

REGULATION NO 30/2017
OF THE GOVERNOR OF NARODOWY BANK POLSKI
of 26 October 2017
on the manner of performing interbank clearing and interbank settlements

Pursuant to Article 68(1) of the Banking Law Act of 29 August 1997 (Journal of Laws of 2017, item 1876), the following has been resolved:

Title 1
General provisions

§ 1. The Regulation defines the general rules of performing interbank clearing and interbank settlements in zloty and in euro.

§ 2. The following terms used in the Regulation shall have the following meanings:

- 1) bank – a domestic bank, a credit institution, a branch of a credit institution and a branch of a foreign bank and Narodowy Bank Polski, hereinafter referred to as “NBP”;
- 2) operating day – a day on which a bank accepts and executes payment orders;
- 3) single shared platform – a technical infrastructure of the TARGET2 system through which all payment orders are submitted and processed and through which payments are received in the same technical manner;
- 4) Credit Union – the National Association of Credit Unions (KSKOK) in the meaning of the Act of 5 November 2009 on Credit Unions (Journal of Laws of 2016, item 1910, as amended¹⁾);
- 5) interbank clearing – activities performed with the purpose of:
 - a) transferring payment orders between banks related to payments between:
 - banks,
 - a bank customer and other bank,
 - a bank and a holder of an account with another bank,
 - a bank customer and a holder of an account with another bank,
 - b) determining mutual liabilities and claims between banks, resulting from transferring one or more payment orders referred to in item a;

¹⁾ Amendments to the consolidated text of the above mentioned Act were published in Journal of Laws of 2016, items 1948 and 1997, and of 2017, items 60, 85, 245, 768 and 1089.

- 6) interbank settlement — a transfer of funds between banks' accounts maintained by banks or between banks' accounts and own accounts of banks that maintain banks' accounts in order to meet a liability that has arisen as a result of interbank clearing referred to in item 5;
- 7) TARGET2 component system – a real-time gross settlement (RTGS) system operated by a given central bank, forming part of the TARGET2 system (national component of the TARGET2 system);
- 8) payment system – a system referred to in Article 1(1) of the Act of 24 August 2001 on Settlement Finality in Payment and Securities Settlement Systems and the Rules of Oversight of these Systems (Journal of Laws 2016, item 1224 and 1997 and of 2017 item 791), subject to oversight of the Governor of NBP;
- 9) SORBNET2 system — a real-time gross settlement (RTGS) system for servicing bank accounts maintained at the NBP Head Office, where interbank settlements in zloty are executed;
- 10) TARGET2 system – a real-time gross settlement (RTGS) system used to settle euro payments in central bank money, which consists of national components operated by individual European Union central banks on a single shared platform in accordance with the TARGET2 legal framework, in particular, in accordance with the Guideline of the European Central Bank of 5 December 2012 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) (OJ L 30, 30.1.2013, p. 1, as amended);
- 11) TARGET2-NBP system – a Polish real-time gross settlement (RTGS) system which is a national component of the TARGET2 system and is operated by NBP;
- 12) ancillary system – a system managed by an entity with its registered office in a European Economic Area country, subject to the supervision of a relevant authority in which the following are executed:
 - a) clearing of payment orders or transactions in monetary funds,
 - b) clearing or settlement of transactions in financial instruments,
- as a result of which liabilities arise that are the subject of interbank settlements;
- 13) SORBNET2 system participant – an entity holding a bank account in the SORBNET2 system in accordance with the SORBNET2 agreement concluded with NBP, and NBP;
- 14) TARGET2-NBP system participant – an entity holding a bank account in the TARGET2-NBP system in accordance with the TARGET2-NBP agreement concluded with NBP, and NBP;
- 15) SORBNET2 agreement – an agreement on the terms and conditions of opening and maintaining a bank account in the SORBNET2 system;
- 16) TARGET2-NBP agreement – an agreement on the terms and conditions of opening and maintaining a bank account in euro in the TARGET2-NBP system;
- 17) large-value payment orders — payment orders in zloty that, if executed, result in an interbank settlement relating to:
 - a) operations between banks and NBP;
 - b) operations conducted in the interbank money market or foreign exchange market as well as operations conducted in the interbank financial instruments market;
 - c) clearing or settlement of transactions in financial instruments conducted by entities managing ancillary systems;
 - d) payments in the amount of PLN 1 000 000 or in excess of PLN 1 000 000, made by bank

customers or in their favour, except for payments of social security contributions, payments to revenue authorities as well as payments by cheque and other debit payment orders;

