

## III

*(Preparatory acts)*

## EUROPEAN CENTRAL BANK

## OPINION OF THE EUROPEAN CENTRAL BANK

of 22 August 2018

**on a proposal for a directive of the European Parliament and of the Council on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU; and on a proposal for a regulation of the European Parliament and of the Council on amending Regulation (EU) No 575/2013 as regards exposures in the form of covered bonds**

(CON/2018/37)

(2018/C 382/03)

**Introduction and legal basis**

On 28 March 2018 and 13 April 2018 the European Central Bank (ECB) received requests from the Council of the European Union and the European Parliament respectively for an opinion on (1) a proposal for a directive of the European Parliament and of the Council on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU <sup>(1)</sup> (hereinafter the 'proposed directive') and (2) a proposal for a regulation of the European Parliament and of the Council on amending Regulation (EU) No 575/2013 as regards exposures in the form of covered bonds <sup>(2)</sup> (hereinafter the 'proposed regulation' and, together with the proposed directive, collectively referred to as the 'proposed directive and regulation').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union since the proposed directive and regulation contain provisions affecting (1) the basic task of the European System of Central Banks (ESCB) to define and implement monetary policy pursuant to the first indent of Article 127(2) of the Treaty, (2) the ESCB's contribution to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system in Article 127(5) of the Treaty, and (3) the tasks conferred upon the ECB concerning the prudential supervision of credit institutions pursuant to Article 127(6) of the Treaty. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

**General observations**

The ECB welcomes the objectives of the proposed directive and regulation of promoting further integration of Union financial markets and deepening the Capital Markets Union (CMU). The ECB is in favour of a developed, harmonised, high-quality and transparent covered bond market in the Union and sees the proposed directive as an important step towards creating such a market. The ECB also sees merit in the proposed directive serving as a basis for new national legislation on covered bonds. However, the implementation of the proposed directive might not lead to full harmonisation to the extent that Member States will have flexibility in its implementation. The provided degree of flexibility should not endanger the objective of further convergence towards a common, high standard in all Member States.

The distinction made between different product regulations within the initiatives launched under the broader policy objectives of the CMU allows for product-specific considerations. In this context, the ECB supports the approach of the proposed directive whereby European secured notes would be dealt with in a separate legislative proposal. This approach respects the distinctive, high quality of assets contained in European covered bonds' cover pools and does not unnecessarily mix different asset classes.

<sup>(1)</sup> COM(2018) 94 final.

<sup>(2)</sup> COM(2018) 93 final.

The proposed directive makes provision for the supervision of covered bonds by national competent authorities. This product supervision is distinct from and without prejudice to the ECB's prudential supervisory tasks set out in Council Regulation (EU) No 1024/2013<sup>(1)</sup>. In particular, the proposed directive does not affect the ECB's exclusive task of authorising credit institutions and withdrawing authorisations of credit institutions<sup>(2)</sup>, which may, depending on the national legal framework, include a general authorisation to issue covered bonds. Similarly, the ECB remains competent to ensure that the prudential risks arising from covered bond issuances as well as investments in covered bonds are adequately managed and assessed by credit institutions.

The Eurosystem accepts covered bonds which fulfil the eligibility criteria for collateral in Eurosystem monetary policy operations. The Eurosystem purchases covered bonds in the Eurosystem's covered bond purchase programme (CBPP3) as part of its expanded asset purchase programme (APP)<sup>(3)</sup>. The proposed directive and regulation are independent of the Eurosystem collateral framework and the CBPP3 as these are monetary policy instruments that fall within the Eurosystem's exclusive competence.

### Specific observations on the proposed directive

#### 1. Definitions

It is suggested to add the term 'voluntary overcollateralisation' as an additional component of overcollateralisation, thereby making voluntary collateralisation subject to segregation requirements. Adding this would ensure that voluntary overcollateralisation is subject to the safeguards under Directive 2014/59/EU of the European Parliament and of the Council<sup>(4)</sup>.

#### 2. Eligible assets

2.1 The ECB welcomes the qualitative requirements for eligible assets by which covered bonds must be collateralised, which include both certain predefined high-quality assets<sup>(5)</sup> and 'other high quality assets' that meet certain requirements. However, regarding these 'other high quality assets', the relevant requirements may not be sufficient to ensure the harmonised treatment of assets as high-quality assets, taking into account the principle-based approach used in the proposed directive. Therefore, the ECB supports the introduction of stricter requirements into the proposed directive.

2.2 Regarding the eligibility of assets located outside the Union, a maximum share of such assets should be introduced to ensure the homogeneity of the cover pool, to foster the European character of the covered bond product and to support investors' understanding of cover pool risks.

2.3 The homogeneity of cover pool assets is a key feature of transparent, high-quality covered bonds and therefore homogenous pools consisting exclusively of one asset class are preferable. However, Member States may allow for mixed pools where they specify the safeguards needed to ensure that the risk profile of the assets in a pool is of a sufficiently similar nature and that the composition of the cover pool does not materially change over time.

2.4 The proposed directive should clarify that the segregation requirement applies to all assets, including assets held by way of overcollateralisation, including if such overcollateralisation is provided on a voluntary basis. This requirement should not, however, extend to other additional guarantees relating to covered bond programmes that are

<sup>(1)</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>(2)</sup> See Article 4(1)(a) of Regulation (EU) No 1024/2013.

<sup>(3)</sup> Decision ECB/2014/40 of the European Central Bank of 15 October 2014 on the implementation of the third covered bond purchase programme (OJ L 335, 22.11.2014, p. 22).

<sup>(4)</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). See in particular Articles 76(2)(e) and 79(1)(a), which require Member States to ensure that there is appropriate protection for covered bonds arrangements so as to prevent, inter alia, transfer of some, but not all, of the assets, rights and liabilities which constitute or form part of a covered bonds arrangement to which the institution under resolution is a party. See also page 141 of the EBA Report on Covered Bonds: Recommendations on harmonisation of covered bond frameworks in the EU of 20 December 2016 (EBA-Op-2016-23), (the 'EBA Recommendation').

<sup>(5)</sup> Please see Article 129(1)(a) to (g) of Regulation (EU) No 575/2013.

required by national covered bond laws, but which do not form part of the overcollateralisation as such<sup>(1)</sup>. The proposed directive should also clarify that assets in the cover pool should be segregated either by: (a) registration of the cover pool assets in a cover pool register; (b) transfer of the cover pool assets to a special purpose vehicle; or (c) holding the cover pool assets in a specialised mortgage credit institution.

