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EUROPEAN INTERBANK COMPENSATION GUIDELINES

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Background

The Interbank Compensation Guidelines were developed as a recommended basis for the settlement of claims for compensation arising from same day high-value payments¹ in euro made between banks. This common approach to interbank claims was agreed in December 1998, prior to the introduction of the euro, for the categorisation and calculation of interest claims in compensation, be it for misdirected euro-denominated payments or euro-denominated payments sent on the wrong value date.

Following implementation of EC Directive 2007/64/EC of 13 November 2007 on payment services in the internal market (the “Payment Services Directive”) in Member States, these claims can only take the form of back valuation and the return of payments.

Since their introduction, the Guidelines have been increasingly used and accepted in the market, showing the need for common compensation rules in the euro area to resolve problems relating to errors made by banks handling payments. The European Interbank Compensation Guidelines have become de facto market practice in the euro area.

Although the terms “bank” and “interbank” have been retained, these Guidelines are intended to apply, where applicable, to all payment service providers as defined by the Payment Services Directive.

Core Principles

The European Interbank Compensation Guidelines apply without prejudice to existing EU and national law.

The objective is to establish a market standard in the euro area, equally applicable to all parties, with fair compensation for all same day high-value euro-denominated payments between banks acting in a commercial banking capacity.

This market standard should, within the limits mentioned in the Guidelines, help to resolve the majority of compensation issues arising in a timely and cost-efficient way.

The basic principle behind these claims for compensation is that no bank should be unjustly enriched or injured by the action/error of another bank.

A) Coverage

Parties subject to these Guidelines are banks connected as a direct or indirect member to any euro clearing system and/or with a euro settlement account with one of the Eurosystem Central Banks. These Guidelines do not

cover the relationship between banks and their customers, be it on the remitting or receiving side.

B) Type of payments

All same day high-value payments sent before the cut-off time of the payment system through which they are addressed should be included, irrespective of their nature. In other words, any euro-denominated payment regarding which a bank has made an error could fall under the scope of the Guidelines.

SEPA credit transfers and direct debits are not covered. They are subject to the SEPA rulebooks.

C) Fair compensation

Compensation should be based on EONIA including an administration charge in order to compensate the affected party for the risk and effort required to resolve the issue.

D) Implementation

These revised Guidelines are implemented as from 1st November 2009 and replace all previous versions of these Guidelines.

The **European Interbank Compensation Guidelines** have been developed as a support for the banking community. They provide a recommended basis for the settlement of claims for compensation arising from same day high-value euro-denominated payments directed through any euro payment system located in the European Union. This will greatly facilitate the settlement of claims arising interbank when processing euro-denominated payments.

1. It may also be appropriate to use these Guidelines for a single high value file containing multiple small retail payments.

Note

These Guidelines are not intended to supersede rules or compensation schemes applicable to specific payment systems or included in any bilateral or multilateral agreement.

Introduction

European Interbank Compensation Guidelines

1. Where a claim for compensation is identified, the banks involved should settle the claim on the basis that no bank should be unjustly enriched or injured by the actions of another bank.
2. Compensation under these Guidelines is payable only between the banks directly involved in the payment (the remitting bank and the receiving bank). If there is a payment chain, each link in the chain should be considered separately.
3. Payment or attempted payment of compensation under these Guidelines does not constitute and should not be construed as an admission of negligence or fault on the part of any of the banks involved, nor should it imply any legal obligation on either party.
4. In relation to any single adjustment a fixed flat administration fee of EUR 100 is automatically payable by the bank which originally made the error or deductible from the interest amount payable to the bank which originally made the error.
5. Compensation under these Guidelines is to be paid in euro. However, interest claims below 100 euro are regarded as “de minimis” and should not be made. Exceptionally, where multiple payment adjustments are made between the same two entities at the same time, subject to prior agreement between the parties such interest claims may be aggregated, even if individually below 100 euro, and the administration fees may vary from the administration fee as set in point 4 above.
6. Where the product of the amount and period exceeds EUR 200 million (e.g. EUR 20 million for 10 calendar days or EUR 50 million for 4 calendar days), the applicable compensation rate is subject to bilateral agreement between the parties. It is expected that the banks involved will settle such claims according to the principle that no bank should be unduly enriched or injured by the actions of another bank.
7. These Guidelines should be applicable only for claims introduced by the clearing bank initiating the adjustment within 3 months after the value date of the initial payment. Claims introduced after this 3 month period should be lodged on the basis of a bilateral agreement.
8. The following interest calculation formula (value of funds) is to be used: *(Principal amount in euro) × (Compensation Rate) × (actual number of calendar days for which funds held)*.
9. (a) The “Compensation Rate” to be used when calculating the use of funds claim is:

The average of each day’s EONIA rate (as published on a daily basis) less 0.25 percent for the days included in the above formula.

However, if the EONIA rate less 0.25 percent is less than the ECB deposit facility rate, then the flat ECB deposit facility rate is to be used.

(b) For compensation claims that relate to a request to back value as a result of non-payment then the “Compensation Rate” to be used will be:

The average of each day’s EONIA rate (as published on a daily basis) plus 0.25 percent for the days included in the above formula.

However, if the EONIA rate plus 0.25 per cent is more than the ECB marginal lending facility rate, then the flat ECB marginal lending rate is to be used.

European Interbank Compensation Guidelines

Examples of circumstances under which compensation claims may be applicable

1. Back Valuation

Definition: Back valuation arises where a receiving bank receives value on a day later than the date agreed.

1.1 The remitting bank may request the receiving bank to back value the payment. Such a request must be accompanied by an agreement to cover the compensation costs of the receiving bank according to the formula below. Provided the compensation is paid, the receiving bank should back value the payment to the date requested and reverse any related interest charges, unless

- its customer instructs it not to back value the payment;
- the remitting bank requests a back valuation to a date more than 3 months prior to the initial payment date;
- or the request for back valuation is received more than 3 months after the initial payment date.

1.2 If the receiving bank back-values the payment at the request of the remitting bank, the compensation payable by the remitting bank to the receiving bank (regardless of whether or not the beneficiary's account was actually overdrawn) is:

Value of Funds for the days back-valued, PLUS EUR 100 administration fee

2. Request for return of a payment sent in error with original value where the receiving bank has gained benefit

Note

Compensation is only payable where the receiving bank has benefited. If the payment has been correctly credited to the beneficiary in accordance with the instructions received and the receiving bank has not itself gained benefit, any interest claim is not covered by these Guidelines and should be settled on a bilateral basis.

Definition: This arises where a remitting bank sends a payment in error, e.g.:

- a) duplicates a payment,
- b) issues a payment to a wrong bank,
- c) overpays,
- d) issues a payment which cannot be applied, or
- e) issues an erroneous payment for any other reason.

2.1 The remitting bank may request the receiving bank to return the funds sent in error.

2.2 These funds should be immediately returned by the receiving bank subject to the receipt of its customer's authorisation, if applicable.

2.3 If a receiving bank returns such a payment at the request of the remitting bank, the latter can claim compensation from the receiving bank, within 3 months from the date on which the funds were returned, of: Value of Funds for a maximum of 3 months **LESS** EUR 100 administration fee

2.4 The compensation claim by the bank initiating the adjustment may only be made within a maximum period of 3 months.

2.5 If a receiving bank returns the payment on the day of its receipt, it is entitled to claim EUR 100 for its administration costs in returning the payment but the remitting bank is not entitled to any compensation.