



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

# Documentation on Monetary Policy Instruments and Procedures

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## OVERVIEW

This Bank Documentation on Monetary Policy Instruments and Procedures, as the same may be amended, varied, or supplemented from time to time (the ‘Bank Document’ or ‘this Document’), contains terms and conditions applicable to counterparties in respect of monetary policy operations with the Central Bank of Ireland (the ‘Bank’).

Counterparties should also take note of any legally binding Decisions adopted by the Governing Council of the ECB that relate to monetary policy operations and ECB press releases for general updates on changes to instruments, conditions, criteria or procedures in relation to Eurosystem credit operations.

This Document should be read in conjunction with any supplements published on the Bank’s website from time to time.

### Introduction

- (1) In the light of Article 12.1 of the Statute of the ESCB, the ECB has the authority to formulate the single monetary policy of the Union and to issue the necessary guidelines to ensure its proper implementation in a uniform manner across NCBs. In accordance with Article 14.3 of the Statute of the ESCB, the NCBs have an obligation to act in accordance with such guidelines.
- (2) Guideline ECB/2014/60<sup>1</sup> (the ‘General Documentation Guideline’) sets down applicable rules in respect of the implementation of the Eurosystem monetary policy framework. The rules laid down in the General Documentation Guideline are implemented by the Bank in this Document and the collateral mobilisation agreements, as defined herein. The Bank’s counterparties are required to comply with this Document and any collateral mobilisation agreement to which they are party.
- (3) This Document shall take effect from 8 July 2022 and shall replace the version of this Document dated 28 June 2021.

### Principles

The terms and conditions that follow in Part One to Part Eight of this Document are based on a number of guiding principles which are outlined below:

- (1) The first indent of Article 18.1 of the Statute of the ESCB allows the Eurosystem to operate in the financial markets by buying and selling outright (spot and forward) or under repurchase agreements and by lending or borrowing claims and marketable instruments, whether in euro or

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<sup>1</sup> Guideline (EU) 2015/510 of the European Central Bank of 19 December 2014 on the implementation of the Eurosystem monetary policy framework (recast) (ECB/2014/60), as the same may be amended from time to time.

other currencies, as well as precious metals. The second indent of Article 18.1 allows the Eurosystem to conduct credit operations with credit institutions and other market participants.

- (2) In implementing its monetary policy, the Eurosystem employs the following monetary policy tools: it conducts open market operations, offers standing facilities and requires credit institutions to hold minimum reserves on accounts with the Eurosystem.
- (3) In order to achieve its objectives, the Eurosystem has a set of instruments at its disposal for conducting open market operations, which include reverse transactions, outright transactions, the issuance of ECB debt certificates, foreign exchange swaps for monetary policy purposes and the collection of fixed-term deposits. Such instruments for the conduct of open market operations aim to ensure an orderly functioning of the money market and to help banks meet their liquidity needs in a smooth and well-organised manner.
- (4) The set of instruments at the Eurosystem's disposal for offering standing facilities are the marginal lending facility and the deposit facility, which are aimed at providing and absorbing overnight liquidity respectively, signalling the stance of monetary policy and bounding overnight money market interest rates.
- (5) The Eurosystem's minimum reserve system primarily pursues the monetary policy objectives of: (a) contributing to the stabilisation of money market interest rates by giving institutions an incentive to temper the effects of temporary liquidity fluctuations due to the averaging provision; and (b) creating or enlarging a structural liquidity shortage, which improves the ability of the Eurosystem to operate efficiently as a liquidity supplier. The legal framework of the Eurosystem's minimum reserve system is laid down in Article 19 of the Statute of the ESCB, Council Regulation (EC) No 2531/98<sup>2</sup> and Regulation (EC) No 1745/2003 of the European Central Bank (ECB/2003/9)<sup>3</sup>.
- (6) With regard to their aims, regularity and procedures, the Eurosystem's open market operations can be divided into four categories: (a) main refinancing operations; (b) longer-term refinancing operations; (c) fine-tuning operations; (d) structural operations.
- (7) The main refinancing operations are a category of open market operations conducted by the Eurosystem that play a pivotal role in pursuing the aims of steering interest rates, managing the liquidity situation in the market and signalling the stance of monetary policy.
- (8) The longer-term refinancing operations are aimed at providing counterparties with liquidity that has a maturity longer than that of the main refinancing operations. With longer-term refinancing operations, the Eurosystem does not, as a rule, intend to send signals to the market and therefore normally acts as a rate taker.
- (9) Fine-tuning operations are executed on an ad hoc basis with the aim of managing the liquidity situation in the market and steering interest rates, in particular in order to smooth the effects on

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<sup>2</sup> Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank (OJ L 318, 27.11.1988, p. 1).

<sup>3</sup> Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves (ECB/2003/9) (OJ L 250, 2.10.2003, p. 10).

interest rates caused by unexpected liquidity fluctuations in the market. The specific fine-tuning operations are adapted to the types of transactions and the specific objectives pursued by the relevant operations.

- (10) Structural operations may be carried out whenever the structural position of the Eurosystem needs to be adjusted with regard to the financial sector.
- (11) The implementation of the Eurosystem's monetary policy framework should ensure that a broad range of counterparties participate under uniform eligibility criteria. These criteria are specified to ensure the equal treatment of counterparties across the Member States whose currency is the euro and to ensure that counterparties fulfil certain prudential and operational requirements.
- (12) In order to protect the Eurosystem from counterparty risk, the second indent of Article 18.1 of the Statute of the ESCB provides that when the Eurosystem conducts credit operations with credit institutions and other market participants, lending should be based on adequate collateral.
- (13) In order to ensure the equal treatment of counterparties, as well as to enhance operational efficiency and transparency, assets must fulfil certain uniform criteria across the Member States whose currency is the euro in order to be eligible as collateral for Eurosystem credit operations.
- (14) The Eurosystem has developed a single framework for assets eligible as collateral so that all Eurosystem credit operations are carried out in a harmonised manner by means of implementing the General Documentation Guideline in all Member States whose currency is the euro. The single framework for assets eligible as collateral covers marketable and non-marketable assets that fulfil uniform eligibility criteria specified by the Eurosystem. Most eligible assets may be used on a cross-border basis by means of the correspondent central banking model (CCBM) and, in the case of marketable assets, through eligible links between eligible EEA securities settlement systems (SSSs) or eligible links between eligible EEA SSSs in combination with the CCBM.
- (15) Intraday credit is provided by the Eurosystem to even out mismatches in payment settlements. As laid down in Article 12 and Annex III of Guideline ECB/2012/27<sup>4</sup>, the collateral for the provision of intraday credit is required to comply with the same criteria that assets eligible as collateral must fulfil under Part Four.
- (16) All eligible assets for Eurosystem credit operations need to be subject to specific risk control measures in order to protect the Eurosystem against financial losses in circumstances where its collateral has to be realised due to an event of default of a counterparty. Eligible assets are required to meet the Eurosystem's credit quality requirements specified in the Eurosystem credit assessment framework (ECAAF) rules.
- (17) The ECB imposes sanctions on institutions which do not comply with obligations arising from ECB regulations and decisions relating to the application of minimum reserves in accordance with

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<sup>4</sup> Guideline ECB/2012/27 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).

Council Regulation (EC) No 2532/98<sup>5</sup>, Regulation (EC) No 2157/1999 of the European Central Bank (ECB/1999/4)<sup>6</sup>, Regulation (EC) No 2531/98 and Regulation (EC) No 1745/2003 (ECB/2003/9). In the event of a serious infringement of the minimum reserve requirements, the Eurosystem may also suspend counterparties' participation in open market operations.

- (18) In accordance with the provisions of the contractual or regulatory arrangements applied by the relevant NCB or by the ECB, if counterparties fail to comply with their obligations under the contractual or regulatory arrangements applied by the NCBs or by the ECB, as set out in the General Documentation Guideline, the Eurosystem can impose financial penalties or suspend counterparties' participation in open market operations or standing facilities.
- (19) In accordance with the provisions in the contractual or regulatory arrangements applied by the relevant NCB or by the ECB, the Eurosystem may also suspend, limit or exclude counterparties' access to open market operations or standing facilities on the grounds of prudence or if there is an event of default of a counterparty. On the grounds of prudence, the Eurosystem may also reject, limit the use of or apply supplementary haircuts to assets mobilised by specific counterparties as collateral in Eurosystem credit operations.

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<sup>5</sup> Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions (OJ L 318, 27.11.1998, p. 4).

<sup>6</sup> Regulation (EC) No 2157/1999 of the European Central Bank of 23 September 1999 on the powers of the European Central Bank to impose sanctions (ECB/1999/4) (OJ L 264, 12.10.1999, p. 21).

# PART ONE

## Subject Matter, Scope, Amendment and Definitions

### Article 1

#### Subject matter, scope and amendment

1. The General Documentation Guideline sets out the uniform rules for the implementation of the single monetary policy by the Eurosystem throughout the Member States whose currency is the euro. Pursuant to the principle of decentralisation laid down in the Statute of the ESCB, tasks of the Eurosystem in regard to counterparties established in Ireland may be performed by the Bank.
2. The Eurosystem shall take all the appropriate measures to implement Eurosystem monetary policy operations in accordance with the principles, tools, instruments, requirements, criteria and procedures laid down in the General Documentation Guideline.
3. The legal relationship between the Bank and its counterparties shall be laid down in the MPIPs Agreement, this Document, the collateral mobilisation agreement(s) and any other relevant contractual arrangements entered into between the Bank and its counterparties.
4. The ECB's Governing Council may, at any time, change the tools, instruments, requirements, criteria and procedures for the implementation of Eurosystem monetary policy operations. The Bank may introduce amendments to this Document to reflect any such decisions of the Governing Council and/or any other amendments deemed necessary by the Bank that are consistent with the General Documentation Guideline. Where amendments to this Document are required, the Bank shall provide counterparties with notice of the relevant amendments and the date from which any such amendments shall apply.
5. The Eurosystem reserves the right to request and obtain any relevant information from counterparties that is needed to carry out its tasks and achieve its objectives in relation to monetary policy operations. This right is without prejudice to any other existing specific rights of the Eurosystem to request information relating to monetary policy operations.

### Article 2

#### Definitions

For the purposes of this Document, the following definitions shall apply:

- (1) 'actual/360 day-count convention' means the convention applied in Eurosystem monetary policy operations which determines the actual number of calendar days included in the calculation of interest by using a 360-day year as the basis;
- (2) 'agency' means an entity that is established in a Member State whose currency is the euro and that either engages in certain common-good activities carried out at national or regional level or serves their funding needs, and which the Eurosystem has classified as an agency. The list of entities classified as

agencies shall be published on the ECB’s website and shall specify whether the quantitative criteria for valuation haircut purposes set out in Annex XIIa are met in respect of each entity;

- (3) ‘asset-backed securities’ (ABSs) means debt instruments that are backed by a pool of ring fenced financial assets (fixed or revolving), that convert into cash within a finite time period. In addition, rights or other assets may exist that ensure the servicing or timely distribution of proceeds to the holders of the security. Generally, asset-backed securities are issued by a specially created investment vehicle which has acquired the pool of financial assets from the originator or seller. In this regard, payments on the asset-backed securities depend primarily on the cash flows generated by the assets in the underlying pool and other rights designed to assure timely payment, such as liquidity facilities, guarantees or other features generally known as credit enhancements;
- (4) ‘Bank business day’ means any day on which the Bank is open for the purpose of conducting Eurosystem monetary policy operations; this will be any day other than Saturdays, Sundays, New Year’s Day, Good Friday, Easter Monday, 1 May, Christmas Day and 26 December and any other days as notified by the Bank to the counterparty from time to time;
- (5) ‘bilateral procedure’ means a procedure whereby the Bank or, if appropriate, the ECB conduct outright transactions directly with one or more counterparties, or through stock exchanges or market agents, without making use of tender procedures;
- (6) ‘book-entry system’ means a system that enables transfers of securities and other financial assets which do not involve the physical movement of paper documents or certificates, e.g. the electronic transfer of securities;
- (7) ‘business day’ means: (a) in relation to an obligation to make a payment, any day on which TARGET2 is operational to effect such a payment; or (b) in relation to an obligation to deliver assets, any day on which the SSS through which delivery is to be made is open for business in the place where delivery of the relevant securities is to be effected;
- (8) ‘central securities depository’ (CSD) means a central securities depository as defined in point (1) of Article 2(1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council<sup>7</sup>;
- (9) ‘collateral mobilisation agreement’ means each of the following:
  - (a) the framework agreement in respect of Eurosystem operations secured over collateral pool assets and related deed of charge;
  - (b) the framework agreement in respect of the issue of mortgage-backed promissory notes and related deed of charge;
  - (c) the master substitution agreement in respect of Eurosystem operations; and

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<sup>7</sup> Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

- (d) any other contractual agreements as notified by the Bank to counterparties, the form of each such agreement being notified to counterparties and any notification for this purpose may occur through publication on the Bank’s website;
- (10) ‘collateralised loan’ means an arrangement between the Bank and a counterparty whereby liquidity is provided to a counterparty by way of a loan that is secured by an enforceable security interest granted by that counterparty to the Bank in the form of a charge granted over assets;
- (11) ‘collection of fixed-term deposits’ means an instrument used in conducting open market operations, whereby the Eurosystem invites counterparties to place fixed-term deposits on accounts with the Bank in order to absorb liquidity from the market;
- (12) ‘competent authority’ means a public authority or body officially recognised by national law that is empowered by national law to supervise institutions as part of the supervisory system in the relevant Member State, including the ECB with regard to the tasks conferred on it by Council Regulation (EU) No 1024/2013<sup>8</sup>;
- (13) ‘counterparty’ means an institution established in Ireland fulfilling the eligibility criteria laid down in Part Three entitling it to access the Eurosystem’s monetary policy operations through the Bank;
- (14) ‘covered bond’ means a debt instrument that is dual recourse: (a) directly or indirectly to a credit institution; and (b) to a dynamic cover pool of underlying assets, and for which there is no tranching of risk;
- (15) ‘credit claim’ means a claim for the repayment of money, which constitutes a debt obligation of a debtor *vis-à-vis* a counterparty. Credit claims also include *Schuldscheindarlehen* and Dutch-registered private claims on the government or other eligible debtors that are covered by a government guarantee, e.g. housing associations;
- (16) ‘credit institution’ means a credit institution within the meaning of Article 2(5) of Directive 2013/36/EU of the European Parliament and of the Council<sup>9</sup> and point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>10</sup>, which is either subject to supervision by a competent authority or is a publicly-owned credit institution within the meaning of Article 123(2) of the Treaty that is subject to supervision of a standard comparable to supervision by a competent authority;

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<sup>8</sup> Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

<sup>9</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.06.2013, p. 338).

<sup>10</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.06.2013, p. 1).

- (17) 'credit rating' has the same meaning as in Article 3(1)(a) of Regulation (EC) No 1060/2009 of the European Parliament and of the Council<sup>11</sup>;
- (18) 'cross-border use' means the submission, as collateral, by a counterparty to the Bank of:
- (a) marketable assets held in another Member State whose currency is the euro;
  - (b) marketable assets issued in another Member State and held in Ireland;
  - (c) credit claims where the credit claim agreement is governed by the laws of a Member State whose currency is the euro other than Ireland;
  - (d) retail mortgage-backed debt instruments (RMBDs) (including mortgage-backed promissory notes (MBPNs)) in accordance with the applicable procedures of the CCBM;
  - (e) non-marketable debt instruments backed by eligible credit claims (DECCs) issued and held in a Member State whose currency is euro other than Ireland.
- (19) 'currency hedge' means an agreement entered into between a securities issuer and a hedge counterparty, pursuant to which a portion of the currency risk arising from the receipt of cash flows in a non-euro currency is mitigated by swapping the cash flows for euro currency payments to be made by the hedge counterparty, including any guarantee by the hedge counterparty of those payments;
- (20) 'custodian' means an entity which undertakes the safekeeping and administration of securities and other financial assets on behalf of others;
- (21) 'default market value' means, with regard to any assets on any date:
- (a) the market value of such assets at the default valuation time calculated on the basis of the most representative price on the business day preceding the valuation date;
  - (b) in the absence of a representative price for a particular asset on the business day preceding the valuation date, the last trading price is used. If no trading price is available, the Bank will define a price, taking into account the last price identified for the asset in the reference market;
  - (c) in the case of assets for which no market value exists, any other reasonable method of valuation;
  - (d) if the Bank has sold the assets or equivalent assets at the market price before the default valuation time, the net proceeds of sale, after deducting all reasonable costs, fees and expenses incurred in connection with such sale, such calculation being made and amounts determined by the Bank;
- (22) 'delivery-versus-payment' or 'delivery-against-payment system' means a mechanism in an exchange-for-value settlement system which ensures that the final transfer, i.e. the delivery, of assets occurs only upon the occurrence of a corresponding final transfer of other assets, i.e. the payment;

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<sup>11</sup> Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

- (23) ‘deposit facility’ means a standing facility offered by the Eurosystem which counterparties may use to make overnight deposits at the Eurosystem through the Bank, which are remunerated at a pre-specified interest rate;
- (24) ‘deposit facility rate’ means the interest rate applied to the deposit facility;
- (25) ‘direct link’ means an arrangement between two SSSs operated by CSDs, whereby one CSD becomes a direct participant in the SSS operated by the other CSD by opening a securities account, in order to allow the transfer of securities through a book-entry process;
- (26) ‘domestic use’ means the submission, as collateral, by a counterparty of:
- (a) marketable assets issued and held in Ireland;
  - (b) credit claims where the credit claim agreement is governed by the laws of Ireland;
  - (c) RMBDs (including MBPNs) issued by entities established in Ireland; and
  - (d) non-marketable debt instruments backed by eligible credit claims issued and held in Ireland;
- (27) ‘earmarking system’ means a system for NCBs’ collateral management whereby liquidity is provided against specified, identifiable assets earmarked as collateral for specified Eurosystem credit operations. The substitution of these assets with other specific eligible assets may be permitted by the home NCB provided that they are earmarked as collateral and are adequate for the specific operation;
- (28) ‘ECONS credit’ means credit provided within contingency processing as referred to in paragraph 6 of Appendix IV to Annex II to Guideline ECB/2012/27;
- (29) ‘EEA legislative covered bond’ means a covered bond which is issued in accordance with the requirements under Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council<sup>12</sup>;
- (30) ‘eligible assets’ means assets that fulfil the criteria laid down in Part Four and are accordingly eligible as collateral for Eurosystem credit operations;
- (31) ‘eligible link’ means a direct or relayed link that the Eurosystem has assessed as compliant with the eligibility criteria laid down in Annex VIa for use in Eurosystem credit operations and is published on the Eurosystem list of eligible links on the ECB’s website. An eligible relayed link is composed of underlying eligible direct links;
- (32) ‘eligible SSS’ means an SSS operated by a CSD that the Eurosystem has assessed as compliant with the eligibility criteria laid down in Annex VIa for use in Eurosystem credit operations and is published on the Eurosystem list of eligible SSSs on the ECB’s website;

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<sup>12</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulation and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

- (33) ‘end-of-day’ means the time of the business day following closure of TARGET2-Ireland at which the payments processed in TARGET2-Ireland are finalised for the day;
- (34) ‘ESMA reporting activation date’ means the first day on which both (a) a securitisation repository has been registered by the European Securities and Markets Authority (ESMA) and therefore becomes an ESMA securitisation repository and (b) the relevant implementing technical standards, in the format of the standardised templates, have been adopted by the Commission under Article 7(4) of Regulation (EU) 2017/2402 of the European Parliament and of the Council<sup>13</sup> and have become applicable;
- (35) ‘ESMA securitisation repository’ means a securitisation repository within the meaning of point (23) of Article 2 of Regulation (EU) 2017/2402, which is registered with ESMA pursuant to Article 10 of that Regulation;
- (36) ‘euro area inflation index’ means an index provided by Eurostat or a national statistical authority of a Member State whose currency is the euro, e.g. the Harmonised Index of Consumer Prices (HICP);
- (37) ‘European Economic Area’ (EEA) means all Member States, regardless of whether or not they have formally acceded to the EEA, together with Iceland, Liechtenstein and Norway;
- (38) ‘Eurosysteem’ means the ECB and the NCBs;
- (39) ‘Eurosysteem business day’ means any day on which the ECB and at least one NCB are open for the purpose of conducting Eurosysteem monetary policy operations;
- (40) ‘Eurosysteem credit operations’ means: (a) liquidity-providing reverse transactions, i.e. liquidity-providing Eurosysteem monetary policy operations excluding foreign exchange swaps for monetary policy purposes and outright purchases; (b) intraday credit; and (c) ECONS credit;
- (41) ‘Eurosysteem designated repository’ means an entity designated by the Eurosysteem in accordance with Annex VIII and which continues to fulfil the requirements for designation set out in that Annex;
- (42) ‘Eurosysteem monetary policy operations’ means open market operations and standing facilities;
- (43) ‘final transfer’ means an irrevocable and unconditional transfer which effects the discharge of the obligation to make the transfer;
- (44) ‘financial corporation’ means a financial corporation as defined in Annex A to Regulation (EU) No 549/2013 of the European Parliament and of the Council<sup>14</sup>;
- (45) ‘fine-tuning operations’ means a category of open market operations executed by the Eurosysteem, particularly to deal with liquidity fluctuations in the market;
- (46) ‘fixed coupons’ means debt instruments with a predetermined periodic interest payment;

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<sup>13</sup> Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).

<sup>14</sup> Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union (ESA 2010) (OJ L 174, 26.6.2013, p. 1).

- (47) ‘fixed-rate tender procedure’ means a tender procedure whereby the ECB specifies the interest rate, price, swap point or spread in advance of the tender procedure and participating counterparties bid the amount they want to transact at that fixed interest rate, price, swap point or spread;
- (48) ‘fixed-term deposit’ means a deposit placed on account with the Bank in the manner described in Article 12 of this Document;
- (49) ‘floating coupon’ means a coupon linked to a reference interest rate with a resetting period corresponding to this coupon of no longer than one year;
- (50) ‘foreign exchange swap for monetary policy purposes’ is an instrument used in conducting open market operations whereby the Eurosystem buys or sells euro spot against a foreign currency and, at the same time, sells or buys it back in a forward transaction on a specified repurchase date;
- (51) ‘home NCB’ means the NCB of the Member State whose currency is the euro in which the counterparty is established, and for the purposes of counterparties of the Bank, ‘home NCB’ means the Bank;
- (52) ‘indicative calendar for the Eurosystem’s regular tender operations’ means a calendar prepared by the Eurosystem that indicates the timing of the reserve maintenance period, as well as the announcement, allotment and maturity of main refinancing operations and regular longer-term refinancing operations;
- (53) ‘in-kind recapitalisation with public debt instruments’ means any form of increase in the subscribed capital of a credit institution where all or part of the consideration is provided through a direct placement with the credit institution of sovereign or public sector debt instruments that have been issued by the sovereign state or public sector entity providing the new capital to the credit institution;
- (54) ‘international central securities depository’ (ICSD) means a CSD that is active in the settlement of internationally traded securities from various national markets, typically across currency areas;
- (55) ‘international organisation’ means an entity listed in Article 118 of Regulation (EU) No 575/2013, whereby exposures to such an entity are assigned a 0% risk weight;
- (56) ‘international securities identification number’ (ISIN) means the international identification code assigned to securities issued in financial markets;
- (57) ‘intraday credit’ means intraday credit as defined in point (26) of Article 2 of Guideline ECB/2012/27 of the European Central Bank<sup>15</sup>;
- (58) ‘investment firm’ means an investment firm within the meaning of point (2) of Article 4(1) of Regulation (EU) No 575/2013;
- (59) ‘investment fund’ means money market funds (MMFs) or non money market funds (non MMFs) as defined in Annex A to Regulation (EU) 549/2013;
- (60) ‘Ireland’ means the Republic of Ireland and shall not encompass Northern Ireland;

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<sup>15</sup> Guideline ECB/2012/27 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).

- (61) ‘issuance of ECB debt certificates’ means a monetary policy instrument used in conducting open market operations, whereby the ECB issues debt certificates which represent a debt obligation of the ECB in relation to the certificate holder;
- (62) ‘jumbo covered bond’ means an EEA legislative covered bond with an issuing volume of at least EUR 1 billion, for which at least three market-makers provide regular bid and ask quotes;
- (63) ‘leasing receivables’ means the scheduled and contractually mandated payments by the lessee to the lessor under the term of a lease agreement. Residual values are not leasing receivables. Personal Contract Purchase (PCP) agreements, i.e. agreements pursuant to which the obligor may exercise its option: (a) to make a final payment to acquire full legal title of the goods; or (b) to return the goods in settlement of the agreement, are assimilated to leasing agreements;
- (64) ‘legislative covered bond’ means a covered bond which is either an EEA legislative covered bond or a non-EEA G10 legislative covered bond;
- (65) ‘liquidity support’ means any structural, actual or potential feature that is designed or deemed appropriate to cover any temporary cash flow shortfall that may occur during the lifetime of an ABS transaction;
- (66) ‘loan-level data repository’ means an ESMA securitisation repository or a Eurosystem designated repository;
- (67) ‘longer-term refinancing operations’ (LTROs) means a category of open market operations that are executed by the Eurosystem in the form of reverse transactions that are aimed at providing liquidity with a maturity longer than that of the main refinancing operations to the financial sector;
- (68) ‘main refinancing operations’ (MROs) means a category of regular open market operations that are executed by the Eurosystem in the form of reverse transactions;
- (69) ‘maintenance period’ has the same meaning as defined in Regulation (EU) 2021/378 of the European Central Bank (ECB/2021/1)<sup>16</sup>;
- (70) ‘margin call’ means a procedure relating to the application of variation margins, implying that if the value of the assets mobilised as collateral by a counterparty, as regularly measured, falls below a certain level, the Eurosystem requires the counterparty to supply additional eligible assets or cash. For pooling systems, a margin call is performed only in cases of under-collateralisation, and for earmarking systems symmetric margin calls are performed, each method as further specified in this Document and the relevant collateral mobilisation agreement(s);
- (71) ‘marginal interest rate’ means the lowest interest rate in liquidity-providing variable rate tender procedures at which bids are fulfilled, or the highest interest rate in liquidity-absorbing variable rate tender procedures at which bids are fulfilled;

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<sup>16</sup> Regulation (EU) 2021/378 of the European Central Bank of 22 January 2021 on the application of minimum reserve requirements (ECB/2021/1) (OJ L 73, 3.3.2021, p. 1).

- (72) ‘marginal lending facility’ means a standing facility offered by the Eurosystem which counterparties may use to receive overnight credit from the Eurosystem through the Bank at a pre-specified interest rate subject to a requirement for sufficient eligible assets as collateral;
- (73) ‘marginal lending facility rate’ means the interest rate applied to the marginal lending facility;
- (74) ‘marginal swap point quotation’ means the swap point quotation at which the total tender allotment is exhausted;
- (75) ‘marketable assets’ means debt instruments that are admitted to trading on a market and that fulfill the eligibility criteria laid down in Part Four;
- (76) ‘maturity date’ or ‘scheduled maturity date’ means the date on which a Eurosystem monetary policy operation expires. In the case of a repurchase agreement or swap, the maturity date corresponds to the repurchase date;
- (77) ‘mortgage-backed promissory note’ (MBPN) means a retail mortgage backed debt instrument issued by a counterparty to the Bank, regardless of whether the Bank is the holder thereof, in connection with all or part of one or more Eurosystem credit operation;
- (78) ‘Member State’ means a member state of the Union;
- (79) ‘MPIPs Agreement’ means the agreement in respect of Eurosystem monetary policy instruments and procedures, a template version of which is published on the Bank’s website;
- (80) ‘*multi cédulas*’ means debt instruments issued by specific Spanish SPVs (Fondo de Titulización de Activos, FTA) enabling a certain number of small-sized single *cédulas* (Spanish covered bonds) from several originators to be pooled together;
- (81) ‘multilateral development bank’ means an entity listed in Article 117(2) of Regulation (EU) No 575/2013, whereby exposures to such an entity are assigned a 0% risk weight;
- (82) ‘multiple rate auction (American auction)’ means an auction in which the allotment interest rate or price or swap point equals the interest rate or price or swap point offered in each individual bid;
- (83) ‘multi-step coupon’ means a coupon structure where the margin part (x) increases more than once during the life of the asset according to a predetermined schedule on predetermined dates, usually the call date or the coupon payment date;
- (84) ‘national central bank’ (NCB) means a national central bank of a Member State whose currency is the euro;
- (85) ‘non-EEA G10 countries’ means the countries participating in the Group of Ten (G10) that are not EEA countries, i.e. Canada, Japan, Switzerland, the United Kingdom and the United States;
- (86) ‘non-EEA G10 legislative covered bond’ means a covered bond issued in accordance with the requirements of the national covered bond legislative framework of a non-EEA G10 country;
- (87) ‘non-financial corporation’ has the same meaning as in Regulation (EU) No 549/2013;

- (88) ‘non-marketable asset’ means any of the following assets: fixed-term deposits, credit claims, RMBDs (including MBPNs) and non-marketable debt instruments backed by eligible credit claims;
- (89) ‘non-marketable debt instruments backed by eligible credit claims’ (hereinafter “DECCs”) means debt instruments:
- (a) that are backed, directly or indirectly, by credit claims that satisfy all Eurosystem eligibility criteria for credit claims in accordance with Section 1, Chapter 1 of Title III of Part Four, subject to the provisions of Article 107f;
  - (b) that offer dual recourse to: (i) a credit institution that is the originator of the underlying credit claims; and (ii) the dynamic cover pool of underlying credit claims referred to in point (a);
  - (c) for which there is no tranching of risk;
- (90) ‘outright transaction’ means an instrument used in conducting open market operations, whereby the Eurosystem buys or sells eligible marketable assets outright in the market (spot or forward), resulting in a full transfer of ownership from the seller to the buyer with no connected reverse transfer of ownership;
- (91) ‘pooling system’ means a system for NCBs’ collateral management, whereby a counterparty maintains a pool account with an NCB to deposit assets collateralising that counterparty’s related Eurosystem credit operations, whereby the assets are recorded in such a way that an individual eligible asset is not linked to a specific Eurosystem credit operation and the counterparty may substitute eligible pooled assets on a continuous basis;
- (92) ‘public credit rating’ means a credit rating which is: (a) issued or endorsed by a credit rating agency registered in the Union that is accepted as an external credit assessment institution by the Eurosystem; and (b) disclosed publicly or distributed by subscription;
- (93) ‘public sector entity’ means an entity that is classified by a national statistical authority as a unit within the public sector for the purposes of Regulation (EU) No 549/2013;
- (94) ‘quick tender’ means a tender procedure, which is normally executed within a time frame of 105 minutes from the announcement of the tender to the certification of the allotment result, and which can be restricted to a limited set of counterparties, as further specified in Part Two;
- (95) ‘relayed link’ means a link established between SSSs operated by two different CSDs which exchange securities transactions or transfers through a third SSS operated by a CSD acting as an intermediary or, in the case of SSSs operated by CSDs participating in TARGET2-Securities, through several SSSs operated by CSDs acting as intermediaries;
- (96) ‘repurchase agreement’ means an arrangement whereby an eligible asset is sold to a buyer without any retention of ownership on the part of the seller, while the seller simultaneously obtains the right and the obligation to repurchase an equivalent asset at a specific price on a future date or on demand;
- (97) ‘repurchase date’ means the date on which the buyer is obliged to sell back equivalent assets to the seller in relation to a transaction under a repurchase agreement;

- (98) ‘repurchase price’ means the price at which the buyer is obliged to sell back equivalent assets to the seller in relation to a transaction under a repurchase agreement. The repurchase price equals the sum of the purchase price and the price differential corresponding to the interest on the advanced liquidity over the maturity of the operation;
- (99) ‘reverse transaction’ means an instrument used in conducting open market operations and when providing access to the marginal lending facility whereby the Bank buys or sells eligible assets under a repurchase agreement or conducts credit operations in the form of collateralised loans;
- (100) ‘safe custody account’ means a securities account managed by an ICSD, CSD or NCB on which credit institutions can place securities eligible for Eurosystem credit operations;
- (101) ‘securities settlement system’ (SSS) means a securities settlement system as defined in point (10) of Article 2(1) of Regulation (EU) No 909/2014, which allows the transfer of securities, either free of payment (FOP), or against payment (delivery versus payment (DVP));
- (102) ‘settlement date’ means the date on which a transaction is settled;
- (103) ‘single rate auction (Dutch auction)’ means an auction in which the allotment interest rate or price or swap point applied for all satisfied bids is equal to the marginal interest rate or price or swap point;
- (104) ‘Special Purpose Vehicle’ (SPV) means a securitisation special purpose entity as defined in point 66 of Article 4(1) of Regulation (EU) No 575/2013;
- (105) ‘standard tender’ means a tender procedure which is normally carried out within a time frame of 24 hours from the announcement of the tender to the certification of the allotment result;
- (106) ‘structural operations’ means a category of open market operations executed by the Eurosystem to adjust the structural liquidity position of the Eurosystem *vis-à-vis* the financial sector or pursue other monetary policy purposes as further specified in Part Two;
- (107) ‘sustainability-linked bond issuer group’ means a group of undertakings that operate as a single economic entity and constitute a reporting entity for the purposes of presenting consolidated accounts, comprising the parent undertaking and all of its direct and indirect subsidiaries;
- (108) ‘sustainability performance target’ (SPT) means a target set out in a publicly available issuance document, measuring quantified improvements in the sustainability profile of the issuer or of one or more undertakings belonging to the same sustainability-linked bond issuer group over a predefined period of time with reference to one or more of the environmental objectives set out in Regulation (EU) 2020/852 of the European Parliament and of the Council<sup>17</sup> and/or to one or more of the Sustainable Development Goals set by the United Nations relating to climate change or environmental degradation<sup>18</sup>

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<sup>17</sup> Regulation (EU) 2020/852 of the European Parliament and the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

<sup>18</sup> Contained in the “2030 Agenda for Sustainable Development” adopted by the UN General Assembly on 25 September 2015.

- (109) ‘swap point’ means the difference between the exchange rate of the forward transaction and the exchange rate of the spot transaction in a foreign exchange swap, quoted according to general market conventions;
- (110) ‘tap issuance’ or ‘tap issue’ means an issue forming a single series with an earlier issuance or issue;
- (111) ‘TARGET2’ means the real-time gross settlement system for the euro, providing settlement of payments in euro in central bank money, regulated under Guideline ECB/2012/27;
- (112) ‘TARGET2-Ireland’ means the real-time gross settlement system of the Bank that forms part of TARGET2;
- (113) ‘tender procedure’ means a procedure whereby the Eurosystem provides liquidity to, or withdraws liquidity from, the market whereby the Bank enters into transactions by accepting bids submitted by counterparties after a public announcement;
- (114) ‘trade date (T)’ means the date on which a trade, i.e. an agreement on a financial transaction between two counterparties, is struck. The trade date may coincide with the settlement date for the transaction (same-day settlement) or precede the settlement date by a specified number of business days (the settlement date is specified as T + the settlement lag);
- (115) ‘tri-party agent’ (TPA) means a CSD operating an eligible SSS that has entered into a contract with an NCB whereby such CSD is to provide certain collateral management services as an agent of that NCB;
- (116) ‘Union’ means the European Union;
- (117) ‘valuation haircut’ means a percentage decrease applied to the market value of an asset mobilised as collateral in Eurosystem credit operations;
- (118) ‘valuation markdown’ means a certain percentage decrease in the market value of assets, mobilised as collateral in Eurosystem credit operations, prior to the application of any valuation haircut;
- (119) ‘variable rate tender procedure’ means a tender procedure whereby participating counterparties bid both the amount they want to transact and the interest rate, swap point or price at which they want to enter into transactions with the Eurosystem in competition with each other, and whereby the most competitive bids are satisfied first until the total amount offered is exhausted;
- (120) ‘wind-down entity’ means an entity, whether privately or publicly owned, that (a) has as its main purpose the gradual divestment of its assets and the cessation of its business; or (b) is an asset management or divestment entity established to support financial sector restructuring and/or resolution, including asset management vehicles resulting from a resolution action in the form of the application of an asset separation tool pursuant to Article 26 of Regulation (EU) No 806/2014 of the

European Parliament and of the Council<sup>19</sup> or national legislation implementing Article 42 of Directive 2014/59/EU of the European Parliament and of the Council<sup>20</sup>.

(121) ‘zero coupon’ means a debt instrument with no periodic coupon payments.

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<sup>19</sup> Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p.1).

<sup>20</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p.190).

## **PART TWO**

# **The Eurosystem Monetary Policy Tools, Operations, Instruments and Procedures**

### *Article 3*

#### **Eurosystem monetary policy implementation framework**

1. The tools used by the Eurosystem in the implementation of monetary policy shall consist of:
  - (a) open market operations;
  - (b) standing facilities;
  - (c) minimum reserve requirements.
2. The minimum reserve requirements are specified in Regulation (EC) No 2531/98 and Regulation (EU) 2021/378 (ECB/2021/1). Certain features of the minimum reserve requirements are illustrated in Annex I for information purposes.

