



**BANK ĊENTRALI TA' MALTA**  
**EUROSISTEMA**  
**CENTRAL BANK OF MALTA**

**CENTRAL BANK OF MALTA**

**DIRECTIVE NO 7**

*in terms of the*

**CENTRAL BANK OF MALTA ACT**  
**(CAP. 204)**

**PROVISION OF INTRADAY CREDIT AND AUTO-  
COLLATERALISATION**

*Ref: CBM/07*

## **DIRECTIVE NO 7**

### **PROVISION OF INTRADAY CREDIT AND AUTO-COLLATERALISATION**

Issued on 23 January 2008

Amended on 5 June 2009, 22 November 2010, 11 April 2011, 21 November 2011,  
3 January 2013, 22 June 2015 and 15 April 2016.

#### **INTRODUCTION**

1. In terms of articles 34(5) and 56 of the Central Bank of Malta Act (*Cap.204*), the Central Bank of Malta (hereinafter referred to as “the CBM”) is empowered to make directives in respect of, *inter alia*, payments and security settlement systems. For the purposes of this Directive, terms used in this Directive shall have the same meaning as is assigned to them under the Central Bank of Malta Act unless otherwise stated.
2. This Directive is divided in three Parts. Part I lays down the framework for the provision of intraday credit to eligible entities. Part II provides for the conditions for Auto-Collateralisation Operations. Part III contains the General Provisions.

#### **PART I – PROVISION OF INTRADAY CREDIT**

#### **DEFINITIONS**

3. For the purposes of this Part:
  - “branch” means a branch within the meaning of article 2 of the Banking Act;
  - “close links” means close links within the meaning of article 2 of the Banking Act;
  - “credit institution” means a credit institution within the meaning of article 2 of the Banking Act ;
  - “EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2<sup>nd</sup> May, 1992 as amended by the Protocol signed at Brussels on 17th March, 1993 and as amended from time to time;
  - “entity” means a credit institution or the Treasury of the Government of Malta as referred to under paragraphs 4 and 5 of the Directive;
  - “event of default” means any impending or existing event, the occurrence of which may threaten the performance by an entity of its obligations under the provisions of CBM Directive No 6 on Harmonised Conditions for Opening and operating Payments Module Accounts and Dedicated Cash Accounts (including those specified by the

Governing Council with respect to Eurosystem monetary policy operations) applying to the relationship between that entity and the Central Bank of Malta, including:

- (a) where the entity no longer meets the access criteria and/or technical requirements laid down in CBM Directive No 6 on Harmonised Conditions for Opening and Operating Payments Module Accounts and Dedicated Cash Accounts and if applicable Annex A of CBM Directive No 6 on Harmonised Conditions for Opening and Operating Payments Module Accounts and Dedicated Cash Accounts or where its eligibility as a counterparty for Eurosystem monetary policy operations has been suspended or terminated;
  - (b) the opening of insolvency proceedings in relation to the entity;
  - (c) the submission of an application relating to the proceedings referred to in point (b);
  - (d) the issue by the entity 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 entity into a voluntary general agreement or an arrangement with its creditors;
  - (f) where the entity is, or is deemed by the Central Bank of Malta to be, insolvent or unable to pay its debts;
  - (g) where the entity's credit balance on its PM account or its DCA or all or a substantial part of the entity'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 entity's creditors;
  - (h) where participation of the entity 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 entity or which is implied to have been made by the entity under the applicable law is incorrect or untrue; or
  - (j) the assignment of all or a substantial part of the entity's assets;
- "insolvency" proceedings" means insolvency proceedings within the meaning of CBM Directive 2 on Payment and Securities Settlement Systems;
  - "intraday credit" means credit extended for a period of less than one business day;
  - "marginal lending facility" means a Eurosystem standing facility which counterparties may use to receive overnight credit from a national central bank (NCB) at the pre-specified marginal lending rate;
  - "marginal lending rate" means the interest rate applicable to the marginal lending facility;
  - "Member State" means a State which is a member of the European Union;
  - "pledge agreement" means the agreement signed by eligible credit institutions under Directive No 8 on the Documentation on Monetary Policy Instruments and Procedures;

- “PM account” has the same meaning as defined in CBM Directive No 6 on Harmonised Conditions for Opening and Operating Payments Module Accounts and Dedicated Cash Accounts.