- 2.5 The supervision of covered bond issuers should be supplemented with cover pool monitoring on a continuous basis. The proposed directive should make the appointment of a cover pool monitor at issuance of a covered bond mandatory rather than merely voluntary. Such a requirement for a cover pool monitor is already well-established in the national legislation of many Member States. The cover pool monitor should at least comply with the minimum requirements set out in the proposed directive. The requirement that the cover pool monitor must be an entity separate and independent from the credit institution issuing covered bonds, and must also be an entity separate and independent from that credit institution's auditor, resolves any potential conflicts of interest.
- 2.6 Several provisions on investor information in the proposed directive are welcome. First, investor information is to be provided for all regulated covered bonds. Second, the frequency of disclosure of investor information has been increased from semi-annually to quarterly. Third, the scope of investor information to be provided has been extended to also cover contractual and voluntary levels of overcollateralisation as well as details on interest rate, currency, credit, market and liquidity risks. However, these provisions leave excessive room for interpretation of these requirements for issuers as well as competent authorities. The potential for a different approach for example to definitions and data formats could endanger a common understanding of the provided information. Therefore, in order to further facilitate investor due diligence and comparability of covered bonds, additional and more detailed information should be required. Moreover, the information should be presented in a template format.

### 3. Coverage and liquidity requirements

- 3.1 Whereas a common measurement of the coverage requirement based on a nominal calculation principle facilitates comparison of covered bonds across Member States and issuers, it cannot be applied to derivative contracts. Statutory overcollateralisation should be removed from the coverage requirement as its purpose is to ensure the provision of additional assets and thus it is already covered in other provisions of the draft directive. Not only uncollateralised, but also collateralised, claims where the obligor is unlikely to pay or the debt is overdue<sup>(2)</sup> should be left out of the calculation of coverage, because in these circumstances dual recourse would be weaker. A number of additional criteria are necessary to ensure investor protection. First, at least the same loan-to-value (LTV) limits as set out pursuant to Regulation (EU) No 575/2013<sup>(3)</sup> should apply for the calculation of the minimum coverage. In this respect, harmonisation of the LTV calculation should be ensured through the use of transparent indexation, at least an annual revaluation of the cover assets and use of the current loan balance instead of the original loan balance. Second, substitute assets should not be taken into account in the coverage requirement, or, at the very least, it would be prudent to impose a limit on the substitute assets to be considered in the calculation of the coverage requirement.
- 3.2 Assets qualifying as level 1 or level 2A<sup>(4)</sup> are considered liquid assets and therefore suitable for the cover pool liquidity buffer. Level 2B assets, which include, for example, asset-backed securities, corporate securities and shares meeting specified requirements<sup>(5)</sup>, are less liquid and should therefore not contribute to the cover pool liquidity buffer. Additionally, assets issued by the credit institution itself, its parent undertaking, its subsidiary, another subsidiary of its parent undertaking, or a securitisation special purpose entity with which the credit institution has close links<sup>(6)</sup>, should not be used as part of the liquidity buffer to prevent a concentration of companies within the issuer's group or affiliated with the issuer. Further, Member States should ensure a sufficient level of diversification<sup>(7)</sup> to enable a rapid liquidation of these assets without a significant loss in value.

<sup>(1)</sup> For example, in the case of Spanish covered bonds (cédulas) the entire mortgage portfolio constitutes an additional guarantee to the required level of overcollateralisation. The additional guarantee changes over time.

<sup>(2)</sup> See Article 178 of Regulation (EU) No 575/2013.

<sup>(3)</sup> See Article 129(1) of Regulation (EU) No 575/2013.

<sup>(4)</sup> See Articles 10 and 11 of Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015, p. 1).

<sup>(5)</sup> See Article 12 of Delegated Regulation (EU) 2015/61.

<sup>(6)</sup> See Article 7(3) of Delegated Regulation (EU) 2015/61.

<sup>(7)</sup> See Article 8(1) of Delegated Regulation (EU) 2015/61.

3.3 The cover pool liquidity buffer should cover the entire net liquidity outflow for 180 calendar days as liquidity buffers should also cover potential issuer insolvency scenarios. Therefore, there should be no disapplication of this requirement, as is currently the case under Article 16(4) of the proposed directive, which does not require a cover pool liquidity buffer if other liquidity requirements are provided for in other acts of Union law. However, the ECB appreciates that the existing requirement according to which, in order to be eligible to form part of a credit institution's liquidity buffer, assets must be free from any encumbrance <sup>(1)</sup>, would need to be clarified in this context.

3.4 The proposed directive would allow for the calculation of the principal redemption for covered bonds with extendable maturity structures to be based on the extended final maturity date instead of the scheduled maturity date in the context of the requirement for a cover pool liquidity buffer. This *de facto* means that for these types of covered bonds there is no liquidity buffer requirement for the principal redemption on the scheduled maturity date. The requirement for a cover pool liquidity buffer for the calculation of the principal redemption for covered bonds with extendable maturity structures should be based on the scheduled maturity date as there is an expectation that these covered bonds will be repaid on the scheduled maturity date and non-payment on the scheduled maturity date may have significant funding risks for the credit institution. The maturity of such covered bonds should not, in the normal course, be extended if there are sufficient monies to pay the covered bondholders at the scheduled maturity. Hence, not having a liquidity buffer for the principal redemption on the scheduled maturity date may increase the likelihood of the maturity of such covered bonds being extended <sup>(2)</sup>.

#### 4. *Soft bullet and conditional pass-through structures*

4.1 There has been a rapid development of innovative covered bond structures, which requires careful ongoing assessment to ensure sustainable market development. In particular, over the past few years covered bonds with extendable maturity structures whereby the scheduled maturity date of the covered bonds can be extended by the issuing credit institution have been used more extensively, while the specific risks posed by these structures may not have been sufficiently considered <sup>(3)</sup>.

4.2 The proposed directive allows for extendable maturity structures under certain conditions. In the ECB's experience, it is not possible to fully exclude the discretionary triggering of a maturity extension in all Member States due to differences in national legal frameworks applicable to covered bonds, the potential for variations in the contractual provisions of a covered bond programme as well as differences in how national law treats defaults and non-payment in the absence of prohibitions on voluntary trigger of a default. By allowing the extension triggers to be contractually defined, the proposed directive could result in significant heterogeneity across covered bonds, which hinders harmonisation. Therefore, it is suggested that only statutory triggers prescribed by law should be allowed, and contractual triggers should be excluded.

4.3 In this respect, it is noted that the European Banking Authority (EBA) has proposed a set of specific conditions that should be complied with by covered bonds with extendable maturity structures in order to be eligible for preferential risk weight treatment. In particular, the maturity extension may only be effected upon the following triggers taking place (both triggers must occur cumulatively): (i) the covered bond issuer must have defaulted and (ii) the covered bond breaches certain pre-defined criteria/tests indicating a likely failure of the covered bond to be repaid at the scheduled maturity date <sup>(4)</sup>. These two requirements would limit any potential discretion of the issuing credit institution over the maturity extension.

