GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 20 January 2009

amending Guideline ECB/2000/7 on monetary policy instruments and procedures of the Eurosystem

(ECB/2009/1)

(2009/101/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community and in particular to the first indent of Article 105(2),

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the ESCB Statute) and in particular Article 12.1 and Article 14.3 in conjunction with the first indent of Article 3.1, Article 18.2 and the first paragraph of Article 20,

Whereas:

(1) Achieving a single monetary policy entails defining the instruments and procedures to be used by the Eurosystem, consisting of the national central banks (NCBs) of Member States that have adopted the euro (hereinafter the participating Member States) and the European Central Bank (ECB), in order to implement such a policy in a uniform manner throughout the participating Member States.

(2) Taking into account recent developments in the markets for asset-backed securities, certain changes are necessary to the definition and implementation of the Eurosystem's single monetary policy. In particular, it is necessary to change the rating requirements relating to asset-backed securities and to exclude a certain category of asset-backed securities from use in the Eurosystem's credit operations in order to comply with the requirement of Article 18.1 of the ESCB Statute that credit operations with credit institutions and other market participants must be based on adequate collateral.

(3) One of the risk control measures that may be applied by the Eurosystem in order to ensure adequate risk protection of the Eurosystem in line with Article 18.1 of the ESCB Statute is the introduction of restrictions regarding issuers or assets used as collateral. In order to safeguard the Eurosystem against credit exposure, it is necessary to limit issuer concentration in the use of uncovered bank bonds as collateral,

HAS ADOPTED THIS GUIDELINE:

Article 1

Amendments to Annex I

Annex I to Guideline ECB/2000/7 of 31 August 2000 on monetary policy instruments and procedures of the Eurosystem [1] is amended in accordance with the Annex to this Guideline.

Article 2

Verification

The NCBs shall forward details of the texts and means by which they intend to comply with this Guideline to the ECB by 30 January 2009 at the latest.

Article 3

Entry into force

This Guideline shall enter into force on 20 January 2009. Article 1 shall apply from 1 March 2009.

Article 4

Addressees

This Guideline is addressed to the NCBs of participating Member States.

Done at Frankfurt am Main, 20 January 2009.

For the Governing Council of the ECB

The President of the ECB

Jean-Claude TRICHET

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[1] OJ L 310, 11.12.2000, p. 1.

ANNEX

Annex I to Guideline ECB/2000/7 is amended as follows:

1. in Section 6.2.1 under the heading 'Type of Asset' point (c) in the fourth paragraph is replaced by the following:

   '(c) they must not consist, in whole or in part, actually or potentially, of credit-linked notes or similar claims resulting from the transfer of credit risk by means of credit derivatives or tranches of other asset-backed securities (*). Asset-backed securities issued before 1 March 2009 will be exempted from the requirement of not consisting of tranches of other asset-backed securities until 1 March 2010.

   (*) This requirement does not exclude asset-backed securities where the issuance structure includes two special purpose vehicles and the "true sale" requirement is met in respect of those special-purpose vehicles so that the debt instruments issued by the second special-purpose vehicle are directly or indirectly backed by the original pool of assets without tranching. Moreover, the concept of tranches of other asset-backed securities does not include covered bonds which comply with Article 22(4) of Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 375, 31.12.1985, p. 3).';

2. in the fifth paragraph of Section 6.3.1 the following sentence is inserted after the second sentence:

   'For asset-backed securities issued from 1 March 2009 onwards, the Eurosystem's requirement for high credit standards is defined in terms of a "AAA" credit assessment at issuance with a minimum credit quality threshold over the life of the security set at the "single A" credit assessment level (*).