- e) clearing of payment orders or transactions in monetary funds under payment systems in zloty listed in the Regulation of the Minister of Finance of 15 June 2016 on defining systems bearing systemic risk (Journal of Laws 2016, item 873);
- 18) payment order – an order of the SORBNET2 system participant, the TARGET2-NBP system participant, a bank or a bank's customer relating to the transfer of a monetary amount for the purpose of execution or exemption from monetary liability, resulting in performing the interbank clearing or interbank settlement.

§ 3. In order to perform the interbank clearing, the bank shall transfer a payment order to:

- 1) a payment system;
- 2) a foreign payment system subject to oversight of a relevant supervisory authority, in accordance with the rules of operating of such system;
- 3) a bank operating its account, in accordance with the rules provided in Title 2;
- 4) a bank of order recipient by means of direct exchange of payment orders and resulting mutual liabilities and claims, in accordance with the rules defined in Title 3;
- 5) a credit institution or a foreign bank, in accordance with the rules defined by the bank and, respectively, by a credit institution or a foreign bank.

§ 4. Interbank settlement in zloty shall be conducted:

- 1) by NBP:
 - a) at the NBP Head Office in the SORBNET2 system, pursuant to the rules stipulated in Title 4 and in the SORBNET2 agreement, and if the interbank clearing is performed as a result of activity of an entity managing the ancillary system – also in Title 7;
 - b) at NBP Regional Branches that maintain banks' accounts in zloty, pursuant to the rules stipulated in Title 6 and in the bank account agreement concluded between NBP and the bank;
- 2) by the remaining banks that maintain other banks' accounts in zloty, pursuant to the rules stipulated in Title 6 as well as in the agreements concluded between these banks and in case if the interbank clearing is performed as a result of activity of an entity managing the ancillary system – also in Title 7.

§ 5. Interbank settlement in euro shall be conducted:

- 1) by NBP in the TARGET2-NBP system, pursuant to the rules stipulated in Title 5 and in the TARGET2-NBP agreement, and if the interbank clearing is performed as a result of activity of an entity managing the ancillary system – also in Title 7;
- 2) by the remaining banks that maintain other banks' accounts in euro, pursuant to the rules stipulated in Title 6 as well as in the agreements concluded between these banks and if the interbank clearing is performed as a result of activity of an entity managing the ancillary system – also in Title 7.

§ 6. § 1. Interbank settlement shall be performed under payment orders submitted by:

- 1) NBP;
- 2) banks other than NBP;
- 3) entities managing ancillary systems.

§ 2. Payment orders submitted for interbank settlement shall result from:

- 1) one-off operations;
- 2) setting-off mutual liabilities and claims resulting from transactions executed.

§ 7. Subject to § 29 and unless the SORBNET2 agreement sets forth otherwise, large-value payment orders shall be submitted for interbank settlement conducted by:

- 1) the NBP Head Office, in the SORBNET2 system if they apply to a transfer of funds between banks holding current accounts in zloty with the NBP Head Office or between such banks and NBP;
- 2) NBP Regional Branches referred to in § 4(1)(b) or the banks referred to in Article § 4(2) in cases other than set forth in item 1.

Title 2

Interbank clearing performed by banks maintaining other banks' accounts

§ 8. Interbank clearing may be performed by a bank maintaining other bank's account under the agreement concluded by those banks.

§ 9. Bank account agreements concluded by a bank with another bank for the purpose of intermediation in the exchange of payment orders as well as registration and determining mutual liabilities and claims arising from this exchange, define, in particular:

- 1) rules of preparing payment orders submitted at the bank maintaining the account by the bank;
- 2) procedures and time-limits for execution of payment orders referred to in item 1;
- 3) rules of determining banks' mutual liabilities and claims.