#### 5. *Effective cooperation between supervisory authorities*

Given the ECB's competence regarding credit institutions' prudential risks, it is important for the ECB to ensure that risks arising from covered bond issuances are adequately managed. Therefore the ECB should be able to request relevant information on an ad-hoc basis from the competent authorities responsible for covered bond public supervision in order to take this information into account for the ongoing prudential supervision of the respective credit institution.

<sup>(1)</sup> See Article 7(2) of Delegated Regulation (EU) 2015/61.

<sup>(2)</sup> See also paragraph 2.2.4 of Opinion CON/2017/46. All ECB opinions are published on the ECB's website at [www.ecb.europa.eu](http://www.ecb.europa.eu)

<sup>(3)</sup> See also pages 17 and 18 of the 'ECB contribution to the European Commission's consultation on Capital Markets Union mid-term review 2017,' available on the ECB's website.

<sup>(4)</sup> See page 137 of the EBA Recommendation.

## 6. *Label*

Whilst the concept of a specific label for covered bonds issued by credit institutions established in the Union has its merits, some questions, such as the competent authority to grant the label and specified requirements relating to the granting of the label, remain to be clarified at Member State level. The possibility cannot be entirely excluded that some investors might confuse the abbreviated name of the label, European Covered Bond (ECB), with the abbreviation of the European Central Bank (ECB). Therefore, a more neutral name, e.g. EU Covered Bond, might be preferable.

### **Specific observations on the proposed regulation**

#### 7. *Overcollateralisation and substitution assets*

- 7.1 The ECB welcomes a harmonised approach towards minimum overcollateralisation. A uniform calculation method without exceptions is favoured. The ECB therefore has reservations about the proposal to apply different requirements in certain situations. Notwithstanding the challenges of a common requirement across the Union, the ECB takes note of the recent Basel Committee standards <sup>(1)</sup> and considers a 5 % requirement as a sensible position.
- 7.2 The ECB welcomes the fact that the proposed regulation clarifies that LTV limits should be applied as soft coverage limits. For example, there are no limits on the size of an underlying loan, but such a loan can only contribute to the requirements for coverage up to and including the applicable LTV limit. This LTV limit should be applied not only upon inclusion of such loan but throughout the entire maturity of the loan. In this respect, it is important that the entire loan amount, including the loan part in excess of the applicable LTV limit, is subject to the segregation of assets in the cover pool in accordance with the proposed directive. For the purpose of the LTV limits, it would be prudent for the property value to be monitored and updated at least on a yearly basis by using an indexation method, in addition to the other requirements for immovable property collateral that are set out in Article 208 of Regulation (EU) No 575/2013.
- 7.3 Given the difficulties in shipping finance, due to the highly cyclical nature of the shipping industry <sup>(2)</sup>, it would be appropriate to exclude covered bonds which are collateralised by loans secured by maritime liens on ships, from preferential treatment in accordance with Article 129(4) and (5) of Regulation (EU) No 575/2013.
- 7.4 It is prudent that the assets that may contribute to mandatory overcollateralisation should be eligible assets as listed in the proposed regulation, and be subject to the same limits on exposure size as set out in the proposed regulation.
- 7.5 It is important to have qualitative requirements for substitution assets for covered bonds, and it is appropriate that the same requirements apply as for eligible assets in accordance with the proposed regulation. However, these qualitative criteria should be supplemented with a quantitative limitation <sup>(3)</sup>. This quantitative limitation would further regulate the composition of the cover pool to ensure its homogeneity and would facilitate investors' ability to conduct due diligence. According to the EBA's analysis, a significant majority of national covered bond frameworks regulate substitution assets in terms of composition and quantitative limits <sup>(3)</sup>. The ECB would therefore recommend including in the proposed regulation a requirement that substitution assets must not exceed 20 % of the total nominal amount of all outstanding covered bonds of the issuer.

Where the ECB recommends that the proposed directive and regulation are amended, specific drafting proposals are set out in a separate technical working document accompanied by an explanatory text to this effect. The technical working document is available in English on the ECB's website.

Done at Frankfurt am Main, 22 August 2018.

*The President of the ECB*

Mario DRAGHI

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<sup>(1)</sup> See Basel III: Finalising post-crisis reforms, 7 December 2017, available on the Bank for International Settlement's website at [www.bis.org](http://www.bis.org) considering a 10 % requirement.

<sup>(2)</sup> See 'ECB Banking Supervision reviews lending to troubled shipping sector', 17 May 2017, available on the ECB's Banking Supervision website at [www.bankingsupervision.europa.eu](http://www.bankingsupervision.europa.eu)

<sup>(3)</sup> See page 139 of the EBA recommendation.





EUROPEAN CENTRAL BANK

EUROSYSTEM

ECB-PUBLIC

**Technical working document**  
**produced in connection with ECB Opinion CON/2018/37<sup>1</sup>**  
**Drafting proposal in relation to the proposed directive**

<b>Text proposed by the Commission</b>	<b>Amendments proposed by the ECB<sup>2</sup></b>
Amendment 1 Recital 12	
'(12) It is therefore appropriate that only credit institutions as defined in Article 4(1)(1) of Regulation (EU) No 575/2013 should be able to issue covered bonds under Union law. The main purpose of this Directive is to regulate the conditions under which those credit institutions can issue covered bonds as a financing tool by laying down the product requirements and specific product supervision they are subject to in order to ensure a high level of investor protection.'	'(12) It is therefore appropriate that only credit institutions as defined in Article 4(1)(1) of Regulation (EU) No 575/2013 should be able to issue covered bonds under Union law. The main purpose of this Directive is to regulate the conditions under which those credit institutions can issue covered bonds as a financing tool by laying down the product requirements and specific product supervision they are subject to in order to ensure a high level of investor protection. <b>The specific product supervision under this Directive is without prejudice to the tasks concerning the prudential supervision of credit institutions conferred upon the European Central Bank (ECB) under Article 127(6) of the Treaty.'</b>
<u>Explanation</u> <i>The proposed amendment clarifies that the product supervision under the proposed directive is distinct from, and without prejudice to, the tasks conferred upon the ECB under Article 127(6) of the Treaty and Council Regulation (EU) No 1024/2013<sup>3</sup>, such as the ECB's exclusive task to authorise credit</i>	

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- 1 This technical working document is produced in English only and communicated to the consulting Union institution(s) after adoption of the opinion. It is also published in the Legal framework section of the ECB's website alongside the opinion itself.
  - 2 Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.
  - 3 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).