#### **ELIGIBLE ENTITIES**

4. The Central Bank of Malta shall provide intraday credit to credit institutions established in the EEA that are eligible counterparties for Eurosystem monetary policy operations, have access to the marginal lending facility and have an account with the Central Bank of Malta, including when those credit institutions act through a branch established in the EEA and including branches established in the EEA of credit institutions that are established outside the EEA, provided that such branches are established in the same country as the Central Bank of Malta. No intraday credit may be provided to entities that are subject to restrictive measures adopted by the Council of the European Union or Member States pursuant to Article 65(1)(b), Article 75 or Article 215 of the Treaty, the implementation of which, in the view of the Central Bank of Malta after informing the ECB, is incompatible with the smooth functioning of TARGET2..
5. Intraday credit may also be granted to the following entities:
  - (a) deleted;
  - (b) credit institutions established in the EEA that are not eligible counterparties for Eurosystem monetary policy operations and/or do not have access to the marginal lending facility, including when they act through a branch established in the EEA and including branches established in the EEA of credit institutions that are established outside the EEA;
  - (c) treasury departments of central or regional governments of Member States active in the money markets and public sector bodies of Member States authorised to hold accounts for customers;
  - (d) investment firms established in the EEA provided that they have concluded an arrangement with a Eurosystem monetary policy counterparty to ensure that any residual debit position at the end of the relevant day is covered; and
  - (e) entities other than those falling within point (b) that manage ancillary systems and act in that capacity, provided that the arrangements for granting intraday credit to such entities have been submitted to the Governing Council in advance and have been approved by the Governing Council,

provided that in the cases specified in points (b) to (e) the entity receiving intraday credit is established in the same jurisdiction as the Central Bank of Malta providing the intraday credit.

All overnight credit granted to eligible central counterparties shall be subject to the terms of this Directive (including the provisions in relation to eligible collateral).

The sanctions provided for in paragraphs 10 and 11 shall apply when eligible central counterparties fail to reimburse the overnight credit extended to them by the Central Bank of Malta.

### **ELIGIBLE COLLATERAL**

6. Intraday credit shall be based on eligible collateral and granted by means of collateralised intraday overdrafts and/or intraday repurchase transactions in compliance with the additional minimum common features (including the events of default therein listed, as well as their respective consequences) that the Governing Council specifies with respect to Eurosystem monetary policy operations. Eligible collateral shall consist of the same assets as eligible for use in Eurosystem monetary policy operations, and shall be subject to the same valuation and risk control rules as those laid down in Part Four of Guideline (EU) 2015/510 (ECB/2014/60).

Intraday credit shall only be granted once the eligible assets provided as collateral have been finally transferred or pledged. For this purpose, counterparties shall pre-deposit or shall have pledged the eligible assets with the Central Bank of Malta or settle the eligible assets with the Central Bank of Malta on a delivery-versus-payment basis.

7. Debt instruments issued or guaranteed by the entity, or by any other third party with which the entity has close links, may only be accepted as eligible collateral in the situations laid down in Part Four of Guideline (EU) 2015/510 (ECB/2014/60).

### **CREDIT EXTENSION PROCEDURE**

8. Access to intraday credit may only be granted on business days or on those other days which the CBM may consider to be business days and which days will be communicated by the CBM to the eligible entities.
9. Intraday credit shall be provided free of interest.
10. For the entities mentioned in paragraph 2(b) to (e), and in accordance with Article 19 of Guideline (EU) 2015/510 (ECB/2014/60), intraday credit shall be limited to the day in question and no extension to overnight credit shall be possible.

