



DECYZJA EUROPEJSKIEGO BANKU CENTRALNEGO (UE) 2023/2532

z dnia 9 listopada 2023 r.

**zmieniająca decyzję (UE) 2022/911 w sprawie warunków uczestnictwa w systemie TARGET-ECB
(EBC/2022/22) (EBC/2023/27)**

ZARZĄD EUROPEJSKIEGO BANKU CENTRALNEGO,

uwzględniając Traktat o funkcjonowaniu Unii Europejskiej, w szczególności art. 127 ust. 2 tiret pierwsze i czwarte,

uwzględniając Statut Europejskiego Systemu Banków Centralnych i Europejskiego Banku Centralnego, w szczególności art. 3 ust. 1 oraz art. 17, art. 22 i art. 23,

a także mając na uwadze, co następuje:

- (1) W dniu 24 lutego 2022 r. Rada Prezesów przyjęła wytyczne Europejskiego Banku Centralnego (UE) 2022/912 (EBC/2022/8) ⁽¹⁾, które przewidują uruchomienie transeuropejskiego zautomatyzowanego błyskawicznego systemu rozrachunku brutto w czasie rzeczywistym nowej generacji (TARGET).
- (2) W dniu 7 września 2023 r. Rada Prezesów przyjęła wytyczne Europejskiego Banku Centralnego (UE) 2023/2415 (EBC/2023/22) ⁽²⁾, które zmieniają wytyczne (UE) 2022/912 (EBC/2022/8). Celem tych zmian było: a) doprecyzowanie niektórych aspektów używania znaków towarowych dotyczących usług TARGET; b) doprecyzowanie wymogu, zgodnie z którym banki centralne Eurosystemu (BC Eurosystemu) mają zapewnić, aby na potrzeby świadczenia usług objętych zakresem tych wytycznych uczestnikom uprawnionym do uczestnictwa w TARGET nie były otwierane rachunki inne niż rachunki TARGET; c) wprowadzenie środków łagodzących skutki awarii połączenia BC Eurosystemu z TARGET; d) wprowadzenie obowiązku stosowania rozwiązania awaryjnego od dnia 21 marca 2025 r. dla wszystkich posiadaczy dedykowanych rachunków pieniężnych do celu rozrachunku brutto w czasie rzeczywistym oraz systemów zewnętrznych uczestniczących w TARGET; e) doprecyzowanie niektórych kwestii dotyczących podmiotów osiągalnych wyznaczonych przez systemy zewnętrzne, które korzystają z usługi natychmiastowego rozrachunku płatności w systemie TARGET (TARGET Instant Payment Settlement, TIPS); f) wprowadzenie zmienionych zasad ustalania cen dla rozliczania usługi TIPS; oraz g) wprowadzenie pewnych zmian redakcyjnych.
- (3) Zmiany wprowadzone do wytycznych (UE) 2022/912 (EBC/2022/8), które mają wpływ na warunki uczestnictwa w systemie TARGET-ECB, powinny znaleźć odzwierciedlenie w decyzji Europejskiego Banku Centralnego (UE) 2022/911 (EBC/2022/22) ⁽³⁾.
- (4) W celu zapewnienia zgodności z postanowieniami wytycznych (UE) 2023/2415 (EBC/2023/22) niniejsza decyzja powinna wejść w życie z dniem 20 listopada 2023 r.
- (5) Należy zatem odpowiednio zmienić decyzję (UE) 2022/911 (EBC/2022/22),

PRZYJMUJE NINIEJSZĄ DECYZJĘ:

Artykuł 1

Zmiany

W decyzji (UE) 2022/911 (EBC/2022/22) wprowadza się następujące zmiany:

- 1) w art. 3 ust. 2 otrzymuje brzmienie:

⁽¹⁾ Wytyczne Europejskiego Banku Centralnego (UE) 2022/912 z dnia 24 lutego 2022 r. w sprawie transeuropejskiego zautomatyzowanego błyskawicznego systemu rozrachunku brutto w czasie rzeczywistym nowej generacji (TARGET) oraz uchylające wytyczne EBC/2012/27 (EBC/2022/8) (Dz.U. L 163 z 17.6.2022, s. 84).