Title 3

Interbank clearing performed through direct exchange of payment orders between banks and registration of arising liabilities and claims

§ 10. Two banks which mutually submit and receive payment orders and register mutual liabilities and claims arising from such an exchange may participate in the direct exchange of payment orders.

§ 11. Banks participating in the direct exchange of payment orders conclude agreements defining, in particular:

- 1) procedures and time-limits for the exchange of payment orders;
- 2) method of documenting the exchange of payment orders and rules of preparing such

- documentation;
- 3) rules of procedure when correcting errors in the documentation related to the exchange of payment orders;
 - 4) rules of determining banks' mutual liabilities and claims arising from the direct exchange of payment orders;
 - 5) banks' organisational units participating in the direct exchange of payment orders;
 - 6) procedures and time-limits for performing the interbank settlement referred to in § 12(1).

§ 12. 1. Interbank settlement resulting from the interbank clearing performed through direct exchange of payment orders between banks and in connection with the registration of arising liabilities and claims is conducted in payment systems operated by NBP, subject to para. 2.

2. The provision of para. 1 shall not apply to the direct exchange of payment orders between banks if at least one of those banks does not hold an account in payment systems operated by NBP.

3. The bank bound to pay claims in favour of other bank shall be relevant for the submission of payment orders to payment systems referred to in para. 1 in order to conduct the interbank settlement.

Title 4

Interbank settlement in the SORBNET2 system

§ 13. 1. SORBNET2 participants may include:

- 1) NBP;
- 2) banks other than NBP;
- 3) an entity managing an ancillary system;
- 4) the central bank of other country;
- 5) the National Association of Credit Unions;
- 6) the Bank Guarantee Fund.

2. Participation in the SORBNET2 system shall be conditional on entities', referred to in para. 1 item 2, complying with the conditions set forth in Resolution No. 9/2013 of the Management Board of Narodowy Bank Polski of 24 May 2013 on the terms and conditions of opening and maintaining banks' accounts by Narodowy Bank Polski (Official Journal of NBP, item 8 and of 2017, item 20), hereinafter referred to as the "Resolution on the terms and conditions of opening and maintaining banks' accounts by NBP".

3. Participation of an entity referred to in para. 1 item. 3 in the SORBNET2 system shall be conditional on obtaining the consent of the Governor of NBP to maintain an account with NBP – in accordance with Article 51(1)(4) of the Act of 29 August 1997 on Narodowy Bank Polski (Journal of Laws 2017, item 1373), hereinafter referred to as the "Act on NBP", and the compliance with the conditions set forth in § 7 and § 11(1)(2) of the Resolution on the terms and conditions of opening and maintaining banks' accounts by NBP.

4. Participation of an entity referred to in para. 1 item 4 in the SORBNET2 system shall be

conditional on obtaining the consent of the Governor of NBP to maintain an account with NBP – in accordance with Article 51 (1)(4) of the Act on NBP.

5. Participation of an entity referred to in para. 1 item 5 in the SORBNET2 system shall be conditional on the compliance with the terms and conditions set forth, respectively, in § 7 and § 11 of the Resolution on the terms and conditions of opening and maintaining banks' accounts by NBP.

6. Participation of an entity referred to in para. 1 item 6 in the SORBNET2 system shall be conditional on the compliance with the terms and conditions set forth, respectively, in § 7 and § 11(1)(2) of the Resolution on the terms and conditions of opening and maintaining banks' accounts by NBP.

§ 14. 1. Interbank settlement in in the SORBNET2 system shall be conducted under:

- 1) large-value payment orders;
- 2) other payment orders provided in the SORBNET2 agreement;
- 3) payment orders issued by a bank holding a reserve requirement account with the NBP Head Office.

2. Payment orders, referred to in para. 1 item 1 and 2, debited to a bank's account shall be issued by:

- 1) this bank;
- 2) NBP;
- 3) other participants of the SORBNET2 system, other than banks.

3. Entities referred to in para. 2 item 2 and 3 can issue payment orders that debit a bank's current account serviced in the SORBNET2 system on the basis of authorisations set forth in the SORBNET2 agreement concluded between NBP and the bank.