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
<p><i>institutions (which may, depending on the national legal framework, include the general authorisation to issue covered bonds) or the ECB's exclusive task to ensure that the prudential risks arising from covered bond issuances, as well as from investments in covered bonds, are adequately managed and assessed by credit institutions. See also General Observations third paragraph of the opinion.</i></p>	
<p style="text-align: center;">Amendment 2 Article 3, point (1)</p>	
<p>'(1) "covered bond" means a debt obligation issued by a credit institution and secured by a cover pool of assets which covered bond investors have direct recourse to as preferred creditors;'</p>	<p>'(1) "covered bond" means a debt obligation issued by a credit institution and secured by a cover pool of assets <b>to</b> which covered bond investors have <b>direct</b> recourse <del>to</del> as preferred creditors;'</p>
<p style="text-align: center;"><u>Explanation</u></p> <p><i>Including a requirement for recourse to be 'direct' could exclude covered bonds issued under existing national legal frameworks which use a special purpose vehicle to hold the assets and guarantee the issuer's liabilities under the covered bonds.</i></p>	
<p style="text-align: center;">Amendment 3 Article 3, point (12)</p>	
<p>'(12) "overcollateralisation" means the statutory or contractual level of collateral exceeding the coverage requirement as set out in Article 15;'</p>	<p>'(12) "overcollateralisation" means the statutory, <del>or</del> contractual <b>or voluntary</b> level of collateral exceeding the coverage requirement as set out in Article 15;'</p>
<p style="text-align: center;"><u>Explanation</u></p> <p><i>It is proposed to add voluntary overcollateralisation as an additional component of overcollateralization, with the result that such voluntary overcollateralization would be subject to segregation requirements. This would ensure that voluntary overcollateralisation would benefit from the safeguards under the Bank Recovery and Resolution Directive. See also Amendment 10 and paragraph 1 of the opinion.</i></p>	
<p style="text-align: center;">Amendment 4 Article 3 (new definition)</p>	
<p>No text</p>	<p><b>"successor credit institution" means a credit institution that assumes the rights and obligations of an issuing credit institution</b></p>

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
	under covered bonds;'
<p><i>Explanation</i></p> <p><i>New definition proposed for Articles 4 and 5 of the proposed directive.</i></p>	
<p>Amendment 5</p> <p>Article 4</p>	
<p>'1. Member States shall lay down rules entitling the covered bonds investors to the following claims:</p>	<p>'1. Member States shall lay down rules entitling the covered bonds investors to the following claims:</p>
<p>(a) a claim on the credit institution issuing covered bonds;</p>	<p>(a) a claim on the credit institution issuing covered bonds <b>or the successor credit institution;</b></p>
<p>(b) in case of insolvency or resolution of the credit institution issuing covered bonds, a priority claim on the principal and any accrued interest from assets included in the cover pool;</p> <p>[...]</p>	<p>(b) in case of insolvency or resolution of the credit institution issuing covered bonds <b>or the successor credit institution</b>, a priority claim on <del>the principal and any accrued interest</del> <b>the proceeds</b> from assets included in the cover pool;</p> <p><b>(bb) in the event that the priority claim as referred to in point (b) cannot be fully satisfied, a claim on the credit institution issuing covered bonds or the successor credit institution, which ranks <i>pari passu</i> with the claims of the credit institution's or, as the case may be, the successor credit institution's ordinary unsecured creditors;</b></p> <p>[...]</p>
<p>3. For the purposes of point (c) of paragraph 1, in the case of insolvency of a specialised mortgage credit institution, Member States may lay down rules granting the covered bond investors a claim that ranks senior to the claim of that specialised mortgage credit institution's ordinary unsecured creditors determined in accordance with the national laws governing the ranking of creditors in normal insolvency procedures, but junior to any other preferred</p>	<p>3. For the purposes of point <b>(bb) or</b> (c) of paragraph 1, in the case of insolvency of a specialised mortgage credit institution, Member States may lay down rules granting the covered bond investors a claim that ranks senior to the claim of that specialised mortgage credit institution's ordinary unsecured creditors determined in accordance with the national laws governing the ranking of creditors in normal insolvency procedures, but junior to any other</p>

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
creditors.'	preferred creditors.'
<p style="text-align: center;"><u>Explanation</u></p> <p><i>Dual recourse should extend not only to the covered bond issuing credit institution, but also to any successor credit institution when the dual recourse becomes relevant, e.g. in case of resolution or insolvency of such entity. Further, it should be clarified that a covered bondholder has an ordinary, unsecured claim against a credit institution in the event that its claim cannot be satisfied against the proceeds from the assets in the cover pool.</i></p>	
<p style="text-align: center;">Amendment 6</p> <p style="text-align: center;">Article 5</p>	
'Member States shall ensure that the payment obligations attached to the covered bonds are not subject to automatic acceleration upon the insolvency or resolution of the credit institution issuing covered bonds.'	'Member States shall ensure that the payment obligations attached to the covered bonds are not subject to automatic acceleration upon the <b>default</b> , insolvency or resolution of the credit institution issuing covered bonds <b>or the successor credit institution</b> .'
<p style="text-align: center;"><u>Explanation</u></p> <p><i>A default (e.g., payment failure) by a credit institution should be added to the events that should not lead to automatic acceleration of the payment obligations of the covered bonds.</i></p>	
<p style="text-align: center;">Amendment 7</p> <p style="text-align: center;">Article 7(2)</p>	
'2. Where Member States allow for the inclusion referred to in paragraph 1, they shall ensure investor protection by verifying whether the assets located outside of the Union meet all the requirements set out in Article 6 and that the realisation of such assets is legally enforceable in a way similar to assets located within the Union.'	'2. Where Member States allow for the inclusion referred to in paragraph 1, they shall ensure investor protection by verifying whether the assets located outside of the Union meet all the requirements set out in Article 6 and that the realisation of such assets is legally enforceable in a way similar to assets located within the Union. <b>Such assets located outside of the Union may not exceed [20%] of the total cover pool at issuance of the covered bond until maturity.</b> '
<p style="text-align: center;"><u>Explanation</u></p> <p><i>It should be ensured that cover pools are generally limited to assets located in the EEA, as this ensures that liquidation of collateral in the case of the issuer's insolvency is legally enforceable. Legal rights with</i></p>	

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
<p><i>respect to assets located outside the EEA should be legally enforceable in a broadly similar way to the enforceability of such rights in EU jurisdictions (see, e.g., the requirements on legal certainty for immovable property collateral under Article 208 (2) CRR<sup>4</sup>). To reach this aim a maximum limit on such assets should be introduced to ensure the homogeneity of the pool, to foster the European character of the product and to support investors' understanding of cover pool risks. See paragraph 2.2 of the opinion.</i></p>	
<p style="text-align: center;">Amendment 8 Article 10</p>	
<p>'Member States shall ensure investor protection by providing for a sufficient level of homogeneity of the assets in the cover pool so that they shall be of a similar nature in terms of structural features, lifetime of assets or risk profile.'</p>	<p>'1. Member States shall ensure investor protection by providing for a sufficient level of homogeneity of the assets in the cover pool so that they shall be of a similar nature in terms of structural features, lifetime of assets or risk profile..</p> <p>,</p>
<p>No text</p>	<p><b>2. Regulatory limits or criteria should ensure that a cover pool shall not materially deteriorate prior to maturity in terms of structural features, the maturity structure of assets or risk profile.</b></p>
<p style="text-align: center;"><u>Explanation</u></p> <p><i>Member States should only allow cover pools to be mixed if they make sure that the risk profile and the composition of the cover pool should not change over time. See paragraph 2.3 of the opinion.</i></p>	
<p style="text-align: center;">Amendment 9 Article 12.1</p>	
<p>'1. [...] For the purposes of the first subparagraph, the assets in the cover pool shall include any collateral received in connection with derivative contract positions.'</p>	<p>'1. [...] For the purposes of the first subparagraph, the assets in the cover pool shall include any collateral received in connection with derivative contract positions <b>and any collateral received by way of overcollateralization, but shall not include any</b></p>

<sup>4</sup> See also pp. 43-44 of the EBA Recommendation.

