

EESTI PANK
Governor's Decree No. 4
9 May 2008

Approval of TARGET2-Eesti rules

This decree shall be established based on Subsection 2(1) and Clause 14 3) of the Eesti Pank Act and Subsection 87(2) of the Credit Institutions Act.

§ 1. This decree approves the “Harmonised conditions for participation in TARGET2-Eesti” (appended).

§ 2. This decree applies as of 19 May 2008.

Andres Lipstok
Governor

HARMONISED CONDITIONS FOR PARTICIPATION IN TARGET2-EESTI

TITLE I GENERAL PROVISIONS

Article 1 – Definitions

For the purposes of the harmonised conditions for participation in TARGET2-Eesti (hereinafter HC):

'**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;

'**non-settled payment order**' means a payment order that is not settled on the same business day as that on which it is accepted;

'**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;

'**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 (now Articles 101 and 103(1));

'**CAI mode**' means the provision of consolidated account information in relation to PM accounts via the ICM;

'**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;

‘Contingency Module’ means the SSP module enabling the processing of critical and very critical payments in contingency situations;

‘Eurosystem’ means the ECB and the national central banks (NCBs) of the Member States that have adopted the euro;

‘Eurosystem CB’ means the ECB or the NCB of a Member State that has adopted the euro;

‘branch’ means a branch within the meaning of Subsection 11(1) of the Credit Institutions Act;

‘ICM broadcast message’ means information made simultaneously available to all or a selected group of TARGET2 participants via the Information and Control Module (ICM);

‘investment firm’ means an investment firm within the meaning of Subsection 40(1) of the Securities Market Act, excluding the institutions specified in Subsection 47(1) of the same act, 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 section 43 of the Securities Market Act;

‘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;

‘central banks (CBs)’ means the Eurosystem CBs and the connected CBs,

‘Home Account’ means an account opened outside the PM by a CB for an entity that is eligible to become an indirect participant;

‘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 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
- 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;

'credit institution' means a credit institution within the meaning of Subsection 3(1) of the Credit Institutions Act 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;

'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;

'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;

‘marginal lending facility’ means a Eurosystem standing facility which counterparties may use to receive overnight credit from a Eurosystem CB at the prespecified marginal lending rate;

‘marginal lending rate’ means the interest rate applicable to the marginal lending facility;

‘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 group;

‘payee’ means a TARGET2 participant whose PM account will be credited as a result of a payment order being settled;

‘instructing participant’ means a TARGET2 participant that has initiated a payment order;

‘payment order’ means a credit transfer order, a liquidity transfer order or a direct debit instruction;

‘insolvency proceedings’ means insolvency proceedings within the meaning of Article 2(j) of the Settlement Finality Directive;

‘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 the respective CB;

‘payer’ means a TARGET2 participant whose PM account will be debited as a result of a payment order being settled;

‘participant’ (or ‘direct participant’) means an entity that holds at least one PM account with Eesti Pank;

‘Participant Interface (PI)’ means the technical device allowing direct participants to submit and settle payment orders via the services offered in the PM;

‘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;

‘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;

‘Bank Identifier Code (BIC)’ means a code as defined by ISO Standard No 9362;

‘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);

‘suspension’ means the temporary freezing of the rights and obligations of a participant for a period of time to be determined by Eesti Pank;

‘event of default’ means any impending or existing event, the occurrence of which may threaten the performance by a participant of its obligations under the HC or any other rules applying to the relationship between that participant and Eesti Pank 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;

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

'entry disposition' means a payment processing phase during which TARGET2-Eesti attempts to settle a payment order which has been accepted pursuant to Article 14, by means of specific procedures, as described in Article 20;

'static data collection form' means a form developed by Eesti Pank for the purpose of registering applicants for TARGET2-Eesti services and registering any changes in relation to the provision of such services;

'TARGET2' means Trans-European Automated Real-time Gross Settlement Express Transfer System; the entirety resulting from all TARGET2 component systems of the CBs;

'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;

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

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

'TARGET2-Eesti' means the TARGET2 component system of Eesti Pank;

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

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

‘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;

‘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;

‘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 the HC;

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

‘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;

‘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.

