



OESTERREICHISCHE NATIONALBANK

EUROSYSTEM

TERMS AND CONDITIONS GOVERNING THE
INTERNATIONAL PAYMENT SERVICES OF
THE OESTERREICHISCHE NATIONALBANK
(GB-IPS)



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§ 1 Scope of Application

(1) These Terms and Conditions shall regulate all foreign exchange and international payment transactions conducted by the Oesterreichische Nationalbank (hereinafter referred to as the “OeNB”).

As a rule, such transactions will be conducted only with OeNB giro account holders as defined in the “Geschäftsbestimmungen für die Führung von Girokonten der OeNB” (Terms and Conditions Governing the Maintenance of Giro Accounts with the Oesterreichische Nationalbank) or with account holders as defined in the “Geschäftsbestimmungen für den Euro-Zahlungsverkehr der OeNB für Konteninhaber mit Sitz im Ausland” (Terms and Conditions Governing the OeNB’s Euro Operations for Nonresident Account Holders)” unless the OeNB should decide to make other arrangements.

(2) Unless otherwise agreed, the conduct of any foreign exchange and international payment transactions by the OeNB not covered by these Terms and Conditions shall be subject in particular to the Bill of Exchange Act and the Checks Act, as amended.

(3) The provisions of the Payment Services Act (Federal Law Gazette Part I No. 66/2009) shall not apply to the settlement of checks and bills of exchange as defined in the annex.

(4) These Terms and Conditions shall not entitle counterparties to the execution of certain operations by the OeNB, which explicitly reserves the right – as may be required in particular by the European Central Bank (ECB) or by the European Commission – to restrict the execution of certain types of transactions to a limited scope with a limited number of counterparties or not to execute certain transactions at all.

§ 2 Definitions and Scope

a) Currencies and Calculation of Exchange Rates

Under these Terms and Conditions, the terms listed below shall denote the following:

“EEA currencies”: CHF (Swiss franc), DKK (Danish krone), GBP (pound sterling), ISK (Icelandic krona), NOK (Norwegian krone), SEK (Swedish krona) or EUR (euro).

“foreign currency”: the currency of a country for which the ECB publishes reference rates. These reference rates apply in particular to the threshold amounts defined by these Terms and Conditions or by specific provisions as well as by the “Konditionen der OeNB im Correspondent Banking” (The OeNB’s Terms and Conditions for Correspondent Banking Services).

“other foreign currency”: currency for which the ECB does not publish reference rates.

“deferred settlement” subject to the euro equivalent of a transaction based on the equivalent billed by the foreign correspondent bank.

b) “available”:

amounts shall be deemed available if

- they have demonstrably been credited to an OeNB account operated abroad, or if
- the OeNB has been instructed to debit an account held with the OeNB, provided this account is sufficiently funded, and if such amounts are at the OeNB’s disposal without any restriction, and the OeNB has been notified thereof.

c) **“banking day”**

Under these Terms and Conditions, banking days shall mean all days of the calendar year with the exception of Saturdays, Sundays, Austrian public holidays, December 24 and other TARGET2-OeNB closing days.

§ 3 Maintenance of Foreign Currency Accounts

(1) The OeNB may maintain foreign currency accounts for foreign central banks, domestic and foreign credit institutions, the ECB and European and international organizations. Opening a foreign currency account requires an application in writing or an authenticated electronic application. Applications shall be submitted to the OeNB’s head office. Written applications must be stamped and duly signed by the account holder.

(2) Foreign currency account holdings shall not be remunerated by the OeNB.

(3) Overdrafts on foreign currency accounts are, in principle, prohibited; however, the OeNB shall reserve the right to make exceptions to this principle.

(4) Upon prior notification of the respective counterparty, the account holder or the OeNB may close a foreign currency account at any time, without having to give notice and without giving any reasons. When the respective account has been balanced, the respective credit balance is transferred to the account holder prior to the closing of the account.

§ 4 Placement of Payment Orders

(1) Payment orders placed with the OeNB must clearly indicate the purpose of the transaction and must contain all information needed to conduct the transaction. Payment orders

may be submitted to the OeNB in the form of an authenticated SWIFT message or in paper-based form duly signed. The forms supplied by the OeNB must be used for paper-based orders. Any changes, confirmations or duplications of orders must be clearly marked as such.

