

GUIDELINES

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 20 March 2013

on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral and amending Guideline ECB/2007/9

(recast)

(ECB/2013/4)

(2013/170/EU)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular the first indent of Article 3.1 and Articles 5.1, 12.1, 14.3 and 18.2 thereof,

Whereas:

(1) Guideline ECB/2012/18 of 2 August 2012 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral and amending Guideline ECB/2007/9⁽¹⁾ has been substantially amended. Since further amendments are to be made, Guideline ECB/2012/18 should be recast in the interest of clarity.

(2) Pursuant to Article 18.1 of the Statute of the European System of Central Banks and of the European Central Bank, the European Central Bank (ECB) and the national central banks of Member States whose currency is the euro (hereinafter the 'NCBs') may conduct credit operations with credit institutions and other market participants, with lending being based on adequate collateral. The general conditions under which the ECB and the NCBs stand ready to enter into credit operations, including the criteria determining the eligibility of collateral for the purposes of Eurosystem credit operations, are laid down in Annex I to Guideline ECB/2011/14 of 20 September 2011 on monetary policy instruments and procedures of the Eurosystem⁽²⁾.

(3) On 8 December 2011 and 20 June 2012 the Governing Council decided on additional enhanced credit support measures to support bank lending and liquidity in the euro area money market, including measures set out in Decision ECB/2011/25 of 14 December 2011 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral⁽³⁾. In addition, references to the reserve ratio in Guideline ECB/2007/9 of 1 August 2007 on monetary, financial institutions and markets statistics⁽⁴⁾ needed to be aligned with the amendments to Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves (ECB/2003/9⁽⁵⁾) introduced by Regulation (EU) No 1358/2011⁽⁶⁾.

(4) Decision ECB/2012/4 of 21 March 2012 amending Decision ECB/2011/25 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral⁽⁷⁾ provided that NCBs should not be obliged to accept as collateral in Eurosystem credit operations eligible bank bonds guaranteed by a Member State under a European Union/International Monetary Fund programme or by a Member State whose credit assessment does not comply with the Eurosystem benchmark for establishing its minimum requirement for high credit standards.

(5) Decision ECB/2012/12 of 3 July 2012 amending Decision ECB/2011/25 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral⁽⁸⁾ also reviewed the exception from the close links prohibition set out in Section

⁽³⁾ OJ L 341, 22.12.2011, p. 65.

⁽⁴⁾ OJ L 341, 27.12.2007, p. 1.

⁽⁵⁾ OJ L 250, 2.10.2003, p. 10.

⁽⁶⁾ Regulation (EU) No 1358/2011 of the European Central Bank of 14 December 2011 amending Regulation (EC) No 1745/2003 on the application of minimum reserves (ECB/2003/9) (ECB/2011/26) (OJ L 338, 21.12.2011, p. 51).

⁽⁷⁾ OJ L 91, 29.3.2012, p. 27.

⁽⁸⁾ OJ L 186, 14.7.2012, p. 38.

⁽¹⁾ OJ L 218, 15.8.2012, p. 20.

⁽²⁾ OJ L 331, 14.12.2011, p. 1.

6.2.3.2 of Annex I to Guideline ECB/2011/14 with respect to government-guaranteed bank bonds own used as collateral by counterparties.

- (6) Counterparties participating in Eurosystem credit operations should be allowed to increase the levels of own use of government-guaranteed bank bonds that they had on 3 July 2012 subject to the *ex-ante* approval of the Governing Council in exceptional circumstances. The requests submitted to the Governing Council for *ex-ante* approval need to be accompanied by a funding plan.
- (7) On 2 August 2012, Decision ECB/2011/25 was replaced by Guideline ECB/2012/18, which was implemented by the NCBs in their contractual or regulatory arrangements.
- (8) Guideline ECB/2012/18 was amended on 10 October 2012 by Guideline ECB/2012/23 ⁽¹⁾, which temporarily widened the criteria determining the eligibility of assets to be used as collateral in Eurosystem monetary policy operations, accepting marketable debt instruments denominated in pounds sterling, yen or US dollars as eligible assets for monetary policy operations. Valuation markdowns reflecting the historical volatility of the relevant exchange rates were applied to such marketable debt instruments.
- (9) Guideline ECB/2013/2 of 23 January 2013 amending Guideline ECB/2012/18 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral ⁽²⁾ specifies the procedure applicable to the early repayment of longer-term refinancing operations by counterparties in order to ensure that the same conditions are applied by all NCBs. In particular, the sanctions regime set out in Appendix 6 to Annex I to Guideline ECB/2011/14 applies where a counterparty that has opted for early repayment fails, in full or in part, to settle the amount to be repaid to the relevant NCB by the due date.
- (10) Guideline ECB/2012/18 should now be further amended to incorporate the content of Decision ECB/2012/34 of 19 December 2012 on temporary changes to the rules relating to the eligibility of foreign currency denominated collateral ⁽³⁾ and to ensure that NCBs are not obliged to accept as collateral for Eurosystem credit operations eligible uncovered bank bonds which are: (a) issued by the counterparties using them or by entities closely linked to the counterparty; and (b) fully guaranteed by a Member State whose credit assessment does not meet the Eurosystem's high credit standards and which the Governing Council considers as complying with a European Union/International Monetary Fund programme.