### *Article 4*

#### **Indicative characteristics of the Eurosystem monetary policy operations**

An overview of the characteristics of the Eurosystem monetary policy operations is set out in Table 1.

**Table 1: Overview of characteristics of the Eurosystem monetary policy operations**

Categories of the monetary policy operations		Types of instruments		Maturity	Frequency	Procedure
		Provision of liquidity	Absorption of liquidity			
Open market operations	Main refinancing operations	Reverse transactions	-	One week	Weekly	Standard tender procedures
	Longer-term refinancing operations	Reverse transactions	-	Three months (*)	Monthly (*)	Standard tender procedures
	Fine-tuning operations	Reverse transactions	Reverse transactions	Non-standardised	Non-standardised	Tender procedures
		Foreign exchange swaps	Foreign exchange swaps			
		-	Collection of fixed-term deposits			
	Structural operations	Reverse transactions	Reverse transactions	Non-standardised	Non-standardised	Standard tender procedures (**)
		-	Issuance of ECB debt certificates	Less than 12 months	Non-standardised	
Outright purchases		Outright sales	-	Non-standardised	Bilateral procedures (***) Tender procedures (****)	
Standing facilities	Marginal lending facility	Reverse transactions	-	Overnight	Access at the discretion of counterparties	
	Deposit facility	-	Deposits	Overnight	Access at the discretion of counterparties	

(\*) Pursuant to Article 7(2)(b), Article 7(2)(c), Article 7(3) and Article 7(4)

(\*\*) Pursuant to Article 9(2)(c), Article 10(4)(c) and Article 13(5)(d)

(\*\*\*) Procedures for bilateral outright transactions are communicated when needed

(\*\*\*\*) Pursuant to Article 9(2)(c) and Article 14(3)(c)

# TITLE I

## Open Market Operations

### CHAPTER 1

#### Overview of Open Market Operations

##### *Article 5*

##### **Overview of categories and instruments in respect of open market operations**

1. The Eurosystem may conduct open market operations to steer interest rates, manage the liquidity situation in the financial market and signal the stance of monetary policy.
2. Depending on their specific purpose, open market operations can be grouped under the following categories:
  - (a) main refinancing operations;
  - (b) longer-term refinancing operations;
  - (c) fine-tuning operations;
  - (d) structural operations.
3. Open market operations shall be conducted by means of the following instruments:
  - (a) reverse transactions;
  - (b) foreign exchange swaps for monetary policy purposes;
  - (c) the collection of fixed-term deposits;
  - (d) the issuance of ECB debt certificates;
  - (e) outright transactions.
4. As regards the specific categories of open market operations laid down in paragraph 2, the following instruments referred to in paragraph 3 shall be applicable:
  - (a) MROs and LTROs are conducted exclusively by means of reverse transactions;
  - (b) fine-tuning operations may be conducted by means of:
    - (i) reverse transactions;
    - (ii) foreign exchange swaps for monetary policy purposes;
    - (iii) the collection of fixed-term deposits;
  - (c) structural operations may be conducted by means of:

- (i) reverse transactions;
  - (ii) the issuance of ECB debt certificates;
  - (iii) outright transactions.
5. The ECB shall initiate open market operations and shall also decide on the terms and conditions for their execution and on the instrument to be used.

## CHAPTER 2

### Categories of Open Market Operations

#### *Article 6*

#### **Main refinancing operations**

1. The Eurosystem shall conduct MROs by means of reverse transactions.
2. As regards their operational features, MROs:
  - (a) are liquidity-providing operations;
  - (b) are normally conducted each week in accordance with the indicative calendar for the Eurosystem's regular tender operations;
  - (c) normally have a maturity of one week, as indicated in the indicative calendar for the Eurosystem's regular tender operations, subject to the exception laid down in paragraph 3;
  - (d) are executed by the Bank;
  - (e) are executed by means of standard tender procedures;
  - (f) are subject to the eligibility criteria laid down in Part Three, which must be fulfilled by all counterparties submitting bids for such operations;
  - (g) are based on eligible assets as collateral.
3. The maturity of MROs may differ on the grounds of varying bank holidays in Member States whose currency is the euro.
4. The ECB's Governing Council shall decide on the interest rates for the MROs on a regular basis. The revised interest rates shall become effective from the beginning of the new reserve maintenance period.
5. Notwithstanding paragraph 4, the ECB's Governing Council may change the interest rate for the MROs at any point in time. Such decision shall become effective at the earliest from the following Eurosystem business day.
6. MROs are executed by means of fixed rate tender procedures or variable rate tender procedures, as decided by the Eurosystem.

## Article 7

### Longer-term refinancing operations

1. The Eurosystem shall conduct LTROs by means of reverse transactions to provide counterparties with liquidity with a maturity longer than that of the MROs.
2. As regards their operational features, LTROs:
  - (a) are liquidity-providing reverse operations;
  - (b) are conducted regularly each month in accordance with the indicative calendar for the Eurosystem's regular tender operations, subject to the exception laid down in paragraph 4;
  - (c) normally have a maturity of three months in accordance with the indicative calendar for the Eurosystem's regular tender operations, subject to the exceptions laid down in paragraphs 3 and 4;
  - (d) are executed by the Bank;
  - (e) are executed by means of standard tender procedures;
  - (f) are subject to the eligibility criteria as laid down in Part Three, which must be fulfilled by all counterparties submitting bids for such operations;
  - (g) are based on eligible assets as collateral.
3. The maturity of LTROs may differ on the grounds of varying bank holidays in Member States whose currency is the euro.
4. The Eurosystem may conduct – on a non-regular basis – LTROs with a maturity other than three months. Such operations are not specified in the indicative calendar for the Eurosystem's regular tender operations.
5. LTROs with a maturity of more than three months that are conducted on a non-regular basis, as referred to in paragraph 4, may have an early repayment clause. Such an early repayment clause may represent either an option or a mandatory obligation for counterparties under which they repay all or part of the amounts they were allotted in a given operation. Mandatory early repayment clauses shall be based on explicit and predefined conditions. The dates on which the early repayments become effective shall be announced by the Eurosystem at the time of the announcement of the operations. The Eurosystem may decide in exceptional circumstances to suspend early repayments on specific dates on the grounds of, *inter alia*, bank holidays in Member States whose currency is the euro.
6. LTROs are executed by means of variable rate tender procedures, unless it is decided by the Eurosystem to execute them by means of a fixed-rate tender procedure. In such a case, the rate applicable to fixed-rate tender procedures may be indexed to an underlying reference rate (e.g. average MRO rate) over the life of the operation, with or without a spread.

## Article 8

### Fine-tuning operations

1. The Eurosystem may conduct fine-tuning operations by means of reverse transactions, foreign exchange swaps for monetary policy purposes or the collection of fixed-term deposits, in particular to deal with liquidity fluctuations in the market.
2. As regards their operational features, fine-tuning operations:
  - (a) may be conducted either as a liquidity-providing or as a liquidity-absorbing operation;
  - (b) have a frequency and maturity that is normally not standardised;
  - (c) are normally executed by means of quick tender procedures, unless the Eurosystem decides to conduct the specific fine-tuning operation by means of a standard tender procedure in the light of specific monetary policy considerations or in order to react to market conditions;
  - (d) are executed by the Bank, without prejudice to Article 45(3);
  - (e) are subject to the eligibility criteria for counterparties as laid down in Part Three, depending on:
    - (i) the specific type of instrument for conducting fine-tuning operations; and
    - (ii) the applicable procedure for that specific type of instrument;
  - (f) when conducted by means of reverse transactions, they are based on eligible assets as collateral.
3. The ECB may conduct fine-tuning operations on any Eurosystem business day to counter liquidity imbalances in the reserve maintenance period. If the trade day, settlement day and reimbursement day are not Bank business days, the Bank is not required to conduct such operations.
4. The Eurosystem shall retain a high degree of flexibility as regards its choice of procedures and operational features in the conduct of fine-tuning operations, in order to react to market conditions.

## Article 9

### Structural operations

1. The Eurosystem may conduct structural operations by means of reverse transactions, the issuance of ECB debt certificates or outright transactions to adjust the structural position of the Eurosystem *vis-à-vis* the financial system, or pursue other monetary policy implementation purposes.
2. As regards their operational features, structural operations:
  - (a) are liquidity-providing or liquidity-absorbing operations;
  - (b) have a frequency and maturity that is not standardised;

- (c) are executed by means of tender or bilateral procedures, depending on the specific type of instrument for conducting the structural operation;
  - (d) are executed by the Bank;
  - (e) are subject to the eligibility criteria for counterparties as laid down in Part Three, depending on: (i) the specific type of instrument for conducting structural operations; and (ii) the applicable procedure for that specific type of instrument;
  - (f) liquidity-providing structural operations are based on eligible assets as collateral, with the exception of outright purchases.
3. The Eurosystem shall retain a high degree of flexibility as regards its choice of procedures and operational features in the conduct of structural operations in order to react to market conditions and other structural developments.

## CHAPTER 3 Instruments for Open Market Operations

### *Article 10*

#### **Reverse transactions**

1. Reverse transactions are specific instruments to conduct open market operations whereby the Bank buys or sells eligible assets under a repurchase agreement or conducts credit operations in the form of collateralised loans in accordance with this Document and the relevant collateral mobilisation agreement(s). The Bank does not currently conduct open market operations by way of repurchase agreements.
2. Liquidity-providing reverse transactions shall be based on eligible assets as collateral, pursuant to Part Four.
3. As regards their operational features, reverse transactions for monetary policy purposes:
  - (a) may be conducted either as liquidity-providing or liquidity-absorbing operations;
  - (b) have a frequency and maturity that depends on the category of open market operation for which they are used;
  - (c) that fall into the category open market operations are executed by means of standard tender procedures, with the exception of fine-tuning operations, where they are executed by means of tender procedures;
  - (d) that fall into the category marginal lending facility are executed as described in Article 18;
  - (e) are executed in a decentralised manner by the Bank, without prejudice to Article 45(3).
4. Liquidity-absorbing reverse transactions shall be based on assets provided by the Eurosystem. The eligibility criteria of those assets shall be identical to those applied for eligible assets used in

liquidity-providing reverse transactions, pursuant to Part Four. No valuation haircuts shall be applied in liquidity-absorbing reverse transactions.

### *Article 11*

#### **Foreign exchange swaps for monetary policy purposes**

1. Foreign exchange swaps for monetary policy purposes consist of simultaneous spot and forward transactions in euro against a foreign currency.
2. Foreign exchange swaps for monetary policy purposes shall comply with terms and conditions notified to counterparties by the Bank and any such notification may include publication on the Bank's website.
3. Unless decided otherwise by the ECB's Governing Council, the Eurosystem shall operate only in widely traded currencies and in accordance with standard market practice.
4. In each foreign exchange swap for monetary policy purposes, the Eurosystem and the counterparties shall agree on the swap points for the transaction that are quoted in accordance with general market conventions. The exchange rate terms of foreign exchange swaps for monetary policy purposes are specified in Table 2.
5. As regards their operational features, foreign exchange swaps for monetary policy purposes:
  - (a) may be conducted either as liquidity-providing or as liquidity-absorbing operations;
  - (b) have a frequency and maturity that is not standardised;
  - (c) are executed by means of quick tender procedures, unless the Eurosystem decides to conduct the specific operation by means of a standard tender procedure, in the light of specific monetary policy considerations or in order to react to market conditions;
  - (d) are executed by the Bank, without prejudice to Article 45(3).
6. Counterparties participating in foreign exchange swaps for monetary policy purposes shall be subject to the eligibility criteria as laid down in Part Three, depending on the applicable procedure for the relevant operation.

**Table 2: The exchange rate terms of foreign exchange swaps for monetary policy purposes**

$S$  = spot (on the transaction date of the foreign exchange swap) of the exchange rate between the euro (EUR) and a foreign currency ABC

$$S = \frac{x \times ABC}{1 \times EUR}$$

$F_M$  = forward exchange rate between the euro and a foreign currency ABC on the repurchase date of the swap (M)

$$F_M = \frac{y \times ABC}{1 \times EUR}$$

$\Delta_M$  = forward points between the euro and ABC at the repurchase date of the swap (M)

$$\Delta_M = F_M - S$$

$N(.)$  = spot amount of currency;  $N(.)_M$  is the forward amount of currency:

$$N(ABC) = N(EUR) \times S \quad \text{or} \quad N(EUR) = \frac{N(ABC)}{S}$$

$$N(ABC)_M = N(EUR)_M \times F_M \quad \text{or} \quad N(EUR)_M = \frac{N(ABC)_M}{F_M}$$

## Article 12

### Collection of fixed-term deposits

1. The Eurosystem may invite counterparties to place fixed-term deposits with the Bank.
2. The deposits accepted from counterparties shall be for a fixed term and a fixed rate of interest shall be applied.
3. The interest rates applied to fixed-term deposits may be: (a) positive; (b) set at zero per cent; (c) negative.
4. The interest rate applied to the fixed-term deposit shall be a simple interest rate based on the actual/360 day-count convention. The interest shall be paid at maturity of the deposit. In cases of a negative interest rate, its application to fixed-term deposits shall entail a payment obligation of the deposit holder to the Bank, including the right of the Bank to debit the account of the counterparty accordingly. The Bank shall not provide any collateral in exchange for the fixed-term deposits.
5. Fixed-term deposits shall be held in accounts with the Bank, even where such operations are to be executed in a centralised manner by the ECB under Article 45(3).
6. As regards their operational features, the collection of fixed-term deposits:
  - (a) is conducted in order to absorb liquidity;

- (b) may be conducted on the basis of a pre-announced schedule of operations with pre-defined frequency and maturity or may be conducted ad hoc to react to liquidity condition developments, e.g. the collection of fixed-term deposits may be conducted on the last day of a reserve maintenance period to counter liquidity imbalances which may have accumulated since the allotment of the last main refinancing operation;
  - (c) is executed by means of quick tender procedures, unless it is decided by the ECB to conduct the specific operation by means of a standard tender procedure, in the light of specific monetary policy considerations or in order to react to market conditions;
  - (d) is executed by the Bank, without prejudice to Article 45(3).
7. Counterparties participating in the collection of fixed term deposits shall be subject to the eligibility criteria as laid down in Part Three, depending on the applicable procedure for the relevant operation.

### *Article 13*

#### **Issuance of ECB debt certificates**

1. ECB debt certificates constitute a debt obligation of the ECB in relation to the certificate holder.
2. ECB debt certificates shall be issued and held in book-entry form in securities depositories in Member States whose currency is the euro.
3. The ECB shall not impose any restrictions on the transferability of ECB debt certificates.
4. The ECB may issue ECB debt certificates at:
  - (a) a discounted issue amount that is below the nominal amount; or
  - (b) an amount above the nominal amount,

which are to be redeemed at maturity at a nominal amount.

The difference between the issue and the nominal (redemption) amount shall equal the interest accrued on the issue amount, at the agreed interest rate, over the maturity of the certificate. The interest rate applied shall be a simple interest rate based on the actual/360 day-count convention. The calculation of the issue amount shall be made in accordance with Table 3.

**Table 3: Issuance of ECB Debt Certificates**

The issue amount is:

$$P_T = N \times \frac{1}{1 + \frac{r_I \times D}{36,000}}$$

where:

- N = nominal amount of the ECB debt certificate  
 r<sub>I</sub> = interest rate (in %)  
 D = maturity of the ECB debt certificate (in days)  
 P<sub>T</sub> = issue amount of the ECB debt certificate

5. As regards the operational features of ECB debt certificates:
  - (a) they are issued as a liquidity-absorbing open market operation;
  - (b) they may be issued on a regular or a non-regular basis;
  - (c) they have a maturity that is less than 12 months;
  - (d) they are issued by means of standard tender procedures;
  - (e) they are tendered and settled by the Bank.
6. Counterparties participating in the standard tender procedure for the issuance of ECB debt certificates shall be subject to the eligibility criteria as laid down in Part Three.

#### *Article 14*

#### **Outright transactions**

1. An outright transaction shall involve a full transfer of ownership from the seller to the buyer with no connected reverse transfer of ownership.
2. In the execution of outright transactions and the calculation of prices, the Eurosystem shall act in accordance with the most widely accepted market convention for the debt instruments used in the transaction.
3. As regards their operational features, outright transactions:
  - (a) may be conducted as liquidity-providing operations (outright purchases) or liquidity-absorbing operations (outright sales);
  - (b) have a frequency that is not standardised;
  - (c) are executed by means of bilateral procedures, unless the ECB decides to conduct the specific operation by quick or standard tender procedures;

- (d) are executed in a decentralised manner by the Bank, unless the ECB's Governing Council decides that the ECB or one or more NCBs, acting as the ECB's operating arm, shall conduct the specific operation;
  - (e) are based only on eligible marketable assets as specified in Part Four.
4. Counterparties participating in outright transactions shall be subject to the eligibility criteria as laid down in Part Three.

### *Article 15*

#### **Obligations of collateralisation and settlement in reverse transactions and foreign exchange swaps for monetary policy purposes**

1. With regard to liquidity-providing reverse transactions and liquidity-providing foreign exchange swaps for monetary policy purposes, counterparties shall:
  - (a) transfer a sufficient amount of eligible assets in the case of reverse transactions or the corresponding foreign currency amount in the case of foreign exchange swaps to settle on the settlement day;
  - (b) ensure adequate collateralisation of the operation until its maturity; the value of the assets mobilised as collateral shall cover at all times the total outstanding amount of the liquidity-providing operation including the accrued interest during the term of the operation. If interest accrues at a positive rate, the applicable amount should be added on a daily basis to the total outstanding amount of the liquidity-providing operation and if it accrues at a negative rate, the applicable amount should be subtracted on a daily basis from the total outstanding amount of the liquidity-providing operation;
  - (c) when applicable as regards point (b), provide adequate collateralisation by way of corresponding margin calls by means of sufficient eligible assets or cash.
2. With regard to liquidity-absorbing reverse transactions and liquidity-absorbing foreign exchange swaps for monetary policy purposes, counterparties shall:
  - (a) transfer a sufficient amount of cash to settle the amounts they have been allotted in the relevant liquidity absorbing operation;
  - (b) ensure adequate collateralisation of the operation until its maturity;
  - (c) when applicable as regards point (b), provide adequate collateralisation by way of corresponding margin calls by means of sufficient eligible assets or cash.
3. The failure to meet the requirements referred to in paragraphs 1 and 2 shall be sanctioned, as applicable, under Articles 154 to 157.

### *Article 16*

#### **Obligations for settlement for outright purchases and sales, the collection of fixed-term deposits and the issuance of ECB debt certificates**

1. In open market operations executed by means of outright purchases and sales, collection of fixed-term deposits and issuance of ECB debt certificates, counterparties shall transfer a sufficient amount of eligible assets or cash to settle the amount agreed in the transaction.
2. The failure to meet the requirement as referred to in paragraph 1 shall be sanctioned, as applicable, under Articles 154 to 157.

## **TITLE II**

### **Standing Facilities**

### *Article 17*

#### **Standing facilities**

1. The Bank shall grant access to the standing facilities offered by the Eurosystem at counterparties' initiative.
2. Standing facilities shall consist of the following categories:
  - (a) the marginal lending facility;
  - (b) the deposit facility.
3. The terms and conditions of the standing facilities shall be identical in all Member States whose currency is the euro.
4. The Bank shall only grant access to the standing facilities in accordance with the ECB's objectives and general monetary policy considerations.
5. The ECB may adapt the conditions of the standing facilities or suspend them at any time.
6. The ECB's Governing Council shall decide on the interest rates for the standing facilities on a regular basis. The revised interest rates shall become effective from the beginning of the new reserve maintenance period, as defined in Article 8 of Regulation (EU) 2021/378 (ECB/2021/1). The ECB publishes on its website a calendar of the reserve maintenance periods at least three months before the start of each calendar year.
7. Notwithstanding paragraph 6, the ECB's Governing Council may change the interest rate for the standing facilities at any point in time. Such decision shall become effective at the earliest from the following Eurosystem business day.

## CHAPTER 1

### Marginal Lending Facility

#### Article 18

##### Characteristics of the marginal lending facility

1. Counterparties may use the marginal lending facility to obtain overnight liquidity from the Eurosystem through a reverse transaction with the Bank at a pre-specified interest rate using eligible assets as collateral. Such use of the marginal lending facility may arise where credit advanced on an intraday basis is extended over-night.
2. The Bank shall provide liquidity under the marginal lending facility by means of collateralised loans in the manner provided for by this Document and the relevant collateral mobilisation agreement(s).
3. There shall be no limit on the amount of liquidity that may be provided under the marginal lending facility, subject to the requirement to provide adequate collateral under paragraph 4.
4. Counterparties are required to present sufficient eligible assets as collateral prior to using the marginal lending facility. These assets should be either pre-deposited with the Bank or delivered with the request for access to the marginal lending facility.

#### Article 19

##### Access conditions for the marginal lending facility

1. Institutions fulfilling the eligibility criteria under Article 55 and which have access to an account with the Bank where the transaction can be settled, notably in TARGET2-Ireland, may access the marginal lending facility.
2. Access to the marginal lending facility shall be granted only on TARGET2-Ireland business days with the exclusion of days on which TARGET2-Ireland is not available at the end of the day due to a 'prolonged TARGET2 disruption over several business days' as referred to in Article 161a. On days when the SSSs are not operational, access to the marginal lending facility shall be granted on the basis of eligible assets which have already been pre-deposited with the Bank.
3. If the Bank is not open for the purpose of conducting monetary policy operations on certain Eurosystem business days due to national bank holidays, the Bank shall inform its counterparties in advance of the arrangements to be made for access to the marginal lending facility on that bank holiday.
4. Access to the marginal lending facility can be granted either based on a specific request of the counterparty or automatically, as specified in paragraph 5 and 6 respectively.
5. A counterparty may send a request to the Bank by SWIFT message (MT299) for access to the marginal lending facility. Provided that the request is received by the Bank at the latest 15 minutes following the TARGET2-Ireland closing time, which as a general rule is 17:00 Irish time, the Bank shall process the request on the same day in TARGET2-Ireland. The deadline for requesting access to the marginal lending facility shall be postponed by an additional 15 minutes on the last

Eurosystem business day of a reserve maintenance period. Under exceptional circumstances, the Eurosystem may decide to apply later deadlines. The request for access to the marginal lending facility shall specify the amount of credit required. The counterparty shall deliver sufficient eligible assets as collateral for the transaction, unless such assets have already been pre-deposited by the counterparty with the Bank pursuant to Article 18(4). Notifications in respect of each drawing under the marginal lending facility shall be sent by the payment module or home accounting module (settlement notification on an optional basis) of the TARGET2-Ireland system, as applicable.

6. At the end of each business day, a negative balance on a counterparty's settlement account with the Bank after finalisation of the end-of-day control procedures shall automatically be considered as a request for recourse ('automatic request') to the marginal lending facility. In order to meet the requirement in Article 18(4), counterparties shall have pre-deposited sufficient eligible assets as collateral for the transaction with the Bank prior to such an automatic request arising. Failure to comply with this access condition shall be subject to sanctions in accordance with Articles 154 to 157. If an automatic request in the case of a counterparty whose access to Eurosystem monetary policy operations has been limited pursuant to Article 158 results in that counterparty exceeding the defined limit, sanctions in accordance with Articles 154 to 157 shall be applicable in respect of the amount by which the limit is exceeded.

### *Article 20*

#### **Maturity and interest rate of the marginal lending facility**

1. The maturity of credit extended under the marginal lending facility shall be overnight. For counterparties participating directly in TARGET2-Ireland, the credit shall be repaid on the next day on which: (a) TARGET2-Ireland; and (b) the relevant SSSs are operational, at the time at which those systems open.
2. The interest rate remunerating the marginal lending facility shall be announced in advance by the Eurosystem and shall be calculated as a simple interest rate based on the actual/360 day-count convention. The interest rate applied to the marginal lending facility is referred to as the marginal lending facility rate.
3. Interest under the marginal lending facility shall be payable together with repayment of the credit.

## **CHAPTER 2**

### **Deposit Facility**

### *Article 21*

#### **Characteristics of the deposit facility**

1. Counterparties may use the deposit facility to make overnight deposits with the Eurosystem through the Bank, to which a pre-specified interest rate shall be applied.

2. The interest rate applied to the deposit facility may be: (a) positive; (b) set at zero per cent; (c) negative.
3. The Bank shall not give any collateral in exchange for the deposits.
4. There shall be no limit on the amount a counterparty may deposit under the deposit facility.

## *Article 22*

### **Access conditions to the deposit facility**

1. Institutions fulfilling the eligibility criteria under Article 55 and which have access to an account with the Bank where the transaction can be settled, notably in TARGET2-Ireland, may access the deposit facility. Access to the deposit facility shall be granted only on TARGET2-Ireland business days with the exclusion of the days on which TARGET2-Ireland is not available at the end of the day due to a prolonged TARGET2 disruption over several business days as referred to in Article 161a.
2. To be granted access to the deposit facility, the counterparty shall send a request to the Bank. Direct participants and home account holders in TARGET2-Ireland may access the overnight deposit facility directly *via* the information and control module (ICM). Home account holders who do not have access to the ICM may send a request to the Bank by SWIFT message (MT299). Provided that the request is received by the Bank at the latest 15 minutes following the TARGET2-Ireland closing time, the Bank shall process the request on the same day in TARGET2-Ireland. The deadline for requesting access to the deposit facility shall be postponed by an additional 15 minutes on the last Eurosystem business day of a reserve maintenance period. Under exceptional circumstances, the Eurosystem may decide to apply later deadlines. The request shall specify the amount to be deposited under the facility.
3. Due to the existence of different account structures across the Eurosystem, the Bank, subject to the ECB's prior approval, may apply access conditions which are different from those referred to in this Article. The Bank shall provide information to counterparties on any such deviations from the access conditions described in this Article.

## *Article 23*

### **Maturity and interest rate of the deposit facility**

1. The maturity of deposits under the deposit facility shall be overnight. For counterparties participating directly in TARGET2-Ireland, deposits held under the deposit facility shall mature on the next day on which TARGET2-Ireland is operational, at the time at which this system opens.
2. The interest rate that applies to the deposit shall be announced in advance by the Eurosystem and shall be calculated as a simple interest rate based on the actual/360 day-count convention.
3. Interest on the deposits shall be payable on maturity of the deposit. In cases of negative interest rates, the application of the interest rate to the deposit facility shall entail a payment obligation of the deposit holder to the Bank, including the right of the Bank to debit the account of the counterparty accordingly.

## TITLE III

### Procedures for Eurosystem Monetary Policy Operations

#### CHAPTER 1

#### Tender and procedures for Eurosystem open market operations

##### *Article 24*

#### Types of procedures for open market operations

Open market operations shall be executed through tender procedures.

#### SECTION 1

#### Tender Procedures

##### *Article 25*

#### Overview of tender procedures

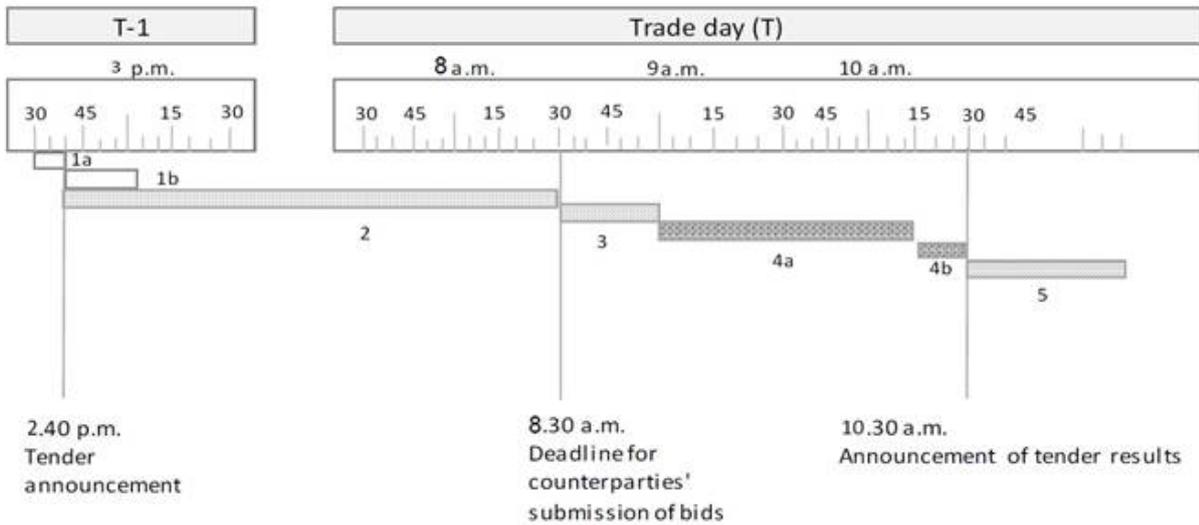
1. Tender procedures shall be performed in six operational steps, as specified in Table 4.

**Table 4: Operational Steps for Tender Procedures**

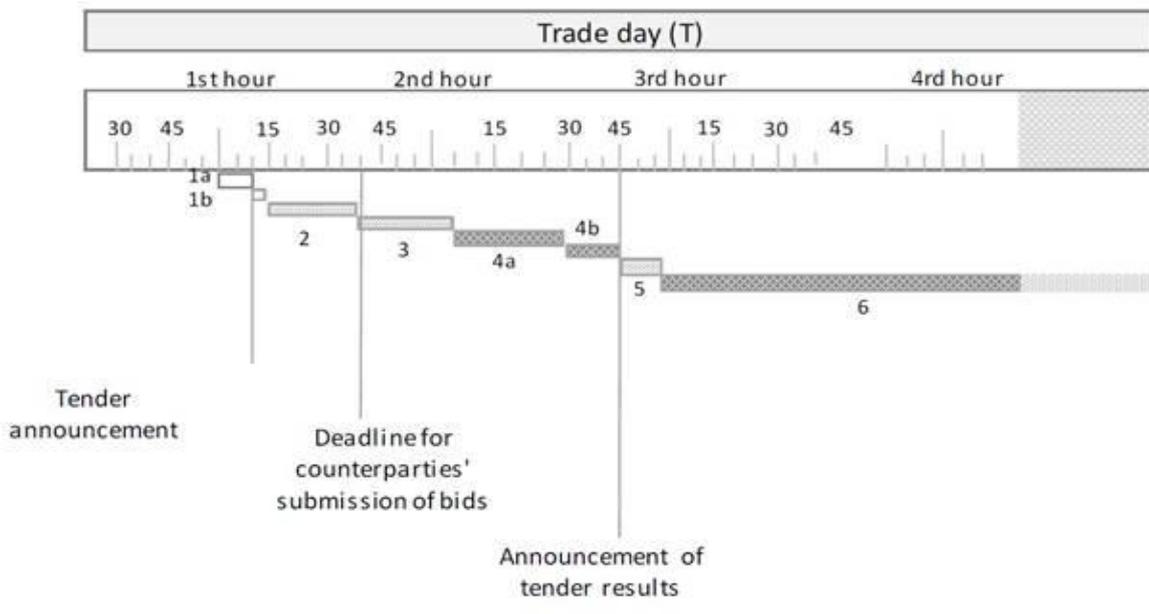
Step 1	Tender announcement (a) ECB public announcement (b) NCBs' public announcement and direct announcement to individual counterparties (if deemed necessary)
Step 2	Counterparties' preparation and submission of bids
Step 3	Compilation of bids by the Eurosystem
Step 4	Tender allotment and announcement of tender results (a) ECB tender allotment decision (b) ECB public announcement of the allotment results
Step 5	Certification of individual allotment results
Step 6	Settlement of the transactions

2. Tender procedures shall be conducted in the form of standard tender procedures or quick tender procedures. The operational features of standard and quick tender procedures are identical, except for the time frame (Tables 5 and 6) and the range of counterparties.

**Table 5: Indicative Time Frame for the Operational Steps in Standard Tender Procedures (times are stated in Irish time)**



**Table 6: Indicative Time Frame for the Operational Steps in Quick Tender Procedures (times are stated in Irish time)**



3. The Eurosystem may conduct either fixed-rate or variable rate tender procedures.

*Article 26*

**Standard tender procedures**

1. The Eurosystem shall use standard tender procedures for the execution of: (a) MROs; (b) LTROs; (c) specific structural operations, i.e. structural reverse operations and the issuance of ECB debt certificates.

2. The Eurosystem may also use standard tender procedures to conduct fine-tuning operations and structural operations executed by means of outright transactions in the light of specific monetary policy considerations or in order to react to market conditions.
3. For standard tender procedures, as a rule: (a) a maximum of 24 hours shall elapse from the announcement of the tender procedure to the certification of the allotment result; and (b) the time between the submission deadline and the announcement of the allotment result is approximately two hours.
4. The ECB may decide to adjust the time frame in individual operations, if deemed appropriate.

### *Article 27*

#### **Quick tender procedures**

1. The Eurosystem normally uses quick tender procedures for the execution of fine-tuning operations, but may also use quick tender procedures for structural operations executed by means of outright transactions in the light of specific monetary policy considerations or in order to react to market conditions.
2. Quick tender procedures are executed within 105 minutes of the announcement of the tender procedure, with certification taking place immediately after the public announcement of the allotment result.
3. The ECB may decide to adjust the time frame in individual operations, if deemed appropriate.
4. The Eurosystem may select, according to the criteria and procedures specified in Article 57, a limited number of counterparties to participate in quick tender procedures.

### *Article 28*

#### **Execution of standard tender procedures for MROs and regular LTROs, based on the tender calendar**

1. The tender procedures for MROs and regular LTROs shall be executed in accordance with the indicative calendar for the Eurosystem's regular tender operations.
2. The indicative calendar for the Eurosystem's regular tender operations is published on the websites of the ECB and of the Bank at least three months before the start of the calendar year for which it is valid.
3. The indicative trade days for MROs and regular LTROs are specified in Table 7.

**Table 7: Normal Trade Days for MROs and Regular LTROs**

<b>Category of open market operations</b>	<b>Normal trade day (T)</b>
MROs	Each Tuesday (*)
Regular LTROs	The last Wednesday of each calendar month (**)

(\*) Special scheduling can take place due to holidays.

(\*\*) Due to the holiday period, the December operation is normally brought forward by one week, i.e. to the preceding Wednesday of the month.

### *Article 29*

#### **Execution of tender procedures for fine-tuning and structural operations without a tender operation calendar**

1. Fine-tuning operations are not executed according to any pre-specified calendar. The ECB may decide to conduct fine-tuning operations on any Eurosystem business day. The Bank will only participate in such operations if the trade day, the settlement day and the reimbursement day are Bank business days.
2. Structural operations executed by means of standard tender procedures are not performed according to any pre-specified calendar. They are normally conducted and settled on days which are NCB business days in all Member States whose currency is the euro.

## **SECTION 2**

### **Operational steps for tender procedures**

#### **SUBSECTION 1**

#### **Announcement of tender procedures**

### *Article 30*

#### **Announcement of standard and quick tender procedures**

1. Standard tender procedures shall be publicly announced by the ECB in advance. In addition, the Bank may announce standard tender procedures publicly and directly to counterparties, if deemed necessary.
2. Quick tender procedures may be publicly announced by the ECB in advance. In quick tender procedures that are publicly announced in advance, the Bank may contact the selected counterparties directly if deemed necessary. In quick tender procedures that are not announced publicly in advance, the selected counterparties shall be contacted directly by the Bank.

3. The tender announcement represents an invitation to counterparties to submit bids, which are legally binding. The announcement does not represent an offer by the ECB or the Bank.
4. The information to be included in the public announcement of a tender procedure is laid down in Annex II.
5. The ECB may take any action it deems appropriate to correct any error in the announcement of tender procedures, including cancelling or interrupting a tender procedure under execution.

## SUBSECTION 2

### Preparation and submission of bids by counterparties

#### *Article 31*

##### **Form and place of submission of bids**

1. The bids must be submitted to the Bank. The bids of an institution may only be submitted to the Bank by one establishment in Ireland i.e. either by the head office or by a designated branch.
2. Counterparties shall submit bids in a format that follows the templates provided by the Bank for the relevant operation as notified to counterparties and such notification may occur through publication on the Bank's website.

#### *Article 32*

##### **Submission of bids**

1. In fixed-rate tender procedures, counterparties shall state in their bids the amount that they are willing to transact with the Bank.
2. In fixed-rate foreign exchange swap tender procedures, the counterparties shall state the amount of currency kept fixed that they intend to sell and buy back, or buy and sell back, at that rate.
3. In variable rate tender procedures, counterparties may submit bids for up to 10 different interest rates, prices or swap points. Under exceptional circumstances, the Eurosystem may impose a limit on the number of bids that may be submitted by each counterparty. In each bid, counterparties shall state the amount that they are willing to transact and the relevant interest rate or price or swap point. A bid for an interest rate or swap point shall be expressed as multiples of 0.01 percentage points. A bid for a price shall be expressed as multiples of 0.001 percentage points.
4. For variable rate foreign exchange swap tender procedures, the counterparties shall state the amount of the currency to be kept fixed and the swap point quotation at which they intend to enter into the operation.
5. For variable rate foreign exchange swap tender procedures, the swap points shall be quoted in accordance with standard market conventions and bids shall be expressed as multiples of 0.01 swap points.

