

## Appendix II

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### TARGET COMPENSATION SCHEME

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#### **1. General principles**

- (a) If there is a technical malfunction of TARGET, participants may submit claims for compensation in accordance with the TARGET compensation scheme laid down in this Appendix.
- (b) Unless otherwise decided by the ECB's Governing Council, the TARGET compensation scheme shall not apply if the technical malfunction of TARGET 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 TARGET compensation scheme shall be the only compensation procedure offered in the event of a technical malfunction of TARGET. Participants may, however, use other legal means to claim for losses. If a participant accepts a compensation offer under the TARGET compensation scheme, this shall constitute the participant's irrevocable agreement that it thereby waives all claims in relation to the cash transfer 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 TARGET compensation scheme, in respect of any further claims which are raised by any other participant or any other third party in relation to the cash transfer order or cash transfer concerned.
- (d) The making of a compensation offer shall not constitute an admission of liability by the NBB or any other CB in respect of a technical malfunction of TARGET.

#### **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 TARGET cash transfer order was not settled on the business day on which it was accepted.
- (b) A payee may submit a claim for an administration fee if due to a technical malfunction of TARGET it did not receive a cash transfer 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 TARGET, 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 cash transfer order, EUR 25 for each of the next four such cash transfer orders and EUR 12.50 for each further such cash transfer 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 short term reference rate (€STR) rate and the marginal lending facility rate. The reference rate shall be applied to the amount of the cash transfer order not settled as a result of the technical malfunction of TARGET for each day in the period from the date of the actual or, in relation to cash transfer orders referred to in paragraph 2(b)(ii), intended submission of the cash transfer order until the date on which the cash transfer order was or could have been successfully settled. Any interest or charges resulting from the placing of any non-settled cash transfer orders on deposit with the Eurosystem shall be deducted from, or charged to, the amount of any compensation, as the case may be;
- (iii) no interest compensation shall be payable if and in so far as funds resulting from non-settled cash transfer 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 cash transfer order, EUR 25 for each of the next four such cash transfer orders and EUR 12.50 for each further such cash transfer 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 facility 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 TARGET.

**4. Procedural rules**

- (a) A claim for compensation shall be submitted on the claim form available on the website of the NBB in English (see [Legal documentation | nbb.be](#)). 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 TARGET, participants shall submit their claim forms to the NBB. Any additional information and evidence requested by the NBB shall be supplied within two weeks of such request being made.
- (c) The NBB 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 TARGET occurs.
- (d) The NBB 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 cash transfer order comprised within each claim, by signing a standard letter of acceptance (in the form available on the website of the NBB (see [Legal documentation | nbb.be](#))). If such letter has not been received by the NBB within four weeks, the participants concerned shall be deemed to have rejected the compensation offer.
- (e) The NBB shall make compensation payments on receipt of a participant's letter of acceptance of compensation. No interest shall be payable on any compensation payment.