Article 2 – Appendices

- (1) The following Appendices form an integral part of the HC:
 - 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: Fee schedule and invoicing for ancillary systems using the Participant Interface

- (2) In the event of any conflict or inconsistency between the content of any appendix and the content of any other provision in the HC the latter shall prevail.

Article 3 – TARGET2-Eesti and general description of TARGET2-Eesti

- (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-Eesti:
 - (a) settlement of euro transfers resulting from transactions in cross-border large-value netting systems;
 - (b) settlement of euro transfers resulting from transactions in euro retail payment systems of systemic importance; and
 - (c) 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) Eesti Pank is the provider of services under the HC. Acts and omissions of the SSP-providing CBs shall be considered acts and omissions of Eesti Pank for which it shall assume liability in accordance with Article 31 of the HC. Participation pursuant to the HC 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 the HC are deemed to be received from, or sent to, Eesti Pank.
- (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-Eesti is designated as a 'system' under Subsection 87(3) of the Credit Institutions Act.
- (6) Participation in TARGET2 takes effect via participation in a TARGET2 component system. The HC describe the mutual rights and obligations of participants in TARGET2-Eesti and Eesti Pank. 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-Eesti:
 - (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) Eesti Pank 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 Subsection 5(1) of the Electronic Money Institutions Act, are not entitled to participate in TARGET2-Eesti.

Article 5 – Direct participants

- (1) Direct participants in TARGET2-Eesti shall comply with the requirements set out in Article 8(1) and (2). They shall have at least one PM account with Eesti Pank.
- (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 Eesti Pank 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 Eesti Pank.

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-Eesti 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-Eesti, the 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-Eesti 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 Eesti Pank; 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 Eesti Pank 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 Eesti Pank in another context.
- (2) Applicants shall apply in writing to Eesti Pank as a minimum enclosing the following documents/information:
 - (a) completed static data collection forms as provided by Eesti Pank;
 - (b) the capacity opinion, if required by Eesti Pank and
 - (c) the country opinion, if required by Eesti Pank.
- (3) Eesti Pank may also request any additional information it deems necessary to decide on the application to participate.
- (4) Eesti Pank 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 Eesti Pank's assessment, such participation would endanger the overall stability, soundness and safety of TARGET2-Eesti or of any other TARGET2 component system, or would jeopardise Eesti Pank's performance of its tasks as described in the Eesti Pank Act and the Statute of the European System of Central Banks and of the European Central Bank.
- (5) Eesti Pank shall communicate its decision on the application to participate to the applicant within one month of Eesti Pank's receipt of the application to participate. Where Eesti Pank requests additional information pursuant to paragraph 3, the decision shall be communicated within one month of Eesti Pank'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.
 The directory 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 Eesti Pank and the participants

- (1) Eesti Pank shall offer the services described in Title IV. Save where otherwise provided in the HC or required by law, Eesti Pank shall use all reasonable means within its power to perform its obligations under the HC, without guaranteeing a result.
- (2) Participants shall pay to Eesti Pank the fees laid down in Appendix VI.
- (3) Participants shall ensure that they are connected to TARGET2-Eesti on business days, in accordance with the operating schedule in Appendix V.
- (4) The participant represents and warrants to Eesti Pank that the performance of its obligations under the HC 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 the HC, Eesti Pank and participants shall cooperate closely to ensure the stability, soundness and safety of TARGET2-Eesti. 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 the HC, without prejudice to any banking secrecy obligations.
- (2) Eesti Pank 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) Eesti Pank 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 Eesti Pank. Participants are responsible for verifying the accuracy of information relating to them that is entered into TARGET2-Eesti by Eesti Pank.

- (6) Eesti Pank 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 Eesti Pank 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 Eesti Pank 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 Eesti Pank 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) Eesti Pank 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) Interest is paid on PM accounts and their sub-accounts according to the terms and conditions stipulated by Eesti Pank, but not above the ECB's deposit facility interest rate.
- (4) 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 Eesti Pank.
- (5) Participants shall use the ICM to obtain information on their liquidity position. Eesti Pank shall provide a daily statement of accounts to any participant that has opted for such service.

