

# GUIDELINES

## GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 16 September 2010

amending Guideline ECB/2000/7 on Monetary Policy Instruments and Procedures of the Eurosystem

(ECB/2010/13)

(2010/598/EU)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular to 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 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 thereof,

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 whose currency is 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) The ECB has the authority to establish the necessary guidelines to implement the Eurosystem's monetary policy and the NCBs have an obligation to act in accordance with such guidelines.
- (3) Guideline ECB/2000/7 of 31 August 2000 on monetary policy instruments and procedures of the Eurosystem<sup>(1)</sup>, should be amended to reflect changes to the definition and implementation of the Eurosystem's monetary policy procedures and operations. The most notable of these are as follows: (a) to revise the risk control framework for Eurosystem credit operations; (b) to ensure consistency between the treatment of non-compliance cases; (c) to enhance and strengthen the provisions on discretionary measures that the Eurosystem may invoke to address concerns regarding

the financial soundness of a counterparty; (d) to allow the Governing Council to decide that the ECB may, in exceptional circumstances, carry out outright transactions in a centralised manner; (e) to reduce claw back risk with a view to limit credit and legal risks by restricting originators of asset-backed securities (ABS), and underlying assets of ABS, to those from the European Economic Area (EEA); (f) to introduce new eligibility criteria for the own use of non-UCITS covered bonds (structured covered bonds) with residential real estate loans as underlying assets; (g) to add new terms to Appendix 2 to Annex I and to define other terms more precisely; (h) to amend Appendix 4 to Annex I to reflect changes in statistical regulations; (i) to harmonise provisions and introduce other minor amendments that improve consistency and transparency,

HAS ADOPTED THIS GUIDELINE:

### Article 1

Guideline ECB/2000/7 is amended as follows:

1. Annex I to Guideline ECB/2000/7 is amended in accordance with Annexes I and II to this Guideline.
2. Annex II to Guideline ECB/2000/7 is amended in accordance with Annex III 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 9 October 2010 at the latest.

<sup>(1)</sup> OJ L 310, 11.12.2000, p. 1.

*Article 3***Entry into force**

1. This Guideline shall enter into force two days after its adoption.
2. Annexes I and III shall apply from the day following publication of this Guideline in the *Official Journal of the European Union*.
3. Annex II shall apply from 1 January 2011.

*Article 4***Addressees**

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

Done at Frankfurt am Main, 16 September 2010.

*For the Governing Council of the ECB*  
*The President of the ECB*  
Jean-Claude TRICHET

## ANNEX I

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

1. In the Introduction, footnote <sup>(1)</sup> is replaced by the following:

<sup>(1)</sup> The Governing Council of the European Central Bank, in accordance with Article 282(1) of the Treaty on the Functioning of the European Union, uses the term "Eurosystème" to denote those components of the European System of Central Banks that carry out its basic tasks, i.e. the European Central Bank and the national central banks of those Member States which have adopted the single currency in accordance with the Treaty on the Functioning of the European Union.'

2. Section 1.1 is replaced by the following:

'The European System of Central Banks (ESCB) consists of the European Central Bank (ECB) and the national central banks (NCBs) of the European Union (EU) Member States <sup>(\*)</sup>. The activities of the ESCB are carried out in accordance with the Treaty on the Functioning of the European Union and the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the "Statute of the ESCB"). The ESCB is governed by the decision-making bodies of the ECB. In this respect, the Governing Council of the ECB is responsible for the formulation of monetary policy, while the Executive Board is empowered to implement monetary policy according to the decisions made and guidelines laid down by the Governing Council. To the extent deemed possible and appropriate and with a view to ensuring operational efficiency, the ECB has recourse to the NCBs <sup>(\*\*)</sup> for carrying out the operations which form part of the tasks of the Eurosystème. The NCBs may, if necessary for the implementation of monetary policy, share amongst the Eurosystème members individual information, such as operational data, related to counterparties participating in Eurosystème operations <sup>(\*\*\*)</sup>. The Eurosystème's monetary policy operations are executed under uniform terms and conditions in all Member States <sup>(\*\*\*\*)</sup>.

<sup>(\*)</sup> It should be noted that the NCBs of those Member States which have not adopted the single currency in accordance with the Treaty on the Functioning of the European Union retain their powers in the field of monetary policy according to national law and are thus not involved in the conduct of the single monetary policy.