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
	<p>additional guarantees not forming part of the overcollateralization required by applicable national laws.</p> <p>For the purposes of point (b) in the first subparagraph, the assets in the cover pool shall be separated either by (i) registration of the assets in the cover pool in a cover pool register, (ii) transfer of assets in the cover pool to a separate legal entity or (iii) segregation of the assets in the cover pool in a specialised mortgage credit institution.'</p>
<p style="text-align: center;"><u>Explanation</u></p> <p><i>It is proposed to specify in the proposed directive various methods for the segregation of assets in the cover pool.</i></p> <p><i>Furthermore, it is suggested to clarify that the segregation requirement not only applies to the requirements for coverage but also to all overcollateralisation, including any overcollateralisation provided on a voluntary basis.</i></p> <p><i>See paragraph 2.4 of the opinion.</i></p>	
<p style="text-align: center;">Amendment 10</p> <p style="text-align: center;">Article 13</p>	
<p>'1. Member States may require that credit institutions issuing covered bonds appoint a cover pool monitor to perform ongoing monitoring of the cover pool with regard to the requirements set out in Articles 6 to 12 and Articles 14 to 17.'</p>	<p>'1. Member States <del>may</del> <b>shall</b> require that credit institutions issuing covered bonds appoint a cover pool monitor <b>at the issuance of a covered bond</b> to perform ongoing monitoring of the cover pool with regard to the requirements set out in Articles 6 to 12 and Articles 14 to 17.'</p>
<p>'2. Where Member States use the option provided for in paragraph 1, they shall lay down rules at least on the following aspects: [...].'</p>	<p>'2. <del>Where Member States use the option provided for in paragraph 1, they shall lay down rules at least on the following aspects: [...].'</del></p>
<p>[...]</p> <p>4. Where Member States use the option provided for in paragraph 1, they shall notify EBA.'</p>	<p>[...]</p> <p>4. <del>Where Member States use the option provided for in paragraph 1, they shall notify EBA.</del> <b>Member States shall require that the</b></p>

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
	compliance with the rules laid down pursuant to paragraph 2 of cover pool monitors is monitored by the competent authority.’
<p><i>Explanation</i></p> <p><i>The proposed directive should require rather than permit the appointment of a cover pool monitor. Such cover pool monitor ensures that the high quality of the cover pool is maintained during the lifetime of the covered bond. Minimum requirements lead to a harmonised and comparable approach which leads to harmonisation of the standards throughout the Union. See paragraph 2.5 of the opinion.</i></p>	
<p>Amendment 11</p> <p>Article 14</p>	
<p>[...]</p> <p>2. For the purposes of paragraph 1, Member States shall ensure that the information is provided to investors at least on a quarterly basis and includes the following minimum portfolio information:</p>	<p>[...]</p> <p>2. For the purposes of paragraph 1, Member States shall ensure that the information is provided to investors at least on a quarterly basis and includes the following minimum portfolio <b>and transaction</b> information:</p>
(a) the value of the cover pool and outstanding covered bonds;	(a) the value of the cover pool and outstanding covered bonds;
No text	<b>(b) separate lists of international securities identification numbers (ISINs) for cover bonds issued;</b>
(b) the geographical distribution and type of assets in the cover pool, their loan size and valuation method;	<del>(b)</del> the geographical distribution and type of assets in the cover pool, their loan size, <b>their loan-to-value ratio</b> and <b>their</b> valuation method, <b>including the indexation method used if applicable;</b>
(c) details as to risks in relation to interest rates, currency, credit, market and liquidity;	<del>(c)</del> details as to risks in relation to interest rates, currency, credit, market and liquidity and related hedging arrangements;
(d) the maturity structure of assets in the cover pool and covered bonds;	<del>(d)</del> the maturity structure of assets in the cover pool and covered bonds, <b>including an overview of the maturity extension triggers if applicable;</b>
(e) the levels of required coverage, contractual	<del>(e)</del> the levels of required <b>and available</b> coverage,

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
and voluntary overcollateralisation;	<b>including statutory</b> , contractual and voluntary overcollateralisation, <b>with asset coverage tests if applicable</b> ;
f) the percentage of loans that are more than ninety days past due.	<b>(fg)</b> the percentage of loans that are more than ninety days past due-;
No text	<b>(h) an overview of the key transaction parties</b> ;
No text	<b>(i) a glossary with definitions, data sources and criteria</b> .
Member States shall ensure that the information is provided to investors on an aggregated basis. Member States may also require the information to be provided on a loan-by-loan basis.'	Member States shall ensure that the information is provided to investors on an aggregated basis. Member States may also require the information to be provided on a <b>separate or</b> loan-by-loan basis.'
'3. Member States shall ensure investor protection by requiring credit institutions issuing covered bonds to publish on their website the information made available to investors in accordance with paragraphs 1 and 2.'	'3. Member States shall ensure investor protection by requiring credit institutions issuing covered bonds to publish on their website the information made available to investors in accordance with paragraphs 1 and 2. <b>EBA shall develop a template for this purpose by [date]</b> .'
<p><u>Explanation</u></p> <p><i>Separate lists with the international securities identification numbers (ISINs) for the outstanding covered bonds help to identify the respective covered bonds. The loan-to-value ratio should be accompanied by an explanation of the indexation method to assist comparability. Maturity extension triggers should be listed for a better evaluation of risk. All forms of collateralisation should be mentioned for an assessment of the risk structure. Key transaction parties should be listed for the evaluation of counterparty risk. A glossary helps to create a common understanding and easy access to information. Templates help to harmonise information and therefore help investor due diligence of comparable products. Such templates could be based on templates already used and created in the market through market initiatives. See paragraph 2.6 of the opinion.</i></p>	
<p>Amendment 12</p> <p>Article 15(1)</p>	
'1. [...] (b) the calculation of the level of coverage required ensures that the total nominal amount of all assets in the cover pool are at least of the	'1. [...] (b) the calculation of the level of coverage required ensures that <b>(i)</b> the total nominal amount of all assets <b>with the exception of assets which are</b>