By way of derogation, the Governing Council may decide, by means of a reasoned prior decision, to provide access to the marginal lending facility to certain eligible central counterparties (CCPs), within the scope of Article 139(2)(c) of the Treaty in conjunction with Articles 18 and 42 of the Statute of the ESCB and Article 1(1) of Guideline (EU) 2015/510 (ECB/2014/60). Such eligible CCPs are those that, at all relevant times:

- (a) are eligible entities for the purposes of paragraph 2(e), provided also that those eligible entities are authorised as CCPs in accordance with the applicable Union or national legislation;
  - (b) are established in the euro area;
  - (c) are subject to supervision and/or oversight by competent authorities;
  - (d) comply with the oversight requirements for the location of infrastructures offering services in euro, as amended from time to time and published on the ECB's website<sup>1</sup>;
  - (e) have accounts in the Payments Module (PM) of TARGET2;
  - (f) have access to intraday credit.
11. The failure by an entity referred to in paragraph 4 to reimburse the intraday credit at the end of the day shall automatically be considered as a request by such entity for recourse to the marginal lending facility.
12. The failure by an entity referred to in paragraph 5(a), (c) or (d) to reimburse the intraday credit at the end of the day for whatever reason shall render that entity liable to the following penalties:
- (a) if the entity in question has a debit balance on its account at the end of the day for the first time within any twelve-month period, then this entity shall incur penalty interest calculated at a rate of five percentage points above the marginal lending rate on the amount of such debit balance;
  - (b) if the entity in question has a debit balance on its account at the end of the day for at least the second time within the same twelve-month period, then the penalty interest mentioned in subparagraph (a) shall be increased by two and a half (2.5) percentage points for each time additional to the first that a debit position has occurred within this twelve-month period.

### **SUSPENSION, LIMITATION OR TERMINATION OF INTRADAY CREDIT**

13. (a) The CBM shall suspend or terminate access to intraday credit if one of the following events of default occurs:
- (i) the account of the entity with the CBM is suspended or closed;
  - (ii) the entity concerned ceases to meet any of the requirements laid down in this Directive for the provision of intraday credit;
  - (iii) a decision is made by a competent judicial or other authority to implement in

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<sup>1</sup> The Eurosystem's current policy for the location of infrastructure is set out in the following statements, which are all available on the ECB's website at [www.ecb.europa.eu](http://www.ecb.europa.eu): (a) the Policy statement on euro payment and settlement systems located outside the euro area of 3 November 1998; (b) The Eurosystem's policy line with regard to consolidation in central counterparty clearing of 27 September 2001; (c) The Eurosystem policy principles on the location and operation of infrastructures settling in euro-denominated payment transactions of 19 July 2007; (d) The Eurosystem policy principles on the location and operation of infrastructures settling euro-denominated payment transactions: specification of 'legally and operationally located in the euro area' of 20 November 2008; (e) The Eurosystem oversight policy framework of July 2011, subject to the judgment of 4 March 2015, *United Kingdom v European Central Bank*, T-496/11, ECLI:EU:T:2015:496.

relation to the entity a procedure for the winding-up of the entity or the appointment of a liquidator or analogous officer over the entity or any other analogous procedure;

- (iv) the entity becomes subject to the freezing of funds and/or other measures imposed by the Union restricting the entity's ability to use its funds;
- (v) the entity's eligibility as a counterparty for Eurosystem monetary policy operations has been suspended or terminated.

(b) The CBM may suspend or terminate access to intraday credit if it suspends or terminates the participant's participation in TARGET2 pursuant to Article 34(2)(b) to (e) of CBM Directive No 6 on Harmonised Conditions for Opening and Operating Payments Module Accounts and Dedicated Cash Accounts, or one or more events of default (other than those referred to in Article 34(2)(a)) occur.

(c) If the Eurosystem decides to suspend, limit or exclude counterparties' access to monetary policy instruments on the grounds of prudence or otherwise in accordance with Article 158 of Guideline (EU) 2015/510 (ECB/2014/60), Central Bank of Malta shall implement that decision in respect of access to intraday credit pursuant to provisions in the contractual or regulatory arrangements applied by the respective NCBs.

