

BANCO CENTRAL EUROPEO

DECISIÓN DEL BANCO CENTRAL EUROPEO

de 19 de marzo de 2009

sobre la creación del Consejo del Programa TARGET2-Securities

(BCE/2009/6)

(2009/338/CE)

EL CONSEJO DE GOBIERNO DEL BANCO CENTRAL EUROPEO,

Vistos los Estatutos del Sistema Europeo de Bancos Centrales y del Banco Central Europeo (en adelante, «los Estatutos del SEBC»), en particular los artículos 3.1, 12.1, 12.3, 17, 18 y 22,

Considerando lo siguiente:

(1) En su reunión de 6 de julio de 2006, el Consejo de Gobierno del Banco Central Europeo (BCE) decidió examinar, en cooperación con centrales depositarias de valores (CDV) y otros participantes en los mercados, la posibilidad de organizar un nuevo servicio del Eurosistema para liquidar valores que se denominaría TARGET2-Securities (T2S). En el marco de sus funciones conforme a los artículos 17, 18 y 22 de los Estatutos del SEBC, el Eurosistema prevé que T2S sea un servicio basado en una plataforma única que permita una liquidación paneuropea de efectivo y valores con carácter básico, neutral y transfronterizo, que se ofrezca a las CDV para que puedan prestar a sus clientes unos servicios armonizados y estandarizados de liquidación por el procedimiento de entrega contra pago en dinero del banco central en un entorno técnico integrado.

(2) El 17 de julio de 2008 el Consejo de Gobierno decidió iniciar la creación de T2S y facilitar los recursos necesarios hasta terminarla. Conforme al ofrecimiento del Deutsche Bundesbank, del Banco de España, de la Banque de France y de la Banca d'Italia, el Consejo de Gobierno decidió asimismo que T2S se creara y gestionara por esos cuatro bancos centrales nacionales (BCN).

(3) La organización eficaz y eficiente de T2S, en la que participan elementos internos y externos, requiere establecer un órgano gestor simplificado que formule propuestas al Consejo de Gobierno acerca de cuestiones estratégicas esenciales y que ejecute funciones de carácter meramente técnico (en adelante, «el Consejo del Programa T2S»).

(4) Conforme al principio de descentralización establecido en el artículo 12.1 de los Estatutos del SEBC y en la medida posible y adecuada, los BCN ejecutan operaciones correspondientes a las funciones del SEBC. Por tanto, los bancos centrales del Eurosistema encomendarán al Consejo del Programa T2S ciertas funciones de ejecución de modo que sea plenamente operativo y pueda actuar en nombre del Eurosistema en su conjunto. El Comité de Sistemas de Pago y de Liquidación (PSSC) mantendrá sus funciones de asesoramiento a los órganos rectores del BCE.

DECIDE:

Artículo 1

Consejo del Programa T2S

1. El Consejo del Programa T2S se constituirá como un órgano gestor simplificado del Eurosistema encargado de formular propuestas al Consejo de Gobierno acerca de cuestiones estratégicas esenciales y de ejecutar funciones de carácter meramente técnico relativas a T2S.

2. El mandato del Consejo del Programa T2S, incluidos sus objetivos, responsabilidades, funciones, composición, normas de trabajo y presupuesto, se establece en el anexo de la presente Decisión.

3. Los nombres y currículos de los candidatos a miembros del Consejo del Programa T2S serán remitidos por los miembros del Consejo de Gobierno al Comité Ejecutivo de manera que se reciban el 8 de abril de 2009, a más tardar. De entre los nombres propuestos, el Consejo de Gobierno nombrará a los miembros del Consejo del Programa T2S el 23 de abril de 2009.

4. El Consejo del Programa T2S empezará a funcionar a mediados de mayo de 2009.

5. El Consejo del Programa T2S comunicará su programa, un resumen de sus reuniones y la documentación pertinente relativa a sus reuniones a los miembros del PSSC para que este pueda dar su opinión al Consejo del Programa T2S.

Artículo 2

Disposición final

La presente Decisión entrará en vigor el 20 de marzo de 2009.

Hecho en Fráncfort del Meno, el 19 de marzo de 2009.