- (11) In the interest of clarity and simplicity, the content of Decisions ECB/2011/4 of 31 March 2011 on temporary measures relating to the eligibility of marketable debt instruments issued or guaranteed by the Irish Government ⁽⁴⁾, ECB/2011/10 of 7 July 2011 on temporary measures relating to the eligibility of marketable debt instruments issued or guaranteed by the Portuguese Government ⁽⁵⁾ and ECB/2012/32 of 19 December 2012 on temporary measures relating to the eligibility of marketable debt instruments issued or fully guaranteed by the Hellenic Republic ⁽⁶⁾ should be included in this Guideline with all other temporary measures relating to Eurosystem refinancing operations and eligibility of collateral.
- (12) The additional measures set out in this Guideline should apply temporarily, until the Governing Council considers that they are no longer necessary to ensure an appropriate monetary policy transmission mechanism,

HAS ADOPTED THIS GUIDELINE:

Article 1

Additional measures relating to refinancing operations and eligible collateral

1. The rules for the conduct of Eurosystem monetary policy operations and the eligibility criteria for collateral laid down in this Guideline shall apply in conjunction with Guideline ECB/2011/14.
2. In the event of any discrepancy between this Guideline and Guideline ECB/2011/14, as implemented at national level by the NCBs, this Guideline shall prevail. The NCBs shall continue to apply all provisions of Guideline ECB/2011/14 unaltered unless otherwise provided for in this Guideline.
3. For the purposes of Article 5(1) and Article 7, Ireland, the Hellenic Republic and the Portuguese Republic shall be considered euro area Member States compliant with a European Union/International Monetary Fund programme.

Article 2

Option to reduce the amount of, or terminate, longer-term refinancing operations

1. The Eurosystem may decide that, under certain conditions, counterparties may reduce the amount of, or terminate, certain longer-term refinancing operations before maturity (such reduction of the amount or termination hereinafter also collectively referred to as 'early repayment'). The tender

⁽¹⁾ OJ L 284, 17.10.2012, p. 14.

⁽²⁾ OJ L 34, 5.2.2013, p. 18.

⁽³⁾ OJ L 14, 18.1.2013, p. 22.

⁽⁴⁾ OJ L 94, 8.4.2011, p. 33.

⁽⁵⁾ OJ L 182, 12.7.2011, p. 31.

⁽⁶⁾ OJ L 359, 29.12.2012, p. 74.

announcement shall specify whether the option to reduce the amount of, or terminate, the operations in question before maturity applies, as well as the date from when such option may be exercised. This information may alternatively be provided in another format deemed appropriate by the Eurosystem.

2. A counterparty may exercise the option to reduce the amount of, or terminate, longer-term refinancing operations before maturity by notifying the relevant NCB of the amount it intends to repay under the early repayment procedure, as well as of the date on which it intends to make such early repayment, at least one week in advance of that early repayment date. Unless otherwise specified by the Eurosystem, an early repayment may be effected on any day that coincides with the settlement day of a Eurosystem main refinancing operation, provided that the counterparty makes the notification referred to in this paragraph at least one week in advance of that date.

3. The notification referred to in paragraph 2 shall become binding on the counterparty one week before the early repayment date it refers to. Failure by the counterparty to settle, in full or in part, the amount due under the early repayment procedure by the due date may result in the imposition of a financial penalty as set out in Section 1 of Appendix 6 to Annex I to Guideline ECB/2011/14. The provisions of Section 1 of Appendix 6 which apply to infringements of rules related to tender operations shall apply where a counterparty fails to settle, in full or in part, the amount due on the early repayment date referred to in paragraph 2. The imposition of a financial penalty shall be without prejudice to the NCB's right to exercise the remedies provided for on the occurrence of an event of default as set out in Annex II to Guideline ECB/2011/14.