(d) The CBM may decide to suspend, limit or terminate a participant's access to intraday credit if the participant is deemed to pose risks on the grounds of prudence. In such cases, the CBM shall immediately notify the ECB and other participating NCBs and connected CBs thereof in writing. Where appropriate, the Governing Council shall decide upon uniform implementation of the measures taken in all TARGET2 component systems.

- 14. Where the CBM decides to suspend, limit or terminate a Eurosystem monetary policy counterparty's access to intraday credit in accordance with paragraph 13(d) above, such decision shall not take effect until the ECB has approved it.
- 15. Notwithstanding the provisions of paragraph 14, in urgent circumstances the CBM may suspend a Eurosystem monetary policy counterparty's access to intraday credit with immediate effect. In such cases the CBM shall immediately notify the ECB thereof in writing. The ECB shall have the power to reverse the CBM's action. However, if the ECB does not send the CBM notice of such reversal within ten business days of the ECB's receipt of notification, the ECB shall be deemed to have approved the CBM's action.

## **PART II - CONDITIONS FOR AUTO-COLLATERALISATION OPERATIONS**

### **DEFINITIONS**

16. For the purposes of this Part:

- “auto-collateralisation” means intraday credit granted by the Central Bank of Malta in central bank money triggered when a DCA holder has insufficient funds to settle securities transactions, whereby such intraday credit is collateralised either with the securities being purchased (collateral on flow), or with securities already held by the DCA holder (collateral on stock). An auto collateralisation transaction consists of two distinct transactions, one of the granting of auto-collateralisation, one for its reimbursement and may also include a third transaction for any eventual collateral relocation. For the purposes of Article 16 in Annex IIa, all three transactions are deemed to have been entered into the system and deemed to be irrevocable at the same time as the transaction for the granting of the auto-collateralisation;
- “available liquidity” means the credit balance on the DCA decreased by the amount of any processed reservations of liquidity or blocking of funds;
- “branch” means a branch within the meaning Article 2 of the Banking Act (Cap.371);
- “close links” means close links within the meaning of article 2 of the Banking Act;
- ‘credit institution’ means (a) a credit institution within the meaning of article 2 of the Banking Act that is subject to supervision by a competent authority; or (b) another credit institution within the meaning of Article 123(2) of the Treaty on the Functioning of the European Union that is subject to scrutiny of a standard comparable to supervision by a competent authority;
- “Dedicated Cash Account (DCA)” means an account held by a DCA holder, opened in TARGET2-Malta, and used for cash payments in relation to securities settlement in T2S;
- “event of default” means any impending or existing event, the occurrence of which may threaten the performance by an entity of its obligations under the provisions of CBM Directive No 6 on Harmonised Conditions for Opening and Operating Payments Module Accounts and Dedicated Cash Accounts, this Part or any other rules (including those specified by the Governing Council with respect to Eurosystem monetary policy operations) applying to the relationship between that entity and any of the Eurosystem CBs, including:
  - (a) where the entity no longer meets the access criteria and/or technical requirements laid down in CBM Directive No 6 on Harmonised Conditions for Opening and Operating Payments Module Accounts and Dedicated Cash Accounts or where its eligibility as a counterparty for Eurosystem monetary policy operations has been suspended or terminated;
  - (b) the opening of insolvency proceedings in relation to the entity;
  - (c) the submission of an application relating to the proceedings referred to in point (b);



- (d) the issue by the entity 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 entity into a voluntary general agreement or an arrangement with its creditors;
  - (f) where the entity is, or is deemed by the Central Bank of Malta to be, insolvent or unable to pay its debts;
  - (g) where the entity's credit balance on its PM account and/or DCA or all or a substantial part of the entity'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 entity's creditors;
  - (h) where participation of the entity 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 entity or which is implied to have been made by the entity under the applicable law is incorrect or untrue; or
  - (j) the assignment of all or a substantial part of the entity's assets.
- “insolvency proceedings” proceedings” means insolvency proceedings within the meaning of CBM Directive 2 on Payment and Securities Settlement Systems;