⁽²⁾ Wytyczne Europejskiego Banku Centralnego (UE) 2023/2415 z dnia 7 września 2023 r. zmieniające wytyczne (UE) 2022/912 w sprawie transeuropejskiego zautomatyzowanego błyskawicznego systemu rozrachunku brutto w czasie rzeczywistym nowej generacji (TARGET) (EBC/2022/8) (EBC/2023/22) (Dz.U. L 2023/2415 z 27.10.2023, ELI: <http://data.europa.eu/eli/guideline/2023/2415/oj>).

⁽³⁾ Decyzja Europejskiego Banku Centralnego (UE) 2022/911 z dnia 19 kwietnia 2022 r. w sprawie warunków uczestnictwa w systemie TARGET-ECB i uchylająca decyzję EBC/2007/7 (EBC/2022/22) (Dz.U. L 163 z 17.6.2022, s. 1).

„2. Zgodnie z art. 9 ust. 2 wytycznych (UE) 2022/912 (EBC/2022/8) od dnia rozpoczęcia funkcjonowania systemu zarządzania zabezpieczeniami w Eurosystemie (ECMS), zgodnie z informacją zamieszczoną na stronie internetowej EBC, EBC nie otwiera rachunków innych niż rachunki TARGET dla uczestników uprawnionych do uczestnictwa w TARGET na potrzeby świadczenia usług objętych zakresem wytycznych (UE) 2022/912 (EBC/2022/8), z wyjątkiem rachunków, które są wykorzystywane do przechowywania środków podlegających zajęciu, środków, na których ustanowiono zastaw na rzecz wierzyciela będącego osobą trzecią lub środków, o których mowa w art. 3 ust. 1 lit. d) rozporządzenia Europejskiego Banku Centralnego (UE) 2021/378 (EBC/2021/1) (*).

(*) Rozporządzenie Europejskiego Banku Centralnego (UE) 2021/378 z dnia 22 stycznia 2021 r. w sprawie stosowania wymogów dotyczących utrzymywania rezerwy obowiązkowej (EBC/2021/1) (Dz.U. L 73 z 3.3.2021, s. 1).”;

- 2) w załączniku I do decyzji (UE) 2022/911 (EBC/2022/22) wprowadza się zmiany zgodnie z załącznikiem I do niniejszej decyzji;
- 3) w załączniku II do decyzji (UE) 2022/911 (EBC/2022/22) wprowadza się zmiany zgodnie z załącznikiem II do niniejszej decyzji;
- 4) w załączniku III do decyzji (UE) 2022/911 (EBC/2022/22) wprowadza się zmiany zgodnie z załącznikiem III do niniejszej decyzji.

Artykuł 2

W wejście w życie

Niniejsza decyzja wchodzi w życie z dniem 20 listopada 2023 r.

Sporządzono we Frankfurcie nad Menem dnia 9 listopada 2023 r.

Prezes EBC
Christine LAGARDE

ZAŁĄCZNIK I

W załączniku I do decyzji (UE) 2022/911 (EBC/2022/22) wprowadza się następujące zmiany:

1) w części I wprowadza się następujące zmiany:

a) w art. 18 ust. 4 otrzymuje brzmienie:

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

- (a) for participants considered by the ECB to be critical and for participants that settle very critical transactions as set out in Appendix IV;
- (b) with effect from 21 March 2025, for all AS and for all RTGS DCA holders.”;

b) art. 23 otrzymuje brzmienie:

„Article 23

Duration and ordinary termination of participation and closure of accounts

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

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

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

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

- (a) a participant's entire participation in TARGET-ECB;
- (b) one or more of a participant's DCAs, RTGS AS technical accounts or TIPS AS technical accounts;
- (c) one or more of a participant's MCAs, provided that the participant continues to hold at least one MCA.

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

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

c) w art. 30 dodaje się ust. 1a w brzmieniu:

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

2) w części II wprowadza się następujące zmiany:

a) w art. 2 ust. 3 otrzymuje brzmienie:

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

b) w art. 2 ust. 4 otrzymuje brzmienie:

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

3) w części VII wprowadza się następujące zmiany:

a) w art. 1 ust. 5 otrzymuje brzmienie:

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

b) w art. 7 ust. 1 otrzymuje brzmienie:

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

4) w dodatku VI sekcja 6 (OPŁATY PONOSZONE PRZEZ POSIADACZY RACHUNKÓW TIPS DCA) otrzymuje brzmienie:

„6. FEES FOR TIPS DCA HOLDERS

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

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

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

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

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

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

- (b) For each reachable party designated by the TIPS DCA holder, up to a maximum of 50 reachable parties, a monthly fixed fee of EUR 20 shall be charged to the designating TIPS DCA holder. No fee shall be charged for the fifty-first or any subsequent reachable party;
- (c) For each instant payment order or positive recall answer accepted by the [insert name of CB] as set out in Part I, Article 17, a fee of 0,001 EUR shall be charged to both the holder of the TIPS DCA to be debited and to the holder of the TIPS DCA or TIPS AS technical account to be credited, whether or not the instant payment order or positive recall answer settles;
- (d) No fee shall be charged for liquidity transfer orders from TIPS DCAs to MCAs, RTGS DCAs, sub-accounts, overnight deposit accounts, TIPS AS technical accounts or T2S DCAs.”;
- 5) w dodatku VI sekcja 7 (OPŁATY PONOSZONE PRZEZ SYSTEMY ZEWNĘTRZNE STOSUJĄCE PROCEDURY ROZRACHUNKOWE TIPS AS) otrzymuje brzmienie:

„7. FEES FOR AS USING TIPS AS SETTLEMENT PROCEDURE

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

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

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

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

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

- (a) For each TIPS AS technical account a monthly fixed fee of EUR 3 000 shall be charged to the holder of the TIPS AS technical account;
- (b) For each reachable party designated by the TIPS AS technical account holder, up to a maximum of 50 reachable parties, a monthly fixed fee of EUR 20 shall be charged to the designating TIPS AS technical account holder. No fee shall be charged for the fifty-first or any subsequent reachable party;

- (c) For each instant payment order or positive recall answer accepted by the [insert name of CB] as set out in Part I, Article 17, a fee of 0,001 EUR shall be charged to both the holder of the TIPS AS technical account to be debited and to the holder of the TIPS AS technical account or TIPS DCA to be credited, whether or not the instant payment order or positive recall answer settles;
- (d) No fee shall be charged for liquidity transfer orders from TIPS AS technical accounts to TIPS DCAs;
- (e) In addition to the fees set out above, each AS shall be subject to a monthly fee based on the gross underlying volume of instant payments, near instant payments and positive recall answers settled in the AS's own platform and enabled by the pre-funded positions on the TIPS AS technical account. For each month, each AS shall report the gross underlying volume of its settled instant payments, near instant payments and settled positive recall answers, rounded down to the nearest ten thousand, at the latest by the third business day of the following month. The reported gross underlying volume shall be applied by the ECB to calculate the unit fee per settled instant payment, near instant payment or settled positive recall answer for the previous month according to the following table:

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

ZAŁĄCZNIK II

Załącznik II do decyzji (UE) 2022/911 (EBC/2022/22) otrzymuje brzmienie:

„ANNEX II

TARGET GOVERNANCE ARRANGEMENTS

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

Level 1 — Governing Council	Level 2 — Technical and operational management body	Level 3 — Level 3 NCBS
7. Risk management		
<ul style="list-style-type: none"> — approving the TARGET Risk Management Framework and the risk tolerance for TARGET as well as accepting remaining risks — assuming ultimate responsibility for the activities of the first and second lines of defence — establishing the organisational structure for roles and responsibilities related to risk and control 	<ul style="list-style-type: none"> — Conducting the risk management following the roles defined in the applicable risk management frameworks — Conducting risk analysis and follow-up according to the allocated risk ownership — ensuring that all risk management arrangements are maintained and kept-up-to date — approving and reviewing the business continuity plan as outlined in the relevant operational documentation 	<ul style="list-style-type: none"> — Conducting the risk management following the roles defined in the applicable risk management frameworks and related to Level 3 activities — Conducting risk analysis and follow-up according to the allocated risk ownership — Providing the necessary information for risk analysis according to Level 1/Level 2 requests and the risk management frameworks in place
8. System rules		
<ul style="list-style-type: none"> — Establishing and ensuring adequate implementation of the European System of Central Banks' legal framework for TARGET including the Harmonised Conditions for participation in TARGET 	(Not applicable)	(Not applicable)"

ZAŁĄCZNIK III

W załączniku III do decyzji (UE) 2022/911 (EBC/2022/22) wprowadza się następujące zmiany:

1) pkt 28 otrzymuje brzmienie:

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

2) pkt 54 otrzymuje brzmienie:

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