6. With regard to the issuance of ECB debt certificates, the ECB may decide that bids shall be expressed in the form of a price rather than an interest rate. In such cases, prices shall be quoted as a percentage of the nominal amount, with three decimal places.

### *Article 33*

#### **Minimum and maximum bid amounts**

1. For MROs, the minimum bid amount shall be EUR 1 000 000. Bids exceeding this amount shall be expressed as multiples of EUR 100 000. The minimum bid amount shall apply to each individual interest rate level.
2. For LTROs, the Bank has set the minimum bid amount at EUR 1 000 000. Bids exceeding the minimum bid amount shall be expressed as multiples of EUR 10 000. The minimum bid amount shall be applied to each individual interest rate level.
3. For fine-tuning and structural operations, the minimum bid amount shall be EUR 1 000 000. Bids exceeding this amount shall be expressed as multiples of EUR 100 000. The minimum bid amount shall apply to each individual interest rate, price or swap point, depending on the specific type of transaction.
4. The ECB may impose a maximum bid amount, which is the largest acceptable bid from an individual counterparty, to prevent disproportionately large bids. If imposed, the ECB shall include details of such a maximum bid amount in the public tender announcement.

### *Article 34*

#### **Minimum and maximum bid rate**

1. In liquidity-providing variable rate tender procedures, the ECB may impose a minimum bid rate, which is a lower limit to the interest rate at which counterparties may submit bids.
2. In liquidity-absorbing variable rate tender procedures, the ECB may impose a maximum bid rate, which is an upper limit to the interest rate at which counterparties may submit bids.

### *Article 35*

#### **Deadline for submission of bids**

1. Counterparties may revoke their bids at any time up to the deadline for the submission of bids. For tender procedures announced publicly, the time schedule for the submission of bids shall be detailed in the information provided in the public announcement of the tender procedure.
2. Bids submitted after the deadline shall not be considered and shall be treated as ineligible.
3. The Bank shall determine if a counterparty has complied with the deadline for the submission of bids.

### Article 36

#### Rejection of bids

1. The Bank shall reject:
  - (a) all of a counterparty's bids, if the aggregate amount bid exceeds any maximum bid limit established by the ECB;
  - (b) any bid of a counterparty, if the bid is below the minimum bid amount;
  - (c) any bid of a counterparty, if the bid is below the minimum accepted interest rate, price, or swap point or above the maximum accepted interest rate, price or swap point.
2. The Bank may reject bids that are incomplete or do not follow the appropriate template as notified to counterparties in accordance with Article 31(4).
3. If the Bank decides to reject a bid, it shall inform the counterparty of such decision prior to the tender allotment. A new amended bid may only be accepted by the Bank if it is received prior to the specified deadline for the submission of bids and conforms with the appropriate template.

### SUBSECTION 3

#### Tender allotment

### Article 37

#### Allotment in liquidity-providing and liquidity-absorbing fixed-rate tender procedures

1. In a fixed-rate tender procedure, the bids of counterparties shall be allotted in the following manner:
  - (a) The bids shall be added together.
  - (b) If the aggregate amount bid exceeds the total amount of liquidity to be allotted, the submitted bids shall be satisfied *pro rata*, based on the ratio of the amount to be allotted to the aggregate amount bid, in accordance with Table 1 of Annex III.
  - (c) The amount allotted to each counterparty shall be rounded to the nearest euro.
2. The ECB may decide to allot:
  - (a) a minimum allotment amount, which is a lower limit on the amount that may be allotted to each bidder; or
  - (b) a minimum allotment ratio, which is a lower limit, expressed in percentage terms, on the ratio of bids at the marginal interest rate that may be allotted to each bidder.

### Article 38

#### **Allotment in liquidity-providing variable rate tender procedures in euro**

1. In a liquidity-providing variable rate tender procedure in euro, the bids of counterparties shall be allotted in the following manner:
  - (a) Bids shall be listed in descending order of offered interest rates or ascending order of offered prices.
  - (b) Bids with the highest interest rate (lowest price) levels shall be satisfied first and subsequently bids with successively lower interest rates (higher price) shall be accepted, until the total liquidity to be allotted is exhausted.
  - (c) If at the marginal interest rate (highest accepted price), the aggregate amount bid exceeds the remaining amount to be allotted, the remaining amount shall be allocated *pro rata* among the bids based on the ratio of the remaining amount to be allotted to the total amount bid at the marginal interest rate (highest accepted price), in accordance with Table 2 of Annex III.
  - (d) The amount allotted to each counterparty shall be rounded to the nearest euro.
2. The ECB may decide to allot a minimum allotment amount to each successful bidder.

### Article 39

#### **Allotment in liquidity-absorbing variable rate tender procedures in euro**

1. In a liquidity-absorbing variable rate tender procedure in euro, used for the issuance of ECB debt certificates and the collection of fixed term deposits, the bids of counterparties shall be allotted in the following manner:
  - (a) Bids shall be listed in ascending order of offered interest rates or descending order of offered prices.
  - (b) Bids with the lowest interest rate (highest price) levels shall be satisfied first and subsequently bids with successively higher interest rates (lower price bids) shall be accepted until the total liquidity to be absorbed is exhausted.
  - (c) If at the marginal interest rate (lowest accepted price), the aggregate bid amount exceeds the remaining amount to be allotted, the remaining amount shall be allocated *pro rata* among the bids, based on the ratio of the remaining amount to be allotted to the total bid amount at the marginal interest rate (lowest accepted price), in accordance with Table 2 of Annex III.
  - (d) The amount allotted to each counterparty shall be rounded to the nearest euro. With regard to the issuance of ECB debt certificates, the allotted nominal amount shall be rounded to the nearest multiple of EUR 100 000.
2. The ECB may decide to allot a minimum allotment amount to each successful bidder.

## Article 40

### Allotment in liquidity-providing variable rate foreign exchange swap tender procedures

1. In a liquidity-providing variable rate foreign exchange swap tender procedure, the bids of counterparties shall be allotted in the following manner:
  - (a) Bids shall be listed in ascending order of swap point quotations by taking into account the sign of the quotation.
  - (b) The sign of quotation depends on the sign of the interest rate differential between the foreign currency and the euro. For the maturity of the swap:
    - (i) if the foreign currency interest rate is higher than the corresponding interest rate for the euro, the swap point quotation is positive, i.e. the euro is quoted at a premium to the foreign currency; and
    - (ii) if the foreign currency interest rate is lower than the corresponding interest rate for the euro, the swap point quotation is negative, i.e. the euro is quoted at a discount to the foreign currency.
  - (c) The bids with the lowest swap point quotations shall be satisfied first and subsequently successively higher swap point quotations shall be accepted until the total amount of the fixed currency to be allotted is exhausted.
  - (d) If, at the highest swap point quotation accepted, i.e. the marginal swap point quotation, the aggregate amount bid exceeds the remaining amount to be allotted, the remaining amount shall be allocated *pro rata* among the bids, based on the ratio of the remaining amount to be allotted to the total amount bid at the marginal swap point quotation, in accordance with Table 3 of Annex III.
  - (e) The amount allotted to each counterparty shall be rounded to the nearest euro.
2. The ECB may decide to allot a minimum allotment amount to each successful bidder.

## Article 41

### Allotment in liquidity-absorbing variable rate foreign exchange swap tender procedures

1. In a liquidity-absorbing variable rate foreign exchange swap tender procedure, the bids of counterparties shall be allotted in the following manner:
  - (a) Bids shall be listed in descending order of offered swap point quotations by taking into account the sign of the quotation.
  - (b) The sign of the quotation depends on the sign of the interest rate differential between the foreign currency and the euro. For the maturity of the swap:
    - (i) if the foreign currency interest rate is higher than the corresponding interest rate for the euro, the swap point quotation is positive, i.e. the euro is quoted at a premium to the foreign currency; and

- (ii) if the foreign currency interest rate is lower than the corresponding interest rate for the euro, the swap point quotation is negative, i.e. the euro is quoted at a discount to the foreign currency.
- (c) Bids with the highest swap point quotations shall be satisfied first and subsequently successively lower swap point quotations shall be accepted until:
- (i) the total amount of the fixed currency to be absorbed is exhausted; and
  - (ii) at the lowest swap point quotation accepted, i.e. the marginal swap point quotation, the aggregate amount bid exceeds the remaining amount to be allotted.
- (d) The remaining amount shall be allocated *pro rata* among the bids, based on the ratio of the remaining amount to be allotted to the total amount bid at the marginal swap point quotation, in accordance with Table 3 of Annex III. The amount allotted to each counterparty shall be rounded to the nearest euro.
2. The ECB may decide to allot a minimum allotment amount to each successful bidder.

#### *Article 42*

#### **Type of auction for variable rate tender procedures**

For variable rate tender procedures, the Eurosystem may apply either a single rate auction (Dutch auction) or multiple rate auction (American auction).

### SUBSECTION 4

#### Announcement of tender results

#### *Article 43*

#### **Announcement of tender results**

1. The ECB shall publicly announce its tender allotment decision with respect to the tender results. In addition, the Bank may announce the ECB's tender allotment decision publicly and directly to counterparties if it deems it necessary.
2. The information to be included in the public announcement with respect to the tender results is laid down in Annex IV.
3. If the allotment decision contains erroneous information with respect to any of the information contained in the public tender result announcement referred to in paragraph 1, the ECB may take any action it deems appropriate to correct such erroneous information.
4. After the public announcement of the ECB's tender allotment decision on the tender results as referred to in paragraph 1, the Bank shall directly certify the individual allotment results to counterparties, whereby each counterparty shall receive an individual and certain confirmation of its success in the tender procedure and the exact amount allotted to it.

[SECTION 3, including Articles 44-48, has been deleted reflecting the repeal of the equivalent articles in the General Documentation Guideline ECB/2022/17.]

## CHAPTER 2

### Settlement Procedures for Eurosystem Monetary Policy Operations

#### Article 49

##### Overview of settlement procedures

1. Payment orders relating to the participation in open market operations or use of the standing facilities shall be settled on the counterparties' accounts with the Bank or on the accounts of a settlement bank participating in TARGET2.
2. Payment orders relating to the participation in open market liquidity-providing operations or use of the marginal lending facility shall only be settled at the moment of or after the final transfer of the eligible assets as collateral to the operation. For this purpose, counterparties shall:
  - (a) pre-deposit the eligible assets with the Bank; or
  - (b) settle the eligible assets with the Bank on a delivery-versus-payment basis.

#### Article 50

##### Settlement of open market operations

1. The Eurosystem shall endeavour to settle transactions related to its open market operations at the same time in all Member States whose currency is the euro with all counterparties that have provided sufficient eligible assets as collateral. However, owing to operational constraints and technical features (e.g. of SSSs), the timing within the day of the settlement of open market operations may differ across the Member States whose currency is the euro.
2. The indicative settlement dates are summarised in table 8.

**Table 8: Indicative Settlement Dates for Eurosystem Open Market Operations (\*)**

Monetary policy instrument	Settlement date for open market operations based on standard tender procedures	Settlement date for open market operations based on quick tender procedures
Reverse transactions	T+1	T
Outright transactions	According to market convention for the eligible assets	
Issuance of ECB debt certificates	T+2	-
Foreign exchange swaps	T, T+1 or T+2	
Collection of fixed-term deposits	T	

(\*) The settlement date refers to Eurosystem business days. T refers to the trade day.

3. For the avoidance of doubt, settlement with regard to both the taking in and paying out of fixed-term deposits shall take place on the days specified in the ECB announcement made in respect of the relevant deposit operation.

### *Article 51*

#### **Settlement of open market operations executed by means of standard tender procedures**

1. The Bank shall endeavour to settle open market operations executed by means of standard tender procedures, on the first day following the trade day on which TARGET2-Ireland and all relevant SSSs are open.
2. The settlement dates for MROs and regular LTROs are specified in advance in the indicative calendar for the Eurosystem's regular tender operations. If the normal settlement date coincides with a bank holiday, the ECB may decide to apply a different settlement date, with the option of same-day settlement. The Bank shall endeavour to ensure that the time of settlement of MROs and regular LTROs coincides with the time of reimbursement of a previous operation of corresponding maturity. The netting of any amounts that may be payable in accordance with any such transactions shall be governed by the terms of this Document and the relevant collateral mobilisation agreement(s).
3. The issuance of ECB debt certificates shall be settled on the second day following the trade day on which TARGET2-Ireland and all relevant SSSs are open.

### *Article 52*

#### **Settlement of open market operations conducted by means of quick tender procedures or bilateral procedures**

1. The Eurosystem shall endeavour to settle open market operations executed by means of quick tender procedures on the trade day. Other settlement dates may be applied, in particular for outright transactions and foreign exchange swaps.
2. Fine-tuning operations and structural operations conducted by means of outright transactions and executed by means of bilateral procedures shall be settled in a decentralised manner through the Bank.

### *Article 53*

#### **Further provisions relating to settlement and end-of-day procedures**

1. Counterparties shall be required to comply with any additional settlement procedures notified by the Bank to the counterparty. Without prejudice to the requirements laid down in this Chapter, any such additional provisions relating to settlement may be laid down in this Document, published on the Bank's website or specified by the ECB, for the specific monetary policy instrument.

2. The end-of-day procedures are specified in the documentation relating to the TARGET2 framework.

#### *Article 54*

##### **Reserve holdings and excess reserves**

1. Pursuant to Article 3(1)(b) and (c) of Regulation (EU) 2021/378 (ECB/2021/1), a counterparty's settlement accounts with the Bank may be used as reserve accounts. Reserve holdings on settlement accounts may be used for intraday settlement purposes. The daily reserve holdings of a counterparty shall be calculated as the sum of the end-of-day balances on its reserve accounts. For the purposes of this Article, 'reserve accounts' shall have the same meaning as that in Regulation (EU) 2021/378 (ECB/2021/1).
2. Reserve holdings that comply with minimum reserve requirements pursuant to Regulation (EC) No 2531/98 and Regulation (EU) No 2021/378 (ECB/2021/1) shall be remunerated in accordance with Regulation (EU) 2021/378 (ECB/2021/1).
3. Reserve holdings that exceed the minimum reserves referred to in paragraph 2 shall be remunerated in accordance with Decision (EU) 2019/1743 of the European Central Bank (ECB/2019/31)<sup>21</sup>.

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<sup>21</sup> Decision (EU) 2019/1743 of the European Central Bank of 15 October 2019 on the remuneration of holdings of excess reserves and of certain deposits (ECB/2019/31) (OJ L267, 21.10.2019, p. 12).

## PART THREE

# Eligible Counterparties

### Article 55

#### Eligibility criteria for participation in Eurosystem monetary policy operations

With regard to Eurosystem monetary policy operations, subject to Article 57, the Eurosystem shall only allow participation by institutions that fulfil the following criteria:

- (a) They shall be subject to the Eurosystem's minimum reserve system pursuant to Article 19.1 of the Statute of the ESCB and shall not have been granted an exemption from their obligations under the Eurosystem's minimum reserve system pursuant to Regulation (EC) No 2531/98 and Regulation (EU) 2021/378 (ECB/2021/1)
- (b) They shall be one of the following:
  - (i) subject to at least one form of harmonised Union/EEA supervision by competent authorities in accordance with Directive 2013/36/EU and Regulation (EU) No 575/2013;
  - (ii) publicly-owned credit institutions, within the meaning of Article 123(2) of the Treaty, subject to supervision of a standard comparable to supervision by competent authorities under Directive 2013/36/EU and Regulation (EU) No 575/2013;
  - (iii) institutions subject to non-harmonised supervision by competent authorities of a standard comparable to harmonised Union/EEA supervision by competent authorities under Directive 2013/36/EU and Regulation (EU) No 575/2013, e.g. branches established in Member States whose currency is the euro of institutions incorporated outside the EEA. For the purpose of assessing an institution's eligibility to participate in Eurosystem monetary policy operations, as a rule, non-harmonised supervision shall be considered to be of a standard comparable to harmonised Union/EEA supervision by competent authorities under Directive 2013/36/EU and Regulation (EU) No 575/2013, if the relevant Basel III standards adopted by the Basel Committee on Banking Supervision are considered to have been implemented in the supervisory regime of a given jurisdiction.
- (c) They must be financially sound within the meaning of Article 55a;
- (d) They shall fulfil all operational requirements specified in the contractual or regulatory arrangements applied by the Bank or the ECB in respect of the specific instrument or operation. The Bank's operational requirements include:
  - (i) a requirement that counterparties execute the MPIPs Agreement;
  - (ii) a requirement that counterparties execute any collateral mobilisation agreement that is relevant for the purposes of a specific instrument or operation;

- (iii) a requirement that counterparties must have access to an account in TARGET2 enabling it to conduct transactions with the Bank; and
- (iv) any other requirements that may be notified to counterparties in this Document from time to time.

### *Article 55a*

#### **Assessment of the financial soundness of institutions**

1. In its assessment of the financial soundness of individual institutions for the purposes of this Article, the Eurosystem may take into account the following prudential information:
  - (a) quarterly information on capital, leverage and liquidity ratios reported under Regulation (EU) No 575/2013 on an individual and consolidated basis, in accordance with the supervisory requirements; or
  - (b) where applicable, prudential information of a standard comparable to information under point (a).
2. If such prudential information is not made available to the Bank and the ECB by the institutions' supervisor, either the Bank or the ECB may require the institution to make such information available. When such information is provided directly by an institution, the institution shall also submit an assessment of the information carried out by the relevant supervisor. An additional certification from an external auditor may also be required.
3. In the case of branches, the information reported under paragraph 1 shall relate to the institution to which the branch belongs.
4. As regards the assessment of the financial soundness of institutions that have been subject to in-kind recapitalisation with public debt instruments, the Eurosystem may take into account the methods used for and the role played by such in-kind recapitalisations, including the type and liquidity of such instruments and the market access of the issuer of such instruments, in ensuring the fulfilment of the capital ratios reported under Regulation (EU) No 575/2013.
5. A wind-down entity shall not be eligible to access Eurosystem monetary policy operations.

### *Article 56*

#### **Access to open market operations executed by means of standard tender procedures and to standing facilities**

1. Institutions fulfilling the eligibility criteria under Article 55 shall have access to any of the following Eurosystem monetary policy operations:
  - (a) standing facilities;
  - (b) open market operations executed by means of standard tender procedures.

2. Access to the standing facilities or open market operations executed by means of standard tender procedures shall only be granted through the Bank to institutions established in Ireland fulfilling the eligibility criteria under Article 55.
3. Where an institution fulfilling the eligibility criteria under Article 55 has establishments, e.g. head office or branches, in more than one Member State whose currency is the euro, each establishment fulfilling the eligibility criteria under Article 55 may access the standing facilities or the open market operations executed by means of standard tender procedures through its home NCB.
4. Bids for open market operations executed by means of standard tender procedures and for recourse to the standing facilities shall be submitted by only one establishment in each Member State whose currency is the euro, i.e. either by the head office or by a designated branch.

### *Article 57*

#### **Selection of counterparties for access to open market operations executed by means of quick tender procedures**

1. For open market operations executed by means of quick tender procedures, counterparties shall be selected in accordance with paragraphs 2 and 3.
2. For structural operations conducted by means of outright transactions that are executed by means of quick tender procedures, the eligibility criteria laid down in paragraph 3(b) shall apply.
3. For fine-tuning operations that are executed by means of quick tender procedures, counterparties shall be selected as follows:
  - (a) For fine-tuning operations that are conducted by means of foreign exchange swaps for monetary policy purposes and executed by means of quick tender procedures, the range of counterparties shall be identical to the range of entities that are selected for Eurosystem foreign exchange intervention operations and are established in the Member States whose currency is the euro. Counterparties for foreign exchange swaps for monetary policy purposes by means of quick tender procedures do not need to fulfil the criteria laid down in Article 55. The selection criteria for counterparties participating in Eurosystem foreign exchange intervention operations are based on the principles of prudence and efficiency, as laid down in Annex V. The Bank may apply limit-based systems in order to control credit exposures *vis-à-vis* individual counterparties participating in foreign exchange swaps for monetary policy purposes.
  - (b) For fine-tuning operations conducted by means of reverse transactions or through the collection of fixed-term deposits and executed by means of quick tender procedures, the Bank shall select, for a specific transaction, a set of counterparties from among the institutions that fulfil the eligibility criteria laid down in Article 55 and are established in Ireland. The selection shall be primarily based on the relevant institution's activity in the money market. Additional selection criteria may be applied by the Bank, such as the efficiency of the trading desk and the bidding potential.

4. [Paragraph 4 has been deleted.]
5. Without prejudice to paragraphs 1 to 3, open market operations executed by means of quick tender procedures may also be conducted with a broader range of counterparties than those indicated in paragraphs 2 to 3, if the ECB's Governing Council so decides.

# PART FOUR

## Eligible Assets

### TITLE I

#### General Principles

##### *Article 58*

#### **Eligible assets and accepted collateralisation techniques to be used for Eurosystem credit operations**

1. The Eurosystem shall apply a single framework for eligible assets common to all Eurosystem credit operations as laid down in this Document.
2. In order to participate in Eurosystem credit operations, counterparties shall provide the Eurosystem with assets that are eligible as collateral for such operations. Given that Eurosystem credit operations include intraday credit, collateral provided by counterparties in respect of intraday credit shall also comply with the eligibility criteria laid down in this Document, as outlined in Guideline ECB/2012/27.
3. Counterparties shall provide eligible assets by:
  - (a) the transfer of ownership, which takes the legal form of a repurchase agreement; or
  - (b) the creation of a security interest, i.e. a charge granted over the relevant assets, which takes the legal form of a collateralised loan,

in either case pursuant to this Document and the relevant collateral mobilisation agreement(s). As of the effective date of this Document, repurchase agreements are not used by the Bank and its counterparties in the mobilisation of eligible assets as collateral for Eurosystem credit operations.

4. Where counterparties provide eligible assets as collateral, the Bank may require either earmarking or pooling of eligible assets, depending on which type of collateral is being used: pursuant to the relevant collateral mobilisation agreements, marketable assets and credit claims are mobilised on a pooled basis and MBPNs are mobilised on an earmarked basis. Counterparties may substitute eligible assets within their collateral pools on a daily basis. The substitution of earmarked collateral with other eligible assets may be permitted at the discretion of the Bank, in accordance with the master substitution agreement in respect of Eurosystem operations.
5. No distinction shall be made between marketable and non-marketable assets with regard to the quality of the assets and their eligibility for the various types of Eurosystem credit operations.
6. Without prejudice to the obligation in paragraph 2 that counterparties provide the Eurosystem with assets that are eligible as collateral, the Eurosystem may, upon request, provide counterparties with advice regarding the eligibility of marketable assets if they have already been

issued or regarding the eligibility of non-marketable assets when they have already been requested for submission. The Eurosystem shall not provide any advice in advance of these events.

### *Article 59*

#### **General aspects of the Eurosystem credit assessment framework for eligible assets**

1. As one of the criteria for eligibility, assets shall meet the high credit standards specified in the Eurosystem credit assessment framework (ECAF).
2. The ECAF shall lay down the procedures, rules and techniques to ensure that the Eurosystem's requirement for high credit standards for eligible assets is maintained and that eligible assets comply with the credit quality requirements defined by the Eurosystem.
3. For the purposes of the ECAF, the Eurosystem shall define credit quality requirements in the form of credit quality steps by establishing threshold values for the probability of default (PD) over a one-year horizon, as follows.
  - (a) The Eurosystem considers, subject to regular review, a maximum probability of default over a one-year horizon of 0.10 % as equivalent to the credit quality requirement of credit quality step 2 and a maximum probability of default over a one-year horizon of 0.40 % as equivalent to the credit quality requirement of credit quality step 3.
  - (b) All eligible assets for Eurosystem credit operations shall comply, as a minimum, with a credit quality requirement corresponding to credit quality step 3. Additional credit quality requirements for specific assets shall be applied by the Eurosystem in accordance with Titles II and III of Part Four.
4. The Eurosystem shall publish information on credit quality steps on the ECB's website in the form of the Eurosystem's harmonised rating scale, including the mapping of credit assessments, provided by the accepted external credit assessment institutions (ECAIs), to credit quality steps.
5. In the assessment of the credit quality requirements, the Eurosystem takes into account credit assessment information from credit assessment systems belonging to one of the three sources in accordance with Title V of Part Four.
6. As part of its assessment of the credit standard of a specific asset, the Eurosystem may take into account institutional criteria and features ensuring similar protection for the asset holder, such as guarantees. The Eurosystem reserves the right to determine whether an issue, issuer, debtor or guarantor fulfils the Eurosystem's credit quality requirements on the basis of any information that the Eurosystem may consider relevant for ensuring adequate risk protection of the Eurosystem.
7. The ECAF follows the definition of 'default' laid down in Directive 2013/36/EU and Regulation (EU) No 575/2013.

## TITLE II

# Eligibility Criteria and Credit Quality Requirements for Marketable Assets

### CHAPTER 1

## Eligibility Criteria for Marketable Assets

#### *Article 60*

#### **Eligibility criteria relating to all types of marketable assets**

In order to be eligible as collateral for Eurosystem credit operations, marketable assets shall be debt instruments fulfilling the eligibility criteria laid down in Section 1, except in the case of certain specific types of marketable assets, as laid down in Section 2.

#### *Article 61*

#### **List of eligible marketable assets and reporting rules**

1. The ECB shall publish an updated list of eligible marketable assets on its website, in accordance with the methodologies indicated on its website and shall update it every day on which TARGET2 is operational. Marketable assets included on the list of eligible marketable assets become eligible for use in Eurosystem credit operations upon their publication on the list. As an exception to this rule, in the specific case of debt instruments with same-day value settlement, the Eurosystem may grant eligibility from the date of issue. Assets assessed in accordance with Article 87(3) shall not be published on this list of eligible marketable assets. Such assets shall only be eligible until the date on which the Eurosystem Collateral Management System starts to operate ('go-live date').
2. As a rule, the NCB reporting a specific marketable asset to the ECB is the NCB of the country in which the marketable asset is admitted to trading.

### SECTION 1

#### **General eligibility criteria for marketable assets**

#### *Article 62*

#### **Principal amount of marketable assets**

1. In order to be eligible, until their final redemption, debt instruments shall have:
  - (a) a fixed and unconditional principal amount; or
  - (b) an unconditional principal amount that is linked, on a flat basis, to only one euro area inflation index at a single point in time, containing no other complex structures.
2. Debt instruments with a principal amount linked to only one euro area inflation index at a single point in time shall also be permissible, given that the coupon structure is as defined in Article 63(1)(b)(i) fourth indent and is linked to the same euro area inflation index.

3. Assets with warrants or similar rights attached shall not be eligible.

### Article 63

#### Acceptable coupon structures for marketable assets

1. In order to be eligible, debt instruments shall have one of the following coupon structures until final redemption:
  - (a) fixed, zero or multi-step coupons with a pre-defined coupon schedule and pre-defined coupon values; or
  - (b) floating coupons that have the following structure: coupon rate = (reference rate \* I) ± x, with  $f \leq \text{coupon rate} \leq c$ , where:
    - (i) the reference rate is only one of the following at a single point in time:
      - a euro money market rate provided by a central bank or by an administrator located in the Union and included in the register referred to in Article 36 of Regulation (EU) 2016/1011 of the European Parliament and of the Council<sup>22</sup>, e.g. the euro short-term rate (€STR) (including compounded or averaged daily €STR), Euribor, or similar indices; for the first or/and the last coupon the reference rate can be a linear interpolation between two tenors of the same euro money market rate e.g. a linear interpolation between two different tenors of Euribor,
      - a constant maturity swap rate, e.g. CMS, EIISDA, EUSA,
      - the yield of one or an index of several euro area government bonds that have a maturity of one year or less,
      - a euro area inflation index;
    - (ii) f (floor), c (ceiling), I (leveraging/deleveraging factor) and x (margin) are, if present, numbers that are either pre-defined at issuance, or may change over time only according to a path pre-defined at issuance, where I is greater than zero throughout the entire lifetime of the asset. For floating coupons with an inflation index reference rate, I shall be equal to one.
  - (c) multi-step or floating coupons with steps linked to SPTs, provided the compliance with SPTs by the issuer, or any undertaking belonging to the same sustainability-linked bond issuer group, is subject to verification by an independent third party in accordance with the terms and conditions of the debt instrument.
2. Any coupon structure that does not comply with paragraph 1 shall not be eligible, including instances where only part of the remuneration structure, such as a premium, is non-compliant.

<sup>22</sup> Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p. 1).

3. For the purpose of this Article, if the coupon is either of a fixed multi-step type or of a floating multi-step type, the assessment of the relevant coupon structure shall be based on the entire lifetime of the asset with both a forward- and backward-looking perspective.
4. Acceptable coupon structures shall have no issuer optionalities, i.e. during the entire lifetime of the asset, based on a forward- and backward-looking perspective, changes in the coupon structure that are contingent on an issuer's decision shall not be acceptable.

#### *Article 64*

##### **Non-subordination with respect to marketable assets**

Eligible debt instruments shall not give rise to rights to the principal and/or the interest that are subordinated to the rights of holders of other debt instruments of the same issuer.

#### *Article 64a*

##### **Marketable assets other than ABSs and covered bonds**

1. In order to be eligible, marketable assets other than ABSs, legislative covered bonds and *multi cédulas* shall be unsecured obligations of both the issuer and guarantor. For marketable assets with more than one issuer or with more than one guarantor, the requirement in this paragraph shall apply to each issuer and each guarantor.
2. Marketable assets which are secured and were eligible before 1 January 2021 but do not comply with the eligibility requirements as set out in this Article shall remain eligible until 1 January 2026, provided that they fulfil all other eligibility criteria for marketable assets. By derogation from the first sentence of this paragraph, covered bonds which are neither legislative covered bonds nor *multi cédulas*, shall become ineligible from 1 January 2021.

#### *Article 65*

##### **Currency of denomination of marketable assets**

In order to be eligible, debt instruments shall be denominated in euro or in one of the former currencies of the Member States whose currency is the euro.

#### *Article 66*

##### **Place of issue of marketable assets**

1. Subject to paragraph 2, in order to be eligible, debt instruments shall be issued in the EEA with a central bank or with an eligible SSS.
2. In respect of debt instruments issued or guaranteed by a non-financial corporation for which no credit quality assessment has been provided by an accepted ECAI system for the issue, issuer or guarantor, the place of issue must be within the euro area.

3. International debt instruments issued through the ICSDs shall comply with the following criteria, as applicable.
  - (a) International debt instruments issued in global bearer form shall be issued in the form of New Global Notes (NGNs) and shall be deposited with a common safekeeper which is an ICSD or a CSD that operates an eligible SSS. This shall not apply to international debt instruments issued in global bearer form issued in the form of classical global notes prior to 1 January 2007 and fungible tap issuances of such notes issued under the same ISIN irrespective of the date of the tap-issuance.
  - (b) International debt instruments issued in global registered form shall be issued under the new safekeeping structure for international debt instruments. By way of derogation, this shall not apply to international debt instruments issued in global registered form prior to 1 October 2010.
  - (c) International debt instruments in individual note form shall not be eligible unless they were issued in individual note form prior to 1 October 2010.

#### *Article 67*

##### **Settlement procedures for marketable assets**

1. In order to be eligible, debt instruments shall be transferable in book-entry form and shall be held and settled in Member States whose currency is the euro through an account with an NCB or with an eligible SSS, so that perfection and realisation of collateral are subject to the law of a Member State whose currency is the euro.
  - 1a. In addition, where the use of such debt instruments involves tri-party collateral management services, on a domestic and/or cross-border basis, those services shall be provided by a tri-party agent that has been positively assessed pursuant to the “Eurosystem standards for the use of triparty agents (TPAs) in Eurosystem credit operations”, which are published on the ECB’s website.
2. If the CSD/SSS where the asset is issued and the CSD where the asset is held are not identical, the SSSs operated by two CSDs must be connected by an eligible link in accordance with Article 150.

#### *Article 68*

##### **Acceptable markets for marketable assets**

1. In order to be eligible, debt instruments shall be those which are admitted to trading on a regulated market as defined in Directive 2004/39/EC of the European Parliament and of the Council<sup>23</sup>, or admitted to trading on certain acceptable non-regulated markets.

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<sup>23</sup> Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).

2. The ECB shall publish the list of acceptable non-regulated markets on its website and shall update it at least once a year.
3. The assessment of non-regulated markets by the Eurosystem shall be based on the following principles of safety, transparency and accessibility:
  - (a) Safety refers to certainty with regard to transactions, in particular certainty in relation to the validity and enforceability of transactions.
  - (b) Transparency refers to unimpeded access to information on the market's rules of procedure and operation, the financial features of the assets, the price formation mechanism, and the relevant prices and quantities, e.g. quotes, interest rates, trading volumes, outstanding amounts.
  - (c) Accessibility refers to the ability of the Eurosystem to take part in and access the market. A market is considered accessible if its rules of procedure and operation allow the Eurosystem to obtain information and conduct transactions when needed for collateral management purposes.
4. The selection process for non-regulated markets shall be defined exclusively in terms of the performance of the Eurosystem collateral management function and should not be regarded as an assessment by the Eurosystem of the intrinsic quality of any market.

#### *Article 69*

##### **Type of issuer or guarantor for marketable assets**

1. In order to be eligible, debt instruments shall be issued or guaranteed by central banks of Member States, public sector entities, agencies, credit institutions, financial corporations other than credit institutions, non-financial corporations, multilateral development banks or international organisations. For marketable assets with more than one issuer, this requirement shall apply to each issuer.
2. Debt instruments issued or guaranteed by investment funds shall be ineligible.

#### *Article 70*

##### **Place of establishment of the issuer or guarantor**

1. In order to be eligible, debt instruments shall be issued by an issuer established in the EEA or in a non-EEA G10 country, subject to the exceptions in paragraphs 3 to 6 of this Article and in paragraph 4 of Article 81a. For marketable assets with more than one issuer, this requirement shall apply to each issuer.
2. In order to be eligible, guarantors of debt instruments shall be established in the EEA, unless a guarantee is not needed to establish the credit quality requirements for specific debt instruments, subject to the exceptions laid down in paragraphs 3 and 4. The possibility to use an ECAI guarantor

rating to establish the relevant credit quality requirements for specific debt instruments is laid down in Article 84.

3. For debt instruments issued or guaranteed by non-financial corporations for which no credit quality assessment from an accepted ECAI system exists for the issue, the issuer or the guarantor, the issuer or guarantor shall be established in a Member State whose currency is the euro.
- 3a. For debt instruments issued or guaranteed by agencies, the issuer or guarantor shall be established in a Member State whose currency is the euro.
4. For debt instruments issued or guaranteed by multilateral development banks or international organisations, the criterion in respect of place of establishment shall not apply and they shall be eligible irrespective of their place of establishment.
5. For asset-backed securities, the issuer must be established in the EEA in accordance with Article 74.
6. Debt instruments issued by issuers established in non-EEA G10 countries shall only be considered eligible if the Eurosystem has ascertained to its satisfaction that its rights would be protected in an appropriate manner under the laws of the relevant non-EEA G10 country. For this purpose, a legal assessment shall be submitted to the relevant NCB, in a form and substance acceptable to the Eurosystem, before the relevant debt instruments may be considered eligible.

### *Article 71*

#### **Credit quality requirements for marketable assets**

In order to be eligible, debt instruments shall meet the credit quality requirements specified in Chapter 2, except where otherwise stated.

## **SECTION 2**

### **Specific eligibility criteria for certain types of marketable assets**

#### **SUBSECTION 1**

##### **Specific eligibility criteria for asset-backed securities**

### *Article 72*

#### **Eligibility criteria for asset-backed securities**

In order to be eligible for Eurosystem credit operations, asset-backed securities shall comply with the general eligibility criteria relating to all types of marketable assets laid down in Section 1, with the exception of the requirements laid down in Article 62 relating to the principal amount, and in addition, the specific eligibility criteria laid down in this subsection.

### Article 73

#### **Homogeneity and composition of the cash-flow generating assets**

1. In order for ABSs to be eligible, all cash-flow generating assets backing the ABSs shall be homogenous, i.e. it shall be possible to report them according to one of the types of loan-level templates referred to in Annex VIII, which shall relate to one of the following:
  - (a) residential mortgages;
  - (b) loans to small and medium-sized enterprises (SMEs);
  - (c) auto loans;
  - (d) consumer finance loans;
  - (e) leasing receivables;
  - (f) credit card receivables.
2. The Eurosystem may consider an ABS not to be homogenous upon assessment of the data submitted by a counterparty.
3. ABSs shall not contain any cash-flow generating assets originated directly by the SPV issuing the ABSs.
4. The cash-flow generating assets shall not consist, in whole or in part, actually or potentially, of tranches of other ABSs. This criterion shall not exclude ABSs where the issuance structure includes two SPVs and the 'true sale' criterion is met in respect of those SPVs so that the debt instruments issued by the second SPV are directly or indirectly backed by the original pool of assets and all cash flows from the cash-flow generating assets are transferred from the first to the second SPV.
5. The cash-flow generating assets shall not consist, in whole or in part, actually or potentially, of credit-linked notes, swaps or other derivatives instruments, synthetic securities or similar claims. This restriction shall not encompass swaps used in ABS transactions strictly for hedging purposes.
6. The cash-flow generating assets must entail full recourse against the obligors.