Article 3

Admission of certain additional asset-backed securities

1. In addition to asset-backed securities (ABS) eligible under Chapter 6 of Annex I to Guideline ECB/2011/14, ABS which do not fulfil the credit assessment requirements under Section 6.3.2 of Annex I to Guideline ECB/2011/14 but which otherwise comply with all eligibility criteria applicable to ABS pursuant to Guideline ECB/2011/14, shall be eligible as collateral for Eurosystem monetary policy operations, provided that they have two ratings of at least triple B ⁽¹⁾, at issuance and at any time subsequently. They shall also satisfy all the following requirements:

- (a) the cash-flow generating assets backing the ABS shall belong to one of the following asset classes: (i) residential mortgages; (ii) loans to small and medium-sized enterprises (SMEs); (iii) commercial mortgages; (iv) auto loans; (v) leasing; (vi) consumer finance;
- (b) there shall be no mix of different asset classes in the cash-flow generating assets;

⁽¹⁾ A 'triple B' rating is a rating of at least 'Baa3' from Moody's, 'BBB-' from Fitch or Standard & Poor's, or a rating of 'BBB' from DBRS.

(c) the cash-flow generating assets backing the ABS shall not contain loans which are any of the following:

- (i) non-performing at the time of issuance of the ABS;
- (ii) non-performing when incorporated in the ABS during the life of the ABS, for example by means of a substitution or replacement of the cash-flow generating assets;
- (iii) at any time, structured, syndicated or leveraged;

(d) the ABS transaction documents shall contain servicing continuity provisions.

2. ABS referred to in paragraph 1 that have two ratings of at least single A ⁽²⁾ shall be subject to a valuation haircut of 16 %.

3. ABS referred to in paragraph 1 that do not have two ratings of at least single A shall be subject to the following valuation haircuts: (a) ABS backed by commercial mortgages shall be subject to a valuation haircut of 32 %; and (b) all other ABS shall be subject to a valuation haircut of 26 %.

4. A counterparty may not submit ABS that are eligible pursuant to paragraph 1 as collateral if the counterparty, or any third party with which it has close links, acts as an interest rate hedge provider in relation to the ABS.

5. An NCB may accept as collateral for Eurosystem monetary policy operations ABS whose underlying assets include residential mortgages or loans to SMEs or both and which do not fulfil the credit assessment requirements under Section 6.3.2 of Annex I to Guideline ECB/2011/14 and the requirements referred to in paragraph 1(a) to (d) and paragraph 4 above but which otherwise comply with all eligibility criteria applicable to ABS pursuant to Guideline ECB/2011/14 and have two ratings of at least triple B. Such ABS shall be limited to those issued before 20 June 2012 and shall be subject to a valuation haircut of 32 %.

6. For the purposes of this Article:

- (1) 'residential mortgage', besides residential real estate mortgage-backed loans, shall include guaranteed residential real estate loans (without a real estate mortgage) if the guarantee is payable promptly on default. Such guarantee

⁽²⁾ A 'single A' rating is a rating of at least 'A3' from Moody's, 'A-' from Fitch or Standard & Poor's, or a rating of 'AL' from DBRS.

may be provided in different contractual formats, including contracts of insurance, provided they are granted by a public sector entity or a financial institution subject to public supervision. The credit assessment of the guarantor for the purposes of such guarantees must comply with credit quality step 3 in the Eurosystem's harmonised rating scale over the life of the transaction;

- (2) 'small enterprise' and 'medium-sized enterprise' means an entity engaged in an economic activity, irrespective of its legal form, where the reported sales for the entity or if the entity is a part of a consolidated group, for the consolidated group is less than EUR 50 million;
- (3) 'non-performing loan' shall include loans where payment of interest or principal is past due by 90 or more days and the obligor is in default, as defined in point 44 of Annex VII to Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions ⁽¹⁾, or when there are good reasons to doubt that payment will be made in full;
- (4) 'structured loan' means a structure involving subordinated credit claims;
- (5) 'syndicated loan' means a loan provided by a group of lenders in a lending syndicate;
- (6) 'leveraged loan' means a loan provided to a company that already has a considerable degree of indebtedness, such as buy-out or take-over-financing, where the loan is used for the acquisition of the equity of a company which is also the obligor of the loan;
- (7) 'servicing continuity provisions' means provisions in the legal documentation of an ABS that ensure that a default by the servicer does not lead to a termination of servicing and include triggers for the appointment of a back-up servicer and a high-level action plan outlining the operational steps to be taken once a back-up servicer is appointed and how the administration of the loans will be transferred.