### **ELIGIBLE ENTITIES**

17. Notwithstanding paragraph 29, the Central Bank of Malta shall, from 6 February 2017 and further to a request, offer auto-collateralisation facilities to the entities to which it provides intraday credit in accordance with Part I of this Directive, on condition that such entities have both a DCA and a PM account with the Central Bank of Malta and are not subject to restrictive measures adopted by the Council of the European Union or Member States pursuant to Article 65(1)(b), Article 75 or Article 215 of the Treaty, the implementation of which, in the view of the Central Bank of Malta after informing the ECB, is incompatible with the smooth functioning of TARGET2.
18. Auto-collateralisation shall be limited to intraday only. No extension to overnight credit shall be possible.

### **ELIGIBLE COLLATERAL**

19. Auto-collateralisation shall be based on eligible collateral. Eligible collateral shall consist of the same assets as eligible for use in Eurosystem monetary policy operations, and shall be subject to the same valuation and risk control rules as those laid down in Part 4 of Guideline (EU) 2015/510 (ECB/2014/60).

Furthermore, eligible collateral for auto-collateralisation:

- (a) may be limited by euro area NCBs by means of an ex ante exclusion of potential close-link collateral;
  - (b) shall, in the case of cross-border use, be mobilised through a link assessed as eligible for use in Eurosystem credit operations by the Governing Council of the ECB and published on the website of the ECB<sup>2</sup>;
  - (c) is subject to certain discretionary choices for the exclusion of eligible collateral as granted to the euro area NCBs by decisions of the Governing Council of the ECB;
20. Debt instruments issued or guaranteed by the entity, or by any third party with which the entity has close links, may only be accepted as eligible collateral in the situations laid down in Part Four of Guideline (EU) 2015/510 (ECB/2014/60).

### **CREDIT PROVISION AND RECOVERY PROCEDURE**

21. Auto-collateralisation may only be provided on business days.
22. Credit obtained by means of auto-collateralisation shall be provided free of interest.
23. Fees shall be charged for the provision of auto-collateralisation in line with the fee schedule attached as Appendix VI to Part II of CBM Directive No 6 on Harmonised Conditions for Opening and Operating Payments Module Accounts and Dedicated Cash Accounts.
24. Auto-collateralisation may be reimbursed at any time during the day by the DCA holder by following the procedure described in the T2S UDFS.
25. Auto-collateralisation shall be reimbursed at the latest at the time defined in Annex A of CBM Directive No 6 on Harmonised Conditions for Opening and Operating Payments Module Accounts and Dedicated Cash Accounts, and in accordance with the following process:
- (a) the Central Bank of Malta acting via the T2S Platform releases the reimbursement instruction which is settled subject to cash being available to reimburse outstanding auto-collateralisation;
  - (b) if, after performing step (a), the balance on the DCA is not sufficient to reimburse outstanding auto-collateralisation, the Central Bank of Malta acting via the T2S Platform checks other DCAs opened in its books for the same DCA holder and transfers cash from any or all of these to the DCA where reimbursement instructions are pending;
  - (c) if, after performing steps (a) and (b), the balance on a DCA is not sufficient to reimburse outstanding auto-collateralisation, the DCA holder shall be deemed to have instructed the Central Bank of Malta to transfer the collateral which was used to obtain the outstanding auto-collateralisation to the collateral account of the Central Bank of Malta. Thereafter, the Central Bank of Malta shall provide the liquidity to reimburse the outstanding auto-collateralisation and shall without undue delay debit the relevant PM account of the DCA holder.
  - (d) The Central Bank of Malta shall apply a penalty fee of EUR 1000 for each business day where one or more recurses to collateral relocation under point (c)

<sup>2</sup> <http://www.ecb.int/paym/coll/coll/sslslinks/html/index.en.html>

occur. The penalty fee shall be debited from the relevant PM account of the DCA holder referred to in paragraph (c).