<sup>(\*\*)</sup> Throughout this document, the term "NCBs" refers to the NCBs of the Member States which have adopted the single currency in accordance with the Treaty.

<sup>(\*\*\*)</sup> Such information is subject to the requirement concerning professional secrecy set out in Article 37 of the Statute of the ESCB.

<sup>(\*\*\*\*)</sup> Throughout this document, the term "Member State" refers to a Member State which has adopted the single currency in accordance with the Treaty.'

3. Section 1.2 is replaced by the following:

'The primary objective of the Eurosystème is to maintain price stability, as defined in Article 127(1) of the Treaty. Without prejudice to the primary objective of price stability, the Eurosystème has to support the general economic policies in the EU. In pursuing its objectives, the Eurosystème has to act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources.'

4. Section 1.3.1 is amended as follows:

- (a) The introductory part is replaced by the following:

'Open market operations play an important role in the monetary policy of the Eurosystème for the purposes of steering interest rates, managing the liquidity situation in the market and signalling the stance of monetary policy. Five types of instruments are available to the Eurosystème for the conduct of open market operations. The most important instrument is the *reverse transaction* (applicable on the basis of repurchase agreements or collateralised loans). The Eurosystème may also use *outright transactions*, the *issuance of ECB debt certificates*, *foreign exchange swaps* and the *collection of fixed-term deposits*. Open market operations are initiated by the ECB, which also decides on the instrument to be used and on the terms and conditions for its execution. They can be executed on the basis of standard tenders, quick tenders or bilateral procedures <sup>(\*)</sup>. With regard to their aims, regularity and procedures, the Eurosystème's open market operations can be divided into the following four categories (see also Table 1):

<sup>(\*)</sup> The different procedures for the execution of Eurosystème open market operations, i.e. standard tenders, quick tenders and bilateral procedures, are specified in Chapter 5. For *standard tenders*, a maximum of 24 hours elapses between the tender announcement and the certification of the allotment result. All counterparties fulfilling the general eligibility criteria specified in Section 2.1 may participate in standard tenders. *Quick tenders* are normally executed within a time frame of 90 minutes. The Eurosystème may select a limited number of counterparties to participate in quick tenders. The term "bilateral procedures" refers to any case in which the Eurosystème conducts a transaction with one or a few counterparties without using tender procedures. Bilateral procedures include operations executed through stock exchanges or market agents.'

- (b) The third bullet point is replaced by the following:

'Fine-tuning operations are executed on an ad hoc basis with the aim of managing the liquidity situation in the market and steering interest rates, in particular in order to smooth the effects on interest rates caused by unexpected liquidity fluctuations in the market. Fine-tuning operations may be conducted on the last day of a reserve maintenance period to counter liquidity imbalances which may have accumulated since the allotment of the last main refinancing operation. Fine-tuning operations are primarily executed as reverse transactions, but may also take the form of either foreign exchange swaps or the collection of fixed-term deposits. The instruments and procedures applied in the conduct of fine-tuning operations are adapted to the types of transactions and the specific objectives pursued in the operations. Fine-tuning operations are normally executed by the NCBs through quick tenders or bilateral procedures. The Governing Council of the ECB can decide that, under exceptional circumstances, fine-tuning bilateral operations may be carried out by the ECB itself.'

- (c) The fourth bullet point is replaced by the following:

'In addition, the Eurosystem may carry out *structural operations* through the issuance of ECB debt certificates, reverse transactions and outright transactions. These operations are executed whenever the ECB wishes to adjust the structural position of the Eurosystem vis-à-vis the financial sector (on a regular or non-regular basis). Structural operations in the form of reverse transactions and the issuance of debt instruments are carried out by the NCBs through standard tenders. Structural operations in the form of outright transactions are normally executed by the NCBs through bilateral procedures. The Governing Council of the ECB can decide that, under exceptional circumstances, structural operations may be executed by the ECB itself.'

5. In Table 1 in Section 1.3, in the fourth row of the third column, 'Issuance of debt certificates' is replaced by 'Issuance of ECB debt certificates'.