Article 4

Admission of certain additional credit claims

1. NCBs may accept as collateral for Eurosystem monetary policy operations credit claims that do not satisfy the Eurosystem eligibility criteria.
2. NCBs that decide to accept credit claims in accordance with paragraph 1 shall establish eligibility criteria and risk control measures for this purpose by specifying deviations

from the requirements of Annex I to Guideline ECB/2011/14. Such eligibility criteria and risk control measures shall include the criterion that the credit claims are governed by the laws of the Member State of the NCB establishing the eligibility criteria and risk control measures. The eligibility criteria and risk control measures shall be subject to the Governing Council's prior approval.

3. In exceptional circumstances NCBs may, subject to the Governing Council's prior approval, accept credit claims: (a) in application of the eligibility criteria and risk control measures established by another NCB pursuant to paragraphs 1 and 2; or (b) governed by the law of any Member State other than the Member State in which the accepting NCB is established.

4. Another NCB shall only provide assistance to an NCB accepting credit claims pursuant to paragraph 1 if bilaterally agreed between both NCBs and subject to prior approval by the Governing Council.

Article 5

Acceptance of certain government-guaranteed bank bonds

1. An NCB shall not be obliged to accept as collateral for Eurosystem credit operations eligible uncovered bank bonds which: (a) do not fulfil the Eurosystem's requirement of high credit standards; (b) are issued by the counterparty using them or by entities closely linked to the counterparty; and (c) are fully guaranteed by a Member State: (i) whose credit assessment does not comply with the Eurosystem's requirement of high credit standards for issuers and guarantors of marketable assets as laid down in Section 6.3.1 and 6.3.2 of Annex I to Guideline ECB/2011/14; and (ii) which is compliant with a European Union/International Monetary Fund programme, as assessed by the Governing Council.
2. NCBs shall inform the Governing Council whenever they decide not to accept the securities described in paragraph 1 as collateral.
3. Counterparties may not submit as collateral for Eurosystem monetary policy operations uncovered bank bonds issued by themselves or issued by closely linked entities and guaranteed by a European Economic Area public sector entity with the right to impose taxes in excess of the nominal value of these bonds already submitted as collateral on 3 July 2012.

4. In exceptional cases, the Governing Council may decide on temporary derogations from the requirement laid down in paragraph 3 for a maximum of three years. A request for a derogation shall be accompanied by a funding plan that indicates how the own use of uncovered government-guaranteed bank bonds by the requesting counterparty will be phased out by no later than three years following the approval of the derogation. Any derogation already granted since 3 July 2012 shall continue to apply until it is due for review.

⁽¹⁾ OJ L 177, 30.6.2006, p. 1.

Article 6

Admission of certain assets denominated in pounds sterling, yen or US dollars as eligible collateral

1. Marketable debt instruments as described in Section 6.2.1 of Annex I to Guideline ECB/2011/14, if denominated in pounds sterling, yen or US dollars, shall constitute eligible collateral for Eurosystem monetary policy operations, provided that: (a) they are issued and held/settled in the euro area; (b) the issuer is established in the European Economic Area; and (c) they fulfil all other eligibility criteria included in Section 6.2.1 of Annex I to Guideline ECB/2011/14.

2. The Eurosystem shall apply the following valuation markdowns to such marketable debt instruments: (a) a markdown of 16 % on assets denominated in pounds sterling or US dollars; and (b) a markdown of 26 % on assets denominated in yen.

3. Marketable debt instruments described in paragraph 1, which have coupons linked to a single money market rate in their currency of denomination, or to an inflation index containing no discrete range, range accrual, ratchet or similar complex structures for the respective country, shall also constitute eligible collateral for the purposes of Eurosystem monetary policy operations.

4. The ECB may publish a list of other acceptable benchmark foreign currency interest rates, in addition to those referred to in paragraph 3, on its website at www.ecb.europa.eu, following approval by the Governing Council.

5. Only Articles 1, 3, 5, 6 and 8 of this Guideline shall apply to foreign currency denominated marketable assets.

Article 7

Suspension of the requirements for credit quality thresholds for certain marketable instruments

1. The Eurosystem's minimum requirements for credit quality thresholds, as specified in the Eurosystem credit assessment framework rules for marketable assets in Section 6.3.2 of Annex I to Guideline ECB/2011/14 shall be suspended in accordance with paragraph 2.