### Article 74

#### **Geographical restrictions concerning asset-backed securities and cash-flow generating assets**

1. The issuer of ABSs shall be an SPV established in the EEA.
2. The cash-flow generating assets shall be originated by an originator incorporated in the EEA and sold to the SPV by the originator or by an intermediary incorporated in the EEA.
3. For the purpose of paragraph 2, a mortgage trustee or receivables trustee shall be considered to be an intermediary.
4. The obligors and the creditors of the cash-flow generating assets shall be incorporated, or, if they are natural persons, shall be resident in the EEA. Obligors who are natural persons must have been resident in the EEA at the time the cash-flow generating assets were originated. Any related

security shall be located in the EEA and the law governing the cash-flow generating assets shall be the law of an EEA country.

#### *Article 75*

##### **Acquisition of cash-flow generating assets by the SPV**

1. The acquisition of the cash-flow generating assets by the SPV shall be governed by the law of a Member State.
2. The cash-flow generating assets shall have been acquired by the SPV from the originator or from an intermediary as laid down in Article 74(2) in a manner which the Eurosystem considers to be a 'true sale' that is enforceable against any third party, and which is beyond the reach of the originator and its creditors or the intermediary and its creditors, including in the event of the originator's or the intermediary's insolvency.

#### *Article 76*

##### **Assessment of clawback rules for asset-backed securities**

1. ABSs shall only be considered eligible if the Eurosystem has ascertained that its rights would be protected in an appropriate manner against clawback rules considered relevant by the Eurosystem under the law of the relevant EEA country. For this purpose, before the ABSs may be considered eligible, the Eurosystem may require:
  - (a) an independent legal assessment in a form and substance acceptable to the Eurosystem that sets out the applicable clawback rules in the relevant country; and/or
  - (b) other documents, such as a solvency certificate from the transferor for the suspect period, which is a certain period of time during which the sale of cash-flow generating assets backing the ABSs may be invalidated by a liquidator.
2. Clawback rules, which the Eurosystem considers to be severe and therefore not acceptable, shall include:
  - (a) rules under which the sale of cash-flow generating assets backing the ABSs can be invalidated by a liquidator solely on the basis that the sale was concluded within the suspect period, as referred to in paragraph 1(b), before the declaration of insolvency of the seller; or
  - (b) rules where such invalidation can only be prevented by the transferee if they can prove that they were not aware of the insolvency of the seller at the time of the sale.

For the purposes of this criterion, the seller may be the originator or intermediary, as applicable.

## *Article 77*

### **Non-subordination of tranches for asset-backed securities**

1. Only tranches or sub-tranches of ABSs that are not subordinated to other tranches of the same issue over the lifetime of the ABS shall be considered eligible.
2. A tranche or sub-tranche shall be considered to be non-subordinated to other tranches or sub-tranches of the same issue if, in accordance with the post-enforcement priority of payments, and if applicable, the post-acceleration priority of payments as set out in the prospectus, no other tranche or sub-tranche shall be given priority over that tranche or sub-tranche in respect of receiving payment, i.e. principal and interest, and thereby such tranche or sub-tranche shall be last in incurring losses among the different tranches or sub-tranches.

## *Article 77a*

### **Restrictions on investments for asset-backed securities**

Any investments of monies standing to the credit of the issuer's or of any intermediary SPV's bank accounts under the transaction documentation shall not consist, in whole or in part, actually or potentially, of tranches of other ABSs, credit-linked notes, swaps or other derivative instruments, synthetic securities or similar claims.

## *Article 78*

### **Availability of loan level data for asset-backed securities**

Comprehensive and standardised loan-level data on the pool of cash-flow generating assets backing the ABSs shall be made available in accordance with the procedures set out in Annex VIII.

## *Article 79*

### **Data requests for asset-backed securities**

The Eurosystem shall reserve the right to request from any third party it considers relevant, including but not restricted to, the issuer, the originator and/or the arranger, any clarification and/or legal confirmation that it considers necessary to assess the eligibility of ABSs and with regard to the provision of loan-level data. If a third party fails to comply with a particular request, the Eurosystem may decide not to accept the ABSs as collateral or may decide to suspend its eligibility.

## *Article 79a*

### **Assessment of information in relation to the eligibility of asset-backed securities**

The Eurosystem may decide not to accept ABSs for use as collateral in Eurosystem credit operations on the basis of its assessment of the information provided. In its assessment, the Eurosystem shall take into account whether the information submitted is deemed sufficiently clear, consistent and comprehensive to demonstrate fulfilment of each of the eligibility criteria applicable

to ABSs, in particular with respect to whether the cash-flow generating assets have been acquired in a manner which the Eurosystem considers to be a “true sale” as laid down in Article 75(2).

## SUBSECTION 2

### Specific eligibility criteria for covered bonds backed by asset-backed securities

#### Article 80

##### **Legacy covered bonds backed by asset-backed securities**

1. Without prejudice to the eligibility of legislative covered bonds pursuant to Article 64a, EEA legislative covered bonds for which an ISIN has been opened prior to 8 July 2022 and that are not subject to Directive (EU) 2019/2162 of the European Parliament and of the Council<sup>24</sup> (‘legacy covered bonds’), may be backed by ABSs provided that the cover pool of such bonds (for the purposes of paragraphs 1 to 4, ‘the cover pool’) only contains ABSs that comply with all of the following.
  - (a) The cash-flow generating assets backing the ABSs meet the criteria laid down in Article 129(1)(d) to (f) of Regulation (EU) No 575/2013 at the time the ISIN was opened.
  - (b) The cash-flow generating assets were originated by an entity closely linked to the issuer, as described in Article 138.
  - (c) They are used as a technical tool to transfer mortgages or guaranteed real estate loans from the originating entity into the cover pool.
2. Subject to paragraph 4, the Bank shall use the following measures to verify that the cover pool does not contain ABSs that do not comply with paragraph 1.
  - (a) On a quarterly basis, the Bank shall request a self-certification and undertaking of the issuer confirming that the cover pool does not contain ABSs that do not comply with paragraph 1. The Bank’s request shall specify that the self-certification must be signed by the issuer’s Chief Executive Officer (CEO), Chief Financial Officer (CFO) or a manager of similar seniority, or by an authorised signatory on their behalf.
  - (b) On an annual basis, the Bank shall request an *ex post* confirmation by external auditors or cover pool monitors from the issuer, confirming that the cover pool does not contain ABSs that do not comply with paragraph 1 for the monitoring period.
3. If the issuer fails to comply with a particular request or if the Eurosystem deems the content of a confirmation incorrect or insufficient to the extent that it is not possible to verify that the cover pool complies with the criteria in paragraph 1, the Eurosystem shall decide not to accept the EEA

<sup>24</sup> Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU (OJ L 328, 18.12.2019, p. 29)

legislative covered bonds referred to in paragraph 1 as eligible collateral or to suspend their eligibility.

4. Where the applicable legislation or prospectus exclude the inclusion of ABSs that do not comply with paragraph 1 as cover pool assets, no verification pursuant to paragraph 2 shall be required.
5. For the purposes of paragraph 1(b), the close links shall be determined at the time that the senior units of the ABSs are transferred into the cover pool of the EEA legislative covered bond referred to in paragraph 1.
6. The cover pool of non-EEA G10 legislative covered bonds shall not contain ABSs.

### SUBSECTION 3

#### Specific eligibility criteria for debt certificates issued by the Eurosystem

##### *Article 81*

##### **Eligibility criteria for debt certificates issued by the Eurosystem**

1. Debt certificates issued by the ECB and debt certificates issued by the NCBs prior to the date of adoption of the euro in their respective Member State whose currency is the euro shall be eligible as collateral for Eurosystem credit operations.
2. Debt certificates issued by the Eurosystem shall not be subject to the criteria laid down in this Chapter.

### SUBSECTION 4

#### Specific eligibility criteria for certain unsecured debt instruments

##### *Article 81a*

##### **Eligibility criteria for certain unsecured debt instruments issued by credit institutions or investment firms, or by their closely linked entities**

1. By derogation from Article 64 and provided that they fulfil all other eligibility criteria, the following subordinated unsecured debt instruments issued by credit institutions or investment firms, or by their closely linked entities as referred to in Article 141(3), shall be eligible until maturity, provided that they are issued before 31 December 2018 and their subordination results neither from contractual subordination as defined in paragraph 2 nor from structural subordination pursuant to paragraph 3:
  - debt instruments issued by agencies,
  - debt instruments guaranteed by a Union public sector entity which has the right to levy taxes by way of a guarantee that complies with the features laid down in Article 114(1) to (4) and Article 115.

2. For the purposes of paragraph 1, contractual subordination means subordination based on the terms and conditions of an unsecured debt instrument, irrespective of whether such subordination is statutorily recognised.
3. Unsecured debt instruments issued by holding companies, including any intermediate holding companies, subject to national legislation implementing Directive 2014/59/EU or to similar recovery and resolution frameworks, shall be ineligible.
4. For unsecured debt instruments issued by credit institutions or investment firms, or by their closely linked entities as referred to in Article 141(3), other than unsecured debt instruments issued by multilateral development banks or international organisations as referred to in Article 70(4), the issuer shall be established in the Union.

## CHAPTER 2

### Eurosystem's Credit Quality Requirements for Marketable Assets

#### *Article 82*

##### **Eurosystem's credit quality requirements for marketable assets**

1. Further to the general rules set out in Article 59 and to the specific rules set out in Article 84, marketable assets shall comply with the following credit quality requirements in order to be eligible as collateral for Eurosystem credit operations:
  - (a) With the exception of ABSs, all marketable assets shall have a credit quality assessment provided by at least one accepted ECAI system, expressed in the form of a public credit rating, in compliance with, as a minimum, credit quality step 3 in the Eurosystem's harmonised rating scale.
  - (b) ABSs shall have credit quality assessments that are provided by at least two different accepted ECAI systems expressed in the form of two public credit ratings, one provided by each of these ECAI systems, in compliance with, as a minimum, credit quality step 2 in the Eurosystem's harmonised rating scale.
2. The Eurosystem may request any clarification that it considers necessary as regards the public credit rating referred to in paragraph 1.

#### *Article 83*

##### **Types of ECAI credit assessments used for credit quality assessments of marketable assets**

The following types of ECAI credit assessments from accepted ECAs shall be used in determining compliance with the credit quality requirements applicable to marketable assets.

- (a) An ECAI issue rating: this rating refers to an ECAI credit assessment assigned to either an issue or, in the absence of an issue rating from the same ECAI, the programme or issuance series under which an asset is issued. An ECAI assessment for a programme or issuance

series shall only be relevant if it applies to the particular asset in question and is explicitly and unambiguously matched with the asset's ISIN code by the ECAI, and a different issue rating from the same ECAI does not exist. For ECAI issue ratings, the Eurosystem shall make no distinction in respect of the original maturity of the asset.

- (b) An ECAI issuer rating: this rating refers to an ECAI credit assessment assigned to an issuer. For ECAI issuer ratings, the Eurosystem shall make a distinction in respect of the original maturity of the asset as regards the acceptable ECAI credit assessment. The distinction shall be made between:
  - (i) short-term assets, i.e. those assets with an original maturity of up to and including 390 days; and
  - (ii) long-term assets, i.e. those assets with an original maturity of more than 390 days. For short-term assets, ECAI short-term and long-term issuer ratings shall be acceptable. For long-term assets, only ECAI long-term issuer ratings shall be acceptable.
- (c) An ECAI guarantor rating: this rating refers to an ECAI credit assessment assigned to a guarantor, if the guarantee meets the requirements of Title IV. For ECAI guarantor ratings, the Eurosystem shall make no distinction in respect of the original maturity of the asset. Only ECAI long-term guarantor ratings shall be acceptable.

#### *Article 84*

##### **Priority of ECAI credit assessments in respect of marketable assets**

For marketable assets, ECAI credit assessments which determine the compliance of the asset with the credit quality requirements shall be taken into account by the Eurosystem in accordance with the following rules:

- (a) For marketable assets other than marketable assets issued by central governments, regional governments, local governments, agencies, multilateral development banks or international organisations and ABSs, the following rules shall apply.
  - (i) The Eurosystem shall consider ECAI issue ratings in priority to ECAI issuer or ECAI guarantor ratings. Without prejudice to the application of this priority rule, in accordance with Article 82(1)(a), at least one ECAI credit assessment must comply with the Eurosystem's applicable credit quality requirements.
  - (ii) If multiple ECAI issue ratings are available for the same issue, then the first-best of those ECAI issue ratings shall be taken into account by the Eurosystem. If the first-best ECAI issue rating does not comply with the Eurosystem's credit quality threshold for marketable assets, the asset shall not be eligible, even if a guarantee that is acceptable under Title IV exists.
  - (iii) In the absence of any ECAI issue rating or, in the case of covered bonds, in the absence of an issue rating fulfilling the requirements of Annex IXb, an ECAI issuer or

ECAI guarantor rating may be considered by the Eurosystem. If multiple ECAI issuer and/or ECAI guarantor ratings are available for the same issue, then the first-best of those ratings shall be taken into account by the Eurosystem.

- (b) For marketable assets issued by central governments, regional governments, local governments, agencies, multilateral development banks or international organisations, the following rules shall apply.
  - (i) In accordance with Article 82(1)(a), at least one ECAI credit assessment must comply with the Eurosystem's applicable credit quality requirements. The Eurosystem shall only consider ECAI issuer or ECAI guarantor ratings.
  - (ii) If multiple ECAI issuer and ECAI guarantor ratings are available, the first-best of those ratings shall be taken into account by the Eurosystem.
  - (iii) Covered bonds issued by agencies shall not be assessed in accordance with the rules in this point and shall instead be assessed in accordance with point (a).
- (c) For ABSs, the following rules shall apply.
  - (i) In accordance with Article 82(1)(b), at least two ECAI credit assessments shall comply with the Eurosystem's applicable credit quality requirements. The Eurosystem shall only consider ECAI issue ratings.
  - (ii) If more than two ECAI issue ratings are available, the first- and second-best of such ECAI issue ratings shall be taken into account by the Eurosystem.

### *Article 85*

#### **Multi-issuer securities**

1. For marketable assets with more than one issuer (multi-issuer securities), the applicable ECAI issuer rating shall be determined on the basis of each issuer's potential liability as follows:
  - (a) If each issuer is jointly and severally liable for the obligations of all other issuers under the issue or, if applicable, for the programme/issuance series, the ECAI issuer rating to be considered shall be the highest rating among the first-best ECAI issuer ratings of all the relevant issuers; or
  - (b) If any issuer is not jointly and severally liable for the obligations of all other issuers under the issue or, if applicable, for the programme/issuance series, the ECAI issuer rating to be considered shall be the lowest rating among the first-best ECAI issuer ratings of all the relevant issuers.

## Article 86

### Non-euro ratings

For the purpose of ECAI issuer ratings, a foreign currency rating shall be acceptable. If the asset is denominated in the domestic currency of the issuer, the local currency rating shall also be acceptable.

## Article 87

### Credit quality assessment criteria for marketable assets in the absence of a credit quality assessment provided by an accepted ECAI

1. In the absence of an appropriate credit quality assessment provided by an accepted ECAI for the issue, issuer or guarantor, as would be applicable pursuant to Article 84(a) or (b), an implicit credit assessment of marketable assets (with the exception of ABSs) shall be derived by the Eurosystem in accordance with the rules laid down in paragraphs 2 and 3. This implicit credit assessment is required to comply with the Eurosystem's credit quality requirements.
2. If the debt instruments are issued or guaranteed by a regional government or a local authority or a 'public sector entity' as defined in point 8 of Article 4(1) of Regulation (EU) No 575/2013 (hereinafter a 'CRR public sector entity') established in a Member State whose currency is the euro, the credit assessment shall be performed by the Eurosystem in accordance with the following rules.
  - (a) If the issuers or guarantors are regional governments, local authorities or CRR public sector entities, which are treated for capital requirements purposes pursuant to Articles 115(2) or 116(4) of Regulation (EU) No 575/2013 equally to the central government in whose jurisdiction they are established, the debt instruments issued or guaranteed by these entities shall be allocated the credit quality step corresponding to the best credit rating provided by an accepted ECAI to the central government in whose jurisdiction these entities are established.
  - (b) If the issuers or guarantors are regional governments, local authorities or CRR public sector entities, which are not referred to in point (a) the debt instruments issued or guaranteed by these entities shall be allocated the credit step corresponding to one credit quality step below the best credit rating provided by an accepted ECAI to the central government in which jurisdiction these entities are established.
  - (c) If the issuers or guarantors are 'public sector entities' as defined in Article 2 and are not referred to in points (a) and (b), no implicit credit assessment is derived and the debt instruments issued or guaranteed by these entities shall be treated equally to debt instruments issued or guaranteed by private sector entities, i.e. as not having an appropriate credit assessment.
3. Subject to the provisions of Article 61(1), if the debt instruments are issued or guaranteed by non-financial corporations established in a Member State whose currency is the euro, the credit quality assessment shall be performed by the Eurosystem based on the credit quality assessment rules applicable to the credit quality assessment of credit claims in Chapter 2 of Title III.

**Table 9: Implicit Credit Quality Assessments for Issuers or Guarantors without an ECAI Credit Quality Assessment**

	<b>Allocation of issuers or guarantors under Regulation (EU) No 575/2013 (CRR (**))</b>	<b>ECAF derivation of the implicit credit quality assessment of the issuer or guarantor belonging to the corresponding class</b>
<b>Class 1</b>	Regional governments, local authorities and CRR public sector entities (CRR PSEs) that are treated by the competent authorities in the same manner as the central government for capital requirements purposes pursuant to Articles 115(2) and 116(4) of Regulation (EU) No 575/2013	Allocated the ECAI credit quality assessment of the central government in whose jurisdiction the entity is established
<b>Class 2</b>	Other regional governments, local authorities and CRR PSEs	Allocated a credit quality assessment one credit quality step (**) below the ECAI credit quality assessment of the central government in whose jurisdiction the entity is established
<b>Class 3</b>	Public sector entities as defined in Article 2 that are not CRR PSEs	Treated like private sector issuers or debtors, i.e. their marketable assets are not eligible

(\*) Regulation (EU) No 575/2013, also referred to as the CRR for the purposes of this table.

(\*\*) Information on the credit quality steps is published on the ECB's website.

### *Article 88*

#### **Additional credit quality requirements for asset-backed securities**

1. For ABSs, the credit quality assessment shall be based on a public issue rating that is explained in a publicly available credit rating report, i.e. a new issue report. The publicly available credit rating report shall include, inter alia, a comprehensive analysis of structural and legal aspects, a detailed collateral pool assessment, an analysis of the transaction participants, as well as an analysis of any other relevant details of a transaction.
2. Further to the requirement in paragraph 1, regular surveillance reports published by the accepted ECAIs are required for asset-backed securities. The publication of these reports shall take place no later than four weeks after the coupon payment date of the ABSs. The reference date of these reports shall be the most recent coupon payment date except for ABSs paying the coupon on a monthly basis, in which case the surveillance report shall be published at least quarterly. The surveillance reports shall contain, as a minimum, the key transaction data, e.g. composition of the collateral pool, transaction participants, capital structure, as well as performance data.

## TITLE III

# Eligibility Criteria and Credit Quality Requirements for Non-Marketable Assets

### CHAPTER 1

## Eligibility Criteria for Non-Marketable Assets

### SECTION 1

### Eligibility criteria for credit claims

#### *Article 89*

#### **Eligible type of asset**

1. The eligible type of asset shall be a credit claim that is a debt obligation of a debtor *vis-à-vis* a counterparty.
2. Types of credit claims that have a 'reducing balance', i.e. where the principal and interest are paid off according to a pre-agreed schedule, as well as drawn credit lines, shall be eligible types of credit claim.
3. Current account overdrafts, letters of credit and undrawn credit lines, e.g. undrawn facilities of revolving credit claims, which authorise the use of credit but are not credit claims *per se*, shall not be eligible types of credit claim.
4. A syndicated loan share shall be an eligible type of credit claim. For the purposes of this Section, a syndicated loan share means a credit claim resulting from the participation of a lender in a loan provided by a group of lenders in a lending syndicate.
5. A credit claim granted in a context other than a mere lending relationship may constitute an eligible type of asset. A claim inherent to certain leasing or factoring structures may qualify as an eligible type of asset, if it constitutes a credit claim. Claims purchased under a factoring only qualify as an eligible type of asset to the extent they actually constitute credit claims as opposed to other claims, such as purchase price claims.

#### *Article 90*

#### **Principal amount, coupon and other elements of eligible credit claims**

In order to be eligible, credit claims shall comply with the following requirements from the moment they are mobilised until their final redemption or demobilisation:

- (a) they have a fixed, unconditional principal amount;
- (b) they have an interest rate that shall be one of the following:
  - (i) a 'zero coupon';
  - (ii) fixed;

(iii) floating, i.e. linked to a reference interest rate and with the following structure: coupon rate = reference rate  $\pm$  x, with  $f \leq$  coupon rate  $\leq$  c, where:

- the reference rate is only one of the following at a single point in time:
  - a euro money market rate provided by a central bank or by an administrator located in the Union and included in the register referred to in Article 36 of Regulation (EU) 2016/1011, e.g. €STR (including compounded or averaged daily €STR), Euribor, or similar indices;
  - a constant maturity swap rate, e.g. CMS, EIISDA, EUSA;
  - the yield of one or an index of several euro area government bonds;
- f (floor) and c (ceiling), if they are present, are numbers that are either pre-defined at origination or may change over the life of the credit claim; they may also be introduced after origination of the credit claim;
- x (margin);

(ba) their coupon structure (irrespective of whether it is fixed or floating interest rate credit claim) may contain a margin that is either pre-defined at origination or may change over the life of the credit claim. In the event of a margin change, the eligibility assessment of the coupon structure shall be based on the remaining lifetime of the credit claim; and

(c) their current coupon does not lead to a negative cash flow or to a reduction of principal payment. If in the current accrual period the coupon structure leads to a negative coupon-related cash flow, the credit claim is ineligible as of the moment of the coupon reset. It may become eligible again at the start of a new accrual period when the coupon-related cash flow applied to the debtor turns non-negative, provided it meets all other relevant requirements.

### *Article 91*

#### **Non-subordination**

Credit claims may not afford rights to the principal and/or the interest that are subordinated to: (a) the rights of holders of other unsecured debt obligations of the debtor including other shares or sub-shares in the same syndicated loan; and (b) the rights of holders of debt instruments of the same issuer.

### *Article 92*

#### **Credit quality requirements for credit claims**

The credit quality of credit claims is assessed on the basis of the credit quality of the debtor or guarantor. The relevant debtor or guarantor shall comply with the Eurosystem's credit quality requirements as specified in the ECAF rules for credit claims laid down in Chapter 2 of Title III of Part Four.

### *Article 93*

#### **Minimum size of credit claims**

For both domestic and cross-border use, credit claims shall, at the time of their submission as collateral by the counterparty, meet a minimum size threshold of EUR 500 000.

### *Article 94*

#### **Currency of denomination of credit claims**

Credit claims shall be denominated in euro or in one of the former currencies of the Member States whose currency is the euro.

### *Article 95*

#### **Type of debtor or guarantor**

1. The debtors and guarantors of eligible credit claims shall be non-financial corporations, public sector entities (excluding public financial corporations), multilateral development banks or international organisations.
2. If a credit claim has more than one debtor, each debtor shall be individually and severally liable for the full repayment of the entire credit claim.

### *Article 96*

#### **Location of the debtor or guarantor**

1. The debtor in respect of a credit claim shall be established in a Member State whose currency is the euro.
2. The guarantor in respect of a credit claim shall also be established in a Member State whose currency is the euro, unless a guarantee is not needed to establish the credit quality requirements for non-marketable assets because there is an adequate credit assessment of the debtor.
3. For debtors or guarantors that are multilateral development banks or international organisations, the rules in paragraphs 1 and 2, respectively, shall not apply and they shall be eligible irrespective of their place of establishment.

### *Article 97*

#### **Governing laws**

The credit claim agreement and the agreement between the counterparty and the Bank mobilising the credit claim as collateral shall both be governed by the law of a Member State whose currency is the euro. Furthermore, there shall be no more than two governing laws in total that apply to the:

- (a) counterparty;

- (b) creditor;
- (c) debtor;
- (d) guarantor (if relevant);
- (e) credit claim agreement;
- (f) the agreement between the counterparty and the Bank mobilising the credit claim as collateral.

### *Article 98*

#### **Handling procedures**

Credit claims shall be handled in accordance with the Eurosystem procedures as notified by the Bank to counterparties that may wish to mobilise credit claims.

### *Article 99*

#### **Additional legal requirements for credit claims**

1. In order to ensure that a valid security is created over credit claims and that the credit claim can be swiftly realised in the event of a counterparty default, additional legal requirements shall be met. These legal requirements relate to:
  - (a) verification of the existence of credit claims;
  - (b) validity of the agreement for the mobilisation of credit claims;
  - (c) full effect of the mobilisation vis-à-vis third parties;
  - (d) an absence of restrictions concerning the mobilisation and realisation of credit claims;
  - (e) an absence of restrictions concerning banking secrecy and confidentiality.
2. The content of these legal requirements is set out in Articles 100 to 105. Further details of the specific features of these requirements may be determined by the Bank and notified to counterparties.
3. In order to use credit claims as collateral, counterparties shall be required to execute the framework agreement in respect of Eurosystem operations secured over collateral pool assets, together with the related deed of charge used to secure the Bank's interest in any such credit claims.

### *Article 100*

#### **Verifications of the procedures and systems used to submit credit claims**

The Bank, or supervisors or external auditors, shall conduct a verification of the appropriateness of the procedures and systems used by the counterparty to submit the information on credit claims to

the Eurosystem prior to the first mobilisation of credit claims by the counterparty. The verification of the procedures and systems shall subsequently be conducted at least once every five years. In the event of significant changes to such procedures or systems, a new verification may be conducted.

### *Article 101*

#### **Verification of existence of credit claims**

1. The Bank shall, as a minimum, take all of the following steps to verify the existence of credit claims mobilised as collateral:
  - (a) The Bank shall obtain a written confirmation from counterparties, at least each quarter, by which counterparties shall confirm:
    - (i) the existence of the credit claims (this confirmation may be replaced with cross-checks of information held in a central credit register);
    - (ii) the compliance of credit claims with the eligibility criteria applied by the Eurosystem;
    - (iii) that such credit claim is not used simultaneously as collateral to the benefit of any third party and that the counterparty shall not mobilise such credit claim as collateral to any third party;
    - (iv) that the counterparty will undertake to communicate to the Bank no later than within the course of the next business day, any event that materially affects the contractual relationship between the counterparty and the Bank, in particular early, partial or total repayments, downgrades and material changes in the conditions of the credit claim.
  - (aa) The Bank shall require counterparties to submit in relation to credit claims mobilised as collateral from May 2021, where applicable, the relevant analytical credit database (AnaCredit) identifiers (i.e. the 'Observed Agent' identifier, the 'Contract' identifier and the 'Instrument' identifier), as submitted under the statistical reporting requirements in accordance with Regulation (EU) 2016/867 of the European Central Bank (ECB/2016/13)<sup>25</sup>.
  - (b) The Bank, or relevant central credit register, banking supervision competent authorities or external auditors, shall perform random checks in respect of the quality and accuracy of the written confirmation of counterparties, by means of delivery of physical documentation or through on-site visits. The information checked in relation to each credit claim shall cover as a minimum the characteristics that determine the existence and the eligibility of credit claims. For counterparties with ECAF-approved internal ratings-based (IRB) systems, additional checks on the credit quality assessment of credit claims shall be carried out

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<sup>25</sup> Regulation (EU) 2016/867 of the European Central Bank of 18 May 2016 on the collection of granular credit and credit risk data (ECB/2016/13) (OJ L 144, 1.6.2016, p. 44).

involving checks of PDs with respect to debtors of credit claims that are used as collateral in Eurosystem credit operations.

2. For the checks that are undertaken in accordance with Article 100 or paragraphs 1(a) and (b) of this Article by the Bank, supervisors, external auditors or central credit registers, those undertaking the checks shall be authorised to carry out these investigations, if necessary contractually or in accordance with the applicable national requirements.

#### *Article 102*

##### **Validity of the agreement for the mobilisation of credit claims**

The agreement for the mobilisation of the credit claim as collateral shall be valid between the counterparty and the Bank under Irish law. All the necessary legal formalities to ensure the validity of the agreement and to ensure the mobilisation of a credit claim as collateral shall be fulfilled by the counterparty and/or the transferee, as appropriate.

#### *Article 103*

##### **Full effect of the mobilisation *vis-à-vis* third parties**

1. The agreement for the mobilisation of the credit claim as collateral shall be valid *vis-à-vis* third parties under Irish law. All legal formalities necessary to ensure valid mobilisation shall be fulfilled by the counterparty and/or the transferee, as appropriate.
2. As regards public registration of the mobilisation of a credit claim, counterparties shall comply with all applicable laws regarding perfection and registration requirements, together with any applicable terms and conditions laid down in the framework agreement in respect of Eurosystem operations secured over collateral pool assets and related deed of charge.
3. The debtor shall be notified by the counterparty about the credit claim being mobilised as collateral by the counterparty to the benefit of the Bank immediately following an event of default (encompassing such events as specified in the framework agreement in respect of Eurosystem operations secured over collateral pool assets).
4. Where a counterparty of the Bank wishes to mobilise a credit claim with the Bank on a cross-border basis, the counterparty shall be required to register the details of the security interest taken in that credit claim at the Irish companies registration office.

#### *Article 104*

##### **Absence of restrictions concerning mobilisation and realisation of credit claims**

1. Credit claims shall be fully transferable and capable of being mobilised without restriction for the benefit of the Eurosystem. The credit claim agreement or other contractual arrangements between the counterparty and the debtor shall not contain any restrictive provisions on mobilisation as collateral, unless national legislation provides that such contractual restrictions are without prejudice to the Eurosystem with respect to the mobilisation of collateral.

2. The credit claim agreement or other contractual arrangements between the counterparty and the debtor shall not contain any restrictive provisions regarding the realisation of the credit claim used as collateral for Eurosystem credit operations, including any form, time or other requirement with regard to realisation.
3. Notwithstanding paragraphs 1 and 2, the provisions restricting the assignment of syndicated loan shares to banks, financial institutions and entities which are regularly engaged in or established for the purpose of creating, purchasing or investing in loans, securities or other financial assets shall not be considered as a restriction on the realisation of the credit claim.
- 3a. With effect from 1 January 2018 (or, in the case of credit claims originated before 1 January 2018, 1 January 2020), the credit claim agreement between the counterparty and the debtor shall incorporate a written agreement (which agreement shall be legally valid, binding and enforceable against the debtor, including in the event of its insolvency) that the debtor irrevocably and unconditionally waives all rights of set-off, present and future and howsoever arising (including, without limitation, those arising pursuant to contract, law or equity), that the debtor may otherwise have or acquire against the creditor from time to time in respect of the credit claim, or any person deriving any interest in the credit claim through any such creditor (including, without limitation, any successor in title, transferee or assignee of any such creditor, any person for whose benefit the credit claim is mobilised as collateral and any person acquiring an interest as a result of realisation of such collateral).
4. Notwithstanding paragraphs 1 and 2, a facility agent for the collection and distribution of payments and administration of the loan shall not be considered as a restriction on the mobilisation and realisation of a syndicated loan share, provided that: (a) the facility agent is a credit institution located in the Union; and (b) the service relationship between the relevant syndicate member and the facility agent can be transferred alongside or as part of the syndicated loan share.

#### *Article 105*

##### **Absence of restrictions concerning banking secrecy and confidentiality**

The counterparty and the debtor shall have agreed contractually that the debtor unconditionally consents to disclosure by the counterparty to the Eurosystem of details in respect of the credit claim and on the debtor that are required by the home NCB for the purpose of ensuring that a valid security is created over credit claims and that the credit claims can be swiftly realised in the event of a counterparty default.

## SECTION 2

### Eligibility criteria for fixed-term deposits

#### *Article 106*

### Eligibility criteria for fixed-term deposits

Fixed-term deposits, as described in Article 12, that are held by a counterparty shall be eligible assets as collateral for Eurosystem credit operations.

## SECTION 3

### Eligibility criteria for RMBDs (including MBPNs)

#### *Article 107*

### Eligibility criteria for RMBDs

1. A retail mortgage-backed debt instrument (RMBD) shall be a promissory note or a bill of exchange that is secured by a pool of residential mortgages but falls short of full securitisation. Substitution of assets in the underlying pool shall be possible and a mechanism shall be in place to ensure that the Bank enjoys priority over creditors other than those exempted for public policy reasons.
2. RMBDs shall have a fixed, unconditional principal amount and an interest rate that cannot result in a negative cash flow.
3. RMBDs shall comply with the Eurosystem's credit quality requirements specified in the ECAF rules for RMBDs as laid down in Chapter 2 of Title III of this Part Four.
4. RMBDs shall be issued by credit institutions that are counterparties which are established in a Member State whose currency is the euro.
5. RMBDs shall be denominated in euro or in one of the former currencies of Member States whose currency is the euro.
6. An issuer of RMBDs shall self-certify, as a minimum on a monthly basis, that the residential mortgages that form the cover pool comply with the eligibility criteria specified in the contractual arrangements established by the Bank and on which the credit assessment is based.
7. MBPNs are a specific class of RMBDs in Ireland. MBPNs shall be subject to specific eligibility criteria, and terms and conditions for their mobilisation, use and handling as defined in the framework agreement in respect of mortgage-backed promissory notes between a counterparty and the Bank.

## SECTION 4

### Eligibility criteria for DECCs

#### *Article 107a*

##### **Eligible type of asset**

1. The eligible type of asset shall be debt instruments within the definition of DECCs given in Article 2.
2. DECCs shall have a fixed, unconditional principal amount and a coupon structure that complies with the criteria set forth in Article 63. The cover pool shall only contain credit claims for which a specific ECB DECC loan-level data reporting template is available.
3. The underlying credit claims shall be those granted to debtors established in a Member State whose currency is the euro. The originator shall be a Eurosystem counterparty established in a Member State whose currency is the euro and the issuer shall have acquired the credit claim from the originator.
4. The DECC issuer shall be an SPV established in a Member State whose currency is the euro. Parties to the transaction, other than the issuer, the debtors of the underlying credit claims, and the originator, shall be established in the EEA.
5. The DECCs shall be denominated in euro or in one of the former currencies of the Member States whose currency is the euro.
6. After having carried out a positive assessment, the Eurosystem shall approve the DECC structure as being eligible as Eurosystem collateral.
7. The governing law applicable to the DECC, the originator, the debtors and, where relevant, the guarantors of the underlying credit claims, the underlying credit claim agreements and any agreements ensuring the direct or indirect transfer of the underlying credit claims from the originator to the issuer shall be the law of the jurisdiction where the issuer is established.
8. DECCs shall comply with the requirements on the place of issue and settlement procedures as laid down in Articles 66 and 67.

#### *Article 107b*

##### **Non-subordination with respect to DECCs**

DECCs shall not give rise to rights to the principal and/or the interest that are subordinated to the rights of holders of other debt instruments of the same issuer.

#### *Article 107c*

##### **Credit quality requirements**

DECCs shall comply with the Eurosystem's credit quality requirements as laid down in Section 3 of Chapter 2 of Title III of this Part Four.

### *Article 107d*

#### **Acquisition of the underlying credit claims by the issuer**

The pool of underlying credit claims shall have been acquired by the issuer from the originator in a manner which the Eurosystem considers to be a “true sale” or equivalent to a “true sale” that is enforceable against any third party, and which is beyond the reach of the originator and its creditors, including in the event of the originator’s insolvency.

