



EUROPEAN CENTRAL BANK

EUROSYSTEM

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Public access to ECB documents

Dear Mr. Carstensen,

On 16 February 2012, the European Central Bank (ECB) received your request for access to the legal basis which underlies the following arrangements (1) international payments in the Eurosystem flow through accounts that banks hold with their central banks, rather than via private sector banking institutions; (2) the rules for the accounting of TARGET debt and liabilities in the balance sheets of the national central banks; (3) the provisions stipulating that TARGET balances shall be remunerated at the main refinancing rate.

As regards your request under (1) above, we would like to inform you that certain payments must be made via TARGET2, regardless of whether they are cross-border or domestic. These are transactions necessary to implement the monetary policy of the euro area and transactions to settle systemically important clearing and settlement systems in order to promote the smooth operation of payment systems. Both of these are tasks of the Eurosystem set out under Article 3 of the Statute of the ESCB and of the ECB.

For cross-border payments outside the two categories mentioned above, there is however no compulsion to make them through accounts held at central banks. Payments between credit institutions can be settled in other payment systems (such as those offered by the Euro Banking Association), or via correspondent relationships. Nevertheless, many credit institutions in the Union choose to use TARGET2 to transfer their own funds or those of their customers, due to the speed and security offered. The Eurosystem operates TARGET2 on the basis of Article 22 of the Statute of the ESCB and of the ECB¹.

¹ See http://www.ecb.europa.eu/ecb/legal/pdf/en_statute_from_c_11520080509en02010328.pdf.

As regards your request under (2) above, in general terms Article 26 of the Statute of the ESCB and the ECB deals with the financial accounts of the ESCB. The more specific legal basis for the accounting of TARGET2 claims and liabilities for Eurosystem purposes can be found in Guideline ECB/2010/20 on the legal framework for accounting and financial reporting in the ESCB², see in particular its Article 25 and Annex IV. However, Article 26 of the Statute of the ESCB and the ECB prescribes standardised accounting and reporting rules only for Eurosystem purposes, and national central banks' annual accounts do not fall under the rules of that article. Given that the Eurosystem consists of separate legal entities, namely its national central banks and the ECB, the annual accounts of the national central banks are consequently prepared by them in line with their national rules. In fact, all national central banks of the Eurosystem account for their TARGET2 balances in the same manner, i.e. at their nominal value.

Moreover, we would like to inform you that intra-ESCB balances resulting from cross-border payments settled in TARGET2 give rise to bilateral balances in the TARGET2 accounts of EU central banks. These bilateral balances are netted out and then assigned to the ECB on a daily basis, leaving each NCB with a single net bilateral position vis-à-vis the ECB only. This position in the books of the ECB represents the net claim or liability of each NCB against the rest of the ESCB.³ The legal basis of this settlement process is Article 4 of the non-public Guideline *on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2)* (ECB/2011/NP17). Following a thorough assessment in line with the requirements established by the Decision of the European Central Bank of 4 March 2004 (ECB/2004/3) on public access to European Central Bank documents (ECB Decision on public access), it has been decided to disclose in annex (1) the Article 4 of the non-public Guideline ECB/2011/NP17.

As regards your request under (3) above, we would like to inform you that the legal provision stipulating that TARGET2 balances shall be remunerated at the main refinancing rate is Article 2(1) of the non-public Decision ECB/2007/NP10 *on the remuneration of net intra-Eurosystem balances*. Following a thorough assessment in line with the requirements established by the Decision ECB/2004/3, it has been decided to disclose in annex (2) the Article 2(1) of the non-public Decision ECB/2007/NP10.

We should like to draw your attention to the fact that, in line with Article 10 of Decision ECB/2004/3, "*documents released [...] shall not be reproduced or exploited for commercial purposes without the ECB's prior specific authorisation. The ECB may withhold such authorisation without stating reasons.*"

With kind regards,



Pierre van der Haegen
Director General Secretariat & Language Services



Roman Schremser
Head of Secretariat Division

Annex

² See <http://www.ecb.europa.eu/ecb/legal/1001/1012/html/index.en.html>, items 18.a and 18.b.

³ See http://www.ecb.europa.eu/pub/pdf/annrep/ar2011annualaccounts_en.pdf (ECB annual accounts for 2011, page 9).

Article 4 of the non-public Guideline on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) (ECB/2011/NP17)

Article 4

Intra-Eurosystem settlement

1. Any settlement of payments between participants in different TARGET2 component systems shall automatically give rise to an intra-Eurosystem obligation of the Eurosystem CB^[4] of the payer towards the Eurosystem CB of the payee.
2. Any intra-Eurosystem obligation arising under paragraph 1 shall automatically be aggregated and form part of a single obligation in relation to each Eurosystem CB. Each time a payment between participants in different TARGET2 component systems is settled, the single obligation of the relevant Eurosystem CB shall be adjusted accordingly. At the end of the business day each such single obligation shall be subject to a multilateral netting procedure resulting in each participating NCB^[5]'s obligation or claim towards the ECB, as set out in an agreement between the Eurosystem CBs.
3. Each participating NCB shall maintain an account to record its obligation or claim towards the ECB, resulting from the settlement of payments between TARGET2 component systems.
4. The ECB shall open on its books an account for each participating NCB in order to mirror at the end of the day such participating NCB's obligation or claim towards the ECB.

⁴ 'Eurosystem CB' means the ECB or a participating NCB

⁵ 'Participating NCB' means the National Central Bank (NCB) of a Member State whose currency is the euro

Annex 2

Article 2(1) of the non public Decision ECB/2007/NP10 on "the remuneration of net intra-Eurosystem balances"

Article 2(1)

Calculation of remuneration

1. Net intra-Eurosystem balances other than balances on correspondent accounts shall be remunerated at the latest available marginal interest rate used by the Eurosystem in its tenders for main refinancing operations under paragraph 3.1.2 of Annex I to Guideline ECB/2000/7 on monetary policy instruments and procedures of the Eurosystem.