(2) Payment orders shall be deemed placed upon reaching the OeNB's Payment Systems Division.

(3) Notwithstanding Article 44 para 1 Payment Services Act, the OeNB shall not be liable for any damage incurred if an order is placed by an unauthorized person. However, the OeNB shall be entitled to require that customers confirm their orders prior to execution at their own expense and in a manner deemed suitable by the OeNB if the OeNB considers this necessary to ensure the security of transactions.

(4) In case of doubt, the originator of a payment order shall assume the liability incurred in the event that explanations he gives when he places payment orders or submits other messages using telecommunications channels (e.g. phone, fax or data telecommunication) are unclear or ambiguous. Notwithstanding the provisions of § 12 of these Terms and Conditions, the OeNB shall not be liable for any damage incurred in this connection.

(5) The full legal capacity of account holders and originators or their designated authorized representatives shall be deemed effective until the OeNB is explicitly notified otherwise. The OeNB shall not be liable for any damage arising from lack of such notification or from incorrect or inadequate information.

§ 5 Execution of Payment Orders

(1) Articles 41 through 43 of the Payment Services Act (Federal Law Gazette Part I No. 66/2009) shall apply to the execution of payment orders, which are subject to the Payment Services Act.

(2) In fulfilling its obligations pursuant to these Terms and Conditions the OeNB may, in its own name, contract third parties if this is necessary for fulfilling said obligations. The OeNB's obligation and liability shall be limited to the careful selection and commissioning of these third parties. On request, the OeNB may cede the claims existing on third parties to the counterparty.

(3) The OeNB shall be entitled to execute orders for commission transactions for its own account; the notification requirement provided under § 405 UGB (Austrian Commercial Code) shall not apply.

(4) The OeNB shall be entitled to refuse to execute orders and to enter into purchase and sale transactions that are not subject to the provisions of the Payment Services Act without giving any reasons.

(5) Payment orders given will be executed only if the account holder has ensured in time that sufficient cover is available on the account.

(6) If no other procedure has been agreed, payment orders that cannot be executed until the end of the day for lack of sufficient cover shall be refused and deemed not to have been issued.

§ 6 Sending of Commercial Documents

In sending commercial documents, the OeNB acts exclusively for the account and risk of the counterparty. Unless the counterparty has specified otherwise, the OeNB may also send commercial documents either by registered or by insured mail, in accordance with market practice for banks.

§ 7 Foreign Payment Orders (Outgoing Payments)

a) Submission

(1) Payment orders shall be submitted in accordance with the cutoff times defined below. Orders submitted after the respective cut-off time will be settled on the next possible value date depending on the technical possibilities. Any payment orders that cannot be executed in this connection will be returned to the submitter and shall be deemed not to have been issued.

(2) Euro-denominated payment orders in EUR must reach the OeNB's Payment Systems Division by 2:00 p.m. of the respective value day. Orders whose value date coincides with an Austrian banking holiday that is not a TARGET closing day, or with December 24, must have reached the OeNB by 2:00 p.m. on the previous business day.

(3) The value date for non-euro-denominated payment orders submitted for execution on a banking day until 10:00 a.m. shall be two days following submission, taking into account the respective Austrian and foreign holidays. The account must have sufficient cover at 10:00 a.m. on the day of submission, or the required coverage must have been provided to the OeNB.

(4) The cutoff times defined in the euro payment systems operated by the OeNB shall be identical with the submission times for the participants in these systems.

b) Processing of Orders

1. Acceptance

Paperless payment orders must be sent via SWIFT. To submit payment orders in writing, the forms marked “Auslands-Überweisungsauftrag” (Cross-Border Transfer Order) printed by the OeNB must be used.

2. Fees

(1) Unless otherwise instructed by the originator in the payment order, domestic banking fees shall be paid by the originator and foreign banking fees shall be paid by the receiver (payee).

If the payment order fulfills the criteria of a standard EU payment order, the same fees are charged for settlement as for a comparable domestic payment order.