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 Eesti Pank 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-Eesti 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) Eesti Pank shall immediately reject any payment order that does not fulfil the conditions laid down in paragraph 1. Eesti Pank 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) By setting a bilateral limit, a participant instructs Eesti Pank 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 Eesti Pank 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 17 – 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 Eesti Pank 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 Eesti Pank 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 Eesti Pank 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 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, Eesti Pank 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 I.
- (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 Subsection 87(5) of the Credit Institutions Act, payment orders are deemed entered into TARGET2-Eesti at the moment that the relevant participant's PM account is debited.
- (2) Payment orders may be revoked until they are entered into TARGET2-Eesti 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

Eesti Pank shall offer a consolidated account information (CAI) 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;
 - v) queued payment orders; and
 - vi) list of the PM accounts of the group members.
- 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.

Article 25 – Request for authorisation to use the CAI mode

Each CAI group shall designate a CAI group manager. In the event that the CAI group consists of only one participant, this participant shall act as the CAI group manager. The TARGET2 participant that is the CAI group manager shall address to the managing NCB a written request to use the CAI mode (containing the static data collection form as provided by Eesti Pank). The remaining CAI group members shall address their written requests (containing the static data collection form as provided by Eesti Pank) to their respective CAI NCBs. The managing NCB may request any additional information or document that it deems appropriate in order to decide on the request.

Article 26 – Grant of authorisation to use the CAI mode

The managing NCB shall verify whether the applicants fulfil the requirements to form a CAI group. To this end, the managing NCB may liaise with the other CAI NCBs. The managing NCB's decision shall be addressed, in writing, to the CAI group manager within one month of receipt of the request referred to in Article 25 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.

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 Eesti Pank 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. Eesti Pank 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) Eesti Pank may impose additional security requirements on all participants and/or on participants that are considered to significantly impact the operation of TARGET2-Eesti by Eesti Pank.

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, Eesti Pank 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 the HC, Eesti Pank and the participants shall be bound by a general duty of reasonable care in relation to each other.
- (2) Eesti Pank 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-Eesti. In cases of ordinary negligence, Eesti Pank'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) Eesti Pank is not liable for any loss that results from any malfunction or failure in the technical infrastructure (including but not limited to Eesti Pank's computer infrastructure, programmes, data, applications or networks), if such malfunction or failure arises in spite of Eesti Pank 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) Eesti Pank 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 Eesti Pank's reasonable control (force majeure).
- (5) Notwithstanding the provisions governing settlements under the Law of Obligations Act, paragraphs 1 to 4 shall apply to the extent that Eesti Pank's liability can be excluded.
- (6) Eesti Pank 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 the HC, Eesti Pank may commission third parties in its own name, particularly telecommunications or other network providers or other entities, if this is necessary to meet Eesti Pank's obligations or is standard market practice. Eesti Pank's obligation shall be limited to the due selection and commissioning of any such third parties and Eesti Pank'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 HC, all payment and payment processing-related messages in relation to TARGET2, such as confirmations of debits or credits, or statement messages, between Eesti Pank and participants shall be made through the network service provider.
- (2) Electronic or written records of the messages retained by Eesti Pank or by the network service provider shall be accepted as a means of evidence of the payments processed through Eesti Pank. 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 Eesti Pank shall have the same evidential value as the original message, regardless of its form.
- (4) Eesti Pank shall keep complete records of payment orders submitted and payments received by participants for a period of ten years from the year following the year when such payment orders are submitted and payments are received, unless a longer storage time is stipulated by law.
- (5) Eesti Pank'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-Eesti is for an indefinite period of time.

- (2) A participant may terminate its participation in TARGET2-Eesti at any time giving 14 business days' notice thereof, unless it agrees a shorter notice period with Eesti Pank.
- (3) Eesti Pank may terminate a participant's participation in TARGET2-Eesti 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-Eesti 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) Eesti Pank may terminate without prior notice or suspend the participant's participation in TARGET2-Eesti 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 the HC;
 - (c) the participant fails to carry out any material obligation to Eesti Pank;
 - (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 Eesti Pank's assessment, would threaten the overall stability, soundness and safety of TARGET2-Eesti or of any other TARGET2 component system, or which would jeopardise Eesti Pank's performance of its tasks as described in the Eesti Pank Act and the Statute of the European System of Central Banks and of the European Central Bank.
- (3) In exercising its discretion under paragraph 2, Eesti Pank 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 Eesti Pank suspends or terminates a participant's participation in TARGET2-Eesti under paragraph 1 or 2, Eesti Pank 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 Eesti Pank is informed by another CB of a suspension or termination of a participant in another TARGET2 component system, Eesti Pank 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-Eesti 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-Eesti after receipt of the ICM broadcast message.
- (5) Upon termination of a participant's participation, TARGET2-Eesti 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-Eesti, 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 Eesti Pank 14 business days' notice thereof.
- (2) On termination of participation, pursuant to either Article 33 or 34, Eesti Pank 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 – Eesti Pank’s rights of pledge and set-off

