purposes of, or the creation and enforcement of a pledge or repo over the Participant's rights or assets and it is not necessary for the assignment for collateral purposes, pledge or repo, as applicable, or any particulars of such assignment, pledge or repo, as applicable, to be registered or filed with any court or governmental, judicial or public authority that is competent in [jurisdiction].

3.7. ***Branches [to the extent applicable]***

3.7.a *Opinion applies to action through branches*

Each of the statements and opinions presented above with regard to the Participant applies with equal accuracy and validity under the laws of [jurisdiction] in situations where the Participant acts through its one or more of its branches established outside [jurisdiction].

3.7.b *Conformity with law*

Neither the execution and performance of the rights and obligations under the System Documents nor the submission, transmission or receipt of payment orders by a branch of the Participant will in any respect breach the laws of [jurisdiction].

3.7.c *Required authorisations*

Neither the execution and performance of the rights and obligations under the System Documents nor the submission, transmission or receipt of payment orders by a branch of a Participant will require any additional authorisations, approvals, consents, filings, registrations, notarisations or other certifications of or with any court or governmental, judicial or public authority that is competent in [jurisdiction].

This Opinion is stated as of its date and is addressed solely to the ECB and the [Participant]. No other persons may rely on this Opinion, and the contents of this Opinion may not be disclosed to persons other than its intended recipients and their legal counsel without our prior written consent, with the exception of the national central banks of the European System of Central Banks [and [the national central bank/relevant regulatory authorities] of [jurisdiction]].

Yours faithfully,

[signature]

Appendix IV

BUSINESS CONTINUITY AND CONTINGENCY PROCEDURE

1. **General provisions**

(a) This Appendix sets out the arrangements between the ECB and participants, or ancillary systems, if one or more components of the SSP or the telecommunications network fail or are affected by an abnormal external event, or if the failure affects any participant or ancillary system.

(b) All references to specific times in this Appendix refer to European Central Bank time, i.e. the local time at the seat of the ECB.

2. **Measures of business continuity and contingency processing**

(a) In the event that an abnormal external event occurs and/or there is a failure of the SSP or the telecommunications network which affects the normal operation of TARGET2, the ECB shall be entitled to adopt business continuity and contingency processing measures.

(b) The following main business continuity and contingency processing measures shall be available in TARGET2:

(i) relocating the operation of the SSP to an alternative site;

(ii) changing the SSP's operating hours; and

(iii) initiating contingency processing of very critical and critical payments, as defined in paragraph 6(c) and (d) respectively.

(c) In relation to business continuity and contingency processing measures, the ECB shall have full discretion regarding whether and which measures are adopted to settle payment orders.

3. **Incident communication**

(a) Information about the failure of the SSP and/or an abnormal external event shall be communicated to participants through the domestic communication channels, the ICM and T2IS. In particular, communications to participants shall include the following information:

(i) a description of the event;

(ii) the anticipated delay in processing (if known);

(iii) information on the measures already taken; and

(iv) the advice to participants.

(b) In addition, the ECB may notify participants of any other existing or anticipated event which has the potential to affect the normal operation of TARGET2.

4. **Relocation the operation of the SSP to an alternative site**

(a) In the event that any of the events referred to in paragraph 2(a) occurs, the operation of the SSP may be relocated to an alternative site, either within the same region or in another region.

(b) In the event that the operation of the SSP is relocated to another region, the participants shall use best efforts to reconcile their positions up to the point of the failure or the occurrence of the abnormal external event and provide to the ECB all relevant information in this respect.

5. **Change of operating hours**

(a) The daytime processing of TARGET2 may be extended or the opening time of a new business day may be delayed. During any extended operating time of TARGET2, payment orders shall be processed in accordance with the terms and conditions of TARGET2-ECB, subject to the modifications contained in this Appendix.

(b) Daytime processing may be extended and the closing time thereby delayed if an SSP failure has occurred during the day but has been resolved before 18.00. Such a closing time delay shall in normal circumstances not exceed two hours and shall be announced as early as possible to participants. If such a delay is announced before 16.50, the minimum period of one hour between the cut-off time for customer and interbank payment orders shall remain in place. Once such a delay is announced it may not be withdrawn.

(c) The closing time shall be delayed in cases where an SSP failure has occurred before 18:00 and has not been resolved by 18.00. The ECB shall immediately communicate the delay of closing time to participants.

(d) Upon recovery of the SSP, the following steps shall take place:

(i) The ECB shall seek to settle all queued payments within one hour; this time is reduced to 30 minutes in the event that the SSP failure occurs at 17.30 or later (in cases where the SSP failure was ongoing at 18.00).

(ii) Participants' final balances shall be established within one hour; this time shall be reduced to 30 minutes in the event that the SSP failure occurs at 17.30 or later, in cases where the SSP failure was ongoing at 18.00.

(iii) At the cut-off time for interbank payments, the end-of-day processing, including recourse to the Eurosystem standing facilities shall take place.