### *Article 107e*

#### **Transparency requirements for DECCs**

1. DECCs shall fulfil transparency requirements at the level of the DECCs’ structure and at the level of the underlying individual credit claims.
2. At the level of the DECCs’ structure, detailed information on the DECCs’ key transaction data, such as identification of the parties to the transaction, a summary of the DECCs’ key structural features, a summary description of collateral and the DECCs’ terms and conditions shall be made publicly available. The Eurosystem may, in the course of its assessment, require any transaction documentation and legal opinions deemed necessary from any third party it considers relevant, including, but not restricted to, the issuer and/or the originator.
3. At the level of the underlying individual credit claims, comprehensive and standardised loan-level data on the pool of underlying credit claims shall be made available in accordance with the procedures and subject to the same checks applicable to cash-flow generating assets backing ABSs as set out in Annex VIII, except with respect to the reporting frequency, the applicable loan-level data reporting template and the submission by the relevant parties of loan-level data to a loan-level data repository. In order for DECCs to be eligible, all underlying credit claims shall be homogenous, i.e. it must be possible to report them using a single ECB DECC loan-level data reporting template. The Eurosystem may determine that a DECC is not homogenous after evaluating the relevant data.
4. Loan-level data shall be reported on at least a monthly basis, no later than one month following the cut-off date. The cut-off date for which loan-level data shall be reported is the last calendar day of the month. If loan-level data are not reported or updated within one month following the cut-off date, then the DECC shall cease to be eligible.
5. Data quality requirements applied for ABSs shall apply to DECCs, including the specific ECB DECC loan-level data reporting template. The loan-level data shall be submitted in the specific ECB DECC loan-level data reporting template, as published on the ECB’s website, to:
  - (a) an ESMA securitisation repository; or
  - (b) a Eurosystem designated repository.
- 5a. Submissions of loan-level data on DECCs to ESMA securitisation repositories in accordance with paragraph 5(a) shall commence at the beginning of the calendar month immediately following the date which is three months from the ESMA reporting activation date.

Submissions of loan-level data on DECCs to Eurosystem designated repositories in accordance with paragraph 5(b) shall be permitted until the end of the calendar month in which the date three years and three months from the ESMA reporting activation date falls.

The ESMA reporting activation date shall be published by the ECB on its website.

6. In its eligibility assessment, the Eurosystem shall take into account: (a) any failure to deliver mandatory data; and (b) how often individual loan-level data fields do not contain meaningful data.

### *Article 107f*

#### **Types of eligible underlying credit claims**

1. Each underlying credit claim shall comply with the eligibility criteria for credit claims provided for in Section 1, Chapter 1 of Title III of Part Four, subject to the modifications set out in this Article.
2. To ensure that a valid security is created over the underlying credit claims, enabling the issuer and the holders of the DECCs to swiftly realise those claims in the event of the originator's default, the following additional legal requirements as specified in paragraphs 3 to 9 shall be met:
  - (a) verification of the existence of the underlying credit claims;
  - (b) validity of the agreement for the mobilisation of underlying credit claims;
  - (c) full effect of the mobilisation *vis-à-vis* third parties;
  - (d) an absence of restrictions on the transfer of the underlying credit claims;
  - (e) an absence of restrictions on the realisation of the underlying credit claims;
  - (f) an absence of restrictions related to banking secrecy and confidentiality.

Further details of the specific features of these requirements may be determined by the Bank and notified to counterparties.

3. The NCB of the country where the originator is established, or supervisors or external auditors, shall conduct a one-off verification of the appropriateness of the procedures used by the originator to submit the information on the underlying credit claims to the Eurosystem.
4. The NCB of the country where the originator is established shall, as a minimum, take all of the following steps to verify the existence of the underlying credit claims:
  - (a) It shall obtain written confirmation from the originator, at least on a quarterly basis, by which the originators shall confirm:
    - (i) the existence of the underlying credit claims: this confirmation could be replaced with cross-checks of information held in central credit registers, where these exist;
    - (ii) compliance of the underlying credit claims with the eligibility criteria applied by the Eurosystem;

- (iii) that the underlying credit claims are not used simultaneously as collateral to the benefit of any third party and that the originator will not mobilise such underlying credit claims as collateral to the Eurosystem or any third party;
    - (iv) that the originator will undertake to communicate to the relevant NCB no later than within the course of the next business day, any event that materially affects the collateral value of the underlying credit claims, in particular early, partial or total repayments, downgrades and material changes in the conditions of the underlying credit claims.
  - (b) The NCB of the country where the originator is located or the relevant central credit registers, banking supervision competent authorities or external auditors, shall perform random checks in respect of the quality and accuracy of the written confirmation of originators, by means of delivery of physical documentation or through on-site visits. The information checked in relation to each underlying credit claim shall cover as a minimum the characteristics that determine the existence and the eligibility of underlying credit claims. For originators with ECAF-approved internal ratings-based (IRB) systems, additional checks on the credit quality assessment of underlying credit claims shall be carried out involving checks of PDs with respect to debtors of credit claims backing DECCs that are used as collateral in Eurosystem credit operations.
  - (c) For the checks that are undertaken in accordance with Article 107f(3), (4)(a) or (4)(b) by NCB of the country where the originator is located, supervisors, external auditors or central credit registers, those undertaking the checks shall be authorised to carry out these investigations, if necessary contractually or in accordance with the applicable national requirements.
5. The agreement for the transfer of the underlying credit claims to the issuer or for their mobilisation by way of transfer, assignment or pledge shall be valid between the issuer and the originator and/or the transferee/assignee/pledgee, as appropriate, under the applicable national law. All the necessary legal formalities to ensure the validity of the agreement and to ensure the valid indirect or direct transfer of the underlying credit claims as collateral shall be fulfilled by the originator and/or the transferee, as appropriate. As regards notification of the debtor, the following shall apply, depending on the applicable national law.
- (a) At times it may be necessary to have debtor notification or public registration of: (i) the transfer (direct or indirect) of the underlying credit claims to the issuer; or (ii) when counterparties mobilise DECCs as collateral to the home NCB to ensure full effectiveness of such a transfer or mobilisation *vis-à-vis* third parties; and in particular (iii) to ensure the priority of the issuer's security interest (with respect to the underlying credit claims) and/or the home NCB's security interest (with respect to the DECCs as collateral) *vis-à-vis* other creditors. In such cases, these notification or registration requirements shall be completed: (i) in advance or at the time of the underlying credit claims' actual transfer (direct or indirect) to the issuer; or (ii) at the time that counterparties mobilise the DECCs as collateral to the home NCB.

- (b) If *ex ante* notification of the debtor or public registration is not required in accordance with point (a), as specified in the applicable national documentation, *ex post* notification of the debtor is required. *Ex post* notification means that the debtor shall be notified, as specified by national documentation, about the underlying credit claims being transferred or mobilised immediately following an event of default or similar credit event as further specified in the applicable national documentation.
  - (c) Points (a) and (b) are minimum requirements. The Eurosystem may decide to require *ex ante* notification or registration in addition to the situations above, including in the case of bearer instruments.
- 6. The underlying credit claims shall be fully transferable and capable of being transferred to the issuer without restriction. The underlying credit claims agreements or other contractual arrangements between the originator and the debtor shall not contain any restrictive provisions on transfer of collateral. The underlying credit claims agreements or other contractual arrangements between the originator and the debtor shall not contain any restrictive provisions regarding the realisation of the underlying credit claims, including any restrictions regarding form, time or other requirement with regard to realisation, so the Eurosystem shall be able to realise the DECCs' collateral.
- 7. Notwithstanding paragraph 6, the provisions restricting the assignment of syndicated loan shares to banks, financial institutions and entities which are regularly engaged in or established for the purpose of creating, purchasing or investing in loans, securities or other financial assets shall not be considered as a restriction on the realisation of the underlying credit claims.
- 8. Notwithstanding the paragraphs 6 and 7, a facility agent for the collection and distribution of payments and administration of the loan shall not be considered as a restriction on the transfer and realisation of a syndicated loan share, provided that:
  - (a) the facility agent is a credit institution located in a Member State; and
  - (b) the service relationship between the relevant syndicate member and the facility agent can be transferred alongside or as part of the syndicated loan share.
- 9. The originator and the debtor shall have agreed contractually that the debtor unconditionally consents to disclosure by the originator, issuer and any counterparty mobilising the DECC to the Eurosystem of details in respect of that underlying credit claim and on the debtor that are required by the relevant NCB for the purpose of ensuring that a valid security is created over the underlying credit claims and that the underlying credit claims can be swiftly realised in the event the originator/issuer defaults.

## CHAPTER 2

### Eurosystem's Credit Quality Requirements for Non-Marketable Assets

#### Article 108

##### **Eurosystem's credit quality requirements for non-marketable assets**

In order for non-marketable assets to be eligible, the following Eurosystem credit quality requirements shall apply.

- (a) For credit claims, the credit quality of credit claims shall be assessed on the basis of the credit quality of the debtor or guarantor, which shall comply, as a minimum, with credit quality step 3, as specified in the Eurosystem's harmonised rating scale.
- (b) For MBPNs, a credit quality assessment shall comply, as a minimum, with credit quality step 2, as specified in the Eurosystem's harmonised rating scale.

#### SECTION 1

##### **Eurosystem's credit quality requirements for credit claims**

#### Article 109

##### **General rules for the credit quality assessment of credit claims**

1. The Eurosystem shall assess the credit quality of credit claims on the basis of the credit quality of the debtors or guarantors provided by the credit assessment system or source selected by the counterparty in accordance with Article 110.
2. Counterparties shall within the course of the next business day inform the Bank of any credit event, including a delay in payments by the debtors of the credit claims mobilised as collateral, that is known to the counterparty and, if requested by the Bank, withdraw or replace the assets.
3. Counterparties shall be responsible for ensuring that they use the most recent credit quality assessment available from their selected credit assessment system or source for the debtors or guarantors of credit claims mobilised as collateral.

#### Article 110

##### **Selection of the credit assessment system or source**

1. Counterparties mobilising credit claims as collateral shall select one credit assessment system from one of the three credit assessment sources accepted by the Eurosystem in accordance with the general acceptance criteria in Title V of Part Four. Where the ECAI source is selected by counterparties, any ECAI system may be used.
2. Further to paragraph 1, the Bank may allow counterparties to use more than one credit assessment system or source upon submission of a reasoned request to the Bank supported by an adequate

business case based on the lack of sufficient coverage of the ‘main’ credit assessment source or system.

3. In cases where counterparties are allowed to use more than one credit assessment system or credit assessment source, the ‘main’ system or source is expected to be the one providing the credit quality assessment of the largest number of debtors from the credit claims mobilised as collateral. If a credit assessment for a debtor or guarantor is available from this main system or source, only this credit assessment shall determine the eligibility and valuation haircuts applicable to the debtor or guarantor.
4. Counterparties shall use the selected credit assessment systems or sources for a minimum period of 12 months.
5. After the period specified in paragraph 4, counterparties may submit an explicit reasoned request to the Bank to change the selected credit assessment system or source.
6. In certain circumstances and particularly when a counterparty phases-in its IRB system or begins using credit claims as collateral, upon submission of a reasoned request, the Bank may exceptionally grant a derogation to a counterparty with respect to the 12-month minimum period restriction specified in paragraph 4 and allow the counterparty to change its selected credit assessment system or source within that period.
7. If the counterparty has chosen the ECAI credit assessment source, it may use an ECAI debtor or ECAI guarantor rating. If multiple ECAI debtor and/or ECAI guarantor ratings are available for the same credit claim, then the best available ECAI credit assessment of those may be used.

### *Article 111*

#### **Credit assessment of credit claims with public sector entities, or non-financial corporations, as debtors or guarantors**

1. The Eurosystem shall assess the credit quality of credit claims with public sector entities acting as debtors or guarantors in accordance with the following rules, applied in the following order.
  - (a) If a credit assessment from the system or source selected by the counterparty exists, the Eurosystem shall use it to establish whether the public sector entity acting as debtor or guarantor meets the Eurosystem’s credit quality requirements for non-marketable assets laid down in Article 108.
  - (b) In the absence of a credit quality assessment under point (a), the Eurosystem shall use an ECAI credit quality assessment provided by an accepted ECAI system for the public sector entity acting as debtor or guarantor.
  - (c) If a credit quality assessment is unavailable pursuant to points (a) or (b), the procedure laid down in Article 87 for marketable assets shall apply to the relevant public sector entity as debtor or guarantor.
2. The Eurosystem shall assess the credit quality of credit claims with non-financial corporations as debtors or guarantors as follows: the credit quality assessment provided by the credit assessment

system or source selected by the counterparty shall meet the Eurosystem's credit quality requirements for non-marketable assets laid down in Article 108.

## SECTION 2

### **Eurosystem's credit quality requirements for RMBDs (including MBPNs)**

#### *Article 112*

#### **Establishment of Eurosystem's credit quality requirements for MBPNs**

For the purpose of meeting the credit quality requirements laid down in Article 108, the Bank shall assess the credit quality of MBPNs on the basis of a credit quality assessment framework to be notified by the Bank to counterparties that wish to mobilise MBPNs.

## SECTION 3

### **The Eurosystem's credit quality requirements for DECCs**

#### *Article 112a*

#### **The Eurosystem's credit quality requirements for DECCs**

1. DECCs shall not be required to be assessed by one of the three credit assessment sources accepted by the Eurosystem in accordance with the general acceptance criteria in Title V of Part Four.
2. Each underlying credit claim in the cover pool of DECCs shall have a credit assessment provided by one of the three credit assessment sources accepted by the Eurosystem in accordance with the general acceptance criteria in Title V of Part Four. In addition, the credit assessment system or source used shall be the same system or source selected by the originator in accordance with Article 110. The rules on the Eurosystem's credit quality requirements for the underlying credit claims laid down in Section 1 shall be applicable.
3. The credit quality of each underlying credit claim in the cover pool of DECCs shall be assessed on the basis of the credit quality of the debtor or guarantor, which shall comply, as a minimum, with credit quality step 3, as specified in the Eurosystem's harmonised rating scale.

## TITLE IV

### Guarantees for Marketable and Non-Marketable Assets

#### *Article 113*

##### **Applicable requirements for guarantees**

1. The Eurosystem's credit quality requirements may be established on the basis of credit assessments provided in respect of guarantors in accordance with Articles 82 to 84 in respect of marketable assets and Article 108 in respect of credit claims.
2. Guarantees provided by guarantors that are required to establish the Eurosystem's credit quality requirements shall comply with this Title.
3. For the purposes of paragraph 1, the relevant guarantor shall be separately assessed on the basis of its credit assessment and shall meet the Eurosystem's credit quality requirements.

#### *Article 114*

##### **Features of the guarantee**

1. In accordance with the terms of the guarantee, the guarantor shall provide an unconditional and irrevocable first-demand guarantee in respect of the obligations of the issuer or debtor in relation to the payment of the principal, interest and any other amounts due under the marketable asset or credit claim to the holders or creditor thereof, until the marketable asset or credit claim is discharged in full. In this regard, a guarantee shall not be required to be specific to the marketable asset or credit claim but may apply to the issuer or debtor only, provided that the relevant marketable asset or credit claim is covered by the guarantee.
2. The guarantee shall be payable on first demand independently of the guaranteed marketable asset or credit claim. Guarantees given by public sector entities with the right to levy taxes shall either be payable on first demand or otherwise provide for prompt and punctual payment following any default.
3. The guarantee shall be legally valid, binding and enforceable against the guarantor.
4. The guarantee shall be governed by the law of a Member State.
5. If the guarantor is not a public sector entity with the right to levy taxes, a legal confirmation concerning the legal validity, binding effect and enforceability of the guarantee shall be submitted to the relevant NCB in a form and substance acceptable to the Eurosystem before the marketable assets or credit claim supported by the guarantee can be considered eligible. The legal confirmation shall be prepared by persons who are independent of the counterparty, the issuer/debtor and the guarantor, and legally qualified to issue such confirmation under the applicable law, e.g. lawyers practising in a law firm, or working in a recognised academic institution or public body. The legal confirmation shall also state that the guarantee is not a personal one and is only enforceable by the holders of the marketable assets or the creditor of the credit claim. If the guarantor is established in a jurisdiction other than the one of the law governing the guarantee, the legal confirmation shall

also confirm that the guarantee is valid and enforceable under the law of the jurisdiction in which the guarantor is established. For marketable assets, the legal confirmation shall be submitted by the counterparty for review to the NCB that is reporting the relevant asset supported by a guarantee for inclusion in the list of eligible assets. For credit claims, the legal confirmation shall be submitted by the counterparty seeking to mobilise the credit claim for review to the NCB in the jurisdiction of the law governing the credit claim. The requirement of enforceability is subject to any insolvency or bankruptcy laws, general principles of equity and other similar laws and principles applicable to the guarantor and generally affecting creditors' rights against the guarantor.

### *Article 115*

#### **Non-subordination of the obligations of the guarantor**

The obligations of the guarantor under the guarantee shall at least rank equally, *pari passu*, and rateably, *pro rata*, with all other unsecured obligations of the guarantor.

### *Article 116*

#### **Credit quality requirements for guarantors**

The guarantor shall comply with the Eurosystem's credit quality requirements specified under the ECAF rules for guarantors of marketable assets laid down in Articles 82 to 84 or with the rules for guarantors of credit claims laid down in Article 108.

### *Article 117*

#### **Type of guarantor**

The guarantor shall be:

- (a) for marketable assets in accordance with Article 69: a central bank of a Member State, a public sector entity, an agency, a credit institution, a financial corporation other than a credit institution, a non-financial corporation, a multilateral development bank or an international organisation; or
- (b) for credit claims in accordance with Article 95: a non-financial corporation, a public sector entity, a multilateral development bank or an international organisation.

### *Article 118*

#### **Place of establishment of guarantor**

1. The guarantor shall be established:

- (a) in the case of marketable assets in accordance with Article 70, in the EEA, unless a guarantee is not needed to establish the credit quality requirements for a specific debt instrument. The possibility to use an ECAI guarantor rating to establish the relevant credit quality requirements for marketable assets is addressed in Article 84.

- (b) for debt instruments guaranteed by non-financial corporations for which no credit quality assessment has been provided by an accepted ECAI for the issue, the issuer or the guarantor, in accordance with Article 70, the guarantor shall be established in a Member State whose currency is the euro;
  - (c) in the case of credit claims in accordance with Article 96, in a Member State whose currency is the euro, unless a guarantee is not needed to establish the credit quality requirements for non-marketable assets. The option to use a credit assessment in respect of a guarantor to establish the relevant credit quality requirements for credit claims is addressed in Article 108.
2. Notwithstanding paragraph 1, in accordance with Articles 70 and 96, multilateral development banks and international organisations shall be eligible guarantors irrespective of their place of establishment.

## TITLE V

### Eurosystem Credit Assessment Framework for Eligible Assets

#### *Article 119*

##### **Accepted credit assessment sources and systems**

1. The credit assessment information on which the Eurosystem bases the eligibility assessment of assets eligible as collateral for Eurosystem credit operations shall be provided by credit assessment systems belonging to one of the three following sources:
  - (a) ECAIs;
  - (b) NCBs' in-house credit assessment systems (ICASs);
  - (c) counterparties' internal rating-based (IRB) systems.
2. Under each credit assessment source listed in paragraph 1 there may be a set of credit assessment systems. Credit assessment systems shall comply with the acceptance criteria laid down in this Title. A list of the accepted credit assessment systems, i.e. the list of accepted ECAIs and ICASs, is published on the ECB's website.
3. All accepted credit assessment systems shall be subject to the ECAF performance monitoring process as laid down in Article 126.
4. By publishing information on the accepted credit assessment systems in conjunction with its Eurosystem credit operations, the Eurosystem shall not assume any responsibility for its evaluation of accepted credit assessment systems.
5. In the event of an infringement of the ECAF rules and procedures, the relevant credit assessment system may be excluded from the ECAF-accepted systems.

## Article 120

### **General acceptance criteria for external credit assessment institutions as credit assessment systems**

1. For the purposes of the ECAF, the general acceptance criteria for ECAIs shall be the following:
  - (a) ECAIs shall be registered by the European Securities and Markets Authority, in accordance with Regulation (EC) No 1060/2009.
  - (b) ECAIs shall fulfil operational criteria and provide relevant coverage so as to ensure the efficient implementation of the ECAF. In particular, the use of an ECAI credit assessment is subject to the availability to the Eurosystem of information on these assessments, as well as information for the comparison and the assignment, i.e. mapping of the assessments to the Eurosystem's credit quality steps and for the purposes of the performance monitoring process, under Article 126.
2. Following the application process outlined in Annex IXc of the General Documentation Guideline, the Eurosystem reserves the right to decide whether to initiate an ECAF acceptance procedure upon request from a credit rating agency (CRA). In making its decision, the Eurosystem shall take into account, among other things, whether the CRA provides relevant coverage for the efficient implementation of the ECAF in accordance with the requirements set out in Annex IXa.
- 2a. Following the initiation of an ECAF acceptance procedure, the Eurosystem shall investigate all additional information deemed relevant to ensure the efficient implementation of the ECAF, including the ECAI's capacity (i) to fulfil the criteria and rules of the ECAF performance monitoring process in accordance with the requirements set out in Annex IX and the specific criteria in Annex IXb (if relevant), and (ii) to comply with the acceptance criteria set out in Annex IXc of the General Documentation Guideline. The Eurosystem reserves the right to decide whether to accept an ECAI for the purposes of the ECAF on the basis of the information provided and its own due diligence assessment.
3. Together with the submitted data for ECAF performance monitoring in accordance with Article 126, the ECAI shall submit a signed certification from the CEO of the ECAI, or authorised signatory with responsibility for the audit or compliance function within the ECAI, confirming the accuracy and validity of the submitted performance monitoring information.

## Article 121

### **General acceptance criteria and operational procedures for the NCBs' in-house credit assessment systems**

1. The Bank may decide to use its own ICAS for the purpose of credit assessment subject to a validation procedure by the Eurosystem. The Bank currently does not have its own ICAS.

2. In the event that the Bank decides to use an ICAS, a credit assessment by means of the Bank's ICAS may be performed in advance, or on a counterparty's specific request upon submission of an asset to the Bank.
3. With regard to paragraph 2, upon submission of an asset to the Bank in respect of which the eligibility of a debtor or guarantor shall be assessed, the Bank will inform the counterparty either of its eligibility status or of the lead time necessary to establish a credit assessment. If the Bank's ICAS is limited in scope and only assesses specific types of debtors or guarantors, or if the Bank is unable to receive the information and data necessary for its credit assessment, the Bank will inform the counterparty thereof without delay. In both cases, the relevant debtor or guarantor is considered ineligible, unless the assets are compliant with credit quality requirements in accordance with an alternative credit assessment source or credit assessment system which the counterparty is allowed to use according to Article 110. In the event that mobilised assets become ineligible due to the deterioration of the creditworthiness of the debtor or the guarantor, the asset shall be removed at the earliest possible date. Since there is neither a contractual relationship between the non-financial corporations and the Bank, nor any legal obligation for these corporations to provide non-public information to the Bank, the information is provided on a voluntary basis.
4. Where MBPNs are mobilised as collateral for Eurosystem credit operations, the Bank shall implement a credit quality assessment framework for this type of asset in accordance with the ECAF. Such frameworks shall be subject to a validation procedure by the Eurosystem and to a yearly performance monitoring process, as further specified in Article 126.

## *Article 122*

### **General acceptance criteria for internal ratings-based systems**

1. To obtain ECAF approval of an IRB system, a counterparty shall file a request with the Bank.
2. The requirement in paragraph 1 shall apply to all counterparties intending to use an IRB system regardless of their status, i.e. parent, subsidiary or branch, and regardless of whether the endorsement of the IRB system comes from the competent authority in the same country, for a parent company and possibly for subsidiaries, or from a competent authority in the home country of the parent, for branches and possibly for subsidiaries.
3. A request filed by a counterparty in accordance with paragraph 1 shall include the following information and documents which, if necessary, shall be translated into English:
  - (a) a copy of the decision of the competent authority authorising the counterparty to use its IRB system for capital requirements purposes on a consolidated or non-consolidated basis, together with any specific conditions for such use;
  - (b) an up-to-date assessment by the competent authority reflecting the currently available information on all issues affecting the use of the IRB system for collateral purposes and all issues relating to the data used for the ECAF performance monitoring process;

- (c) information on any changes to the counterparty's IRB system recommended or required by the competent authority, together with the deadline by which such changes must be implemented;
  - (d) information on its approach to assigning probabilities of default to debtors, as well as data on the rating grades and associated one-year probabilities of default used to determine eligible rating grades;
  - (e) a copy of the latest Pillar 3 (market discipline) information that the counterparty is required to publish on a regular basis in accordance with the requirements on market discipline under the Basel III Framework, Directive 2013/36/EU and Regulation (EU) No 575/2013;
  - (f) the name and the address of the competent authority and the external auditor;
  - (g) information on the historical record of the counterparty's IRB system's observed default rates per rating grades covering the five calendar years preceding the relevant request. If the competent authority granted the IRB system's authorisation for capital requirements purposes during these calendar years, the information shall cover the time since the IRB system's authorisation for capital requirements purposes. The historical annual data on the observed default rates and potential additional information shall comply with the provisions for performance monitoring in Article 126 as if the IRB system had been subject to these provisions over this time period;
  - (h) information required for performance monitoring outlined in Article 126 as requested from already ECAF-approved IRB systems for the ongoing calendar year at the time of the filing of the request.
4. A counterparty shall not be required to file the information under points (a) to (c) when such information is transmitted directly by the competent authority to the home NCB upon the NCB's request.
  5. The request made by the counterparty under paragraph 1 shall be signed by the counterparty's CEO, CFO or a manager of similar seniority, or by an authorised signatory on behalf of one of them.

### *Article 123*

#### **Reporting obligations of counterparties using an internal ratings-based system**

1. Counterparties shall communicate information to the Bank on Article 122(3)(b) to (f) on an annual basis, or as and when required by the Bank, unless such information is transmitted directly by the competent authority to the Bank upon its request.
2. The annual communication referred to in paragraph 1 shall be signed by the counterparty's CEO, CFO or a manager of similar seniority, or by an authorised signatory on behalf of one of them. The competent authority and, where applicable, the external auditor of the counterparty shall receive a copy of this letter from the Eurosystem.

3. As part of the regular monitoring on IRB systems, the Bank shall perform on- and off-site inspections on the statistical information provided by counterparties for the purpose of the annual performance monitoring process. The objective of such controls shall be to verify that static pools are correct, accurate and complete.
4. Counterparties shall fulfil any further operational criteria specified in this Document or the relevant collateral mobilisation agreement(s), including provisions in relation to:
  - (a) *ad hoc* checks on the procedures in place for communicating a credit claim's features to the Bank;
  - (b) annual checks by the Bank (or, where relevant, an external auditor) to establish the accuracy and validity of static pools as referred to in Annex IX;
  - (c) the provision, no later than within the course of the next business day, of information in respect of eligibility changes and the immediate withdrawal of relevant credit claims, if necessary;
  - (d) notifications to the Bank of facts or circumstances that could materially influence the continued use of the IRB system for ECAF purposes or the way in which the IRB system leads to the establishment of eligible collateral, including in particular material changes to a counterparty's IRB system which may impact on the manner in which the IRB system's rating grades or probabilities of default correspond with the Eurosystem harmonised rating scale.

[Articles 124 and 125 have been deleted reflecting the repeal of the equivalent articles in the General Documentation Guideline by Guideline ECB/2019/11.]

### *Article 126*

#### **ECAF performance monitoring process**

1. On an annual basis, all accepted credit assessment systems shall be subject to the ECAF performance monitoring process, in accordance with Annex IX, for the purpose of ensuring that the mapping of the credit quality assessment information provided by the credit assessment system to the Eurosystem's harmonised rating scale remains appropriate and that the results from credit quality assessments are comparable across systems and sources.
2. The Eurosystem reserves the right to request any additional information required to conduct the performance monitoring process.
3. The performance monitoring process may result in a correction of the manner in which the credit quality assessment information provided by the credit assessment system corresponds to the Eurosystem's harmonised rating scale.
4. The Eurosystem may decide to suspend or exclude a credit assessment system on the basis of the outcome of the performance monitoring process.

5. In the event of an infringement of a rule related to the ECAF performance monitoring process, the relevant credit assessment system may be excluded from the list of ECAF-accepted systems.

## TITLE VI

### Risk Control and Valuation Framework of Marketable and Non-Marketable Assets

#### *Article 127*

##### **Purpose of the risk control and valuation framework**

1. Eligible assets mobilised as collateral for Eurosystem credit operations shall be subject to the risk control measures laid down in Article 128(1), which aim to protect the Eurosystem against the risk of financial loss in the event of a counterparty's default.
2. The Eurosystem may at any time apply additional risk control measures, as laid down in Article 128(2), if required to ensure adequate risk protection of the Eurosystem in line with Article 18.1 of the Statute of the ESCB. Additional risk control measures may also be applied at the level of individual counterparties, if required to ensure such protection.
3. All risk control measures applied by the Eurosystem shall ensure consistent, transparent and non-discriminatory conditions for any type of mobilised eligible asset across the Member States whose currency is the euro.

#### *Article 128*

##### **Risk control measures**

1. The Eurosystem shall apply the following risk control measures for eligible assets:
  - (a) valuation haircuts as laid down in the Supplement to this Document on the valuation haircuts applied in the implementation of the Eurosystem monetary policy framework;
  - (b) variation margins (marking-to-market):

the Eurosystem requires the haircut-adjusted market value of the eligible assets used in its liquidity-providing reverse transactions to be maintained over time. If the value of the eligible assets, which are measured on a daily basis, falls below a certain level, the Bank shall require the counterparty to supply additional assets or cash by way of a margin call. Similarly, if the value of the eligible assets exceeds a certain level following their revaluation, the Bank may return the excess assets or cash;
  - (c) limits in relation to the use of unsecured debt instruments issued by a credit institution or by any other entity with which that credit institution has close links as described in Article 138;

(d) valuation markdowns as laid down in the Supplement to this Document on the valuation haircuts applied in the implementation of the Eurosystem monetary policy framework.

2. The Eurosystem may apply the following additional risk control measures:

- (a) initial margins, meaning that counterparties provide eligible assets with a value at least equal to the liquidity provided by the Eurosystem plus the value of the relevant initial margin;
- (b) limits in relation to issuers, debtors or guarantors;
- (c) the Eurosystem may apply additional limits, other than those applied to the use of unsecured debt instruments referred to in paragraph (1)(c), to the exposure vis-à-vis issuers, debtors or guarantors;
- (d) supplementary haircuts;
- (e) additional guarantees from guarantors meeting the Eurosystem's credit quality requirements in order to accept certain assets;
- (f) the exclusion of certain assets from use as collateral in Eurosystem credit operations.

[Articles 129-133a have been deleted reflecting the repeal of the equivalent articles in the General Documentation Guideline by Guideline ECB/2015/34.]

## CHAPTER 1 Valuation Rules for Marketable and Non-Marketable Assets

### *Article 134*

#### **Valuation rules for marketable assets**

1. For the purposes of determining the value of assets used as collateral in open market operations conducted by means of reverse transactions, the Bank shall apply the following rules.
  - (a) For each eligible marketable asset, the Eurosystem shall define the most representative price to be used for the calculation of the market value.
  - (b) A marketable asset's value shall be calculated on the basis of the most representative price on the business day preceding its valuation date. In the absence of a representative price for a particular asset the Eurosystem shall define a theoretical price.
  - (c) The market or theoretical value of a marketable asset shall be calculated including accrued interest.
  - (d) If income flows, e.g. coupon payments that are related to an asset and are received during the life of a Eurosystem credit operation, arise they are transferred to the counterparty in accordance with the terms and conditions of the relevant collateral mobilisation

agreement(s). The Bank shall ensure that the relevant operations will still be fully covered by a sufficient amount of eligible assets before the transfer of the income takes place. The Bank shall aim to ensure that the economic effect of the treatment of income flows is equivalent to a situation in which the income is transferred to the counterparty on the payment day.

2. For marketable assets, additional valuation rules are provided for in the framework agreement in respect of Eurosystem operations secured over collateral pool assets.

### *Article 135*

#### **Valuation rules for non-marketable assets**

1. Non-marketable assets shall be assigned a value by the Eurosystem corresponding to the outstanding amount of such non-marketable assets.
2. Non-marketable collateral pool assets, as defined in the framework agreement in respect of Eurosystem operations secured over collateral pool assets, shall be subject to additional valuation rules provided for in that framework agreement.
3. MBPNs shall be subject to additional valuation procedures set out in the framework agreement in respect of the issue of mortgage-backed promissory notes.
4. The valuation applied by the correspondent central bank (CCB) in respect of credit claims mobilised on a cross border basis, which is received each business day from the CCB, shall be used by the Bank.

### *Article 136*

#### **Margin calls**

1. Assets mobilised as collateral for Eurosystem credit operations shall be subject to daily valuation by the Bank, in accordance with the valuation rules laid down in Articles 134 and 135. If tri-party services are used, the daily valuation process shall be delegated to the relevant TPA and shall be based on information sent by the Bank to the TPA.
2. If, after valuation and haircuts, the mobilised assets do not match the requirements as calculated on that day, margin calls shall be performed. If the value of the eligible assets mobilised as collateral by a counterparty, following their revaluation, exceeds the amount owed by the counterparty plus the variation margin, the Bank may on request return the excess assets or any cash that the counterparty has provided for a margin call.
3. The deposit facility rate shall also apply to cash margins.

**TITLE VII, Article 137 has been deleted reflecting the repeal of the equivalent provisions in the General Documentation Guideline by Guideline ECB/2022/17.**

## **TITLE VIII**

### **Rules for the Use of Eligible Assets**

#### *Article 138*

#### **Close links between counterparties and the issuer, debtor or guarantor of eligible assets**

1. Irrespective of the fact that an asset is eligible, a counterparty shall not submit or use as collateral assets issued, owed or guaranteed by itself or by any other entity with which it has close links.
2. 'Close links' means any of the following situations in which the counterparty and the other entity referred to in paragraph 1 are linked:
  - (a) the counterparty owns directly, or indirectly through one or more other undertakings, 20% or more of the capital of that other entity;
  - (b) that other entity owns directly, or indirectly through one or more other undertakings, 20% or more of the capital of the counterparty;
  - (c) a third party owns, either directly or indirectly through one or more undertakings, 20% or more of the capital of the counterparty and 20% or more of the capital of the other entity.

For the purposes of assessing the existence of close links in the case of *multi-cédulas*, the Eurosystem shall apply a 'look-through approach', i.e. it shall consider close links between each of the underlying *cédulas* issuers and the counterparty.

3. Paragraph 1 shall not apply with respect to any of the following:
  - (a) close links, as defined under paragraph 2, created as a result of the existence of an EEA public sector entity that has the right to levy taxes and is either (i) an entity that owns directly, or indirectly through one or more undertakings, 20% or more of the capital of the counterparty, or (ii) a third party that owns, either directly or indirectly through one or more undertakings, 20% or more of the capital of the counterparty and 20% or more of the capital of the other entity, provided that no other close links exist between the counterparty and the other entity except the close links resulting from one or more EEA public sector entities that have the right to levy taxes;
  - (b) EEA-legislative covered bonds, with the exception of intragroup pooled covered bond structures issued in line with Article 8 of Directive (EU) 2019/2162, that:
    - (i) if issued on or before 7 July 2022, meet the requirements set out in Article 129(1) to (3) and (6) of Regulation (EU) No 575/2013 that apply on the date of issue and are included on the list of eligible marketable assets published on the ECB's website as of 7 July 2022;

- or, if issued on or after 8 July 2022, meet the requirements set out in Article 129(1) to (3b) and (6) and (7) of Regulation (EU) No 575/2013 that apply on the date of issue;
- (ii) do not contain in their cover pool unsecured debt instruments issued by the counterparty or any other entity closely linked to that counterparty, as defined in paragraph 2, and fully guaranteed by one or several EEA public sector entities which have the right to levy taxes; and
  - (iii) have an ECAI issue rating as defined in point (a) of Article 83 which fulfils the requirements of Annex IXb;
- (c) non-marketable RMBDs (including MBPNs) and DECCs;
  - (d) *multi-cédulas* issued before 1 May 2015 where the underlying *cédulas* comply with the criteria set out in Article 129(1) to (3) and (6) of Regulation (EU) No 575/2013.
4. If compliance with paragraph 3(b)(i) or (ii) needs to be verified, that is, for EEA legislative covered bonds, where the applicable legislation or prospectus do not exclude (i) intragroup pooled covered bond structures issued in line with the relevant national measures transposing Article 8 of Directive (EU) 2019/2162 or (ii) debt instruments referred to in paragraph 3(b)(ii) as cover pool assets, respectively, where the counterparty or an entity closely linked to the counterparty has issued such debt instruments, the Bank may take all or some of the following measures to conduct *ad hoc* checks of compliance with paragraph 3(b)(i) or (ii).
- (a) The Bank may obtain regular surveillance reports providing an overview of assets in the cover pool of EEA legislative covered bonds;
  - (b) If surveillance reports do not provide sufficient information for verification purposes, the Bank may obtain a self-certification and undertaking of the counterparty mobilising an EEA legislative covered bond by which the counterparty shall confirm that the EEA legislative covered bond is not part of an intragroup pooled covered bond structure issued in line with the relevant national measures transposing Article 8 of Directive (EU) 2019/2162, in breach of paragraph 3(b)(i), and that the cover pool of EEA legislative covered bonds does not include, in breach of paragraph 3(b)(ii), unsecured bank bonds which are issued by that counterparty or any other entity closely linked to that counterparty, and are fully guaranteed by one or several EEA public entities which have the right to levy taxes. The counterparty's self-certification must be signed by the counterparty's CEO, CFO or a manager of similar seniority, or by an authorised signatory on their behalf.
  - (c) On an annual basis, the Bank may obtain from the counterparty mobilising an EEA-legislative covered bond an *ex post* confirmation by external auditors or cover pool monitors that the EEA legislative covered bond is not part of an intragroup pooled covered bond structure issued in line with the relevant national measures transposing Article 8 of Directive (EU) 2019/2162, in breach of paragraph 3(b)(i), and that the cover pool of EEA legislative covered bonds does not include, in breach of paragraph 3(b)(ii), unsecured bank bonds which are issued by that counterparty or any other entity closely linked to that counterparty, and are fully guaranteed by one or several EEA public sector entities which have the right to levy taxes.