## **SUSPENSION, LIMITATION OR TERMINATION OF AUTO-COLLATERALISATION FACILITIES**

26. (a) Central Bank of Malta shall suspend or terminate access to auto-collateralisation facilities if one of the following events of default occurs:
- (i) the DCA or PM account of the entity with the Central Bank of Malta is suspended or closed;
  - (ii) the entity concerned ceases to meet any of the requirements laid down in this Part;
  - (iii) a decision is made by a competent judicial or other authority to implement in relation to the entity a procedure for the winding-up of the entity or the appointment of a liquidator or analogous officer over the entity or any other analogous procedure;
  - (iv) the entity becomes subject to the freezing of funds and/or other measures imposed by the Union restricting the entity's ability to use its funds;
  - (v) the entity's eligibility as a counterparty for Eurosystem monetary policy operations has been suspended or terminated.
- (b) The Central Bank of Malta may terminate access to auto-collateralisation facilities if another NCB suspends or terminates the DCA holder's participation in TARGET2 pursuant to Article 71(2)(b) to (d) of Part II of CBM Directive No 6 on Harmonised Conditions for Opening and Operating Payments Module Accounts and Dedicated Cash Accounts, or if one or more events of default (other than those referred to in Article 71(2)(a) of CBM Directive No 6 on Harmonised Conditions for Opening and Operating Payments Module Accounts and Dedicated Cash Accounts occur.
- (c) The Eurosystem may decide to suspend, limit or exclude counterparties' access to monetary policy instruments on the grounds of prudence or otherwise in accordance with Article 158 of Guideline (EU) 2015/510 (ECB/2014/60). (d) The Central Bank of Malta may decide to suspend, limit or terminate a DCA holder's access to auto-collateralisation facilities if the DCA holder is deemed to pose risks on the grounds of prudence. In such cases, the Central Bank of Malta shall immediately notify the ECB and other euro area NCBs and connected NCBs thereof in writing. Where appropriate, the Governing Council shall decide upon uniform implementation of the measures taken in all TARGET2 component systems.
27. Where the Central Bank of Malta decides to suspend, limit or terminate a DCA holder's access to auto-collateralisation facilities in accordance with paragraph 26(d), such decision shall not take effect until the ECB has approved it.
28. By derogation from paragraph 27, in urgent circumstances the Central Bank of Malta may suspend a DCA holder's access to auto-collateralisation facilities with immediate effect. In such cases the Central Bank of Malta shall immediately notify the ECB

thereof in writing. The ECB shall have the power to reverse the action taken by the Central Bank of Malta. However, if the ECB does not send the Central Bank of Malta notice of such reversal within ten business days of the ECB's receipt of notification, the ECB shall be deemed to have approved the Central Bank of Malta's action.

#### **TRANSITIONAL PROVISION**

29. By derogation from paragraph 17, in the period from 22 June 2015 to 6 February 2017 the Central Bank of Malta may, further to a request, offer auto-collateralisation facilities to the entities to which it provides intraday credit in accordance with Part I of this Directive, on condition that such entities have both a DCA and a PM account with the Central Bank of Malta and are not subject to restrictive measures adopted by the Council of the European Union or Member States pursuant to Article 65(1)(b), Article 75 or Article 215 of the Treaty, the implementation of which, in the view of the Central Bank of Malta after informing the ECB, is incompatible with the smooth functioning of TARGET2.

### **PART III – GENERAL PROVISIONS**

#### **AMENDMENT PROCEDURE**

30. The CBM may at any time unilaterally amend this Directive. Amendments to this Directive shall be announced by means of publishing on the website of the CBM. Amendments shall be deemed to have been accepted unless an entity expressly objects within fourteen (14) days of being informed of such amendments. An objection can only be made on a question of law or principle. In the event that an entity objects to the amendment, the CBM may, until the matter is resolved, suspend access to intraday credit by that entity.

#### **ENTRY INTO EFFECT**

31. This Directive entered into force on 1 January 2008.