   (*) "AAA" means a long-term rating of "AAA" by Fitch, Standard & Poor's or DBRS or "Aaa" by Moody's.';

3. in the first paragraph of Section 6.4.2 the following third indent is inserted:

   '— The Eurosystem limits the use of uncovered bank bonds issued by an issuer or any entity with which the issuer has close links in accordance with the legal requirements set out in Section 6.2.3. Uncovered bank bonds issued by a single issuer or an entity with which the issuer has close links may only be used as collateral by a counterparty to the extent that the value assigned to such collateral by the Eurosystem after the application of haircuts does not exceed 10 % of the total value of the collateral submitted by that counterparty after the haircuts. This limitation does not apply to uncovered bank bonds that are guaranteed by a public sector entity which has the right to levy taxes, or if the value after haircuts of the uncovered bank bonds referred to above does not exceed EUR 50 million. Uncovered bank bonds submitted as collateral to the Eurosystem until 20 January 2009 are not subject to this limitation until 1 March 2010. In case of a merger between two or more issuers of uncovered bank bonds or the establishment of a close link between such issuers, these issuers are treated as one issuer group, in the context of this limitation, only one year after the date of the merger or the establishment of a close link.';

4. Box 7 in Section 6.4.1 is replaced by the following:

'BOX 7

Risk control measures

The Eurosystem applies the following risk control measures:

— *Valuation haircuts*

The Eurosystem applies "valuation haircuts" in the valuation of underlying assets. This implies that the value of the underlying asset is calculated as the market value of the asset less a certain percentage (haircut).

— *Variation margins (marking to market)*

The Eurosystem requires the haircut-adjusted market value of the underlying assets used in its liquidity-providing reverse transactions to be maintained over time. This implies that if the value, measured on a regular basis, of the underlying assets falls below a certain level, the national central bank will require the counterparty to supply additional assets or cash (i.e. it will make a margin call). Similarly, if the value of the underlying assets, following their revaluation, exceeds a certain level, the counterparty may retrieve the excess assets or cash. (The calculations relevant for the execution of margin calls are presented in Box 8.)

— *Limits in relation to the use of uncovered bank bonds*

The Eurosystem applies limits to the use of uncovered bank bonds which are described in Section 6.4.2.

The following risk control measures may also be applied by the Eurosystem at any time if required to ensure adequate protection of the Eurosystem in line with Article 18.1 of the Statute of the ESCB:

— *Initial margins*

The Eurosystem may apply initial margins in its liquidity-providing reverse transactions. This would imply that counterparties would need to provide underlying assets with a value at least equal to the liquidity provided by the Eurosystem plus the value of the initial margin.

— *Limits in relation to issuers/debtors or guarantors*

The Eurosystem may apply additional limits, other than those applied to uncovered bank bonds, to the exposure vis-à-vis issuers/debtors or guarantors. Such limits can also be applied to specific counterparties, in particular if the credit quality of the counterparty appears to exhibit a high correlation with the credit quality of the collateral submitted by the counterparty.

— *Additional guarantees*

The Eurosystem may require additional guarantees from financially sound entities in order to accept certain assets.

— *Exclusion*

The Eurosystem may exclude certain assets from use in its monetary policy operations. Such limits may also be applied to specific counterparties, in particular if the credit quality of the counterparty appears to exhibit a high correlation with the credit quality of the collateral submitted by the counterparty.'

5. The table in Appendix 5 is replaced by the following:

'THE EUROSYSTEM WEBSITES

Central bank	Website
European Central Bank	www.ecb.europa.eu
Nationale Bank van België/Banque Nationale de Belgique	www.nbb.be or www.bnb.be
Deutsche Bundesbank	www.bundesbank.de
Central Bank and Financial Services Authority of Ireland	www.centralbank.ie
Bank of Greece	www.bankofgreece.gr
Banco de España	www.bde.es
Banque de France	www.banque-france.fr
Banca d'Italia	www.bancaditalia.it
Central Bank of Cyprus	www.centralbank.gov.cy
Banque centrale du Luxembourg	www.bcl.lu
Central Bank of Malta	www.centralbankmalta.org
De Nederlandsche Bank	www.dnb.nl
Österreichische Nationalbank	www.oenb.at
Banco de Portugal	www.bportugal.pt
Národná banka Slovenska	www.nbs.sk
Banka Slovenije	www.bsi.si
Suomen Pankki	www.bof.fi'