(e) Ancillary systems that require liquidity in the early morning need to have established means to cope with cases where the daytime processing cannot be started in time due to an SSP failure on the previous day.

6. **Contingency processing**

(a) If it deems it necessary to do so, the ECB shall initiate the contingency processing of payment orders in the Contingency Module 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 means of any available means of communication.

(b) In contingency processing, payment orders shall be processed manually by the ECB.

(c) The following payments shall be considered as 'very critical' and the ECB shall use best efforts to process them in contingency situations:

(i) CLS Bank International-related payments;

(ii) end-of-day settlement of EURO1; and

(iii) central counterparty margin calls.

(d) The following types of payments shall be considered as 'critical' and the ECB may decide to initiate contingency processing in relation to them:

(i) payments in relation to the real-time settlement of interfaced securities settlement systems; and

(ii) additional payments, if required to avoid systemic risk.

(e) Participants shall submit payment orders for contingency processing and information to payees shall be provided through encrypted and authenticated e-mail, as well as via authenticated fax. Information concerning account balances and debit and credit entries may be obtained via the ECB.

(f) Payment orders that have already been submitted to TARGET2-ECB, but are queued, may also undergo contingency processing. In such cases the ECB shall endeavour to avoid the double processing of payment orders, but the participants shall bear the risk of such double processing if it occurred.

(g) For contingency processing of payment orders, participants shall provide additional collateral. During contingency processing, incoming contingency payments may be used to fund outgoing contingency payments. For the purposes of contingency processing, participants' available liquidity may not be taken into account by the ECB.

7. **Failures linked to participants or ancillary systems**

(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 lump sum payments and backup contingency payments (CLS, EURO1, STEP2 pre-fund).

(b) If a participant decides to use the ICM functionality for making backup lump sum payments, 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 lump sum payments. The participant shall be responsible for sending such backup lump sum payments 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.

(c) If the measures referred to in subparagraph (a) are exhausted or if they are inefficient, the participant may request support from the ECB.

(d) In the event that a failure affects an ancillary system, that ancillary system shall be responsible for resolving the failure. If the ancillary system so requests, the ECB may act on its behalf. The ECB shall have discretion to decide what support it gives to the ancillary system, including during the night-time operations of the ancillary system. The following contingency measures may be taken:

(i) the ancillary system initiates clean payments (i.e. payments that are not linked to the underlying transaction) via the Participant Interface;

(ii) the ECB creates and/or processes XML instructions/files on behalf of the ancillary system; and/or

(iii) the ECB makes clean payments on behalf of the ancillary system.

(e) The detailed contingency measures with respect to ancillary systems shall be contained in the bilateral arrangements between the ECB and the relevant ancillary system.

8. **Other provisions**

(a) In the event that certain data are unavailable because one of the events referred to in paragraph 3(a) has occurred, the ECB is entitled to start or continue processing payment orders and/or operate TARGET2-ECB on the basis of the last available data, as determined by the ECB. If so requested by the ECB, participants and ancillary systems shall resubmit their FileAct/Interact messages or take any other action deemed appropriate by the ECB.

(b) In the event of a failure of the ECB, some or all of its technical functions in relation to TARGET2-ECB may be performed by other Eurosystem CBs.

(c) The ECB may require that the participants participate in regular or ad hoc testing of business continuity and contingency processing measures, training or any other preventive arrangements, as deemed necessary by the ECB. Any costs incurred by the participants as a result of such testing or other arrangements shall be borne solely by the participants.

Appendix V

OPERATING SCHEDULE

1. TARGET2 is open on all days, except Saturdays, Sundays, New Year's Day, Good Friday and Easter Monday (according to the calendar applicable at the seat of the ECB), 1 May, Christmas Day and 26 December.

2. The reference time for the system is European Central Bank time, i.e. the local time at the seat of the ECB.

3. The current business day is opened during the evening of the previous business day and operates to the following schedule:

Time	Description
6.45-7.00	Business window to prepare daytime operations (*)
7.00-18.00	Daytime processing
17.00	Cut-off time for customer payments (i.e. payments where the originator and/or the beneficiary of a payment is not a direct or indirect participant as identified in the system by the use of an MT 103 or MT 103+ message)
18.00	Cut-off time for interbank payments (i.e. payments other than customer payments)
18.00-18.45 (**)	End-of-day processing
18.15 (**)	General cut-off time for the use of standing facilities
(Shortly after) 18.30 (***)	Data for the update of accounting systems are available to CBs
18.45-19.30 (***)	Start-of-day processing (new business day)
19.00 (***)-19.30 (**)	Provision of liquidity on the PM account
19.30 (***)	'Start-of-procedure' message and settlement of the standing orders to transfer liquidity from the PM accounts to the sub-account(s)/mirror account (ancillary system-related settlement)
19.30 (***)-22.00	Execution of additional liquidity transfers via the ICM before the ancillary system sends the 'start-of-cycle' message; settlement period of night-time ancillary system operations (only for ancillary system settlement procedure 6)
22.00-1.00	Technical maintenance period
1.00-6.45	Settlement procedure of night-time ancillary system operations (only for ancillary system settlement procedure 6)

(*) Daytime operations means daytime processing and end-of-day processing.
(**) Ends 15 minutes later on the last day of the reserve maintenance period.
(***) Starts 15 minutes later on the last day of the reserve maintenance period.