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
same value as the total nominal amount of outstanding covered bonds ('nominal principle');	<u>derivatives</u> are at least of the same value as the total nominal amount of outstanding covered bonds ('nominal principle') <b><u>and (ii) assets and liabilities resulting from derivatives are measured at market value;</u></b>
<p>(c) the following assets in the cover pool contribute to the coverage requirement:</p> <p>(i) primary assets;</p> <p>(ii) substitution assets;</p> <p>(iii) liquid assets held in accordance with Article 16;</p> <p>(iv) derivative contracts held in accordance with Article 11;</p> <p>(v) statutory overcollateralisation;</p>	<p>(c) the following assets in the cover pool contribute to the coverage requirement:</p> <p>(i) primary assets;</p> <p>(ii) substitution assets;</p> <p>(iii) liquid assets held in accordance with Article 16;</p> <p>(iv) derivative contracts held in accordance with Article 11;</p> <p><del>(v) statutory overcollateralisation;</del></p>
<p>(d) uncollateralised claims where a default is considered to have occurred in accordance with Article 178 of Regulation (EU) No 575/2013 do not contribute to the cover pool.</p> <p>[...]</p>	<p>(d) <del>uncollateralised</del> claims where a default is considered to have occurred in accordance with Article 178 of Regulation (EU) No 575/2013 do not contribute to the <del>cover pool</del> <b>coverage requirement.</b></p> <p><b>For the purpose of point (a) of the first subparagraph, the same limits as set out in Article 129 of Regulation (EU) No 575/2013 shall be applicable.</b></p> <p><b>For the purpose of the limit on the value of the property comprising the collateral security, such property shall be monitored and updated at least on a yearly basis by using an indexation method.</b></p> <p>[...]</p>
<p><u>Explanation</u></p> <p><i>The nominal calculation principle cannot be applied to derivative contracts which can be either assets or liabilities during the life of the derivative but will return to zero market value at maturity of the derivative contract. The applicable calculation method should be clarified so that assets and liabilities resulting from derivatives are measured at market value. All claims where a default is considered to have occurred should not contribute to the requirements for coverage.</i></p> <p><i>Statutory overcollateralisation should also be removed as an asset which can contribute to the coverage</i></p>	

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
<p><i>requirement since logically overcollateralization is not relevant to the coverage requirement.</i></p> <p><i>Loan-to-value limits should also apply for the calculation of the minimum coverage on the same basis as in Article 129 of Regulation (EU) No 575/2013.</i></p> <p><i>See paragraph 3.1 of the opinion.</i></p>	
<p style="text-align: center;">Amendment 13</p> <p style="text-align: center;">Article 16</p>	
<p>[...]</p> <p>3. Member States shall ensure that the cover pool liquidity buffer referred to in paragraph 1 consists of the following types of assets:</p> <p style="padding-left: 40px;">(a) assets qualifying as level 1, level 2A and level 2B assets pursuant to Articles 10, 11 and 12 of Delegated Regulation (EU) 2015/61, valuated in accordance with Article 9 of that Delegated Regulation and segregated in accordance with Article 13 of this Directive;</p> <p>[...]</p>	<p>[...]</p> <p>3. Member States shall ensure that the cover pool liquidity buffer referred to in paragraph 1 consists of the following types of assets:</p> <p style="padding-left: 40px;">(a) assets qualifying as level 1, <b>and</b> level 2A <del>and level 2B</del> assets pursuant to Articles 10, <b>and</b> 11 <del>and 12</del> of Delegated Regulation (EU) 2015/61, valuated in accordance with Article 9 of that Delegated Regulation, <b>not own-issued in accordance with Article 7(3) of that Delegated Regulation</b>, segregated in accordance with Article 13 of this Directive <b>and appropriately diversified in accordance with Article 8.1 of that Delegated Regulation</b>;</p> <p>[...]</p>
<p>'4. Where the credit institution issuing covered bonds is subject to liquidity requirements set out in other acts of Union law, Member States may decide that the national rules transposing paragraphs 1, 2 and 3 do not apply throughout the period foreseen in those acts of Union law.'</p>	<p>'4. Where the credit institution issuing covered bonds is subject to liquidity requirements set out in <del>other acts of Union law</del> <b>Delegated Regulation (EU) 2015/61</b>, Member States may decide that the <b>part of the cover pool liquidity buffer which consists of assets in accordance with point (a) of paragraph 3 may contribute towards those liquidity requirements, but only up to the amount of the net liquidity outflow of the covered bond programme</b> <del>national rules transposing paragraphs 1, 2 and 3 do not apply throughout the period foreseen in those acts of Union law.</del></p>
<p>'5. Member States may allow for the</p>	<p>'5. <del>Member States may allow for the</del></p>

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
<p>calculation of the principal for extendable maturity structures to be based on the final maturity date of the covered bond.</p> <p>[...]</p>	<p><del>calculation of the principal for extendable maturity structures to be based on the final maturity date of the covered bond.</del></p> <p>[...]</p>
<p style="text-align: center;"><u>Explanation</u></p> <p><i>It is suggested to limit assets eligible for the cover pool liquidity buffer to assets qualifying as level 1 and level 2A of Delegated Regulation (EU) 2015/61 as only these assets provide for sufficient liquidity as required for a liquidity buffer. The assets constituting a liquidity buffer should not have been issued by the credit institution itself in accordance with article 7(3) of the Delegated Regulation as the risk would cumulate in one credit institution. The liquid assets eligible for the cover pool liquidity buffer should be sufficiently diversified to cater for sufficient flexibility in enforcing them. Claims where a default is considered to have occurred should not contribute to the cover pool liquidity buffer.</i></p> <p><i>The cover pool liquidity buffer should cover the entire net liquidity outflow for 180 calendar days without derogation. In addition, in order to avoid duplication of liquidity requirements, the part of the cover pool liquidity buffer which consists of assets in accordance with article 3(a) of Delegated Regulation (EU) 2015/61 may contribute toward those liquidity requirements in accordance with the Delegated Regulation (EU) No 2015/61. To clarify the calculation method further any assets and liabilities pursuant to the covered bond should only contribute to the credit institutions' liquidity up to the net liquidity outflow.</i></p> <p><i>It is suggested that the calculation of the principal redemption for covered bonds with extendable maturity structures be based on the scheduled maturity date.</i></p> <p><i>See paragraphs 3.2 and 3.3 of the opinion.</i></p>	
<p style="text-align: center;">Amendment 14</p> <p style="text-align: center;">Article 17(1)</p>	
<p>'1. Member States may allow for the issue of covered bonds with extendable maturity structures where investor protection by at least the following:</p> <p>(a) the maturity extension triggers are specified in contract or statute;</p> <p>[...]</p>	<p>'1. Member States may allow for the issue of covered bonds with extendable maturity structures where investor protection by at least the following:</p> <p>(a) the maturity extension triggers are specified in <del>contract or</del> statute;</p> <p>[...]</p>
<p style="text-align: center;"><u>Explanation</u></p> <p><i>For transparency and standardisation reasons it is recommended to ensure that maturity extension triggers are specified in the applicable statute, in order not to weaken the high quality of the 'covered bond' product by extendable maturity structures which can be triggered upon issuer discretion based upon subjective considerations. This would strengthen investor protection by introducing more objective</i></p>	