(2) The fees are charged in line with the provisions of the “Buchungs- und Bearbeitungsgebühren für bei der OeNB geführte Eurokonten” (Processing and Handling Fees for Euro Accounts Kept with the Oesterreichische Nationalbank). The OeNB reserves the right to debit the originator’s account with any fees related to a payment order or charged by the correspondent at a later point in time, even if instructed otherwise by the originator in the payment order.

3. Special Provision for Orders to Be Processed in Paper Format

The OeNB reserves the right to process orders that are to be processed in paper format by sending checks

denominated in the respective currency to the recipient or to the recipient's bank as designated by the originator. The clearing and further processing of such checks are subject to the respective special provisions. If the recipient or his bank notifies the OeNB that a check has apparently been lost, the OeNB will arrange for the check to be blocked and will seek agreement with the originator on how to proceed further.

c) Payment Date

The duration of payment transmissions at other banks is beyond the OeNB's control. Therefore, the OeNB shall not assume any responsibility that the funds transferred will be available to the payee on a certain day.

d) Forms

The originator shall be responsible both to the OeNB and to third parties that the original and the copies of the respective cross-border transfer orders are identical.

§ 8 Foreign Payment Orders (Incoming Payments)

a) Execution

The OeNB executes incoming payments on the same value date on which they arrive, provided there is proof of sufficient funds being available or having been provided.

b) Exchange Rate for Settlement

The OeNB shall execute payment orders in foreign currencies by crediting a foreign currency account. If this is not possible, the OeNB shall settle the respective order at the bid rate for foreign currencies valid on the day on which the order is received by 12:00 noon, provided that sufficient cover is available. See the "Konditionen der OeNB

im Auslandszahlungsverkehr” (The OeNB’s Terms and Conditions for Cross-Border Payment Services), Section 9 Kurskonditionen (Calculation of Exchange Rates). If coverage is credited later than that, the order shall be settled at the bid rate of the day on which the OeNB is notified, by 12:00 noon, of such crediting.

c) Instructions by the Beneficiary

Any instruction of the beneficiary that contradict the instructions contained in the payment order shall not be considered.

d) Failure to Execute a Payment Order

If a payment order cannot be executed because the beneficiary is deceased or because the beneficiary is a legal person or an association of persons that was dissolved, the originator shall be reimbursed the amount transferred upon deduction of all charges incurred. This shall also apply if the beneficiary, upon delivery of written notification and a second reminder in writing, fails to provide any instructions within the specified period of notice regarding the amount made available to him.

§ 9 Cancellation

The originator may cancel an order only on condition that such cancellation reaches the OeNB in time for the order to be canceled before the account of the originating account holder is debited.

§ 10 Information

In the absence of legal provisions to the contrary, information about transactions executed shall be given only to the respective counterparties of the OeNB.

§ 11 Commissions, Interest and Fees

(1) For calculating commissions, interest and fees, the rates laid down in the “Konditionen der OeNB im Correspondent Banking” (The OeNB’s Terms and Conditions for Correspondent Banking Services) shall apply as amended.

(2) The OeNB may also apply flat rates to calculate the reimbursement of commissions, interest and fees incurred by the OeNB or by third parties; besides, it may require an advance on the fees prior to accepting an order.

§ 12 Liability

(1) Under these Terms and Conditions, the OeNB shall be liable for any damage it causes intentionally or by gross negligence as provided for by the applicable legal provisions.

The OeNB shall not assume any further liability or any liability for events caused by an account holder or by an originator or events that are beyond the OeNB’s sphere of influence or that are caused by force majeure.

Specific liability provisions under check and bill legislation shall remain unaffected by this provision.

(2) Article 44 para 1 and Article 48 of the Payment Services Act shall apply to payment services processing, which is subject to the Payment Services Act.

(3) The OeNB shall not be liable for any damage resulting from nontaxation or insufficient taxation or fee payment on

commercial documents, resulting from formal errors or the like on the respective documents.

In such cases, the originator shall reimburse the OeNB for any damage incurred if, upon redemption of the commercial documents, the OeNB should be required to make repayments or to pay damages.

(4) The OeNB shall not assume any liability for the timely presentation of commercial documents submitted to it for collection, if it has not received the respective documents in due time.

(5) The OeNB shall not be liable for any damage due to changes in the value of currencies or monetary policy measures.