El presidente del BCE

Jean-Claude TRICHET

ANEXO

MANDATE OF THE T2S PROGRAMME BOARD

In line with the Treaty and the Statute of the European System of Central Banks and of the European Central Bank, the Eurosystem aims to offer its T2S Services to CSDs in Europe no later than 2013. The T2S services will allow for the core, neutral and borderless, i.e. pan-European, settlement of securities transactions on a delivery-versus-payment (DVP) basis in central bank money, on a single technical platform integrated with the real-time gross settlement systems settling in central bank money of each participating currency.

In view of the provision of the T2S Services, the ECB Governing Council, as ultimate decision-making body of the Eurosystem, established the T2S Programme Board to assist the ECB decision-making bodies in ensuring the successful and timely completion of the T2S programme.

The T2S Programme Board is also based on a T2S Protocol signed by the Eurosystem central banks. Without prejudice to the ultimate decision-making powers of the ECB decision-making bodies, the T2S Programme Board is entrusted with the autonomous performance of clearly defined executive tasks related to the T2S programme. The T2S Programme Board will report directly to the Governing Council regularly. The advisory functions of ESCB committees, in particular the PSSC, LEGCO and the EISC, are not affected by the establishment of the T2S Programme Board. The T2S Programme Board may seek and receive guidance from the Governing Council on T2S related issues in case of uncertainty or doubt.

If and when new issues related to T2S arise, the T2S Programme Board may be assigned further clearly defined executive tasks. In light of the Governing Council's final competence in T2S issues, any tasks performed by the T2S Programme Board may be addressed by the Governing Council.

OBJECTIVES

Based on this mandate, the T2S Programme Board ensures that the T2S programme is implemented:

- in accordance with market expectations, as reflected in the user requirement document (URD) dated 21 May 2008, as amended from time to time,
- within the budget defined by the Governing Council,
- no later than June 2013.

RESPONSIBILITIES

In view of meeting its objectives, the T2S Programme Board is responsible for:

- submitting proposals to the ECB decision-making bodies on T2S issues that are of a strategic nature and might have an impact on the timely and successful implementation of the T2S programme within the agreed parameters,
- managing the T2S programme on a daily basis,
- managing the relations with T2S clients and external stakeholders,
- reporting on the T2S programme to the ECB decision-making bodies on a regular and structured basis,
- interacting with the 4CB.

TASKS

In view of fulfilling its responsibilities, the following executive tasks are assigned to the T2S Programme Board:

1. Elaboration of proposals for ultimate decision by the Governing Council

The T2S Programme Board elaborates proposals in the following fields:

- T2S governance,

- T2S finances, including:
 - timely proposals on issues related to the compliance with the stated T2S objective of full cost recovery (e.g. in case T2S does not attract sufficient volume) and the possible resulting financial risk, the Eurosystem may be exposed to,
 - proposals in light of the outcome of the T2S Programme Board's negotiations with the 4CB regarding the 'conditional fixed price offer' (including the payment schedule),
 - proposals on the annual budget managed by the T2S Programme Board,
 - proposals concerning the T2S cost methodology, and
 - proposals regarding the T2S pricing policy,
- overall T2S programme planning,
- any contract to be signed between the Eurosystem and external stakeholders,
- T2S risk management framework (and acceptance of remaining risks),
- service level agreements (SLAs) to be established with the CSDs and NCBs and the 4CB,
- T2S migration strategy,
- crisis management strategy.

2. Programme management

The T2S Programme Board:

- performs the overall management of the T2S programme,
- establishes a detailed plan, on the basis of the overall T2S programme plan, as approved by the Governing Council,
- assesses, validates and accepts the 4CB deliverables, according to pre-agreed quality standards, and in particular ensures that they are consistent with the URD,
- validates proposals from the 4CB, in particular on IT strategy, network provision and capacity planning strictly related to T2S,
- approves payment of instalments to the 4CB, according to an agreed schedule approved by the Governing Council (conditional fixed price offer), once the 4CB deliveries have been accepted by the T2S Programme Board,
- coordinates proper change management (URD),
- establishes test scenarios and later coordinates tests between the various stakeholders,
- implements the T2S risk management framework within the parameters set by the Governing Council,
- implements the T2S migration strategy within the parameters set by the Governing Council,
- implements the T2S crisis management strategy within the parameters set by the Governing Council,
- ensures compliance of the T2S service with regulatory requirements.