2. The Eurosystem's credit quality threshold shall not apply to marketable debt instruments issued or fully guaranteed by the central governments of euro area Member States under a European Union/International Monetary Fund programme, unless the Governing Council decides that the respective Member State does not comply with the conditionality of the financial support and/or the macroeconomic programme.

3. Marketable debt instruments issued or fully guaranteed by the central government of the Hellenic Republic shall be subject to the specific haircuts set out in Annex I to this Guideline.

Article 8

Taking effect, implementation and application

1. This Guideline shall take effect on 22 March 2013.

2. The NCBs shall take the necessary measures to comply with Article 5, Article 6(3) to (5) and Article 7, and apply this Guideline from 3 May 2013. They shall notify the ECB of the texts and means relating to those measures by 19 April 2013 at the latest.

3. Article 5 shall apply until 28 February 2015.

Article 9

Amendment to Guideline ECB/2007/9

In Part 5 of Annex III, the paragraph following Table 2 is replaced by the following:

'Calculation of lump-sum allowance for control purposes (R6):

Lump-sum allowance: The allowance is applied to every credit institution. Each credit institution deducts a maximum lump sum designed to reduce the administrative cost of managing very small reserve requirements. Should [reserve base × reserve ratio] be less than EUR 100 000, then the lump sum allowance equals [reserve base × reserve ratio]. Should [reserve base × reserve ratio] be greater than or equal to EUR 100 000, then the lump sum allowance equals EUR 100 000. Institutions allowed to report statistical data regarding their consolidated reserve base as a group (as defined in Part 2, Section 1 of Annex III to Regulation (EC) No 25/2009 (ECB/2008/32)) hold minimum reserves through one of the institutions in the group which is acting as an intermediary exclusively for these institutions. In accordance with Article 11 of Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves (ECB/2003/9) (*), in the latter case only the group as a whole is entitled to deduct the lump sum allowance.

The minimum (or "required") reserves are computed as follows:

Minimum (or "required") reserves = reserve base × reserve ratio – lump sum allowance

The reserve ratio applies in accordance with Regulation (EC) No 1745/2003 (ECB/2003/9).

(*) OJ L 250, 2.10.2003, p. 10.'

*Article 10***Repeal**

1. Guideline ECB/2012/18 is repealed from 3 May 2013.
2. References to Guideline ECB/2012/18 shall be construed as references to this Guideline and shall be read in accordance with the correlation table in Annex III.

*Article 11***Addressees**

This Guideline is addressed to all Eurosystem central banks.

Done at Frankfurt am Main, 20 March 2013.

The President of the ECB

Mario DRAGHI

ANNEX I

Haircut schedule applying to marketable debt instruments issued or fully guaranteed by the Hellenic Republic

Greek government bonds (GGBs)	Maturity bucket	Haircuts for fixed coupons and floaters	Haircuts for zero coupon
	0-1	15,0	15,0
	1-3	33,0	35,5
	3-5	45,0	48,5
	5-7	54,0	58,5
	7-10	56,0	62,0
	> 10	57,0	71,0
	Government-guaranteed bank bonds (GGBBs) and government-guaranteed non-financial corporate bonds	Maturity bucket	Haircuts for fixed coupons and floaters
0-1	23,0	23,0	
1-3	42,5	45,0	
3-5	55,5	59,0	
5-7	64,5	69,5	
7-10	67,0	72,5	
> 10	67,5	81,0	

ANNEX II

REPEALED GUIDELINE WITH ITS SUCCESSIVE AMENDMENTS

Guideline ECB/2012/18 (OJ L 218, 15.8.2012, p. 20).

Guideline ECB/2012/23 (OJ L 284, 17.10.2012, p. 14).

Guideline ECB/2013/2 (OJ L 34, 5.2.2013, p. 18).

ANNEX III

CORRELATION TABLE

Guideline ECB/2012/18	This Guideline
Articles 1 to 5	Articles 1 to 5
Article 5a	Article 6(1) and (2)
Article 6	Article 7
Article 7	Article 8
—	Article 9
Article 8	Article 7
Article 9	Article 10
Decision ECB/2011/4	This Guideline
Articles 2 and 3	Article 7
Decision ECB/2011/10	This Guideline
Articles 2 and 3	Article 7
Decision ECB/2012/32	This Guideline
Articles 2 and 3	Article 7
Decision ECB/2012/34	This Guideline
Articles 1 and 2	Article 6(3) and (4)