- (1) Eesti Pank 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. Such collateral shall be established by the mere fact that the funds have been credited to the participant’s PM account.
- (2) Eesti Pank shall have the right referred to in paragraph 1 even if its claims are only contingent or not yet due.
- (3) The participant, acting in its capacity as a PM account holder, hereby acknowledges the creation of a pledge in favour of Eesti Pank, with whom that account has been opened; this acknowledgement shall constitute the provision of pledged assets to Eesti Pank referred to under the Law of Property Act. 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) In the event of:
 - (a) there occurs an event of default referred to in Article 34(1); or
 - (b) any other participant-related event referred to in Article 34(2) has caused the participant’s suspension or termination of participation in TARGET2-Eesti, 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 Eesti Pank shall automatically be set off against each other, and the party owing the higher amount shall pay to the other the difference.
- (5) Eesti Pank shall promptly give the participant notice of any set-off pursuant to paragraph 4 after such set-off has taken place.
- (6) Eesti Pank may without prior notice debit any participant’s PM account by any amount which the participant owes Eesti Pank resulting from the legal relationship between the participant and Eesti Pank.

Article 37 – Security rights in relation to funds on sub-accounts

- (1) Eesti Pank shall have a pledge treated as financial collateral 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 Eesti Pank in relation to such settlement.
- (2) Eesti Pank 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, Eesti Pank 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 Eesti Pank is not the ancillary system's CB, Eesti Pank 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 Eesti Pank 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 Eesti Pank any payment made by the latter under such guarantee.

Article 38 – Confidentiality

- (1) Eesti Pank 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 or such disclosure is permitted or required under law.

- (2) By derogation from paragraph 1, the participant agrees that Eesti Pank may disclose payment, technical or organisational information regarding the participant or the participant's customers obtained in the course of the operation of TARGET2-Eesti to other CBs or third parties that are involved in the operation of TARGET2-Eesti, 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. Eesti Pank 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, Eesti Pank 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-Eesti to which participants have had access, may only be used for the purposes laid down in the HC. Participants shall keep such information confidential, unless Eesti Pank 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 the HC are bound by the confidentiality requirements in this Article.
- (5) Eesti Pank 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 Eesti Pank 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-Eesti.

Article 40 – Notices

- (1) Except where otherwise provided for in the HC, all notices required or permitted pursuant to the HC shall be sent by registered post, facsimile or otherwise in writing or by an authenticated message through the network service provider. Notices to Eesti Pank shall be submitted to Head of the Clearing and Settlement Department of Eesti Pank (address: Estonia pst 13, Tallinn) or to the SWIFT address EPBEEE2XTGT. 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 Eesti Pank.
- (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 Estonian and/or English.
- (4) Participants shall be bound by all forms and documents of Eesti Pank 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 Eesti Pank 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 the HC, 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-Eesti. 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 Eesti Pank.
- (4) The services to be provided by SWIFT shall not form part of the services to be performed by Eesti Pank in respect of TARGET2.

- (5) Eesti Pank 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

Eesti Pank may at any time unilaterally amend the HC, including its Appendices. Amendments to the HC, including its Appendices, shall be announced in writing or in a format that can be reproduced in writing. 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, Eesti Pank is entitled immediately to terminate that participant's participation in TARGET2-Eesti 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 the HC shall not be transferred, pledged or assigned by participants to any third party without Eesti Pank's written consent.
- (2) These HC do not create any rights in favour of or obligations in relation to any entity other than Eesti Pank and participants in TARGET2-Eesti.

Article 44 – Governing law, jurisdiction and place of performance

- (1) The bilateral relationship between Eesti Pank and participants in TARGET2-Eesti shall be governed by the Estonian legislation,
- (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 Estonia.
- (3) The place of performance concerning the legal relationship between Eesti Pank and the participants shall be the place of the seat of Eesti Pank.