3. Relations with external stakeholders

The T2S Programme Board:

- ensures that the T2S service meets the market needs,
- maintains close relations with the CSDs (jointly with the Eurosystem central banks) and non-euro area NCBs. The chairperson of the T2S Programme Board chairs the T2S Advisory Group or its successor body,
- negotiates with CSDs (jointly with the Eurosystem central banks) and NCBs, including contracts for development and operational phases (to be endorsed by the Governing Council),
- performs, with the help of the central bank expert network, a central role in the communication on T2S vis-à-vis market participants and public authorities,
- conducts all T2S related harmonisation work,
- closely cooperates with all relevant public authorities or private bodies (e.g. the EU Commission and the European Parliament, securities regulators), on relevant initiatives in the field of securities clearing and settlement,
- ensures transparency through the timely and consistent publication of relevant documentation.

4. Reporting

The T2S Programme Board:

- prepares quarterly reports to the Governing Council. In the spirit of full transparency, these reports are sent to the PSSC and to the EISC for comments before they are submitted to the Executive Board and the Governing Council,
- shares the agendas, the summaries and the relevant documentation of its meetings with the members of the PSSC to allow such members to provide input to the T2S Programme Board in exceptional cases,
- may consult any ESCB committees in case of need.

COMPOSITION

The T2S Programme Board is composed of eight members. The mandate of a T2S Programme Board member lasts for eighteen months and may be renewed. Members of the Governing Council and the Governors of central banks that have committed to settle their national currency via T2S may present candidates for the T2S Programme Board.

The Governing Council will appoint the members of the T2S Programme Board upon the proposal of the Executive Board of the ECB. In addition to the abovementioned members, the Governing Council may nominate alternates for each of the NCB members. These alternates will receive all T2S Programme Board documentation, will replace the incumbent in case of absence and may attend meetings of the T2S Programme Board as observers.

WORKING PROCEDURES

- T2S Programme Board members do not represent their central bank of origin, but act in the general interest of the Eurosystem,
- in case of an equal number of votes in the T2S Programme Board, its chairperson will have a casting vote,
- members of the T2S Programme Board will not vote when they are in a situation of conflict of interest. This applies in particular to the members of Deutsche Bundesbank, Banque de France, Banca d'Italia and Banco de España, if the T2S Programme Board decides on the validation of the 4CB deliveries,

- the chairperson of the T2S Programme Board works full time on the T2S project; the independent members at least 30 % and the other members at least 10 %,
- members of the T2S Programme Board may not, at the same time, be members of the ECB decision-making bodies nor of the PSSC, nor of the EISC,
- the T2S Programme Board is supported by a T2S project team which may also be composed of staff seconded by ESCB central banks. The team may also hire consultants,
- the T2S Programme Board function is subject to the reviews of the Internal Auditors Committee of the Eurosystem,
- the T2S Programme Board generally meets once every month, or on an ad-hoc basis, at the invitation of the Chairperson,
- details of the working procedures are to be addressed in the Rules of Procedure of the T2S Programme Board.

BUDGET

The T2S Programme Board has its own budget, adopted by the Governing Council and subject to the BUCOM procedures. This budget comprises exclusively expenses which will be recovered by the T2S CSDs and, ultimately, by the T2S users. All such expenses are in the T2S budget. The PSSC, the EISC, the BUCOM and the T2S Advisory Group are consulted before the budget proposal is sent to the Governing Council.

As much as possible and appropriate, the T2S Programme Board follows the procedures of the ECB, and the support functions of the ECB. Related expenses are reimbursed to the ECB.

TRANSITORY MEASURES

Transitory measures aim at allowing the T2S Programme Board to be fully operational on 1 August 2009.

Members of the Governing Council and Governors of non-euro central banks which have committed to settle their national currencies via T2S are invited to propose candidates for membership of the T2S Programme Board by 8 April 2009, in view of their appointment by the Governing Council on 23 April 2009.

ECB staff members of the T2S division are assigned to the T2S programme as from 1 August 2009.

The T2S Programme Board will, inter alia, prepare proposals for the meeting of the Governing Council of 16 July 2009, on the following topics:

- a budget for 2009,
 - Rules of Procedure for the T2S Programme Board,
 - a note clarifying the working relations between the ECB services and the T2S Programme Board.
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