4. The ICM is available for liquidity transfers from 19.30 [1] until 18.00 the next day, except during the technical maintenance period from 22.00 until 1.00.

5. The operating hours may be changed in the event that business continuity measures are adopted in accordance with paragraph 5 of Appendix IV.

[1] Starts 15 minutes later on the last day of the reserve maintenance period.

Appendix VI

FEE SCHEDULE AND INVOICING

Fees and invoicing for direct participants

1. The monthly fee for the processing of payment orders in TARGET2-ECB for direct participants, depending on which option the direct participant has chosen, shall be either:

   (a) EUR 100 per PM account plus a flat fee per transaction (debit entry) of EUR 0,80; or

   (b) EUR 1 250 per PM account plus a fee per transaction (debit entry) determined as follows, based on the volume of transactions (number of processed items) per month:

Band	From	To	Price
1	1	10 000	EUR 0,60
2	10 001	25 000	EUR 0,50
3	25 001	50 000	EUR 0,40
4	50 001	100 000	EUR 0,20
5	Above 100 000	—	EUR 0,125

   Liquidity transfers between a participant's PM account and its sub-accounts shall not be subject to a charge.

2. There shall be an additional monthly fee for direct participants who do not wish the BIC of their account to be published in the TARGET2 directory of EUR 30 per account.

3. In the case of direct participants, the following invoicing rules apply. The direct participant shall receive the invoice for the previous month specifying the fees to be paid, no later than on the fifth business day of the following month. Payment shall be made at the latest on the tenth working day of that month to the account specified by the ECB and shall be debited from that participant's PM account.

Fees and invoicing for ancillary systems

4. An ancillary system using the ASI or the Participant Interface, irrespective of the number of any accounts it may hold with the ASCB and/or the SCB, shall be subject to a fee schedule consisting of three elements, as set out below.

   (a) A fixed monthly fee of EUR 1 000 to be charged to each AS (Fixed Fee I).

   (b) A second monthly fixed fee of between EUR 417 and EUR 4 167, in proportion to the underlying gross value of the AS's euro cash settlement transactions (Fixed Fee II):

Band	From (EUR million/day)	To (EUR million/day)	Annual fee	Monthly fee
1	0	below 1 000	EUR 5 000	EUR 417
2	1 000	below 2 500	EUR 10 000	EUR 833
3	2 500	below 5 000	EUR 20 000	EUR 1 667
4	5 000	below 10 000	EUR 30 000	EUR 2 500
5	10 000	below 50 000	EUR 40 000	EUR 3 333
6	Above 50 000	—	EUR 50 000	EUR 4 167

The gross value of the AS's euro cash settlement transactions shall be calculated by the ASCB once a year on the basis of such gross value during the previous year and the calculated gross value shall be applied for calculating the fee as from 1 January of each calendar year.

(c) A transaction fee calculated on the same basis as the schedule established for direct participants in paragraph 1 of this Appendix. The AS may choose one of the two options: either to pay a flat EUR 0,80 fee per payment instruction (Option A) or to pay a fee calculated on a degressive basis (Option B), subject to the following modifications:

— for Option B, the limits of the bands relating to volume of payment instructions are divided by two, and

— a monthly fixed fee of EUR 100 (under Option A) or EUR 1 250 (under Option B) shall be charged in addition to Fixed Fee I and Fixed Fee II.

5. Any fee payable in relation to a payment instruction submitted or payment received by an AS, via either the Participant Interface or the ASI, shall be exclusively charged to this AS. The Governing Council may establish more detailed rules for the determination of billable transactions settled via the ASI.

6. Each AS shall receive an invoice from its respective ASCB for the previous month based on the fees referred to in paragraph 4, no later than the fifth business day of the following month. Payments shall be made no later than the tenth business day of this month to the account specified by the ASCB or shall be debited from an account specified by the AS.

7. For the purposes of this paragraph, each AS that has been designated under Directive 98/26/EC shall be treated separately, even if two or more of them are operated by the same legal entity. The same rule shall apply to the ASs that have not been designated under Directive 98/26/EC, in which case the ASs shall be identified by reference to the following criteria: (a) a formal arrangement, based on a contractual or legislative instrument (e.g. an agreement among the participants and the system operator); (b) with multiple membership; (c) common rules and standardised arrangements; and (d) for the clearing, netting and/or settlement of payments and/or securities between the participants.