- (d) If the counterparty does not provide the self-certification or confirmation referred to in points (b) and (c) upon request from the Bank, the EEA legislative covered bond shall not be mobilised as collateral by that counterparty.

#### *Article 138a*

### **Use of debt instruments in connection with in-kind recapitalisation with public debt instruments**

Public debt instruments used in an in-kind recapitalisation of a counterparty may only be used as collateral by that counterparty or by any other counterparty which has ‘close links’, as defined in Article 138(2), to that counterparty if the Eurosystem considers that the level of market access of their issuer is adequate, also taking into account the role played by such instruments in the recapitalisation.

#### *Article 139*

### **Use of guaranteed unsecured debt instruments issued by a counterparty or its closely linked entity**

In exceptional cases, the ECB’s Governing Council may decide on temporary derogations from Article 138(1), by allowing a counterparty to use unsecured debt instruments issued by that counterparty or any other entity closely linked to that counterparty, and fully guaranteed by one or several EEA public sector entities which have the right to levy taxes, for a maximum of three years. A request for a derogation shall be accompanied by a funding plan by the requesting counterparty that indicates the manner in which the mobilisation of the respective assets will be phased out within three years following the granting of the derogation. Such a derogation shall only be provided where the nature of the guarantee provided by one or several EEA central governments, regional governments, local authorities or other public sector entities which have the right to levy taxes complies with the requirements for guarantees laid down in Article 114.

#### *Article 140*

### **Close links with respect to asset-backed securities and currency hedges**

A counterparty may not mobilise as collateral any asset-backed securities if the counterparty, or any entity with which it has close links, as laid down in Article 138, provides a currency hedge to the asset-backed securities by entering into a currency hedge transaction with the issuer as a hedge counterparty.

### Article 141

#### **Limits with respect to unsecured debt instruments issued by credit institutions and their closely linked entities**

1. A counterparty shall not submit or use as collateral unsecured debt instruments issued by a credit institution, or by any other entity with which that credit institution has close links, to the extent that the value of such collateral issued by that credit institution or other entity with which it has close links taken together exceeds 2.5 % of the total value of the assets used as collateral by that counterparty after the applicable haircut. This threshold shall not apply in the following cases:
  - (a) if the value of such assets does not exceed EUR 50 million after any applicable haircut;
  - (b) if such assets are guaranteed by a public sector entity which has the right to levy taxes by way of a guarantee that complies with the features laid down in Article 114; or
  - (c) if such assets are issued by an agency, a multilateral development bank or an international organisation.
2. If a close link is established or a merger takes place between two or more issuers of unsecured debt instruments, the threshold in paragraph 1 shall apply from three months after the date on which the close link is established or the merger becomes effective.
3. For the purposes of this Article, “close links” between an issuing entity and another entity has the same meaning as “close links” between a counterparty and another entity, as referred to in Article 138.

### Article 142

#### **Liquidity support in respect of asset-backed securities**

1. With effect from 1 November 2015, a counterparty may not mobilise as collateral any asset-backed securities if the counterparty or any entity with which it has close links provides liquidity support as specified below. The Eurosystem takes into account two forms of liquidity support for asset-backed securities: cash reserves and liquidity facilities.
2. For liquidity support in the form of cash reserves, a counterparty shall not be permitted to mobilise as collateral any asset-backed securities if the following three conditions are met simultaneously:
  - (a) the counterparty has close links with the issuer account bank in the asset-backed securities transaction;
  - (b) the current amount of the reserve fund of the asset-backed securities transaction is greater than 5% of the initial outstanding amount of all senior and subordinated tranches of the asset-backed securities transaction;
  - (c) the current amount of the reserve fund of the asset-backed securities transaction is greater than 25% of the current outstanding amount of the subordinated tranches of the asset-backed securities transaction.

3. For liquidity support in the form of liquidity facilities, a counterparty shall not be permitted to mobilise as collateral any asset-backed securities if the following two conditions are met simultaneously:
  - (a) the counterparty has close links with a liquidity facility provider; and
  - (b) the current amount of the liquidity facility of the asset-backed securities transaction is greater than 20% of the initial outstanding amount of all senior and subordinated tranches of the asset-backed securities transaction.
4. Close links in respect of this Article shall have the same meaning as laid down in Article 138(2).

[Article 143 has been deleted reflecting the repeal of the equivalent article in the General Documentation Guideline by Guideline ECB/2016/31.]

#### *Article 144*

##### **Non-acceptance of eligible assets for operational reasons**

Irrespective of the fact that an asset is eligible, the Bank may, for operational reasons, request the counterparty to remove such asset before the occurrence of a cash flow, including payment of principal or coupons.

#### *Article 144a*

##### **Eligible assets with negative cash flows**

1. A counterparty shall remain liable for the timely payment of any amount of negative cash flows related to eligible assets submitted or used by it as collateral.
2. If a counterparty fails to effect timely payment of the cashflows referenced in paragraph 1, the Bank may, but is not obliged to, discharge the relevant payment. A counterparty shall refund the Bank, immediately upon request from the Bank, of any amount of negative cash flows paid by the Bank as a result of the counterparty's failure. If a counterparty fails to make a timely payment of a cashflow referenced in paragraph 1, the Bank shall have the right to debit immediately and without prior notification an amount equal to the amount the Bank paid on behalf of such counterparty either from:
  - (a) the relevant counterparty's payment module (PM) account in TARGET2-Ireland, as provided for in Article 36(6) of Annex II to Guideline ECB/2012/27; or
  - (b) with the prior authorisation of a settlement bank, the TARGET2-Ireland PM account of a settlement bank, used for the relevant counterparty's Eurosystem credit operations; or
  - (c) any other account that can be used for Eurosystem monetary policy operations and that the relevant counterparty has with the Bank.

3. Any amount paid by the Bank under paragraph 2 that is not refunded by a counterparty immediately upon request and that cannot be debited by the Bank from any relevant account as provided for under paragraph 2, shall be considered as a credit from the Bank, for which a sanction is applicable in accordance with Article 154.

#### *Article 145*

### **Notification, valuation and removal of assets that are ineligible or contravene the rules for the use of eligible assets**

1. If a counterparty has submitted or used assets that it is not or is no longer permitted to use as collateral, including due to the identity of the issuer, debtor or guarantor, or the existence of close links, it shall immediately notify the Bank thereof.
2. The assets referred to in paragraph 1 shall be valued at zero on the next valuation date at the latest and a margin call may be triggered.
3. A counterparty that has submitted or used any assets referred to in paragraph 1 shall remove such assets on the earliest possible date.
4. A counterparty shall provide the Bank with accurate and up-to-date information affecting the value of collateral.

#### *Article 146*

### **Sanctions for non-compliance with the rules for the use of eligible assets**

Non-compliance with the rules laid down in this Title shall be subject to sanctions, as applicable, in accordance with Articles 154 to 157. Sanctions shall be applicable, regardless of whether a counterparty is actively participating in monetary policy operations.

#### *Article 147*

### **Information sharing within the Eurosystem**

For monetary policy implementation purposes, in particular to monitor compliance with the rules for the use of eligible assets, the Eurosystem shall share information on capital holdings provided by the competent authority for such purposes. The information shall be subject to the same secrecy standards as those applied by the competent authority.

## TITLE IX

### Cross-Border Use of Eligible Assets

#### Article 148

##### General principles

1. Counterparties may use eligible assets on a cross-border basis throughout the euro area for all types of Eurosystem credit operations.
2. Counterparties may mobilise eligible assets other than fixed-term deposits, for cross-border use in accordance with the following:
  - (a) marketable assets shall be mobilised via one of the following: (i) eligible links; (ii) applicable CCBM procedures; (iii) eligible links in combination with the CCBM procedures; and
  - (b) DECCs and RMBDs shall be mobilised in accordance with applicable CCBM procedures; and
  - (c) credit claims shall be mobilised either (i) via applicable CCBM procedures or (ii) in accordance with domestic procedures, as laid down in the relevant national documentation of the home NCB;
3. Marketable assets may be used through an NCB account in an SSS located in a country other than Ireland if the Eurosystem has approved the use of such an account.
4. The Bank has been authorised to open an account as provided for by paragraph 3 with Euroclear Bank SA/NV. This account can be used for all eligible assets held in Euroclear Bank SA/NV including eligible assets transferred to Euroclear Bank SA/NV through eligible links.
5. Counterparties shall execute the transfer of eligible assets *via* their securities settlement accounts with an eligible SSS.
6. A counterparty that does not have a safe custody account with the Bank or a securities settlement account with an eligible SSS may settle transactions through the securities settlement account or the safe custody account of a correspondent credit institution.

#### Article 149

##### CCBM

1. Under the CCBM, the cross-border relationship is between the NCBs. The NCBs act as custodians (hereinafter the ‘correspondents’) for each other and for the ECB in respect of marketable assets accepted in their local depository, TPA or settlement system. Specific procedures apply under the CCBM for credit claims and MBPNs. Details on the CCBM and the applicable procedures are set out in Annex VI and in the brochure entitled ‘Correspondent central banking model (CCBM) procedure for Eurosystem counterparties’, which is published on the ECB’s website.
2. Assets deposited with a correspondent central bank shall only be used to collateralise Eurosystem credit operations.

3. For the cross-border use of credit claims by counterparties with the Bank, the credit claim shall be mobilised using the CCBM referenced in paragraph 1 above. In this context, the NCB of the Member State whose laws govern the credit claim in question shall act as the correspondent central bank (CCB), while the Bank shall act as the home central bank (HCB). The CCB shall act as agent of the Bank and the Bank's interest in a credit claim offered as collateral shall be secured by a legal technique applied by the CCB. In order to be able to offer credit claims to the Bank as collateral on a cross-border basis, a counterparty shall comply with this Document, the framework agreement in respect of Eurosystem operations secured over collateral pool assets and also any additional terms and conditions specified by the relevant CCB.
4. In accordance with the requirements in Article 103(4), where a counterparty of the Bank wishes to mobilise a credit claim on a cross-border basis, it is required to register the details of the security interest taken in that credit claim at the Irish companies registration office.
5. Under the pooling system used by the Bank, once the Bank has been informed by the CCB that collateral has been received, it shall update the total liquidity value of the counterparty's collateral pool and, if applicable, its intraday credit line in TARGET2-Ireland, in accordance with this Document and the framework agreement in respect of Eurosystem operations secured over collateral pool assets.

#### *Article 150*

##### **Eligible links between SSSs**

1. In addition to the CCBM, counterparties may use eligible links for the cross-border transfer of marketable assets. The ECB shall publish the list of eligible links on its website.
2. Assets held through an eligible link may be used for Eurosystem credit operations, as well as for any other purpose selected by the counterparty.
3. The rules on the use of eligible links are set out in Annex VI.

#### *Article 151*

##### **CCBM in combination with eligible links**

1. Counterparties may use eligible links in combination with the CCBM to mobilise eligible marketable assets on a cross-border basis.
2. When using eligible links between SSSs in combination with the CCBM, counterparties shall hold the assets issued in the issuer SSS in an account with an investor SSS directly or *via* a custodian.
3. Assets mobilised under paragraph 2 may be issued in a non-euro area EEA SSS that the Eurosystem has assessed as compliant with the eligibility criteria laid down in Annex VIa, provided that there is an eligible link between the issuer SSS and the investor SSS.
4. The rules on the use of CCBM in combination with eligible links are set out in Annex VI.

## Article 152

### **CCBM and tri-party collateral management services**

1. Cross-border tri-party collateral management services shall allow a counterparty to increase or decrease the amount of collateral which it mobilises with its home NCB, through recourse to collateral held with a TPA.
2. The CCBM (including the CCBM in combination with eligible links) may be used as a basis for the cross-border use of tri-party collateral management services. Cross-border use of tri-party collateral management services shall involve an NCB, where tri-party collateral management services are offered for cross-border Eurosystem use, acting as a correspondent for NCBs whose counterparties have requested to use such tri-party collateral management services on a cross-border basis for the purposes of Eurosystem credit operations.

In order to provide its tri-party collateral management services for cross-border use by the Eurosystem in accordance with the first subparagraph, the relevant TPA shall comply with the set of additional functional requirements laid down by the Eurosystem, as referred to in the “Correspondent central banking model (CCBM) – Procedures for Eurosystem counterparties” (Section 2.1.3, second paragraph).

3. A table detailing the use of CCBM with tri-party collateral management services is laid down in Annex VI.

## PART FIVE

# Sanctions in the Event of a Failure to Comply with Counterparty Obligations

### Article 153

#### Sanctions for non-compliance as regards minimum reserves

1. The ECB shall impose sanctions pursuant to Regulation (EC) No 2532/98, Regulation (EC) No 2157/1999 (ECB/1999/4), Regulation (EC) No 2531/98, Regulation (EU) 2021/378 (ECB/2021/1) and Decision (EU) 2021/1815 of the European Central Bank (ECB/2021/45)<sup>26</sup> on institutions which do not comply with obligations arising from ECB regulations and decisions relating to the application of minimum reserves. The relevant sanctions and procedural rules for their application are specified in those legal acts.
2. Without prejudice to paragraph 1, in the event of a serious infringement of the minimum reserve requirements, the Eurosystem may suspend a counterparty's participation in open market operations.

### Article 154

#### Sanctions for non-compliance with certain operational rules

1. In accordance with the provisions of this Document, the Bank shall impose one or more sanctions if a counterparty fails to comply with any of the following obligations:
  - (a) as regards reverse transactions and foreign exchange swaps for monetary policy purposes, the obligations, as laid down in Article 15, to adequately collateralise and settle the amount the counterparty has been allotted over the whole term of a particular operation including any outstanding amount of a particular operation in the case of early termination executed by the Bank over the remaining term of an operation;
  - (b) as regards collection of fixed-term deposits, outright transactions and the issuance of ECB debt certificates, the obligation to settle the transaction, as laid down in Article 16;
  - (c) as regards the use of eligible assets, the obligation to mobilise or use only eligible assets and comply with the rules for the use of eligible assets in Title VIII of Part Four;
  - (d) as regards end-of-day procedures and access conditions for the marginal lending facility, in cases where there is any remaining negative balance on a counterparty's settlement account in TARGET2-Ireland after finalisation of the end-of-day control procedures and an automatic request for recourse to the marginal lending facility is therefore considered to arise, as laid down in Article 19(6), the obligation to present sufficient eligible assets in

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<sup>26</sup> Decision (EU) 2021/1815 of the European Central Bank of 7 October 2021 on the methodology applied for the calculation of sanctions for non-compliance with the requirement to hold minimum reserves and related minimum reserve requirements (ECB/2021/45) (OJ L 367, 15.10.2021, p. 4).

advance as collateral or, in the case of a counterparty whose access to Eurosystem monetary policy operations has been limited pursuant to Article 158, the obligation to keep its recourse to Eurosystem monetary policy operations within the defined limit;

- (e) any payment obligations pursuant to Article 144a(3).
2. A sanction imposed pursuant to this Article shall involve:
- (a) a financial penalty only; or
  - (b) both a financial penalty and a non-financial penalty.

### *Article 155*

#### **Financial penalties for non-compliance with certain operational rules**

1. If a counterparty fails to comply with any of the obligations referred to in Article 154(1), the Eurosystem shall impose a financial penalty for each case of non-compliance. The applicable financial penalty shall be calculated in accordance with Annex VII.
  2. Where a counterparty rectifies a failure to comply with an obligation referred to in Article 154(1)(c), and notifies the Bank before the counterparty has been notified of the non-compliance by the Bank, ECB or an external auditor (“self-reported infringement”), the applicable financial penalty as calculated in accordance with Annex VII shall be reduced by 50%. The reduction of the financial penalty shall also be applicable in cases where the counterparty notifies the Bank of a breach that was not discovered by the ECB or the Bank and in relation to assets that have been demobilised. The reduction of the financial penalty shall not be applicable to assets that fall under the scope of an ongoing verification procedure of which the counterparty is aware due to a notification by the Bank, ECB or an external auditor.
- 2a. Where the calculation of a financial penalty in accordance with Annex VII, following the application of the reduction of 50% provided for in paragraph 2, results in an amount of less than EUR 500, the minimum financial penalty of EUR 500 shall be imposed.

### *Article 156*

#### **Non-financial penalties for non-compliance with certain operational rules**

1. If a counterparty fails to comply with an obligation referred to in either Article 154(1)(a) or (b) on more than two occasions in a 12-month period and in respect of each failure:
  - (a) a financial penalty was imposed;
  - (b) each decision to impose a financial penalty was notified to the counterparty;
  - (c) each occasion of non-compliance relates to the same type of non-compliance,

the Eurosystem shall suspend the counterparty on the occasion of the third failure and each such subsequent failure to comply with an obligation of that same type in the relevant 12-month period.

The 12-month period shall be calculated from the date of the first failure to comply with an obligation referred to in either Article 154(1)(a) or (b), as applicable.

2. Any suspension imposed by the Eurosystem under paragraph 1 shall apply in respect of any subsequent open market operation which is of the same type as the open market operation which resulted in a sanction under paragraph 1.
3. The period of suspension imposed in accordance with paragraph 1 shall be determined in accordance with Annex VII.
4. If a counterparty fails to comply with an obligation referred to in Article 154(1)(c) on more than two occasions in a 12-month period and in respect of each failure:
  - (a) a financial penalty was imposed;
  - (b) each decision to impose a financial penalty was notified to the counterparty;
  - (c) each occasion of non-compliance relates to the same type of non-compliance,

the Eurosystem shall, on the occasion of the third failure to comply, suspend the counterparty from the first liquidity-providing open market operation within the reserve maintenance period following the notification of the suspension.

If subsequently the counterparty again fails to comply, it shall be suspended from the first liquidity-providing open market operation within the reserve maintenance period following notification of suspension until a 12-month period lapses without any further such failure on the part of the counterparty.

Each 12-month period shall be calculated from the date of the notification of a sanction for failure to comply with an obligation referred to in Article 154(1)(c). Second and third breaches committed within 12 months from that notification will be taken into account.

5. In exceptional cases, the Eurosystem may suspend a counterparty for a period of three months in respect of all future Eurosystem monetary policy operations for any failure to comply with any of the obligations laid down in Article 154(1). In such a case, the Eurosystem shall have regard to the seriousness of the case and, in particular, to the amounts involved and to the frequency and duration of non-compliance.
6. The period of suspension imposed by the Eurosystem pursuant to this Article shall be applied in addition to the relevant financial penalty applicable in accordance with Article 155.

### *Article 157*

#### **Application of non-financial penalties to branches for non-compliance with certain operational rules**

When the Eurosystem suspends a counterparty in accordance with Article 156(5), that suspension may also be applied to branches of that counterparty established in other Member States whose currency is the euro.

## PART SIX

# Discretionary Measures

### *Article 158*

#### **Discretionary measures on the grounds of prudence or following an event of default**

1. On the grounds of prudence, the Bank may take any of the following measures:
  - (a) suspend, limit or exclude a counterparty's access to Eurosystem monetary policy operations, pursuant to any contractual or regulatory arrangements applied by the Bank or by the ECB;
  - (b) reject, limit the use of or apply supplementary haircuts to assets mobilised as collateral in Eurosystem credit operations by a specific counterparty on the basis of any information the Bank considers relevant, in particular if the credit quality of the counterparty appears to exhibit a high correlation with the credit quality of the assets mobilised as collateral.
2. Counterparties that are subject to supervision as referred to in Article 55(b)(i) but which do not meet the own funds requirements laid down in Regulation (EU) No 575/2013, on an individual and/or consolidated basis, in accordance with the supervisory requirements, and counterparties that are subject to supervision of a comparable standard as referred to in Article 55(b)(iii) but which do not meet requirements comparable to the own funds requirements laid down in Regulation (EU) No 575/2013, on an individual and/or consolidated basis, shall automatically have their access to Eurosystem monetary policy operations limited on the grounds of prudence. The limitation shall correspond to the level of access to Eurosystem monetary policy operations prevailing at the time such non-compliance is notified to the Eurosystem. This limitation is without prejudice to any further discretionary measure that the Eurosystem may take. If compliance with own funds requirements has not been restored through adequate and timely measures at the latest within 20 weeks from the reference date of the data collection exercise in which the non-compliance was identified, counterparties shall be automatically suspended from accessing Eurosystem monetary policy operations on the grounds of prudence.
3. In the context of its assessment of financial soundness of a counterparty pursuant to Article 55(c) and without prejudice to any other discretionary measures, the Eurosystem may limit, on the grounds of prudence, access to Eurosystem monetary policy operations by the following counterparties:
  - (a) counterparties for which information on capital and/or leverage ratios under Regulation (EU) No 575/2013 is incomplete or not made available to the Bank and the ECB in a timely manner and at the latest within 14 weeks from the end of the relevant quarter;
  - (b) counterparties which are not required to report capital and leverage ratios under Regulation (EU) No 575/2013 but for which information of a comparable standard as referred to in Article 55(b)(iii) is incomplete or not made available to the Bank and the ECB in a timely manner and at the latest within 14 weeks from the end of the relevant quarter.

Access shall be restored once the relevant information has been made available to the Bank and it has been determined that the counterparty fulfils the criterion of financial soundness pursuant to Article 55(c). If the relevant information has not been made available at the latest within 20 weeks from the end of the relevant quarter, the counterparty's access to Eurosystem monetary policy operations shall be automatically suspended on the grounds of prudence.

- 3a. The Eurosystem may suspend, limit or exclude, on the grounds of prudence, access to monetary policy operations by counterparties that channel Eurosystem liquidity to another entity that belongs to the same banking “group” (as defined in point (26) of Article 2(1) of Directive 2014/59/EU and point (11) of Article 2 of Directive 2013/34/EU of the European Parliament and of the Council<sup>27</sup>) where the entity receiving such liquidity is (i) a non-eligible wind-down entity or (ii) subject to a discretionary measure on the grounds of prudence.
4. Without prejudice to any other discretionary measures, the Bank shall, on the grounds of prudence, limit access to Eurosystem monetary policy operations by counterparties deemed to be ‘failing or likely to fail’ by the relevant authorities based on the conditions laid down in Article 18(4)(a) to (d) of Regulation (EU) No 806/2014 or laid down in Regulation 62(3) of the European Union (Bank Recovery and Resolution) Regulations 2015, S.I. No 289 of 2015 (the “BRRD Regulations”) . The limitation shall correspond to the level of access to Eurosystem monetary policy operations prevailing at the time when such counterparties are deemed to be ‘failing or likely to fail’. The limitation of access shall be automatic vis-à-vis the relevant counterparty, without necessitating a specific decision, and the limitation of access shall be effective on the day following the day on which the relevant authorities deem the relevant counterparty “failing or likely to fail”. This limitation is without prejudice to any further discretionary measures that the Bank may take.
5. In addition to limiting access to Eurosystem monetary policy operations under paragraph 4, the Bank may, on the grounds of prudence, suspend, further limit or exclude counterparties from accessing Eurosystem monetary policy operations if they are deemed to be “failing or likely to fail” under paragraph 4 and they meet any of the following:
  - (a) are not made subject to a resolution action by the resolution authority because there are reasonable prospects that an alternative private sector measure or supervisory action, as referred to in Article 18(1)(b) of Regulation (EU) No 806/2014 and Regulation 62(1)(b) of the BRRD Regulations, would prevent the failure of the institution within a reasonable timeframe, in view of the development of the alternative private sector measure of supervisory action;
  - (b) are assessed as meeting the conditions for resolution pursuant to Article 18(1) of Regulation (EU) No 806/2014 or Regulation 62(1) of the BRRD Regulations, in view of the development of the resolution action;

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<sup>27</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ, L 182, 29.6.2013).

- (c) result from a resolution action as defined under Article 3(1) of Regulation (EU) No 806/2014 and Regulation 3(1) of the BRRD Regulations or from an alternative private sector measure or supervisory action as referred to in Article 18(1)(b) of Regulation (EU) No 806/2014 and Regulation 62(1)(b) of the BRRD Regulations.
6. Beyond a limitation of access to Eurosystem monetary policy operations pursuant to paragraph 4, the Bank shall suspend, further limit or exclude from access to Eurosystem monetary policy operations on the grounds of prudence counterparties which have been deemed to be ‘failing or likely to fail’ but for which neither a resolution action has been provided for nor are there reasonable prospects that an alternative private sector measure or supervisory action would prevent the failure of the institution within a reasonable timeframe as referred to in Article 18(1)(b) of Regulation (EU) No 806/2014 and Regulation 62(1)(b) of the BRRD Regulations.
  7. In the event that a discretionary measure is based on prudential information, the Eurosystem shall use any such information, provided either by supervisors or by counterparties, in a manner strictly commensurate with, and necessary for, the performance of the Eurosystem’s tasks of conducting monetary policy.
  8. In the case of an occurrence of an event of default, the Bank may suspend, limit or exclude access to Eurosystem monetary policy operations with regard to counterparties that are in default pursuant to this Document and/or relevant collateral mobilisation agreement(s).
  9. All discretionary measures of the Bank shall be applied in a proportionate and non-discriminatory manner and shall be duly justified by the Bank.

### *Article 159*

#### **Discretionary measures relating to the Eurosystem’s credit quality assessment**

1. The Eurosystem shall determine whether an issue, issuer, debtor or guarantor fulfils the Eurosystem’s credit quality requirements on the basis of any information it considers relevant.
2. The Eurosystem may reject, limit the mobilisation or use of assets or apply supplementary haircuts on the grounds provided for in paragraph 1, if such decision is required in order to ensure adequate risk protection of the Eurosystem.
3. In the event that a rejection as referred to in paragraph 2 is based on prudential information, the Eurosystem shall use any such information, transmitted either by counterparties or by supervisors, in a manner that is strictly commensurate with, and necessary for, the performance of the Eurosystem’s tasks of conducting monetary policy.
4. The Eurosystem may exclude the following assets from the list of eligible marketable assets:
  - (a) assets issued, co-issued, serviced or guaranteed by counterparties, or entities closely linked to counterparties subject to freezing of funds and/or other measures imposed by the Union under Article 75 of the Treaty or by a Member State restricting the use of funds; and/or

- (b) assets issued, co-issued, serviced or guaranteed by counterparties, or entities closely linked to counterparties in respect of which the Eurosystem has suspended, limited or excluded their access to Eurosystem monetary policy operations.

## PART SEVEN

# Additional Legal Requirements

### *Article 160*

#### **Events of default**

If any of the events, or any combination of the events set out in (a) to (x) below, occur in relation to the counterparty, an event of default shall be considered to have occurred:

- (a) any representation or warranty made or deemed to be made or repeated by the counterparty in the context of any specific Eurosystem monetary policy operation or transaction or under any applicable law was or is incorrect in any material respect when made or deemed to be made or repeated; or
- (b) the counterparty defaults in the due and punctual performance of any of the other provisions of this Document or in the context of any specific operation or transaction and (if, in the Bank's determination, capable of remedy) fails to remedy such default within such period as the Bank may designate (not to exceed 30 days) after notice is given by the Bank requiring such default to be remedied and designating the time period for remedy thereof; or
- (c) the counterparty ceases or threatens to cease to carry on its business or any substantial part thereof; or
- (d) a decision is made by a competent judicial or other authority to implement in relation to the counterparty or any of its subsidiaries a procedure for the winding-up of or the appointment of a liquidator or analogous officer over the counterparty or any such subsidiary as the case may be or any other analogous procedure; or
- (e) a decision is made by a competent judicial or other authority to implement a reorganisation measure or other analogous procedure intended to safeguard or restore the financial situation of, and to avoid the making of a decision of the kind referred to in (d) above in relation to, the counterparty or any of its subsidiaries; or
- (f) a petition is presented for the appointment of an examiner pursuant to Section 2 of the Companies (Amendment) Act, 1990, as amended, in relation to the counterparty or any of its subsidiaries or an examiner is appointed to the counterparty or any of its subsidiaries; or
- (g) a petition (not being a petition falling within (f) above or a procedural step falling within (j) below) is filed or presented in respect of the counterparty or any of its subsidiaries (other than by the Bank in respect of any obligation under this Document) in any court or before any agency alleging or for the bankruptcy, winding-up or other insolvency of the counterparty or any of its subsidiaries (or any analogous proceeding) or seeking any reorganisation, arrangement, composition, re-adjustment, liquidation, dissolution or similar relief (other than a solvent reconstruction, amalgamation or reorganisation to which the

- Bank has given its prior written consent) under any present or future statute, law or regulation, such petition not having been stayed or dismissed within 30 days of its filing; or
- (h) there is appointed a receiver, trustee or analogous officer to the counterparty or any of its subsidiaries or over all or any material part of the property of the counterparty or of any of its subsidiaries, unless the Bank has given its prior written confirmation that the Bank will not serve notice of the occurrence of an event of default on the basis of such appointment; or
  - (i) a declaration by the counterparty or any of its subsidiaries in writing, of its inability to pay all or any of its debts or to meet its obligations, or a voluntary general agreement or arrangement entered into by the counterparty or any of its subsidiaries with its creditors, or the counterparty or any of its subsidiaries is, or is deemed to be, insolvent or is deemed to be unable to pay its debts; or
  - (j) procedural steps preliminary to any matter referred to in (d), (e), (f) or (h) above being taken; or
  - (k) the counterparty or any of its subsidiaries has an authorisation to conduct activities under either (a) Directive 2013/36/EU and Regulation (EU) No 575/2013; or (b) Directive 2004/39/EC, as implemented in the relevant Member State whose currency is the euro, is suspended or revoked; or
  - (l) the counterparty or any of its subsidiaries is suspended or expelled from membership of any payment system or arrangement through which payments under monetary policy transactions are made or is suspended or expelled from membership of any SSS used for the settlement of Eurosystem monetary policy operations or any other securities exchange or association or other self-regulating organisation concerned with dealing in securities, or suspended or prohibited from dealing in securities by any government agency; or
  - (m) measures such as are referred to in Articles 41(1), 43(1) and 44 of Directive 2013/36/EU relating to the taking up and pursuit of the business of credit institutions are taken against the counterparty or any of its subsidiaries; or
  - (n) an event of default occurs in relation to the counterparty or any of its subsidiaries including any branch of that counterparty or subsidiary as the case may be, under any agreement, arrangement or transaction entered into by it including any branch of it with any other members of the Eurosystem for the purpose of effecting monetary policy operations where any other member has exercised its right to close out under any such agreement, arrangement or transaction; or
  - (o) any event analogous to any of the events at (d) to (j), inclusive, above occurs in any jurisdiction in relation to the counterparty or any of its subsidiaries; or
  - (p) the counterparty ceases to be entitled to operate, or ceases to operate the settlement account or, where the settlement account is opened in the name of a third party, such third party ceases to be so entitled or to so operate or withdraws its consent to the designation thereof as the settlement account for the purposes of this Document; or

- (q) the counterparty fails to comply with the Eurosystem’s rules concerning the use of securities the subject of a transaction; or
- (r) the counterparty fails to provide to the Bank any information relevant to the Eurosystem’s monetary policy operations, which failure causes severe consequences for the Bank; or
- (s) the counterparty becomes subject to the freezing of funds and/or other measures imposed by the EU under Article 75 of the Treaty restricting the Counterparty’s ability to use its funds; or
- (t) the counterparty becomes subject to the freezing of funds and/or other measures imposed by a Member State restricting the Counterparty’s ability to use its funds; or
- (u) all or a substantial part of the counterparty’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 counterparty’s creditors; or
- (v) all or a substantial part of the counterparty’s assets are assigned to another entity; or
- (w) any other impending or existing event the occurrence of which may threaten the performance by the counterparty of its obligations under the arrangement it entered into for the purpose of effecting monetary policy operations or any other rules applying to the relationship between the counterparty and any of the central banks of the Eurosystem; or
- (x) an event of default (not materially different from any event of default falling within sub-clauses (a) to (w) of this Article) occurs in relation to the counterparty or any of its subsidiaries under any agreement concluded with any other member of the Eurosystem entered into for the purposes of the management of the foreign reserves or own funds of any such member of the Eurosystem,

and, except in the case of an event which arises in relation to the counterparty and falls within sub-clauses (d) or (o) or (s) (in the case of (o), to the extent that it relates to sub-clause (d)) of this Article, the Bank serves written notice on the counterparty stating that such an event shall be treated as an event of default for the purposes of this Document.

### *Article 161*

#### **Remedies in the event of default or on the grounds of prudence**

1. Certain consequences of the events of default as specified in Article 160 for certain of the Eurosystem monetary policy operations which are the subject of this Document are set out in applicable collateral mobilisation agreement(s). Without prejudice to the continued application of the provisions of any such collateral mobilisation agreement providing for such consequences, the remedies set out in this Article may be exercised by Bank in relation to all instruments and procedures that are the subject of this Document upon the occurrence of an event of default as outlined in Article 160 or, if the Bank determines it appropriate to do so, on grounds of prudence, with respect to the counterparty.

2. Further to paragraph 1, if an event of default occurs, or on the grounds of prudence, the Bank may exercise any of the following remedies:
  - (a) suspending, limiting or excluding the counterparty from access to open market operations;
  - (b) suspending, limiting or excluding the counterparty from access to the standing facilities;
  - (c) immediately terminating all outstanding agreements and transactions such that the obligations of the parties thereunder fall due;
  - (d) demanding accelerated performance of claims that have not yet matured or are contingent;
  - (e) using deposits of the counterparty placed with the Bank to set off claims against that counterparty;
  - (f) suspending the performance of obligations against the counterparty until the claim on the counterparty has been satisfied.

Any amount (each, a "relevant amount") payable by one party (the "payer") to the other (the "payee") upon any termination in accordance with the remedies above or otherwise pursuant to the arrangements provided for under this Document shall, at the option of the Bank, be reduced by its set-off against any amount(s) (an "other amount" which, for the avoidance of doubt, may include any other relevant amount or arise under any other agreement(s) between the payee and the payer or instrument(s) or undertaking(s) issued or executed by either of them to, or in favour of, the other) payable (whether at such time or in the future or upon the occurrence of a contingency) by the payee to the payer (irrespective of the currency, place of payment or booking office of the obligation).

Each of any relevant amount and other amount so set off shall be discharged promptly and in all respects to the extent that it is so set-off. The Bank shall give notice to the counterparty of any set-off effected under this Article. For this purpose, if another amount (or the relevant portion of such amounts) is not denominated in euro, it shall be converted into euro at the ECB daily euro foreign exchange reference rate or, if not available, the spot rate of exchange indicated by the ECB on the Bank business day before the day on which the conversion is to be made for the sale by it of euro against a purchase by it of the currency in which such sum is denominated. If another amount is unascertained, the Bank may in good faith estimate that obligation and set-off in respect of the estimate, subject to its accounting to the counterparty when the obligation is ascertained.

3. If an event of default occurs, the Bank may exercise any of the following remedies, in addition to the remedies referred to in paragraph 2:
  - (a) claiming default interest; and
  - (b) claiming an indemnity for any losses sustained as a consequence of a default by the counterparty.
4. The Bank may, on the grounds of prudence, limit the use of or apply supplementary haircuts to assets mobilised as collateral in Eurosystem credit operations by counterparties.

- 4a. The Bank may impose a financial penalty for a failure of a counterparty to reimburse or pay, in full or in part, any amount of the credit or of the repurchase price, or to deliver the purchased assets, at maturity or when otherwise due, in the event that no remedy is available to it pursuant to Article 161(3). The financial penalty shall be calculated in accordance with Annex VII, Section III to this Document, taking into account the amount of cash that the counterparty could not pay or reimburse, or of the assets the counterparty could not deliver, and the number of calendar days during which the counterparty did not pay, reimburse or deliver.
5. The Bank shall be in a legal position to realise all assets provided as collateral without undue delay and in such a manner as to entitle the Bank to realise value for the credit provided, if the counterparty does not settle its negative balance promptly, as further outlined in the relevant collateral mobilisation agreement(s).
6. In order to ensure the uniform implementation of the measures imposed, the ECB's Governing Council may decide on the remedies, including suspension, limitation or exclusion from access to open market operations or standing facilities.

## PART SEVEN A

# Special Provisions in the Event of a TARGET2 Disruption Over Several Business Days

### *Article 161a*

#### **Prolonged TARGET2 disruption over several business days**

1. The ECB may declare a disruption of the TARGET2 system which impairs the normal processing of payments to be a “prolonged TARGET2 disruption over several business days” if:
  - (a) the contingency solution as referred to in point (86) of Article 2 of Guideline ECB/2012/27 is activated as a result of the interruption; and
  - (b) the disruption lasts or is expected by the ECB to last more than one business day.