§ 15. Payment orders that do not comply with the formal requirements set forth in the SORBNET2 agreement shall be rejected by NBP.

§ 16. 1. A payment order shall be deemed entered into the SORBNET2 system upon its registering in the SORBNET2 system.

2. A payment order may not be revoked and is final as of the time of its execution, i.e. as of the moment the account in the SORBNET2 system indicated in the payment order is debited.

§ 17. 1. Payment orders that comply with the formal requirements shall be executed by the SORBNET2 system on the date designated as the execution date provided that the account debited has a sufficient balance to make these payments, excluding the funds blocked on the account as set forth by the provisions of the SORBNET2 agreement or pursuant to separate regulations.

2. Payment orders in the SORBNET2 system shall be executed:

- 1) in compliance with the gross settlement principle, i.e. by executing each payment order separately;
- 2) in compliance with the real-time settlement principle, i.e. on a current basis during the operational day;
- 3) in order resulting from the priority rules set forth in the SORBNET2 agreement.

§ 18. 1. Interbank settlement in the SORBNET2 system shall be conducted by the simultaneous debiting and crediting of banks' accounts or own accounts of NBP serviced by the system, pursuant to the contents of the payment order, subject to para. 2.

2. The simultaneity condition referred to in para. 1 shall not have to be met, if the interbank settlement in the SORBNET2 system is conducted via an account of an entity managing an ancillary system.

§ 19. Specific principles for maintaining an account of a SORBNET2 system participant shall be set forth in the SORBNET2 agreement.

Title 5

Interbank settlement in the TARGET2-NBP system

§ 20. 1. TARGET2-NBP participants may include:

- 1) NBP;
- 2) banks other than NBP;
- 3) an entity managing an ancillary system;
- 4) the National Association of Credit Unions.

2. Participation of an entity referred to in para. 1 item 2 in the TARGET2-NBP system shall be conditional on the compliance with the terms and conditions of opening and maintaining banks' accounts by NBP.

3. Participation of an entity referred to in para. 1 item 3 in the TARGET2-NBP system shall be conditional on obtaining the consent of the Governor of NBP to maintain an account with NBP – in accordance with Article 51(1)(4) of the Act on NBP and the compliance with the conditions set forth, respectively, in § 7 and § 11(1)(2) of the Resolution on the terms and conditions of opening and maintaining banks' accounts by NBP.

4. Participation of an entity referred to in para. 1 item 4 in the TARGET2-NBP system shall be conditional on the compliance with the terms and conditions set forth, respectively, in § 7 and § 11 of the Resolution on the terms and conditions of opening and maintaining banks' accounts by NBP.

§ 21. 1. Interbank settlement in the TARGET2-NBP system shall be conducted on the basis of payment orders in euro issued by:

- 1) banks debiting own accounts maintained in the TARGET2-NBP system;
- 2) NBP;
- 3) other participants of the TARGET2-NBP system, other than banks.

2. Entities referred to in para. 1 item 2 and 3 may issue payment orders that debit bank's accounts in euro of the TARGET2-NBP participant, on the basis of an authorisation set forth in the TARGET2-NBP agreement.

§ 22. 1. A payment order shall be deemed entered into the TARGET2-NBP system upon debiting in the TARGET2 system of the participant's account indicated in the payment order.

2. A payment order may be revoked until it is entered into the TARGET2-NBP system. The payment order that is included in algorithm, referred to in the TARGET2-NBP agreement, may not be revoked during the period of the algorithm operation.

§ 23. Specific principles for maintaining an account of a TARGET2-NBP system participant shall be set forth in the TARGET2-NBP agreement.

Title 6

Interbank settlement in zloty performed by NBP Regional Branches maintaining banks' accounts and by banks maintaining other banks' accounts

§ 24. 1. Interbank settlement in zloty performed at an NBP Regional Branch shall be executed under payment orders pertaining to transactions provided for in the bank account agreement concluded between the Regional Branch and the bank.

2. Payment orders referred to in para. 1 debited to a bank's account shall be issued by NBP or the bank.

§ 25. § 14(3), § 15 and § 17(1) shall apply, respectively, with regard to the submission and execution of payment orders referred to in § 24(1).

