DECISIONS

DECISION (EU) 2021/729 OF THE EUROPEAN CENTRAL BANK

of 29 April 2021

amending Decision (EU) 2017/2098 on procedural aspects concerning the imposition of corrective measures for non-compliance with Regulation (EU) No 795/2014 (ECB/2021/18)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 3.1, Article 22 and the first indent of Article 34.1 thereof,

Having regard to Regulation (EU) No 795/2014 of the European Central Bank of 3 July 2014 on oversight requirements for systemically important payment systems (ECB/2014/28) ([1]), and in particular Article 22(6) thereof,

Whereas:

(1) Regulation (EU) No 795/2014 (ECB/2014/28) lays down oversight requirements applicable to systemically important payment systems (SIPSs). Operators of SIPSs established in euro area Member States must ensure compliance of the SIPS they operate with those requirements. The competent authorities designated to oversee SIPSs must have sufficient resources and oversight powers. This includes the ability for the competent authority to impose corrective measures to remedy or avoid repetition of non-compliance with oversight requirements, as provided for in Article 22 of Regulation (EU) No 795/2014 (ECB/2014/28). Decision (EU) 2017/2098 of the European Central Bank (ECB/2017/33) ([2]) was adopted pursuant to Article 22(6) of Regulation (EU) No 795/2014 (ECB/2014/28) and specifies detailed rules and procedures for the imposition of corrective measures on SIPS operators.

(2) Regulation (EU) No 795/2014 (ECB/2014/28) has recently been amended to reflect that in specific and exceptional circumstances it may be beneficial that compliance with the requirements of that Regulation by SIPSs that meet the criteria set out in Article 1(3)(iii) thereof be overseen by two Eurosystem central banks – i.e. a national central bank and the ECB – as designated competent authorities, in order to benefit from the relevant national central bank's knowledge of and previously established relationship with the overseen entity, as well as to recognise the ECB's role in overseeing such SIPSs.

(3) Decision (EU) 2017/2098 (ECB/2017/33) should therefore be amended, to clarify the procedure for the imposition of corrective measures in a case where two Eurosystem central banks are designated as competent authorities in relation to a SIPS that meets the criteria set out in Article 1(3)(iii) of Regulation (EU) No 795/2014 (ECB/2014/28).

(4) Therefore, Decision (EU) 2017/2098 (ECB/2017/33) should be amended accordingly,

([1]) OJ L 217, 23.7.2014, p. 16.

([2]) Decision (EU) 2017/2098 of the European Central Bank of 3 November 2017 on procedural aspects concerning the imposition of corrective measures for non-compliance with Regulation (EU) No 795/2014 (ECB/2017/33) (OJ L 299, 16.11.2017, p. 34).

HAS ADOPTED THIS DECISION:

Article 1

Amendments

Decision (EU) No 2017/2098 (ECB/2017/33) is amended as follows:

(1) Article 2 is amended as follows:

(a) the following paragraph 1a is inserted:

'1a. Where two Eurosystem central banks are designated as competent authorities in relation to a given SIPS for the purposes of Regulation (EU) No 795/2014 (ECB/2014/28), and unless otherwise specifically provided for in the decision pursuant to Article 1(2) of that Regulation that identifies the relevant payment system as a SIPS, the following principles shall apply:

(a) the powers and rights of a competent authority as set out in this Decision may be exercised either individually by either one of the two Eurosystem central banks designated as competent authorities or jointly by both;

(b) any obligation of the competent authority to act in a prescribed manner or undertake a certain action in relation to a given procedure to impose a corrective measure as set out in this Decision shall be an obligation of the Eurosystem central bank that initiates the given procedure or, where a given procedure has been initiated by both Eurosystem central banks as designated competent authorities jointly, shall be an obligation of each of them;

(c) the two Eurosystem central banks designated as competent authorities shall coordinate between themselves any interactions with, and any requests addressed to, the operator of the SIPS concerned;

(d) any obligation of a SIPS operator to a competent authority pursuant to this Decision shall be an obligation to each of the two Eurosystem central banks designated as competent authorities, and a response to any request of either or both of them pursuant to this Decision shall be submitted to each of them.';

(2) in Article 6 the following paragraph 4 is added:

'4. Where both the ECB and an NCB are designated as competent authorities pursuant to Article 1(2) of Regulation (EU) No 795/2014 (ECB/2014/28), a decision to impose corrective measures shall be endorsed by the decision-making body of either the ECB or the NCB, as the case may be, who as a designated competent authority initiated the particular procedure to impose a corrective measure or, where the procedure was initiated by both the competent authorities jointly, by the decision-making bodies of each of them. The decision shall specify the time limit within which the SIPS operator concerned must implement the corrective measures.'.

Article 2

Final provision

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Frankfurt am Main, 29 April 2021.

For the Governing Council of the ECB
The President of the ECB
Christine LAGARDE