Regular monetary policy operations may be delayed or cancelled upon activation of the contingency solution as referred to in point (a).

2. The declaration referred in paragraph 1 shall be communicated via the ECB’s website. As a part of such a declaration, or subsequent to it, the ECB shall communicate the consequences of the disruption for specific monetary policy operations and instruments.
3. Following a declaration made pursuant to this Article, special measures and provisions relating to certain monetary policy operations and instruments may apply, as specified in this Document and in particular in Articles 161b, 161c, and 161d.
4. Once the disruption of the TARGET2 system is resolved, the ECB shall issue a communication via the ECB’s website stating that the special measures and provisions adopted due to that prolonged TARGET2 disruption over several business days are no longer applicable.

### *Article 161b*

#### **Processing of Eurosystem monetary policy operations in the event of a prolonged TARGET2 disruption over several business days**

In the event of a declaration of a prolonged TARGET2 disruption over several business days pursuant to Article 161a, the following provisions may apply in relation to the processing of Eurosystem monetary policy operations.

- (a) The settlement of open market operations in euro as set out in Title III, Chapter 2 of this Document shall not be processed via the contingency solution as defined in point (86) of Article 2 of Guideline ECB/2012/27. As a consequence, the settlement of such operations may be delayed until normal TARGET2 operations resume.
- (b) The interest payments of such operations shall be calculated either (i) as if no delay had occurred in the settlement of the operations or (ii) according to the actual duration,

whichever results in a lower payable or higher receivable interest amount for the counterparty.

- (c) The Eurosystem shall offset in the calculation of the interest payment calculated in accordance with point (b) any extra current account balance remuneration the counterparty is entitled to receive, or obliged to pay in case of negative rates, as a consequence of the delayed settlement.
- (d) The interest shall be paid out or received when the ECB issues the communication referred to in Article 161a(4).

### *Article 161c*

#### **Access to the marginal lending facility in the event of a prolonged TARGET2 disruption over several business days**

In the event of a declaration of a prolonged TARGET2 disruption over several business days pursuant to Article 161a, the following provisions may apply in relation to access to the marginal lending facility.

- (a) Notwithstanding Article 19(6), a negative balance on a counterparty's settlement account with its home NCB at the end of the day shall be treated as intraday liquidity and remunerated at an interest rate of zero.
- (b) An interest rate of zero shall be applied to any outstanding credit in the marginal lending facility as set out in Article 20 granted on the day before activation of the contingency solution. That interest rate shall be applied for the period of the disruption. Any credit granted under the marginal lending facility and settled in real time on the day of but before the declaration of the prolonged TARGET2 disruption over several business days shall be treated as credit granted on the business day when the prolonged TARGET2 disruption over several business days is resolved. Interest payable for any credit received under the marginal lending facility shall be payable together with repayment of the marginal lending facility credit only after the contingency solution is deactivated and the ECB has issued a communication pursuant to Article 161a(4). The calculation of the interest rate payment shall exclude the business day(s) during which the prolonged TARGET2 disruption persisted.

### *Article 161d*

#### **No imposition of sanctions in the event of a prolonged TARGET2 disruption over several business days**

No sanction shall be imposed on a counterparty pursuant to Article 154 if a prolonged TARGET2 disruption over several business days is declared pursuant to Article 161a which affects that counterparty's ability to fulfil its obligations under this Document.

## PART EIGHT

### Final Provisions

#### *Article 162*

##### **Sharing of information**

The Bank may, if necessary for the implementation of monetary policy, share with other NCBs individual information, such as operational data, relating to counterparties participating in Eurosystem monetary policy operations. Such information shall be subject to the requirement concerning professional secrecy in Article 37 of the Statute of the ESCB.

#### *Article 163*

##### **Anti-money laundering and counter-terrorist financing legislation**

Counterparties to Eurosystem monetary policy operations shall be aware of, and comply with, all obligations imposed on them by anti-money laundering and counter-terrorist financing legislation.

#### *Article 164*

##### **Notice**

1. Save as where expressly provided for herein, notice as provided for under this Document shall be delivered in written form and may include the delivery of notice by e-mail. Notices shall be sent to the relevant contacts as may from time to time be notified by either the Bank or its counterparties to the other by written notice in accordance with the provisions of this clause.
2. Any notice referred to in this Article 164 shall be deemed to be served:
  - (a) if sent by hand, when delivery at the address of the party to be served is made or attempted, if that is between 09.00 and 17.00 on a Bank business day or, if it is left before 09.00 on a business day, at 09.00 on that Bank business day and in all other cases at 09.00 on the next Bank business day; and
  - (b) if sent by e-mail, when it is so sent if it is sent between 09.00 and 17.00 on a Bank business day or, if it is sent before 09.00 on a Bank business day, at 09.00 on that Bank business day and in all other cases at 09.00 on the next Bank business day.

# ANNEX I

## Minimum Reserves

The content of this Annex is for information purposes only. In the event of conflict between this Annex and the legal framework for the Eurosystem's minimum reserve system as described in paragraph 1, the latter prevails.

1. Pursuant to Article 19 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB'), the European Central Bank (ECB) requires credit institutions to hold minimum reserves on accounts with national central banks (NCBs) within the framework of the Eurosystem's minimum reserve system. The legal framework for this system is laid down in Article 19 of the Statute of the ESCB, Regulation (EC) No 2531/98 and Regulation (EU) 2021/378 (ECB/2021/1). The application of Regulation (EU) 2021/378 (ECB/2021/1) ensures that the terms and conditions of the Eurosystem's minimum reserve system are uniform throughout Member States whose currency is the euro.
2. The Eurosystem's minimum reserves system primarily pursues the aims of stabilising money market interest rates and creating (or enlarging) a structural liquidity shortage.
3. In accordance with Article 1(a) of Regulation (EU) 2021/378 (ECB/2021/1), the Eurosystem's minimum reserve system applies to credit institutions that are:
  - (i) authorised in accordance with Article 8 of Directive 2013/36/EU; or
  - (ii) exempt from such authorisation pursuant to Article 2(5) of Directive 2013/36/EU.

In addition, branches in the euro area of credit institutions not incorporated in the euro area are also subject to the Eurosystem's minimum reserve system. However, branches established outside the euro area of credit institutions incorporated in the euro area are not subject to this system.

4. Pursuant to Article 4(1) of Regulation (EU) 2021/378 (ECB/2021/1), institutions will be exempt from reserve requirements if their authorisation is withdrawn or renounced, or they are subject to winding-up proceedings pursuant to Directive 2001/24/EC of the European Parliament and of the Council<sup>28</sup>.
5. Pursuant to Article 4(2) of Regulation (EU) 2021/378 (ECB/2021/1), the ECB may exempt, upon request by the Bank, institutions in the circumstances set out in points (a) to (d) thereof from reserve requirements. Such institutions include, *inter alia*, institutions subject to a reorganisation measure pursuant to Directive 2001/24/EC, institutions subject to a freezing order imposed by the Union or by a Member State or subject to measures imposed by the Union under Article 75 of the Treaty restricting the use of their funds; institutions subject to a decision of the Eurosystem suspending or excluding their access to the Eurosystem's open market operations or standing facilities and institutions in respect of which it is not appropriate to require minimum reserves.

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<sup>28</sup> Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions (OJ L 125, 5.5.2001, p. 15).

6. The exemptions mentioned in Article 4 of Regulation (EU) 2021/378 (ECB/2021/1) apply from the start of the maintenance period in which the relevant event occurs.
7. Pursuant to Article 3(3) of Regulation (EU) 2021/378 (ECB/2021/1), the ECB publishes on its website a list of institutions subject to the Eurosystem's minimum reserve requirements pursuant to that Regulation.
8. The ECB also publishes a list of institutions exempted from minimum reserve requirements, excluding those institutions referred to in points (a) to (c) of Article 4(2) of Regulation (EU) 2021/378 (ECB/2021/1).
9. The reserve base of each institution is determined in relation to elements of its balance sheet. The balance sheet data are reported to the NCBs within the general framework of the ECB's monetary and financial statistics. Institutions calculate the reserve base in respect of a particular maintenance period on the basis of the data relating to the month that is two months prior to the month within which the maintenance period starts pursuant to Article 5(5) of Regulation (EU) 2021/378 (ECB/2021/1), subject to the exceptions for tail institutions, as laid down in Article 5(6) of that Regulation.
10. The reserve ratios are determined by the ECB subject to the maximum limit specified in Regulation (EC) No 2531/98.
11. The amount of minimum reserves to be held by institutions are calculated using the reserve ratios set out in Article 6(1) of Regulation (EU) 2021/378 (ECB/2021/1) for each of the liabilities of the reserve base under Article 5 of that Regulation. The Bank must use the minimum reserves calculated in accordance with Article 6 of Regulation (EU) 2021/378 (ECB/2021/1) to remunerate holdings of minimum reserves and to assess whether institutions comply with the obligation to hold the required amount of minimum reserves.
12. In order to pursue the aim of stabilising interest rates, the Eurosystem's minimum reserve system enables institutions to make use of averaging provisions, implying that compliance with reserve requirements is determined on the basis of the average of the end-of-day balance on one or more reserve accounts over a maintenance period. The maintenance period is defined in Article 8 of Regulation (EU) 2021/378 (ECB/2021/1).
13. In accordance with Article 9 of Regulation (EU) 2021/378 (ECB/2021/1), institutions' holdings of minimum reserves are remunerated at the average, over the maintenance period, of the Eurosystem's rate (weighted according to the number of calendar days) for the main refinancing operations according to the following formula (whereby the result is rounded to the nearest cent):

$$R_t = \frac{H_t \cdot n_t \cdot r_t}{100 \cdot 360}$$

$$r_t = \sum_{i=1}^{n_t} \frac{MR_i}{n_t}$$

Where:

- $R_t$  = remuneration to be paid on holdings of minimum reserves for the maintenance period  $t$ ;
- $H_t$  = average daily holdings of minimum reserves for the maintenance period  $t$ ;
- $N_t$  = number of calendar days in the maintenance period  $t$ ;
- $r_t$  = rate of remuneration on holdings of minimum reserves for the maintenance period  $t$ ; standard rounding of the rate of remuneration to two decimals shall be applied;
- $i$  =  $i$ th calendar day of the maintenance period  $t$ ;
- $MR_i$  = marginal interest rate for the most recent main refinancing operation settled on or before calendar day  $i$ .

The end-of-day balance of TARGET2-Ireland during the period of a prolonged TARGET2 disruption over several business days as referred to in Article 161a will be considered in the calculation of this formula retroactively after the TARGET2 disruption is resolved. The end-of-day balance, applied over the number of days of the prolonged TARGET2 disruption over several business days, will be determined according to the best information available to the ECB. Any balances held in the contingency solution used during a prolonged TARGET2 disruption over several business days, intraday or for a longer period, are remunerated at zero percent.

Where an institution fails to comply with other obligations under ECB regulations and decisions relating to the Eurosystem's minimum reserve system (e.g. if relevant data are not transmitted in time or are not accurate), the ECB is empowered to impose sanctions in accordance with Regulation (EC) No 2532/98, Regulation (EC) No 2157/1999 (ECB/1999/4) and Decision (EU) 2021/1815 (ECB/2021/45).

14. Additional information concerning the operation of the minimum reserves regime by the Bank may be published on the Bank's website.

## ANNEX II

# Announcement of Tender Operations

The public tender announcement contains the following indicative information:

- (a) the reference number of the tender operation;
- (b) the date of the tender operation;
- (c) the type of operation (provision or absorption of liquidity, and the type of monetary policy instrument to be used);
- (d) the maturity of the operation;
- (e) the duration of the operation (normally expressed in a number of days);
- (f) the type of auction, i.e. fixed rate or variable rate tender;
- (g) for variable rate tenders, the method of allotment, i.e. the single rate auction (Dutch auction) or multiple rate auction (American auction) procedure;
- (h) the intended operation volume, normally only in the case of longer-term refinancing operations;
- (i) for fixed rate tenders, the fixed tender interest rate, price, swap point or spread (the reference index in the case of indexed tenders and the quotation type in the case of a rate or spread);
- (j) the minimum or maximum accepted interest rate, price or swap point, if applicable;
- (k) the start date and maturity date of the operation, if applicable, or the value date and the maturity date of the instrument, in the case of the issuance of European Central Bank (ECB) debt certificates;
- (l) the currencies involved and for foreign exchange swaps, the amount of the currency which is kept fixed;
- (m) for foreign exchange swaps, the reference spot exchange rate to be used for the calculation of bids;
- (n) the maximum bid limit, if any;
- (o) the minimum individual allotment amount, if any;
- (p) the minimum allotment ratio, i.e. the lower limit, expressed in percentage terms, of the ratio of bids at the marginal interest rate to be allotted in a tender operation, if any;
- (q) the time schedule for the submission of bids;
- (r) in the case of the issuance of ECB debt certificates, the denomination of the certificates and the ISIN code of the issue;

- (s) the maximum number of bids per counterparty (for variable rate tenders, in the event that the ECB intends to limit the number of bids, this is normally set at ten bids per counterparty);
- (t) the quotation type (rate or spread);
- (u) the reference entity in the case of indexed tenders.

## ANNEX III

# Allotment of Tenders and Tender Procedures

**Table 1: Allotment of Fixed Rate Tenders**

The percentage of allotment is:

$$all\% = \frac{A}{\sum_{i=1}^n a_i}$$

The amount allotted to the *i*th counterparty is:

$$all_i = all\% \times (a_i)$$

where:

A	=	total amount allotted
n	=	total number of counterparties
$a_i$	=	bid amount of the <i>i</i> th counterparty
all%	=	percentage of allotment
$all_i$	=	total amount allotted to the <i>i</i> th counterparty

**Table 2: Allotment of Variable Rate Tenders in Euro (the example refers to bids quoted in the form of interest rates)**

The percentage of allotment at the marginal interest rate is:

$$all\%(r_m) = \frac{A - \sum_{s=1}^{m-1} a(r_s)}{a(r_m)}$$

The allotment to the  $i$ th counterparty at the marginal interest rate is:

$$all(r_m)_i = all\%(r_m) \times a(r_m)_i$$

The total amount allotted to the  $i$ th counterparty is:

$$all_i = \sum_{s=1}^{m-1} a(r_s)_i + all(r_m)_i$$

where:

A = total amount allotted

$r_s$  =  $s$ th interest rate bid by the counterparties

N = total number of counterparties

$a(r_s)_i$  = amount bid at the  $s$ th interest rate ( $r_s$ ) by the  $i$ th counterparty

$a(r_s)$  = total amount bid at the  $s$ th interest rate ( $r_s$ )

$$a(r_s) = \sum_{i=1}^n a(r_s)_i$$

$r_m$  = marginal interest rate:

$$r_1 \geq r_s \geq r_m \text{ for a liquidity-providing tender}$$

$$r_m \geq r_s \geq r_1 \text{ for a liquidity-absorbing tender}$$

$r_{m-1}$  = interest rate before the marginal interest rate (last interest rate at which bids are completely satisfied):

$$r_{m-1} > r_m \text{ for a liquidity-providing tender}$$

$$r_m > r_{m-1} \text{ for a liquidity-absorbing tender}$$

$all\%(r_m)$  = percentage of allotment at the marginal interest rate

$all(r_s)_i$  = allotment to the  $i$ th counterparty at the  $s$ th interest rate

$all_i$  = total amount allotted to the  $i$ th counterparty

**Table 3: Allotment of Variable Rate Foreign Exchange Swap Tenders**

The percentage of allotment at the marginal swap point quotation is:

$$all\%(\Delta_m) = \frac{A - \sum_{s=1}^{m-1} a(\Delta_s)}{a(\Delta_m)}$$

The allotment to the  $i$ th counterparty at the marginal swap point quotation is:

$$all(\Delta_m)_i = all\%(\Delta_m) \times a(\Delta_m)_i$$

The total amount allotted to the  $i$ th counterparty is:

$$all_i = \sum_{s=1}^{m-1} a(\Delta_s)_i + all(\Delta_m)_i$$

where:

- A = total amount allotted  
 $\Delta_s$  = sth swap point quotation bid by the counterparties  
N = total number of counterparties  
 $a(\Delta_s)_i$  = amount bid at the sth swap point quotation ( $\Delta_s$ ) by the  $i$ th counterparty  
 $a(\Delta_s)$  = total amount bid at the sth swap point quotation ( $\Delta_s$ )

$$a(\Delta_s) = \sum_{i=1}^n a(\Delta_s)_i$$

- $\Delta_m$  = marginal swap point quotation:  
 $\Delta_m \geq \Delta_s \geq \Delta_1$  for a liquidity-providing foreign exchange swap  
 $\Delta_1 \geq \Delta_s \geq \Delta_m$  for a liquidity-absorbing foreign exchange swap
- $\Delta_{m-1}$  = swap point quotation before the marginal swap point quotation (last swap point quotation at which bids are completely satisfied):  
 $\Delta_m > \Delta_{m-1}$  for a liquidity-providing foreign exchange swap  
 $\Delta_{m-1} > \Delta_m$  for a liquidity-absorbing foreign exchange swap
- $all\%(\Delta_m)$  = percentage of allotment at the marginal swap point quotation  
 $all(\Delta_s)_i$  = allotment to the  $i$ th counterparty at the sth swap point quotation  
 $all_i$  = total amount allotted to the  $i$ th counterparty

## ANNEX IV

# Announcement of Tender Results

The public tender result message contains the following indicative information:

- (a) the reference number of the tender operation;
- (b) the date of the tender operation;
- (c) the type of operation;
- (d) the maturity of the operation;
- (e) the duration of the operation (normally expressed in a number of days);
- (f) the total amount bid by Eurosystem counterparties;
- (g) the number of bidders;
- (h) for foreign exchange swaps, the currencies involved;
- (i) the total amount allotted;
- (j) for fixed rate tenders, the percentage of allotment;
- (k) for foreign exchange swaps, the spot exchange rate;
- (l) for variable rate tenders, the marginal interest rate, price, swap point or spread accepted and the percentage of allotment at the marginal interest rate, price or swap point;
- (m) for multiple rate auctions, the minimum bid rate and the maximum bid rate, i.e. the lower and upper limit to the interest rate at which counterparties submitted their bids in variable rate tenders, and the weighted average allotment rate;
- (n) the start date and the maturity date of the operation, if applicable, or the value date and the maturity date of the instrument, in the case of the issuance of European Central Bank (ECB) debt certificates;
- (o) the minimum individual allotment amount, if any;
- (p) the minimum allotment ratio, if any;
- (q) in the case of the issuance of ECB debt certificates, the denomination of the certificates and the ISIN code of the issue;
- (r) the maximum number of bids per counterparty (for variable rate tenders, in the event that the ECB intends to limit the number of bids, this is normally set at ten bids per counterparty).

## ANNEX V

# Criteria for the Selection of Counterparties to Participate in Foreign Exchange Intervention Operations

1. The selection of counterparties for Eurosystem foreign exchange intervention operations is based on two sets of criteria relating to the principles of prudence and efficiency.
2. The criteria relating to efficiency are only applied once the criteria relating to the principle of prudence have been applied.
3. The criteria relating to the principle of prudence comprise the following:
  - (a) creditworthiness of the counterparty, which is assessed using a combination of different methods, e.g. using credit ratings available from commercial agencies and the in-house analysis of capital and other business ratios;
  - (b) a counterparty is supervised by a recognised supervisor;
  - (c) a counterparty has a good reputation and observes high ethical standards.
4. The criteria relating to the principle of efficiency comprise, *inter alia*, the following:
  - (a) a counterparty's competitive pricing behaviour and its ability to conduct large-volume foreign exchange operations efficiently under all market conditions; and
  - (b) the quality and coverage of information provided by the counterparty.
5. In order to be able to intervene efficiently in different geographical locations, the national central banks may select counterparties for their foreign exchange intervention operations in any international financial centre.

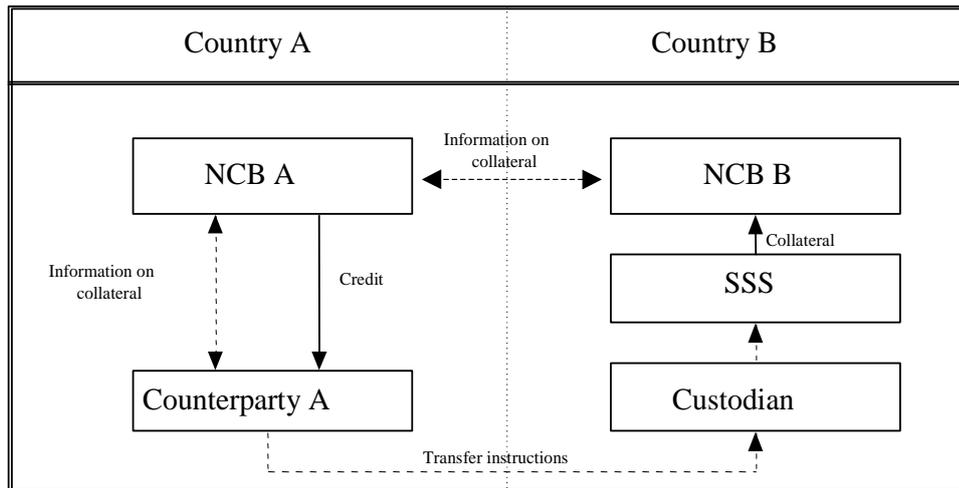
## ANNEX VI

### Cross-Border Use of Eligible Assets

#### I. The correspondent central banking model (CCBM)

**Table 1: The Corresponding Central Banking Model (CCBM)**

Use of eligible assets deposited in country B by a counterparty established in country A in order to obtain credit from the national central bank (NCB) of country A



1. All NCBs maintain securities accounts with each other for the cross-border use of eligible assets. The precise procedure of the CCBM depends on whether the eligible assets are earmarked for each individual transaction or whether they are held in a pool of underlying assets.
2. In an earmarking system, as soon as a counterparty's bid for credit is accepted by its home NCB the counterparty instructs, via its own custodian if necessary, the securities settlement systems (SSS) in the country in which its marketable assets are held, to transfer them to the central bank of that country (hereinafter the 'correspondent central bank') for the account of the home NCB. Once the home NCB has been informed by the correspondent central bank that the collateral has been received, it transfers the funds to the counterparty. The NCBs do not advance funds until they are certain that the counterparties' marketable assets have been received by the correspondent central bank. Where necessary to meet settlement deadlines, counterparties may be able to pre-deposit assets with correspondent central banks for the account of their home NCB using the CCBM procedures.
3. In a pooling system, the counterparty may at any time provide the correspondent central bank with marketable assets for the account of the home NCB. Once the home NCB has been informed by the correspondent central bank that the marketable assets have been received, it will add these marketable assets to the pool account of the counterparty.
4. Specific procedures for cross-border use have been developed for certain non-marketable assets, i.e. credit claims and retail mortgage-backed debt instruments (RMBDs), which include mortgage-backed promissory notes (MBPNs). When credit claims are used as collateral in a cross-border context, a CCBM variant is applied to credit claims, whereby the correspondent central bank (CCB)

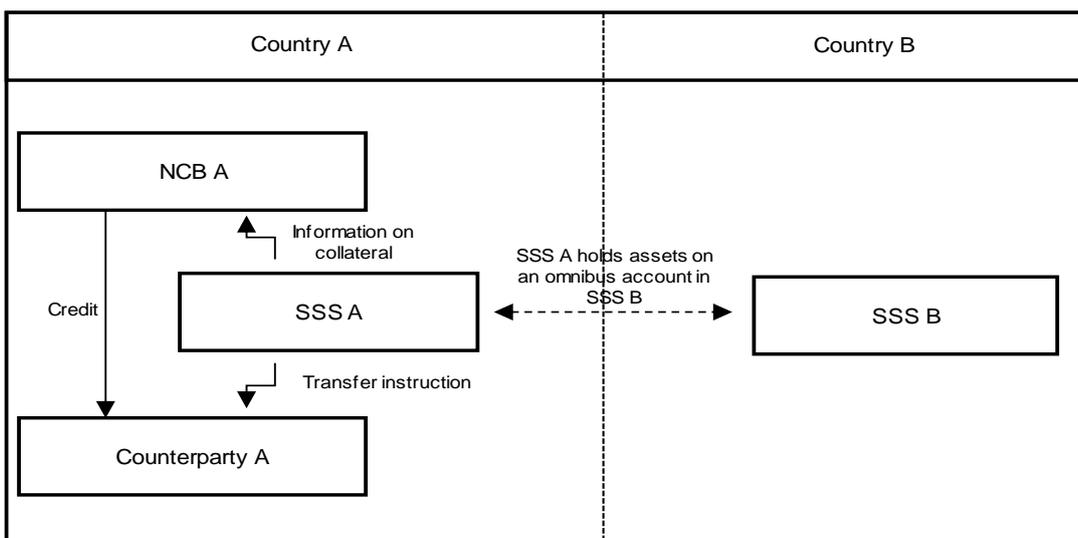
will act as agent of the home central bank (HCB) and the HCB’s interest in a credit claim offered as collateral will be secured by a legal technique applied by the CCB. Counterparties should contact the CCB, as requirements imposed by this NCB regarding the eligibility of such credit claims will apply. Specific requirements may be viewed on the website of the NCB concerned. The ECB’s website contains hyperlinks to the relevant sections of NCB websites. A further *ad hoc* variant based on a charge in favour of the correspondent central bank acting as the agent for the home NCB is applied to allow the cross-border use of RMBDs.

5. The CCBM is available to counterparties, both for marketable and non-marketable assets, as a minimum from 9 a.m. to 4 p.m. Central European Time (CET)<sup>29</sup> on each TARGET2 business day. A counterparty wishing to make use of the CCBM must advise the NCB from which it wishes to receive credit, i.e. its home NCB, before 4 p.m. CET. The counterparty must ensure that the collateral for securing the credit operation is delivered to the account of the correspondent central bank by 4.45 p.m. CET at the latest. Instructions or deliveries that do not respect this deadline will only be dealt with on a best effort basis and may be considered for credit that will be given on the following TARGET2 business day. When counterparties foresee a need to use the CCBM late in the day, they should, where possible, pre-deposit the assets. Under exceptional circumstances or when required for monetary policy purposes, the ECB may decide to extend the CCBM’s closing time until the TARGET2 closing time, in cooperation with central securities depositories regarding their availability to extend their cut-off times for marketable assets.

## II. Eligible links between SSSs

**Table 2: Eligible Links Between Securities Settlement Systems**

Use of eligible assets issued in the SSS of country B held by a counterparty established in country A through an eligible link between the SSSs in countries A and B in order to obtain credit from the NCB of country A.



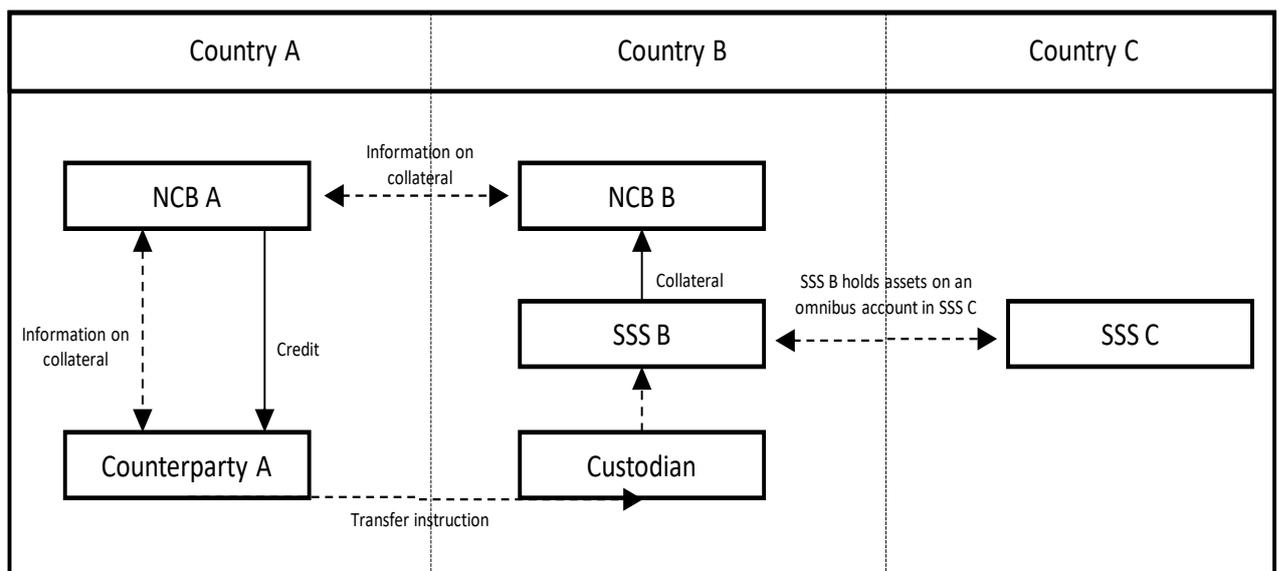
<sup>29</sup> CET takes account of the change to Central European Summer Time.

1. Eligible links between two SSSs in the European Economic Area (EEA) consist of a set of procedures and arrangements for the cross-border transfer of securities through a book-entry process. They take the form of an omnibus account opened by an SSS (hereinafter the ‘investor SSS’) in another SSS (hereinafter the ‘issuer SSS’).
2. Eligible links allow a participant in one SSS in the EEA to hold securities issued in another SSS in the EEA without being a participant therein. When using links between SSSs, the counterparties hold the assets on their own account with their home SSS and have no need for a custodian.

### III. CCBM in combination with eligible links

**Table 3: CCBM in Combination with Eligible Links**

Use of eligible assets issued in the SSS of country C and held in the SSS of country B by a counterparty established in country A through an eligible link between the SSSs in countries B and C in order to obtain credit from the NCB of country A.

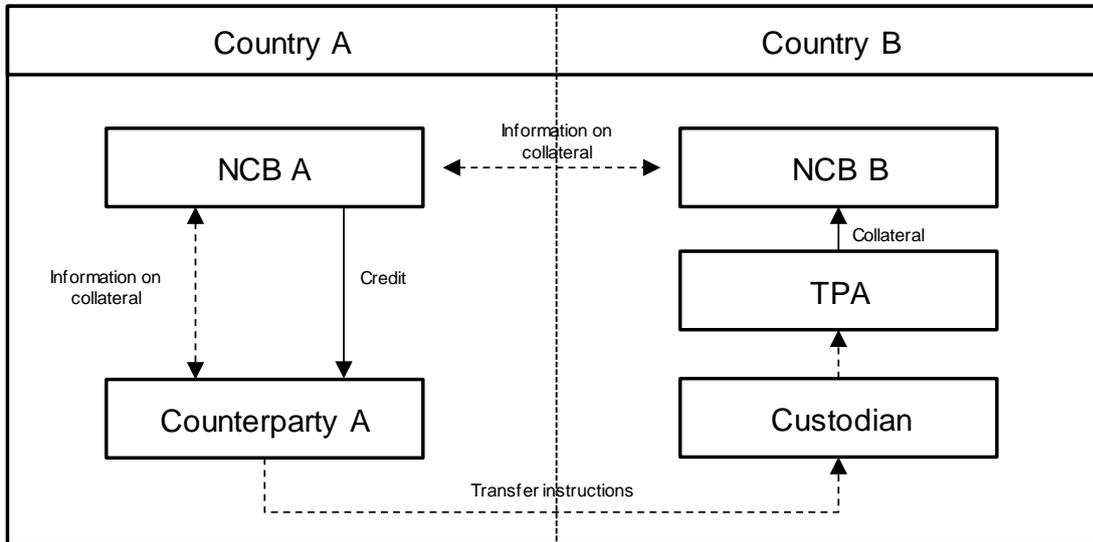


Where eligible assets in the form of securities are to be transferred via the CCBM with links, counterparties must ensure that the securities are delivered to an account at the relevant investor SSS by 4 p.m. CET on the settlement date in order to ensure settlement of same-day value operations. Any request for mobilisation received by home NCBs from their counterparties after 4 p.m. CET, or any request for the delivery of eligible assets to an account at the relevant investor SSS after 4 p.m. CET, is dealt with on a best efforts basis, according to the cut-off times of the SSSs involved.

#### IV. CCBM with tri-party collateral management services

**Table 4: Cross-Border Triparty Services**

Use of eligible assets held in the tri-party agent (TPA) of country B by a counterparty established in country A in order to obtain credit from the NCB of country A.



The arrow 'Information on collateral' between counterparty A and NCB A may not be relevant in the case of certain TPAs, depending on the contractual model chosen, and in such cases the counterparty does not send an instruction to NCB A or receive a confirmation from NCB A.

# ANNEX VIa

## Eligibility Criteria for the Use of Securities Settlement Systems and Links Between Securities Settlement Systems in Eurosystem Credit Operations

### I. Eligibility criteria for securities settlement systems (SSSs) and links between SSSs

1. The Eurosystem determines the eligibility of an SSS operated by a central securities depository (CSD) established in a Member State whose currency is the euro or a national central bank (NCB) or a public body as specified in Article 1(4) of Regulation (EU) No 909/2014 of the European Parliament and of the Council<sup>30</sup> of a Member State whose currency is the euro (hereinafter an ‘SSS operator’ or an ‘operator of an SSS’) on the basis of the following criteria:
  - (a) the euro area SSS operator complies with the requirements laid down in Regulation (EU) No 909/2014; and
  - (b) the NCB of the Member State in which the respective SSS operates has set up and maintains appropriate contractual or other legally binding arrangements with the euro area SSS operator, which include the Eurosystem requirements laid down in Section II.
2. The Eurosystem determines the eligibility of a direct link or a relayed link, involving only euro area SSSs, on the basis of the following criteria:
  - (a) the direct link complies with or, in the case of a relayed link, all underlying direct links comply with the requirements laid down in Regulation (EU) No 909/2014;
  - (b) the NCBs of the Member States in which the investor SSS, any intermediary SSS and the issuer SSS are established have set up and maintain appropriate contractual or other legally binding arrangements with the euro area SSS operators, which include the Eurosystem requirements laid down in Section II;
  - (c) the investor SSS, any intermediary SSS and the issuer SSS involved in the link are all considered eligible by the Eurosystem;
  - (d) for relayed links, all underlying direct links are considered eligible by the Eurosystem.
3. Before determining the eligibility of a direct link or relayed link involving one or more SSSs operated by CSDs established in a European Economic Area (EEA) State whose currency is not the euro or NCBs or public bodies of an EEA State whose currency is not the euro (hereinafter a “non-euro area EEA SSS” operated by a “non-euro area EEA SSS operator”), the Eurosystem carries out a business

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<sup>30</sup> Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

case analysis which takes into account, inter alia, the value of the eligible assets issued by or held in those SSSs.

4. Subject to the business case analysis having a positive outcome, the Eurosystem determines the eligibility of a link involving non-euro area EEA SSSs on the basis of the following criteria.

- (a) The non-euro area EEA operators of the SSSs involved in the link and the link itself comply with the requirements laid down in Regulation (EU) No 909/2014.
- (b) For direct links, the NCB of the Member State in which the investor SSS operates has set up and maintains appropriate contractual or other legally binding arrangements with the euro area operator of the investor SSS. These contractual or other legally binding arrangements must stipulate the obligation of the euro area SSS operator to implement the provisions laid down in Section II in its legal arrangements with the non-euro area EEA operator of the issuer SSS.

For relayed links, all underlying direct links in which a non-euro area EEA SSS acts as issuer SSS must fulfil the criterion in the first paragraph of point (b). In a relayed link where both the intermediary SSS and the issuer SSS are non-euro area EEA SSSs, the NCB of the Member State in which the investor SSS operates must set up and maintain appropriate contractual or other legally binding arrangements with the euro area operator of the investor SSS. These contractual or other legally binding arrangements must stipulate not only the obligation of the euro area SSS operator to implement the provisions laid down in Section II in its legal arrangements with the non-euro area EEA operator of the intermediary SSS, but also the obligation of the non-euro area EEA operator of the intermediary SSS to implement the legal provisions laid down in Section II in its contractual or other legally binding arrangements with the non-euro area EEA operator of the issuer SSS.

- (c) All euro area SSSs involved in the link are considered eligible by the Eurosystem.
- (d) For relayed links, all underlying direct links are considered eligible by the Eurosystem.
- (e) The NCB of the non-euro area EEA State in which the investor SSS operates has committed to reporting information on the eligible assets traded on domestic acceptable markets in a manner determined by the Eurosystem.