§ 26. 1. A payment order referred to in § 24(1) shall be executed at the NBP Regional Branch by debiting a bank's account and:

- 1) crediting, respectively, other bank's account or own account of NBP, maintained by this branch, on the date of its acceptance for execution; or
- 2) forwarding the payment order to other NBP Regional Branch or other bank on the next working day following the date of its acceptance for execution, at the latest and, if the payment order is forwarded to the SORBNET2 system, on the date of its acceptance for execution

– unless the bank account agreement referred to in § 24(1) states otherwise.

2. A bank's account maintained at an NBP Regional Branch shall be credited under a payment order referred to in § 24(1):

- 1) as at the date of the execution of the payment order that debits other bank's account or own account of NBP, maintained at the same NBP Regional Branch; or
- 2) as at the day on which the Regional Branch receives funds from the NBP Head Office or from other NBP Regional Branch; or
- 3) on the next working day following the date of receipt of the payment order that was transferred from an organisational unit of other bank without using the SORBNET2 system, at the latest.

§ 27. 1. Interbank settlement performed in zloty or in euro by an organisational unit of a bank other than NBP that maintains other bank's account shall be performed, subject to para. 2 and 3, under a payment order through debiting the account and:

- 1) crediting other bank's account maintained by the unit or own account of the bank performing the settlement – as at the date of acceptance of the payment order for execution; or
- 2) forwarding the payment order to other bank, including NBP, to the TARGET2-NBP system or the NBP Regional Branch – on the next working day following the date of its acceptance for execution, at the latest, and in the case of transferring the payment order to NBP to the SORBNET2 system – on the day of its acceptance for execution, regardless of the number of banks acting as intermediaries in its execution.

2. With regard to crediting another bank's account maintained by the bank other than NBP, § 26(2) shall apply, accordingly.

3. The day indicated by the originator in the payment order may be the date of the interbank settlement referred to in para. 1 and 2 if such a possibility has been provided for by the parties in the bank account agreement.

Title 7

Interbank settlement performed as a result of actions carried out by an entity managing an ancillary system

§ 28. Interbank settlement may be performed under payment orders submitted by an entity managing an ancillary system which:

- 1) has defined:
 - a) objective eligibility criteria ensuring equal access to the system it operates;
 - b) rules for the exchange of payment orders between the participants of the system referred to in item a, or for the recording of processed transactions, or performing clearing or settlement of transactions, as well as the time limits and manner of meeting the resulting liabilities;
 - c) rules for setting-off mutual liabilities and claims of participants resulting from the exchange of payment orders referred to in item b, and procedures ensuring the documentation of set-off results to pertaining to them to individual participants, should such set-off be performed;
 - d) the respective scopes of liability of an entity managing an ancillary system and the participants;
- 2) has agreed with the bank performing interbank settlement the rules of transferring payment orders to this bank and time limits for performing interbank settlements.

§ 29. Interbank settlement under payment orders submitted by an entity managing an ancillary system arising from setting-off mutual liabilities and claims of participants resulting from large-value payment orders may be performed if the entity managing an external system, in addition to complying with the requirements set forth in § 28:

- 1) defined procedures to ensure:
 - a) that a participant's payment order forwarded to the system the participant operates or a

- transaction cleared in this system or any other transaction are not cancelled after the interbank settlement of set off liabilities and claims has been performed;
- b) that set off liabilities and claims are submitted for interbank settlement within a time limit allowing the completion of the settlement on the same day the exchange of participants' payment orders takes place;
 - c) in the case of the participants having insufficient funds, the completion of interbank settlement within a time limit set pursuant to § 28;
- 2) secured the system it operates in technical and operational terms, so as to enable the completion of interbank settlement on the same operational day in the case of technical failure.

Title 8

Final Provisions

§ 30. Regulation No. 13/2013 of the Governor of Narodowy Bank Polski of 24 May 2013 on the manner of performing interbank settlements (Official Journal of NBP item 9) shall be repealed.

§ 31. The Regulation shall take effect as of 1 February 2018.

Governor
of Narodowy Bank Polski