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
<i>and comprehensible triggers. See paragraph 4 of the opinion.</i>	
Amendment 15 Article 23	
<p>'1. Member States shall lay down rules establishing appropriate administrative penalties and remedial measures applicable at least in the following situations:</p> <p>(a) a credit institution has acquired a permission to issue covered bonds through false statements or other irregular means;'</p>	<p>'1. Member States shall lay down rules establishing appropriate administrative penalties and remedial measures applicable at least in the following situations:</p> <p>(a) a credit institution has acquired a permission <del>to issue covered bonds</del> <b>for a covered bond programme in accordance with the provisions transposing Article 19</b> through false statements or other irregular means;'</p>
<p>'(b) a credit institution no longer fulfils the conditions under which a permission was given; [...]'</p>	<p>'(b) a credit institution no longer fulfils the conditions under which a permission <b>for a covered bond programme in accordance with the provisions transposing Article 19</b> was given; [...]'</p>
<p>'2. The penalties and measures referred to in paragraph 1 shall be effective, proportionate and persuasive and shall include at the least the following:</p> <p>(a) a withdrawal of permission to issue covered bonds; [...]'</p>	<p>'2. The penalties and measures referred to in paragraph 1 shall be effective, proportionate and persuasive and shall include at the least the following:</p> <p>(a) a withdrawal of the permission given in accordance with the provisions transposing Article 19 <del>to issue covered bonds</del> <b>for a covered bond programme;</b> [...]'</p>
<p><u>Explanation</u></p> <p><i>There is a distinction between the authorisation for credit institutions to issue covered bonds in general and the permission for a covered bond programme under the proposed directive. The former, if provided in national legal frameworks, involves the general assessment of the prudential fitness of a supervised entity and is to be granted within the context of the Single Supervisory Mechanism (SSM) by the ECB. The latter, as introduced by the proposed directive, is granted by the competent authorities of the Member States pursuant to the national legislation transposing Article 19 of the proposed directive. Article 23 needs to be amended to clarify that the provisions on administrative penalties and remedial measures under the proposed directive refer only to the permission for a covered bond programme</i></p>	

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
<i>under Article 19 of the proposed directive, and not to any general permission under prudential rules.</i>	
Amendment 16 Article 25(1)	
‘1. Member States shall ensure that competent authorities designated pursuant to Article 18(2) cooperate closely with the competent authority performing the general supervision of credit institutions in accordance with relevant Union law applicable to those institutions.’	‘1. Member States shall ensure that competent authorities designated pursuant to Article 18(2) cooperate closely with, <b>and may provide all the necessary information upon the request of</b> , the competent authority performing the general supervision of credit institutions in accordance with relevant Union law applicable to those institutions.’
<u>Explanation</u> <i>It is important that the competent authorities of the Member States with a supervisory mandate under the proposed directive are not prevented from providing information to the competent authorities performing the general supervision of credit institutions in accordance with relevant Union law applicable to those institutions. See paragraph 5 of the opinion.</i>	
Amendment 17 Article 27	
‘Member States shall allow credit institutions to use the label European Covered Bonds in respect of covered bonds which meet the requirements laid down in the provisions transposing this Directive.’	‘Member States shall allow credit institutions to use the label <del>European</del> <b>EU</b> Covered Bonds in respect of covered bonds which meet the requirements laid down in the provisions transposing this Directive.’
<u>Explanation</u> <i>The term should be neutral and not be confused with the European Central Bank. See paragraph 6 of the opinion.</i>	
Amendment 18 Article 28	
‘Article 52(4) of Directive 2009/65/EC is amended as follows:  (1) the first subparagraph is replaced by the	‘Article 52(4) of Directive 2009/65/EC is amended as follows:  (1) the first subparagraph is replaced by the

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
<p>following:</p> <p>"Member States may raise the 5 % limit laid down in the first subparagraph of paragraph 1 to a maximum of 25 % where bonds were issued before [OP: please insert the date laid down in the second subparagraph of Article 32(1) of this Directive + 1 day] and met the requirements set out in this paragraph, in the version applicable on the date of their issue, or where bonds fall under the definition of covered bonds in accordance with point (1) of Article 3 of Directive (EU) 20XX/XX of the European Parliament and of the Council*.</p> <p>[...].'</p>	<p>following:</p> <p>"Member States may raise the 5 % limit laid down in the first subparagraph of paragraph 1 to a maximum of 25 % where bonds were issued before [OP: please insert the date laid down in the second subparagraph of Article 32(1) of this Directive + 1 day] and met the requirements set out in this paragraph, in the version applicable on the date of their issue, or where bonds fall under the definition of covered bonds in accordance with <del>point (1) of Article 3</del> of Directive (EU) 20XX/XX of the European Parliament and of the Council*.</p> <p>[...].'</p>
<p><u>Explanation</u></p> <p><i>Only if all requirements set out in the proposed directive, including, for example, the 'dual recourse' principle, are met is the term used in the same manner as had been set out in UCITS, such that Member States may raise the 5% limit subject to which a UCITS may invest in securities issued by the same issuer to 25% in respect of covered bonds.</i></p>	
<p>Amendment 19</p> <p>Article 29</p>	
<p>'In Article 2(1) of Directive 2014/59/EU, point 96 is replaced by the following:</p> <p>"(96) 'covered bond' means an instrument as referred to in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council*, in the version applicable on the date of its issue, and issued before [OP: please insert the date laid down in the second subparagraph of Article 32(1) of this Directive + 1 day] or a covered bond as defined in point (1) of Article 3 of Directive (EU) 20XX/XX of the European Parliament and of the Council**;</p> <p>[...].'</p>	<p>'In Article 2(1) of Directive 2014/59/EU, point 96 is replaced by the following:</p> <p>"(96) 'covered bond' means an instrument as referred to in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council*, in the version applicable on the date of its issue, and issued before [OP: please insert the date laid down in the second subparagraph of Article 32(1) of this Directive + 1 day] or a covered bond complying with all the requirements of <del>as defined in point (1) of Article 3</del> of Directive (EU) 20XX/XX of the European Parliament and of the Council**;</p> <p>[...].'</p>