## II. Eurosystem requirements

1. In order to ensure legal soundness, an SSS operator must satisfy the NCB of the Member State in which the respective SSS operates, by reference to binding legal documentation, whether in the form of a duly executed contract or by reference to the mandatory terms and conditions of the relevant SSS operator or otherwise, that:

- (a) the entitlement to securities held in an SSS operated by that SSS operator, including to securities held through the links operated by the SSS operator (held in accounts maintained by the linked SSS operators), is governed by the law of an EEA State;
  - (b) the entitlement of the participants in the SSS to securities held in that SSS is clear, unambiguous and ensures that the participants in the SSS are not exposed to the insolvency of that SSS operator;
  - (c) where the SSS acts in the capacity of an issuer SSS, the entitlement of the linked investor SSS to securities held in the issuer SSS is clear, unambiguous and ensures that the investor SSS and its participants are not exposed to the insolvency of the issuer SSS operator;
  - (d) where the SSS acts in the capacity of an investor SSS, the entitlement of that SSS to the securities held in the linked issuer SSS is clear, unambiguous and ensures that the investor SSS and its participants are not exposed to the insolvency of the issuer SSS operator;
  - (e) no lien or similar mechanism provided for under applicable law or contractual arrangements will have a negative impact on the NCB's entitlement to the securities held in the SSS;
  - (f) the procedure for allocating any shortfall of securities held in the SSS, in particular in the event of the insolvency of: (i) the SSS operator; (ii) any third party involved in safekeeping the securities; or (iii) any linked issuer SSS, is clear and unambiguous;
  - (g) the procedures to be followed in order to claim securities under the legal framework of the SSS are clear and unambiguous, including, where the SSS acts as an investor SSS, any formalities to be fulfilled towards the linked issuer SSS.
2. An SSS operator must ensure that when the SSS it operates acts as an investor SSS, securities transfers made via links will be final within the meaning of Directive 98/26/EC of the European Parliament and of the Council<sup>31</sup>, i.e. it is not possible to revoke, unwind, rescind or otherwise undo such securities transfers.
  3. When the SSS that it operates acts as an issuer SSS, an SSS operator must ensure that it does not make use of a third-party institution, such as a bank or any party other than the SSS acting as intermediary between the issuer and the issuer SSS, or the SSS operator must ensure that its SSS has a direct or relayed link with an SSS which has this (unique and direct) relationship.
  4. In order to utilise the links between SSSs used to settle central bank transactions, facilities must be in place to allow either intraday delivery-versus-payment settlement in central bank money or intraday free of payment (FOP) settlement, which may take the form of real-time gross settlement or a series of batch processes with intraday finality. Owing to the settlement features of TARGET2-Securities, this requirement is considered as already fulfilled for direct and relayed links in which all SSSs involved in the link are integrated in TARGET2-Securities.
  5. With regard to operating hours and opening days:

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<sup>31</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).

- (a) an SSS and its links must provide settlement services on all TARGET2 business days;
- (b) an SSS must operate during daytime processing as referred to in Appendix V of Annex II to Guideline ECB/2012/27 of the European Central Bank<sup>32</sup>;
- (c) SSSs involved in direct links or relayed links must enable their participants to submit instructions for same-day delivery-versus-payment settlement via the issuer and/or the intermediary SSS (as applicable) to the investor SSS until at least 3.30 p.m. CET;
- (d) SSSs involved in direct links or relayed links must enable their participants to submit instructions for same-day FOP settlement via the issuer or intermediary SSS (as applicable) to the investor SSS until at least 4 p.m. CET;
- (e) SSSs must have measures in place to ensure that the operating times specified in points (b) to (d) above are extended in the event of emergency.

Owing to the settlement features of TARGET2-Securities, these requirements are considered as already fulfilled for SSSs integrated in TARGET-2 Securities, and for direct and relayed links in which all SSSs involved in the link are integrated in TARGET2-Securities.

### III. Application procedure

1. Euro area SSS operators that intend for their services to be used in Eurosystem credit operations should submit an application for an assessment of eligibility to the NCB of the Member State in which the SSS is established.
2. For links, including those involving a non-euro area EEA SSS, the operator of the investor SSS should submit the application for an assessment of eligibility to the NCB of the Member State in which the investor SSS operates.
3. The Eurosystem may reject an application or, where the SSS or link is already eligible, it may suspend or withdraw eligibility if:
  - (a) one or more of the eligibility criteria provided for in Section I are not met;
  - (b) the use of the SSS or link could affect the safety and efficiency of Eurosystem credit operations and expose the Eurosystem to the risk of financial losses, or is otherwise deemed, on the grounds of prudence, to pose a risk.
4. The Eurosystem decision on the eligibility of an SSS or link is notified to the SSS operator which submitted the application for an assessment of eligibility. The Eurosystem will provide reasons for any negative decision.

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<sup>32</sup>Guideline ECB/2012/27 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).

5. The SSS or link may be used for Eurosystem credit operations once it has been published in the Eurosystem lists of eligible SSSs and eligible links on the ECB's website.

## ANNEX VII

# Calculation of Sanctions to be Applied in Accordance with Part Five and Financial Penalties to be Applied in Accordance with Part Seven

### I. Calculation of financial penalties to be applied in accordance with part five

1. Where a financial penalty is to be imposed by the Bank on any of its counterparties in accordance with Part Five, the Bank shall calculate the penalty in accordance with a pre-specified penalty rate, as follows.
  - (a) For failure to comply with an obligation referred to in Article 154(1)(a), (b) or (c) a financial penalty is calculated using the marginal lending facility rate that applied on the day when the non-compliance began plus 2.5 percentage points.
  - (b) For failure to comply with an obligation referred to in Article 154(1)(d) or (e), a financial penalty is calculated using the marginal lending facility rate that applied on the day when the non-compliance began plus 5 percentage points. For repeated infringements of the obligation referred to in Article 154(1)(d) or of the obligation referred to in Article 154(1)(e) within a 12-month period, starting from the day of the first infringement, the penalty rate increases by a further 2.5 percentage points for each infringement.
2. For failure to comply with an obligation referred to in Article 154(1)(a) or (b), a financial penalty is calculated by applying the penalty rate, in accordance with paragraph 1(a), to the amount of collateral or cash that the counterparty could not deliver or settle, multiplied by the coefficient  $X/360$ , where  $X$  is the number of calendar days, with a maximum of seven, during which the counterparty was unable to collateralise or settle: (a) the allotted amount as specified in the certification of individual tender allotment results during the maturity of an operation; or (b) the remaining amount of a particular operation if there are early terminations executed by the Bank over the remainder of the term of the operation.
3. For failure to comply with an obligation referred to in Article 154(1)(c), a financial penalty is calculated by applying the penalty rate, in accordance with paragraph 1(a), to the value of the ineligible assets or the assets that may not be mobilised or used by the counterparty after haircuts, as follows:
  - (a) in the case of ineligible assets which are provided by the counterparty to the Bank, the value of the ineligible assets after haircuts are taken into account; or
  - (b) in the case of assets which were originally eligible but became ineligible or may no longer be mobilised or used by the counterparty, the value after haircuts of the assets that have not been removed by or before the start of the eighth calendar day, following an event after which the eligible assets became ineligible or may no longer be mobilised or used by the counterparty, are taken into account.

4. The amounts referred to in paragraph 3(a) and (b) are multiplied by the coefficient  $X/360$ , where  $X$  is the number of calendar days, with a maximum of seven, during which the counterparty failed to comply with its obligations in respect of the use of assets submitted as collateral for Eurosystem credit operations. In the case of paragraph 3(b), the calculation of  $X$  begins after the expiry of the grace period of seven calendar days.

*[EUR [value of ineligible assets after haircuts on the first day of the infringement] \* (applicable marginal lending facility rate on the day when the infringement began + 2.5%) \* [X]/360 = EUR [...]]*

5. For limit breaches as regards unsecured debt instruments issued by a credit institution or their closely linked entities as laid down in Article 141, the application of a grace period is determined as follows:

- (a) A grace period of seven calendar days applies if the breach resulted from a change in the valuation, without a submission of additional such unsecured debt instruments and without removal of assets from the collateral pool, on the basis of the following:

- (i) the value of those already submitted unsecured debt instruments has increased; or
- (ii) the total value of the collateral pool has decreased.

In such cases the counterparty is required to adjust the value of its total collateral pool and/or the value of such unsecured debt instruments within the grace period, to ensure compliance with the applicable limit.

- (b) The submission of additional unsecured debt instruments issued by a credit institution or their closely linked entities breaching the applicable limit does not entitle the counterparty to a grace period.

6. If the counterparty has provided information that affects the value of its collateral negatively from the Eurosystem's perspective with regard to Article 145(4), e.g. incorrect information on the outstanding amount of a used credit claim that is or has been false or out of date, or if the counterparty fails to timely provide information as required under Article 101(a)(iv), the amount (value) of the collateral that has been negatively affected is taken into account for the calculation of the financial penalty under paragraph 3 and no grace period shall be applicable. If the incorrect information is corrected within the applicable notification period, e.g. for credit claims within the course of the next business day pursuant to Article 109(2), no penalty is to be applied.
7. For failure to comply with the obligations referred to in Article 154(1)(d) or (e), a financial penalty is calculated by applying the penalty rate, in accordance with paragraph 1(b), to the amount of the counterparty's unauthorised access to the marginal lending facility or unpaid credit from the Eurosystem.
8. The Bank will impose a minimum financial penalty of EUR 500 where the calculation in accordance with this Annex results in an amount of less than EUR 500. A financial penalty will not be imposed where a breach is rectified within an applicable grace period.

## II. Calculation of non-financial penalties to be applied in accordance with part five

Suspension for non-compliance with obligations referred to in Article 154(1)(a) or (b)

1. Where a suspension period applies in accordance with Article 156(1), the Bank will impose the suspension in accordance with the following:
  - (a) if the amount of non-delivered collateral or cash is up to 40% of the total collateral or cash to be delivered, a suspension of one month applies;
  - (b) if the amount of non-delivered collateral or cash is between 40% and 80% of the total collateral or cash to be delivered, a suspension of two months applies;
  - (c) if the amount of non-delivered collateral or cash is between 80% and 100% of the total collateral or cash to be delivered, a suspension of three months applies.

## III. Calculation of financial penalties to be applied in accordance with part seven

1. The Bank calculates the financial penalty pursuant to Article 161(4a) in accordance with the following:
  - (a) For failure to comply with an obligation referred to in Article 161(4a), the financial penalty is calculated using the marginal lending facility rate that applied on the day when the non-compliance began plus 2.5 percentage points.
  - (b) The financial penalty is calculated by applying the penalty rate, in accordance with paragraph (a), to the amount of cash that the counterparty could not reimburse or pay, or to the value of the assets which were not delivered, multiplied by the coefficient  $X/360$ , where  $X$  is the number of calendar days, with a maximum of seven, during which the counterparty was unable to: (i) reimburse any amount of the credit, pay the repurchase price or the cash otherwise due; or (ii) deliver the assets at maturity or when otherwise due according to the contractual or regulatory arrangements.
2. The following formula shall be used for the calculation of the financial penalty in accordance with paragraph 1(a) and (b) above:

[EUR [amount of cash that the counterparty could not reimburse or pay, or value of assets that the counterparty could not deliver] \* (the applicable marginal lending facility rate on the day when the non-compliance began plus 2.5 percentage points) \*  $X/360$  (where  $X$  is the number of calendar days during which the counterparty did not pay, reimburse or deliver) = EUR [...]]

## ANNEX VIII

# Loan-Level Data Reporting Requirements for Asset-Backed Securities and the Requirements for Loan-Level Data Repositories

This Annex applies to the provision of comprehensive and standardised loan-level data on the pool of cash-flow generating assets backing asset-backed securities (ABSs), as specified in Article 78, and sets out the requirements for loan-level data repositories.

### I. Submission of loan-level data

1. Loan-level data must be submitted by the relevant parties to a loan-level data repository in accordance with this Annex. The loan-level data repository publishes such data electronically.
2. Loan-level data may be submitted for each individual transaction using:
  - (a) for transactions reported to an ESMA securitisation repository, the relevant templates specified in the implementing technical standards adopted by the Commission under Article 7(4) of Regulation (EU) 2017/2402; or
  - (b) for transactions reported to a Eurosystem designated repository, the up-to-date relevant ECB loan-level data reporting template, published on the ECB's website.

In each case, the relevant template to be submitted depends on the type of asset backing the ABS, as defined in Article 73(1).

- 2a. Submission of loan-level data in accordance with paragraph 2(a) will commence at the beginning of the calendar month immediately following the date which is three months from the ESMA reporting activation date.

Submission of loan-level data in accordance with paragraph 2(b) is permitted until the end of the calendar month in which the date three years and three months from the ESMA reporting activation date falls.

- 2b. Notwithstanding the second subparagraph of paragraph 2a, loan-level data for an individual transaction must be submitted in accordance with paragraph 2(a) where both:
  - (a) the relevant parties to a transaction are obliged pursuant to Article 7(1)(a) and Article 7(2) of Regulation (EU) 2017/2402 to report loan-level data on the individual transaction to an ESMA securitisation repository using the relevant templates specified in the implementing technical standards adopted by the Commission under Article 7(4) of that Regulation; and
  - (b) submissions of loan-level data in accordance with paragraph 2(a) have commenced.

3. Loan-level data must be reported at least on a quarterly basis, but no later than one month following a due date for the payment of interest on the relevant ABSs. As regards the data submitted, the pool cut-off date may not be more than two months old, i.e. the 'date of submission of report' less the 'pool cut-off date' must be less than two months. The 'pool cut-off date' is defined as the date on which a snapshot of the performance of the underlying assets was captured for the respective report.
4. To ensure compliance with the requirements in paragraphs 2 and 3, the loan-level data repository conducts automated consistency and accuracy checks on reports of new and updated loan-level data for each transaction.

## II. Level of required detail

1. After the date of application of loan-level data reporting requirements for the specific class of cash-flow generating assets backing the ABSs as specified on the European Central Bank's (ECB's) website, detailed loan-by-loan level information must be provided for ABSs to become or remain eligible.
2. The ABSs for which the ECB's loan-level data reporting template is used must achieve a compulsory minimum compliance level of A1 data score, assessed by reference to the availability of information, in particular, the data fields of the loan-level data reporting template, calculated in accordance with the methodology set out in Section III of this Annex. Notwithstanding the required scoring values set out in Section III in respect of loan-level data, the Eurosystem may accept as collateral ABSs for which the ECB's loan-level data reporting templates are used with a score lower than the required scoring value (A1), on a case-by-case basis and subject to the provision of adequate explanations for the failure to achieve the required score. For each adequate explanation, the Eurosystem will specify a maximum tolerance level and a tolerance horizon, as further specified on the ECB's website. The tolerance horizon will indicate the time period within which the data quality for the ABSs must improve.
3. To capture non-available fields, a set of six 'no data' (ND) options are included in the ECB's loan-level data reporting templates and must be filled in whenever particular data cannot be submitted in accordance with the loan-level data reporting template.

**Table 1: Explanation of the ND options**

'no data' options	Explanation
<b>ND1</b>	Data not collected as not required by the underwriting criteria
<b>ND2</b>	Data collected on application but not loaded into the reporting system on completion
<b>ND3</b>	Data collected on application but loaded on a separate system from the reporting one
<b>ND4</b>	Data collected but will only be available from MM-YYYY
<b>ND5</b>	Not relevant
<b>ND6</b>	Not applicable for the jurisdiction

### III. ECB data score methodology

1. The loan-level data repository generates and assigns a score to each ABS transaction upon submission and processing of loan-level data.
2. This score reflects the number of mandatory fields that contain ND1 and the number of mandatory fields that contain ND2, ND3 or ND4, compared in each case against the total number of mandatory fields. In this regard, the options ND5 and ND6 may only be used if the relevant data fields in the relevant loan-level data reporting template so permit. Combining the two threshold references produces the following range of loan-level data scores.

**Table 2: Loan-level data scores**

Scoring value matrix		ND1 fields			
		0	≤ 10 %	≤ 30 %	> 30 %
<b>ND2</b> or <b>ND3</b> or <b>ND4</b>	0	A1	B1	C1	D1
	≤ 20 %	A2	B2	C2	D2
	≤ 40 %	A3	B3	C3	D3
	> 40 %	A4	B4	C4	D4

## IV. Eurosystem designation of loan-level data repositories

### I. REQUIREMENTS FOR DESIGNATION

1. In order to be designated by the Eurosystem, loan-level data repositories must comply with the applicable Eurosystem requirements, including open access, non-discrimination, coverage, appropriate governance structure and transparency.
2. In relation to the requirements of open access and non-discrimination, a loan-level data repository:
  - (a) may not unfairly discriminate between data users when providing access to loan-level data;
  - (b) must apply criteria for access to loan-level data which are objective, non-discriminatory and publicly available;
  - (c) may only restrict access to the least possible extent so as to meet the requirement of proportionality;
  - (d) must establish fair procedures for instances where it denies access to data users or data providers;
  - (e) must have the necessary technical capabilities to provide access to both data users and data providers in all reasonable circumstances, including data backup procedures, data security safeguards, and disaster recovery arrangements;
  - (f) may not impose costs for data users for the supply or extraction of loan-level data which are discriminatory or give rise to undue restrictions on access to loan-level data.
3. In relation to the requirement of coverage, a loan-level data repository:
  - (a) must establish and maintain robust technology systems and operational controls to enable it to process loan-level data in a manner that supports the Eurosystem's requirements for submission of and access to loan-level data in relation to eligible assets subject to loan-level data disclosure requirements, as specified both in Article 78 and in this Annex.
 

In particular, the loan-level data repository's technology system must allow data users to extract loan-level data, loan-level data scores and the timestamp of data submissions, through both manual and automatic processes that cover all loan-level data submissions of all ABS transactions which have been submitted through that loan-level data repository and an extraction of multiple loan-level data files if required in one download request.
  - (b) must credibly demonstrate to the Eurosystem that its technical and operational capacity would permit it to achieve substantial coverage should it obtain designated loan-level data repository status.
4. In relation to the requirements of an appropriate governance structure and transparency, a loan-level data repository:
  - (a) must establish governance arrangements that serve the interests of stakeholders in the ABS market in fostering transparency;

- (b) must establish clearly documented governance arrangements, respect appropriate governance standards and ensure the maintenance and operation of an adequate organisational structure to ensure continuity and orderly functioning; and
- (c) must grant the Eurosystem sufficient access to documents and supporting information in order to monitor, on an ongoing basis, the continued appropriateness of the loan-level data repository's governance structure.

## II. PROCEDURES FOR DESIGNATION AND WITHDRAWAL OF DESIGNATION

1. An application for designation by the Eurosystem as a loan-level data repository must be submitted to the ECB's Directorate Risk Management. The application must provide appropriate reasoning and complete supporting documentation demonstrating the applicant's compliance with the requirements for loan-level data repositories set out in this Document. The application, reasoning and supporting documentation must be provided in writing and, wherever possible, in electronic format. No application for designation will be accepted after 13 May 2019. Any application received prior to that date will be processed in accordance with this Annex.
2. Within 25 working days of receipt of the application, the ECB will assess whether the application is complete. If the application is not complete, the ECB will set a deadline by which the loan-level data repository is to provide additional information.
3. After assessing an application as complete, the ECB will notify the loan-level data repository accordingly.
4. The Eurosystem will, within a reasonable time frame (aiming for 60 working days of the notification referred to in paragraph 3), examine an application for designation made by a loan-level data repository based on the compliance of the loan-level data repository with the requirements set out in this Document. As part of its examination, the Eurosystem may require the loan-level data repository to conduct one or more live interactive demonstrations with Eurosystem staff, to illustrate the loan-level data repository's technical capabilities in relation to the requirements set out in Section IV.I, paragraphs 2 and 3 of this Annex. If such a demonstration is required, it shall be considered a mandatory requirement of the application process. The demonstration may also include the use of test files.
5. The Eurosystem may extend the period of examination by 20 working days, in cases where additional clarification is deemed necessary by the Eurosystem or where a demonstration has been required in accordance with paragraph 4.
6. The Eurosystem will aim to adopt a reasoned decision to designate or to refuse designation within 60 working days of the notification referred to in paragraph 3, or within 80 working days thereof where paragraph 5 applies.
7. Within five working days of the adoption of a decision under paragraph 6, the Eurosystem will notify its decision to the loan-level data repository concerned. Where the Eurosystem refuses to designate

the loan-level data repository or withdraws the designation of the loan-level data repository, it will provide reasons for its decision in the notification.

8. The decision adopted by the Eurosystem pursuant to paragraph 6 will take effect on the fifth working day following its notification pursuant to paragraph 7.
9. A designated loan-level data repository must, without undue delay, notify the Eurosystem of any material changes to its compliance with the requirements for designation.
10. The Eurosystem will withdraw the designation of a loan-level data repository where the loan-level data repository:
  - (a) obtained the designation by making false statements or by any other irregular means; or
  - (b) no longer fulfils the requirements under which it was designated.
11. A decision to withdraw the designation of a loan-level data repository will take effect immediately. ABSs in relation to which loan-level data was made available through a loan-level data repository whose designation was withdrawn in accordance with paragraph 10 may remain eligible as collateral for Eurosystem credit operations, providing all other requirements are fulfilled, for a period
  - (a) until the next required loan-level data reporting date specified in Section I.3 of Annex VIII; or
  - (b) if the period permitted under (a) is technically not feasible for the party submitting loan-level data and a written explanation has been provided to the NCB assessing eligibility by the next required loan-level data reporting date specified in Section I.3 of Annex VIII, three months following the decision under paragraph 10.

After the expiry of this period the loan-level data for such ABSs must be made available through a designated loan-level data repository in accordance with all applicable Eurosystem requirements.

12. The Eurosystem will publish on the ECB's website a list of loan-level data repositories designated in accordance with the General Documentation Guideline. That list will be updated within five working days following the adoption of a decision under paragraph 6 or paragraph 10.

## IIA. MINIMUM INFORMATION REQUIRED FOR AN APPLICATION FOR DESIGNATION TO BE DEEMED COMPLETE

1. As regards the Eurosystem requirements of open access, non-discrimination, and transparency, applicants must provide information on the following:
  - (a) detailed access criteria and any access restrictions to loan-level data for data users, and details of and reasons for any variations in such access criteria and access restrictions for data users;
  - (b) policy statements or other written description of the process and criteria applied for granting a data user access to a specific loan-level data file, as well as further details,

whether in such policy statements or other written description, of any technical or procedural safeguards that exist to ensure non-discrimination.

2. As regards the Eurosystem requirement of coverage, applicants must provide information on the following.
  - (a) The number of staff employed by the applicant in the area of loan-level data repository services, the technical background of the staff employed in and/or other resources dedicated to this area, and how the applicant manages and retains the technical know-how of such staff and/or other resources to ensure technical and operational continuity on a daily basis despite any changes to staff or resources.
  - (b) Up-to-date coverage statistics, including how many outstanding ABSs eligible for Eurosystem collateral operations are currently hosted by the applicant, including a breakdown of such ABSs based on geographical location of the debtors of the cash-flow generating assets and the type of cash-flow generating asset classes specified in Article 73(1). In the event that any asset class is not currently hosted by the applicant, information must be provided on the applicant's plans and the technical feasibility to cover such asset class in the future.
  - (c) The technical operation of the applicant's loan-level data repository system, including a written description of:
    - (i) the user guide to its user interface, explaining how to access, extract and submit loan-level data, from both a data user perspective and a data provider perspective;
    - (ii) the current technical and operational capacity of the applicant's repository system, such as how many ABS transactions can be stored in the system (and whether the system can easily be upscaled), how loan-level data regarding historical ABS transactions are stored and accessed by data users and data providers and any maximum limits for the number of loans that can be uploaded by a data provider in one ABS transaction;
    - (iii) the applicant's current technical and operational capabilities regarding the submission of data by data providers, i.e. the technical process by which the data provider can submit loan-level data and whether this is a manual or automatic process; and
    - (iv) the applicant's current technical and operational capabilities regarding the extraction of data by data users, i.e. the technical process by which the data user can extract loan-level data, whether this is a manual or automatic process.
  - (d) A technical description of:
    - (i) the file formats submitted by data providers and accepted by the applicant for the submission of loan-level data (Excel template file, XML schemas, etc.), including an electronic soft copy of each such file format, and an indication of whether the

applicant provides tools for data providers to convert loan-level data into the file formats accepted by the applicant;

- (ii) the applicant's current technical and operational capabilities regarding the testing and validation documentation for the applicant's system, including the calculation of the loan-level data compliance score;
- (iii) the frequency of updates and new releases of its system, and the maintenance policy and testing policy;
- (iv) the applicant's technical and operational capabilities to adapt to future Eurosystem loan-level data template updates, such as changes in current fields, and the addition or deletion of fields;
- (v) the applicant's technical capabilities regarding disaster recovery and business continuity, specifically with regard to the degree of redundancy of individual storage and backup solutions in its data centre and server architecture;
- (vi) a description of the applicant's current technical capabilities regarding its internal control architecture in relation to loan-level data, including information system controls and data integrity.

3. As regards the Eurosystem requirement of an appropriate governance structure, applicants must provide the following:

- (a) details of its corporate status, i.e. its statute or articles of association, and its shareholder structure;
- (b) information on the applicant's internal audit procedures (if any), including the identity of those responsible for conducting such audits, whether audits are externally verified and, if audits are conducted internally, what arrangements are taken to prevent or manage any conflicts of interest;
- (c) information on how the applicant's governance arrangements serve the interests of ABS market stakeholders, in particular whether its pricing policy is considered in the context of this requirement;
- (d) written confirmation that the Eurosystem will have access, on an ongoing basis, to the documentation necessary for it to monitor the continued appropriateness of the applicant's governance structure and compliance with the governance requirements in paragraph 4 of Section IV.I.

4. The applicant must provide a description of the following:

- (a) how the applicant calculates the data quality score, and how the score is published in the applicant's repository system and thereby made available to data users;
- (b) the data quality checks carried out by the applicant, including the process, the number of checks and the list of fields checked;

- (c) the applicant's current capabilities regarding the reporting of consistency and accuracy checks, i.e. how existing reports are produced by the applicant for data providers and data users, the ability of the applicant's platform to build automated and custom reports according to data users' requests, and the ability of the applicant's platform to automatically send notifications to data users and data providers (for example, notifications of loan-level data having been uploaded for a particular transaction).

## ANNEX IX

# Eurosystem Credit Assessment Framework Performance Monitoring Process

1. For each credit assessment system, the Eurosystem credit assessment framework (ECAAF) performance monitoring process consists of an annual *ex post* comparison of:
  - (a) the observed default rates for all eligible entities and debt instruments rated by the credit assessment system, whereby these entities and instruments are grouped into static pools based on certain characteristics, e.g. credit rating, asset class, industry sector, credit quality assessment model; and
  - (b) the maximum probability of default associated with the respective credit quality step of the Eurosystem's harmonised rating scale.
2. The first element of the process is the annual compilation by the credit assessment system provider of the list of entities and debt instruments with credit quality assessments that satisfy the Eurosystem credit quality requirements at the beginning of the monitoring period. This list must then be submitted by the credit assessment system provider to the Eurosystem, using the template provided by the Eurosystem, which includes identification, classification and credit quality assessment-related fields.
3. The second element of the process takes place at the end of the 12-month monitoring period. The credit assessment system provider updates the performance data for the entities and debt instruments on the list. The Eurosystem reserves the right to request any additional information required in order to conduct performance monitoring.
4. The observed default rate of the static pools of a credit assessment system recorded over a one-year horizon is input to the ECAAF performance monitoring process, which comprises an annual rule and a multi-period assessment.
5. In the event of a significant deviation between the observed default rate of the static pools and the maximum probability of default of the relevant credit quality step over an annual and/or a multi-annual period, the Eurosystem will consult the credit assessment system provider to analyse the reasons for that deviation.

# ANNEX IXa

## Minimum Coverage Requirements for External Credit Assessment Institutions in the Eurosystem Credit Assessment Framework

This Annex applies to the acceptance of a credit rating agency (CRA) as an ECAI in the Eurosystem credit assessment framework, as specified in Article 120(2).

### I. Coverage requirements

1. Concerning current coverage, in each of at least three out of the four asset classes (a) unsecured bank bonds, (b) corporate bonds, (c) covered bonds and (d) ABS, the CRA must provide a minimum coverage of:
  - (i) 10% in the eligible universe of euro area assets, computed in terms of rated assets and rated issuers, except for the ABS asset class, for which coverage in terms of rated assets only will apply;
  - (ii) 20% in the eligible universe of euro area assets, computed in terms of nominal amounts outstanding;
  - (iii) in at least 2/3 of the euro area countries with eligible assets in the respective asset classes, the CRA must provide the required coverage of rated assets, rated issuers or rated nominal amounts as referred to in points (i) and (ii).
2. The CRA must provide sovereign ratings for, at a minimum, all euro area issuer residence countries where assets in one of the four asset classes mentioned in paragraph 1 are rated by this CRA, with the exception of assets for which the Eurosystem considers the respective country risk assessment to be irrelevant for the credit rating provided by the CRA for the issue, issuer or guarantor.
3. Concerning historical coverage, the CRA must meet at least 80% of the minimum coverage requirements outlined in paragraphs 1 and 2 in each of the last three years prior to the application for ECAF acceptance, and must meet 100% of those requirements at the time of application and during the entire period of ECAF acceptance.

### II. Calculation of coverage

1. Coverage is calculated on the basis of credit ratings issued or endorsed by the CRA in accordance with Regulation (EC) No 1060/2009 and meeting all other requirements for ECAF purposes. For historical coverage, only the Eurosystem collateral eligibility requirements that were in force at the

relevant point in time and only ratings that had been issued or endorsed in accordance with Regulation (EC) No 1060/2009 at the relevant point in time will be considered.

2. The coverage of a given CRA is based on credit ratings of eligible assets for Eurosystem monetary policy operations, and is computed in line with the priority rules under Article 84 by considering only that CRA's ratings.
3. In the calculation of the minimum coverage of a CRA not yet accepted for ECAF purposes, the Eurosystem also includes relevant credit ratings provided for assets that are not eligible because of the lack of a rating from ECAF-accepted external credit assessment institutions (ECAI).

### **III. Review of compliance**

1. The compliance of ECAIs accepted with these coverage requirements will be reviewed annually.
2. Non-compliance with the coverage requirements may be sanctioned in accordance with ECAF rules and procedures.

# ANNEX IXb

## Minimum Requirements in the Eurosystem Credit Assessment Framework for New Issue and Surveillance Reports On Covered Bond Programmes

### 1. Introduction

For the purposes of the Eurosystem credit assessment framework (ECAAF), external credit assessment institutions (ECAIs), in respect of the Article 120(2), must comply with specific operational criteria in relation to covered bonds, with effect from 1 July 2017. In particular, ECAIs shall:

- (a) explain newly rated covered bond programmes in a publicly available credit rating report; and
- (b) make surveillance reports on covered bond programmes available on a quarterly basis.

This Annex sets out these minimum requirements in detail.

The requirements apply to issue ratings as referred to in Article 83 and therefore encompass all asset and programme ratings for eligible covered bonds. ECAIs' compliance with these requirements will be regularly reviewed. If the criteria are not fulfilled for a particular covered bond programme, the Eurosystem may deem the public credit rating(s) related to the relevant covered bond programme not to meet the high credit standards of the ECAAF. Thus, the relevant ECAI's public credit rating may not be used to establish the credit quality requirements for marketable assets issued under the specific covered bond programme.

### 2. Minimum requirements

- (a) The publicly available credit rating reports (new issue report) referred to in paragraph 1(a) must include a comprehensive analysis of the structural and legal aspects of the programme, a detailed collateral pool assessment, an analysis of the refinancing and market risk, an analysis of the transaction participants, ECAI proprietary assumptions and metrics, and an analysis of any other relevant details of the transaction.
- (b) The surveillance reports referred to in paragraph 1(b) must be published by the ECAI no later than eight weeks after the end of each quarter. The surveillance reports must contain the following information.
  - (i) Any ECAI proprietary metrics, including the latest available dynamic proprietary metrics used in the determination of the rating. If the date to which the proprietary

metrics refer differs from the publication date of the report, the date to which the proprietary metrics refer should be specified.

- (ii) A programme overview, to include, at a minimum, the outstanding assets and liabilities, the issuer and other key transaction parties, the main collateral asset type, the legal framework to which the programme is subject, and the rating of the programme and the issuer.
- (iii) Overcollateralisation levels, including current and committed overcollateralisation.
- (iv) The asset-liability profile, including the maturity type of the covered bonds, e.g. hard bullet, soft bullet, or pass through, the weighted average life of the covered bonds and of the cover pool and information on interest rate and currency mismatches.
- (v) Interest rate and currency swap arrangements existing at the time of the publication of the report, including the swap counterparty names and, where available, their legal entity identifiers.
- (vi) The distribution of currencies, including a breakdown in terms of value at the level of both the cover pool and the individual bonds and including the percentage of euro-denominated assets and the percentage of euro-denominated bonds.
- (vii) Cover pool assets, including the asset balance, asset types, number and average size of loans, seasoning, maturity, loan-to-valuation ratios, regional distribution and arrears distribution. As regards regional distributions, if the cover pool assets consist of loans originated in different countries, the surveillance report must, as a minimum, present the distribution across countries and the regional distribution for the main country of origin.
- (viii) Cover pool substitute assets, including the asset balance.
- (ix) The list of all rated securities in the programme, identified by their international securities identification number (ISIN). This disclosure can also be made via a separate, downloadable file published on the ECAI's website.
- (x) A list of data definitions and data sources used in the production of the surveillance report. This disclosure can also be made via a separate file published on the ECAI's website.

Surveillance reports for multi-cédulas must contain all the information required under points (i) to (x). In addition, these reports must include the list of the relevant originators and their respective shares in the multi-cédula. Asset-specific information must be reported either directly in the multi-cédula's surveillance report or by reference to the surveillance reports for each individual cédula rated by the ECAI.

## ANNEX IXc

# ECAI Acceptance Criteria and Application Process

The acceptance criteria for external credit assessment institutions (ECAIs) and the process for a credit rating agency (CRA) to apply to become accepted as an ECAI under the Eurosystem credit assessment framework (ECAAF), as referred to in Article 120 of this Document, are set out in detail in Annex IXc of the General Documentation Guideline.

**[ANNEX X has been deleted reflecting the repeal of the equivalent annex in Guideline ECB/2015/34.]**

## ANNEX XI

### Security Forms

On 13 June 2006 the European Central Bank (ECB) announced the new global notes (NGN) criteria for international global bearer form securities that would be eligible as collateral for Eurosystem credit operations from 1 January 2007. On 22 October 2008 the ECB announced that international debt securities in global registered form issued after 30 September 2010, would only be eligible as collateral for Eurosystem credit operations when the new safekeeping structure for international debt securities (NSS) is used.

The following table summarises the eligibility rules for the different forms of securities with the introduction of the NGN and NSS criteria.

**Table 1: Eligibility Rules for Different Security Forms**

Global /individual	Bearer /registered	NGN /classic global note (CGN)/ NSS	Is the common safekeeper (CSK) an ICSD (*)?	Eligible?
Global	Bearer	NGN	Yes	Yes
			No	No
Global	Bearer	CGN	N/A	No, but those securities issued before 1 January 2007 will be grandfathered until maturity, plus any tap issues from 1 January 2007 when the ISINs are fungible.
Global	Registered	CGN	N/A	Bonds issued under this structure after 30 September 2010 are no longer eligible.
Global	Registered	NSS	Yes	Yes
Individual	Bearer	N/A	N/A	Bonds issued under this structure after 30 September 2010 are no longer eligible. Individual bearer notes issued on or before 30 September 2010 are grandfathered until maturity.

(\*) Or, should it become applicable, in a positively assessed central securities depository.

## ANNEX XII

# Examples of Eurosystem Monetary Policy Operations and Procedures

Examples of the following Eurosystem monetary policy operations and procedures may be found in Annex XII of the General Documentation Guideline:

- |           |   |
|-----------|---|
| Example 1 | Liquidity-providing reverse transaction by fixed rate tender                      |
| Example 2 | Liquidity-providing reverse transaction by variable rate tender                   |
| Example 3 | Issuance of European Central Bank (ECB) debt certificates by variable rate tender |
| Example 4 | Liquidity-absorbing foreign exchange swap by variable rate tender                 |
| Example 5 | Liquidity-providing foreign exchange swap by variable rate tender                 |
| Example 6 | Risk control measures   |

## ANNEX XIIa

An entity that is considered an agency as defined in Article 2 of this Document must fulfil the following quantitative criteria in order for its eligible marketable assets to be allocated to haircut category II as set out in Table 1 of the Annex to Guideline (EU) 2016/65 (ECB/2015/35):

- (a) the average of the sum of the nominal values outstanding of all eligible marketable assets issued by the agency is at least EUR 10 billion over the reference period; and
- (b) the average of the sum of the nominal values of all eligible marketable assets with a nominal value outstanding of at least EUR 500 million issued by the agency over the reference period results in a share equal to 50% or more of the average of the sum of nominal value outstanding of all eligible marketable assets issued by that agency over the reference period.

Compliance with these quantitative criteria is assessed on an annual basis by calculating, in each given year, the relevant average over a one-year reference period starting on 1 August of the previous year and ending on 31 July of the current year.



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