Article 45 - Severability

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

Article 46 – Binding nature

By participating in TARGET2-Eesti, participants automatically agree to the HC between themselves and in relation to Eesti Pank

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-Eesti 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 (SIPN). Each participant's PM account shall be identified by an eight- or 11-digit BIC. Furthermore, each participant shall pass a series of tests to prove its technical and operational competence before it may participate in TARGET2-Eesti.
- (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-Eesti, 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-Eesti in accordance with the UDFS requirements. Participants may agree among each other on specific rules regarding the field contents. However, in TARGET2-Eesti 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
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Sender	Basic Header	LT Address
Message Type	Application Header	Message Type
Receiver	Application Header	Destination Address
Transaction Reference Number	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, Eesti Pank 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') Eesti Pank 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, Eesti Pank and other CBs involved shall settle all payments simultaneously on the PM accounts of the TARGET2 participants concerned.

- (b) Under Algorithm 2 ('partial') Eesti Pank 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, Eesti Pank 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, Eesti Pank 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 Eesti Pank at its discretion.

- (c) Under Algorithm 3 ('multiple') Eesti Pank 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), Eesti Pank 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') Eesti Pank 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') Eesti Pank shall follow the same procedure as for Algorithm 1, subject to the modification that Eesti Pank 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. Eesti Pank 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 Eesti Pank's website and the ECB's website in English.

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 Eesti Pank 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-Eesti, 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 payee;

- (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 Eesti Pank in English (see www.bankofestonia.info). 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 Eesti Pank. Any additional information and evidence requested by Eesti Pank shall be supplied within two weeks of such request being made.
- (c) Eesti Pank 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) Eesti Pank 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 Eesti Pank (see www.bankofestonia.info). If such letter has not been received by Eesti Pank within four weeks, the participants concerned shall be deemed to have rejected the compensation offer.
- (e) Eesti Pank shall make compensation payments on receipt of a TARGET participant's letter of acceptance of compensation. No interest shall be payable on any compensation payment.

TERMS OF REFERENCE FOR CAPACITY AND COUNTRY OPINIONS

Terms of reference for capacity opinions for participants in TARGET2-Eesti

Eesti Pank
Estonia pst. 13
15095
Estonia

[place], [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, name of Applicant in TARGET2-Eesti or their branch] 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-Eesti (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;
- 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) Eesti Pank Governor's Decree "Approval of TARGET2-Eesti rules' together with its Appendices (hereinafter 'the Rules').
- 2) The Accession Agreement to TARGET2-Eesti concluded between Eesti Pank and the participant for access to TARGET2-Eesti (hereinafter the 'Accession Agreement') and other documents governing the System and/or relationships between the Participant and other System Participants and relationships between the System Participants and Eesti Pank.

The Rules and the Accession Agreement 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 Estonia by which they are expressed to be governed, and the choice of the laws of Estonia to govern the System Documents is recognised by the laws of Estonia;
- 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;
- 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 of 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 Eesti Pank 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 [[jurisdiction] [NCB/relevant administrative authorities]].

Yours faithfully,

[signature]

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

Eesti Pank
Estonia pst. 13
15095
Estonia

[place], [date]

Dear Sir or Madam,

We have been asked as [external] legal advisers to [specify name of Participant, name of Applicant in TARGET2-Eesti or their branch] (hereinafter 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 TARGET2-Eesti (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 EEA 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) Eesti Pank Governor’s Decree “Approval of TARGET2-Eesti rules’ together with its Appendices (hereinafter ‘the Rules’).
- 2) The Accession Agreement to TARGET2-Eesti concluded between Eesti Pank and the participant for access to TARGET2-eesti (hereinafter the ‘Accession Agreement’) and other documents governing the System, relationships between the Participant and other System Participants and relationships between the System Participants and Eesti Pank.

The Rules and the documents listed in Clause 2 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 Estonia, by which they are expressed to be governed, and the choice of the laws of Estonia to govern the System Documents is recognised by the laws of Estonia;
- 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;
- 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 of the Harmonised conditions for participation in TARGET2-Eesti (hereinafter HC) 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]. Section 22 of the HC which specifies the precise point in time at which payment orders submitted by the Participant to the System become enforceable and irrevocable is valid, binding and enforceable under the laws of [jurisdiction].