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
<p style="text-align: center;"><u>Explanation</u></p> <p>See explanation to Amendment 20 above.</p>	
<p><b>Drafting proposal in relation to the proposed regulation</b></p>	
<p>Amendment 20</p> <p>Article 1 point 1(b)</p>	
<p>'(b) the following paragraphs 1a, 1b and 1c are inserted:</p> <p>1a. For the purposes of point (c) of the first subparagraph of paragraph 1, the following shall apply:</p> <ul style="list-style-type: none"> <li>(a) for exposures to credit institutions that qualify for the credit quality step 1 the exposure shall not exceed 15% of the nominal amount of outstanding covered bonds of the issuing credit institution;</li> <li>(b) for exposures to credit institutions that qualify for the credit quality step 2 the exposure shall not exceed 10% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;</li> <li>(c) the total exposure to credit institutions that qualify for the credit quality step 1 or the credit quality step 2 shall not exceed 15% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution.</li> </ul> <p>[...]</p>	<p>'(b) the following paragraphs 1a, 1b and 1c are inserted:</p> <p>1a. For the purposes of point (c) of the first subparagraph of paragraph 1, the following shall apply:</p> <ul style="list-style-type: none"> <li>(a) for exposures to credit institutions that qualify for the credit quality step 1 the exposure shall not exceed 15% of the nominal amount of outstanding covered bonds of the issuing credit institution;</li> <li>(b) for exposures to credit institutions that qualify for the credit quality step 2 the exposure shall not exceed 10% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;</li> <li>(c) the total exposure to credit institutions that qualify for the credit quality step 1 or the credit quality step 2 shall not exceed 15% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution.</li> </ul> <p><b>A competent authority may, after consulting EBA, partly waive the application of point (a) and (b) above and allow for exposures to credit institutions that qualify for the credit quality step 3; provided that the total exposure to credit institutions that qualify for the credit quality step 3 shall in no circumstances exceed</b></p>

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
	<p>5% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution; and provided further that the total exposure to credit institutions that qualify for the credit quality step 1, the credit quality step 2 or the credit quality step 3 shall not exceed 15% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution; and provided further that the competent authority confirms in writing that there are significant potential concentration problems in the Member State concerned due to the application of the credit quality step 1 and 2 requirements referred to in points (a) and (b) above.</p> <p>[...]</p>
<p>This paragraph shall not apply to the use of covered bonds as eligible collateral as permitted pursuant to Article 9 of Directive (EU) 20xx/xxxx [OP: Please insert reference to Directive (EU) on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU].'</p>	<p>This paragraph shall not apply to the use of covered bonds as eligible collateral as permitted pursuant to Article <del>9</del> of Directive (EU) 20xx/xxxx [OP: Please insert reference to Directive (EU) on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU].'</p>
<p>1b. For the purposes of point (d)(i) of the first subparagraph of paragraph 1, the limit of 80 % shall refer to the portion of the loan contributing to the coverage of liabilities attached to the covered bond and be applicable throughout the entire maturity of the loan.</p>	<p>1b. For the purposes of point (d)(i) of the first subparagraph of paragraph 1, the limit of 80 % shall refer to the portion of the loan contributing to the coverage of liabilities attached to the covered bond and be applicable throughout the entire maturity of the loan. <b>For the purpose of the limit on the value of the pledged properties, such properties shall be monitored and updated at least on a yearly basis by the competent authority by using an indexation method. The full loan amount irrespective of such limit shall be subject to the segregation of assets in the cover pool pursuant to Article 12 of Directive (EU) 20xx/xxxx [OP: Please insert reference to Directive (EU) on the issue of covered bonds</b></p>

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
	<b>and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU].</b>
1c. For the purposes of point (f)(i) and point (g) of the first subparagraph of paragraph 1, the limit of 60 % shall refer to the portion of the loan contributing to the coverage of liabilities attached to the covered bond and be applicable throughout the entire maturity of the loan.”;	1c. For the purposes of point (f)(i) <del>and point (g)</del> of the first subparagraph of paragraph 1, the limit of 60 % shall refer to the portion of the loan contributing to the coverage of liabilities attached to the covered bond and be applicable throughout the entire maturity of the loan.
<p style="text-align: center;"><u>Explanation</u></p> <p><i>In connection with the preferential capital treatment of covered bonds, the first amendment allows a competent authority to allow for exposures to credit institutions which fulfil credit quality step 3, but only under narrowly defined circumstances in order to cater for the additional risk involved therewith. In no circumstances should such exposures exceed 5% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution. Also, the competent authority must confirm in writing that there are significant potential concentration problems in the Member State concerned if such exposures were to be confined to credit institutions meeting credit quality step 1 or credit quality step 2 only.</i></p> <p><i>This second amendment corrects an incorrect reference.</i></p> <p><i>The third amendment aims at a continuous monitoring of the overcollateralization level. See paragraph 7.2 of the opinion.</i></p> <p><i>This fourth amendment aims at excluding ships from preferential capital treatment. See paragraph 7.3 of the opinion.</i></p>	
<p style="text-align: center;">Amendment 21</p> <p style="text-align: center;"><i>Article 1 point 1(d)</i></p>	
<p>(d) [...]</p> <p>The assets contributing to a minimum level of overcollateralisation shall not be subject to the limits on exposure size as set out in points (b) and (c) of the first subparagraph of paragraph 1 and shall not count towards those limits.</p>	<p>(d) [...]</p> <p>The assets contributing to a minimum level of overcollateralisation shall <del>not</del> be subject to the limits on <b>credit quality and</b> exposure size as set out in <del>points (b) and (c) of the first subparagraph of</del> paragraph 1 <del>and shall not count towards those</del> <b>limits of this Article.</b></p>
[...]	[...]

Text proposed by the Commission	Amendments proposed by the ECB <sup>2</sup>
<p>3b. Eligible assets referred to in paragraph 1 may be included in the cover pool as substitution assets as defined in Article 3(11) of Directive (EU) 20xx/xxx [OP: Please insert reference to Directive (EU) on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU] for the primary assets as defined in Article 3(10) of that Directive, subject to the limits on credit quality and exposure size as set out in paragraph 1 of this Article.";</p>	<p>3b. Eligible assets referred to in paragraph 1 may be included in the cover pool as substitution assets as defined in Article 3(11) of Directive (EU) 20xx/xxx [OP: Please insert reference to Directive (EU) on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU] for the primary assets as defined in Article 3(10) of that Directive, subject to the limits on credit quality and exposure size as set out in paragraph 1 of this Article <b>and provided that such substitution assets shall not exceed 20 % of the total nominal amount of all outstanding covered bonds of the issuer.</b>";</p>
<p style="text-align: center;"><u>Explanation</u></p> <p><i>The first amendment aims at ensuring that the assets contributing to the overcollateralisation are subject to the same limits on the exposure size and credit quality set out in paragraph (1) of Article 129 of Regulation (EU) No 575/2013. See paragraph 7.4 of the opinion.</i></p> <p><i>The second amendment aims at ensuring homogeneity and facilitating investor due diligence. See paragraph 7.5 of the opinion.</i></p>	