(6) The EONIA (Euro Overnight Index Average) rate shall be used to calculate interest on claims under the liability provisions of the first sentence of paragraph 1 of these Terms and Conditions.

§ 13 Limitations

Any claims of account holders or originators against the OeNB that are related to the execution of an order shall become statute-barred after three years.

§ 14 Entry into Force and Final Provisions

(1) These Terms and Conditions shall enter into force on January 1, 2011, and shall be valid until further notice.

(2) These Terms and Conditions and any changes thereto shall be published in the “Amtsblatt zur Wiener Zeitung” (Official Gazette). Any amendments to these Terms and Conditions shall enter into force at the point in time specified in the respective announcement or, in the absence of such specification, on the day following their publication in the “Amtsblatt zur Wiener Zeitung.”

(3) In the event of uncertainties in the application of these Terms and Conditions, they shall be interpreted in a logical and systematic way, considering the purpose for which they were conceived, taking into account statutory provisions on interpreting law or handling unclear provisions, and based on the underlying true intention of the parties involved.

(4) These Terms and Conditions are subject exclusively to Austrian law.

The place of jurisdiction is Vienna.

The Vienna Commercial Court (Handelsgericht Wien) shall have sole jurisdiction to hear any legal action against the OeNB.

ANNEX CHECKS AND BILLS

I Checks

a) Purchase and Settlement

(1) As a rule, checks in all currencies purchased by the OeNB from domestic and foreign banks, international organizations and nonbanks shall be for collection on a commission basis only.

(2) The OeNB shall settle any checks for collection on a commission basis only upon receipt of the corresponding final credit (from/to beneficiaries outside Austria).

If the credit entry should be debited for any reason, the OeNB shall be entitled, without prejudice to its right to legal recourse, to withdraw from the purchase and to demand from the seller repayment of the amount received, payment of interest, and reimbursement of any expenses incurred in connection with the attempted redemption and in connection with the protection of any rights to recourse.

The seller is also obliged to effect repayment if, due to the banking practices prevailing at the intended place of payment or for any other reasons, measures required to protect any rights to recourse were not taken or if the document cannot be returned to the OeNB for whatever reason. Without prejudice to its right of rescission, the OeNB may demand interest from the seller for the duration of the delay.

Foreign currency checks shall be settled at the rate applicable on the settlement day according to the “Konditionen der OeNB im Correspondent Banking (The OeNB’s Terms and Conditions for Correspondent Banking), Section 9 Kurskonditionen (Calculation of Exchange Rates). Checks that are denominated in currencies for which the ECB does not publish reference rates

and that are not denominated in euro shall be settled at a rate set by the OeNB or at a previously defined rate.

b) Checks for Prompt Settlement

(1) The OeNB shall only purchase checks for prompt settlement from government agencies and quasi-public enterprises that have an account with the OeNB, under the condition that adequate indemnity or proxy is available which guarantees that these checks will be honored.

(2) The prompt settlement of such checks shall be effected on the day of submission or on the banking day following submission. The amount shall be credited as “honoring provided by drawer.” If a check is returned unpaid, the OeNB shall debit the account with the previously credited amount and shall send the check back to the submitter unpaid.

c) Remark “Free of Charge for the Beneficiary”

If a check bears the remark “free of charge for the beneficiary,” the commissions and fees incurred by cashing the check shall be charged to the paying bank. If these commissions and fees are paid together with the face amount of the check, the respective encashment receipts shall be credited free of charge to the submitter of the check.

d) Drawing of Checks

Checks drawn on the OeNB will be honored within a period of three months as of the drawing date, provided they have sufficient coverage.

e) Endorsment

The presenter of a check is obliged to endorse the back of the check.

II Bills

a) Submission

Nonresident account holders may submit bills of exchange payable in Austria to the OeNB for collection.

b) Tax Regime

Bills of exchange issued in Austria shall be subject to the applicable tax under Austrian law.

c) Protest

Upon nonpayment, bills of exchange submitted to the OeNB shall automatically be subject to protest. A bill of exchange may be returned without protest only if the submitter of such bill has explicitly renounced his right to protest by marking the submitted form “without protest.”