3.3.b Authority of Eesti Pank to perform its functions

The opening of Insolvency Proceedings or Proceedings in respect of the Participant will not affect the authority and powers of Eesti Pank 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 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 are valid and enforceable under the laws of [jurisdiction].

3.3.d Suspension and termination

Where applicable to the Participant, the provisions contained in the HC (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 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 Eesti Pank.

3.3.g Choice of governing law and jurisdiction

The provisions contained in the HC, 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 HC 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 HC 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

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 Eesti Pank 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 Eesti Pank [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 Eesti Pank 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 Eesti Pank 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 [[jurisdiction] [NCB/relevant administrative authorities].**

Yours faithfully,

[signature]

BUSINESS CONTINUITY AND CONTINGENCY PROCEDURES

1. General provisions

- (a) This Appendix sets out the arrangements between Eesti Pank 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, Eesti Pank 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, Eesti Pank 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, Eesti Pank 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 Eesti Pank 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 procedure specified in the HC, 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. Eesti Pank shall immediately communicate the delay of closing time to participants.
- (d) Upon recovery of the SSP, the following steps shall take place.
- (i) Eesti Pank 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, Eesti Pank 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. Eesti Pank 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 Eesti Pank.
- (c) The following payments shall be considered as ‘very critical’ and Eesti Pank 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 Eesti Pank 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 a signed and encrypted e-mail. Information concerning account balances and debit and credit entries may be obtained via Eesti Pank.
- (f) Payment orders that have already been submitted to TARGET2-Eesti, but are queued, may also undergo contingency processing. In such cases Eesti Pank 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 Eesti Pank.

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, Eesti Pank shall, if the participant so requests, open this functionality via the ICM. If the participant so requests, Eesti Pank 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 Eesti Pank.
- (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, Eesti Pank may act on its behalf. Eesti Pank 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) Eesti Pank creates and/or processes XML instructions/files on behalf of the ancillary system; and/or
 - (iii) Eesti Pank 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 Eesti Pank 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, Eesti Pank is entitled to start or continue processing payment orders and/or operate TARGET2-Eesti on the basis of the last available data, as determined by Eesti Pank. If so requested by Eesti Pank, participants and ancillary systems shall resubmit their FileAct/Interact messages or take any other action deemed appropriate by Eesti Pank.
- (b) In the event of a failure of Eesti Pank, some or all of its technical functions in relation to TARGET2-Eesti may be performed by other Eurosystem CBs.

- (c) Eesti Pank 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 Eesti Pank. Any costs incurred by the participants as a result of such testing or other arrangements shall be borne solely by the participants.

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 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.

FEE SCHEDULE AND INVOICING

Fees for direct participants

1. The monthly fee for the processing of payment orders in TARGET2-Eesti 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	0.60 EUR
2	10 001	25 000	0.50 EUR
3	25 001	50 000	0.40 EUR
4	50 001	100 000	0.20 EUR
5	Above 100 000	-	0.125 EUR

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 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.
8. The monthly fee of EUR 1 250 referred to in paragraph 1(b) shall be paid by the CAI 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.

Invoicing

9. In the case of direct participants, the following invoicing rules apply. The direct participant (the CAI group manager in the event that the CAI mode is 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 Eesti Pank and shall be debited from that participant's PM account.

FEE SCHEDULING AND INVOICING FOR ANCILLARY SYSTEMS USING THE PARTICIPANT INTERFACE

1. For the purposes of this Annex and further to Article 1 of the HC:

‘credit instruction’ means a payment instruction submitted by an AS and addressed to the ancillary system central bank 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;

2. An ancillary system using the Participant Interface, irrespective of the number of any accounts it may hold with Eesti Pank, 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 Eesti Pank 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. The AS may choose one of the two options:

either to pay a flat EUR 0,80 fee per credit 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 credit 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.
3. Any fee payable in relation to a credit instruction submitted or payment received by an AS via the Participant Interface shall be exclusively charged to this AS.
 4. Each AS shall receive an invoice from Eesti Pank for the previous month based on the fees referred to in subparagraph 2, 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 Eesti Pank or shall be debited from an account specified by the AS.
 5. For the purposes of this Appendix, 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.