6. Section 1.4 is replaced by the following:

'The Eurosystem's monetary policy framework is formulated with a view to ensuring the participation of a broad range of counterparties. Institutions subject to minimum reserve requirements according to Article 19.1 of the Statute of the ESCB may access the standing facilities and participate in open market operations based on standard tenders as well as outright transactions. The Eurosystem may select a limited number of counterparties to participate in fine-tuning operations. For foreign exchange swaps conducted for monetary policy purposes, active players in the foreign exchange market are used. The set of counterparties for these operations is limited to those institutions selected for Eurosystem foreign exchange intervention operations which are established in the euro area.'

7. Section 2.1 is amended as follows:

- (a) The second bullet point of the first paragraph is replaced by the following:

'Counterparties must be financially sound. They should be subject to at least one form of harmonised EU/EEA supervision by national authorities (\*). In view of their specific institutional nature under EU law, financially sound institutions within the meaning of Article 123(2) of the Treaty that are subject to supervision of a standard comparable to supervision by competent national authorities can be accepted as counterparties. Financially sound institutions that are subject to non-harmonised supervision by competent national authorities of a standard comparable to harmonised EU/EEA supervision can also be accepted as counterparties, e.g. branches established in the euro area of institutions incorporated outside the EEA.'

(\*) Harmonised supervision of credit institutions is based on 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 (recast) (OJ L 177, 30.6.2006, p. 1).'

- (b) The third paragraph is replaced by the following:

'An institution may access the Eurosystem's standing facilities and open market operations based on standard tenders only through the NCB of the Member State in which it is incorporated. If an institution has establishments (its head office or branches) in more than one Member State, each establishment has access to these operations through the NCB of the Member State in which it is established, notwithstanding the fact that the bids of an institution may only be submitted by one establishment (either the head office or a designated branch) in each Member State.'

8. Section 2.2 is amended as follows:

- (a) The second paragraph is replaced by the following:

'For foreign exchange swaps executed for monetary policy purposes, counterparties must be able to conduct large-volume foreign exchange operations efficiently under all market conditions. The range of counterparties to foreign exchange swaps corresponds to the counterparties established in the euro area which are selected for Eurosystem foreign exchange intervention operations. The criteria and procedures applied for the selection of counterparties to foreign exchange intervention operations are presented in Appendix 3.'

- (b) The fifth paragraph is replaced by the following:

‘The Governing Council of the ECB can decide that, under exceptional circumstances, fine-tuning bilateral operations may be carried out by the ECB itself. If the ECB were to carry out bilateral operations, the selection of counterparties would in such cases be made by the ECB according to a rotation scheme among those counterparties in the euro area which are eligible for quick tenders and bilateral operations in order to ensure equitable access.’

9. Section 2.3 is amended as follows:

- (a) The third paragraph is replaced by the following:

‘This relates to cases of infringement of (a) tender rules, if a counterparty fails to transfer a sufficient amount of underlying assets or cash (\*) to settle (at the settlement day), or to collateralise, until the maturity of the operation by means of corresponding margin calls, the amount of liquidity it has been allotted in a liquidity-providing operation, or if it fails to transfer a sufficient amount of cash to settle the amount it has been allotted in a liquidity-absorbing operation; and (b) bilateral transaction rules, if a counterparty fails to transfer a sufficient amount of eligible underlying assets, or if it fails to transfer a sufficient amount of cash to settle the amount agreed in bilateral transactions, or if it fails to collateralise an outstanding bilateral transaction at any time until its maturity by means of corresponding margin calls.

(\*) When applicable, as regards margin calls.’

- (b) The fifth paragraph is replaced by the following:

‘In addition, a suspension measure taken vis-à-vis a non-complying counterparty may be applied to branches of the same institution established in other Member States. Where, as an exceptional measure, this is required on account of the seriousness of a case of non-compliance, as evidenced by its frequency or duration, for instance, a counterparty may be suspended from all future monetary policy operations for a certain period of time.’

10. Section 2.4 is replaced by the following:

**‘2.4. Suspension, limitation or exclusion on grounds of prudence or events of default**

In accordance with the provisions in the contractual or regulatory arrangements applied by the respective NCB (or by the ECB), the Eurosystem may suspend, limit or exclude counterparties’ access to monetary policy instruments on the grounds of prudence.

In addition, a suspension, limitation or exclusion of counterparties may be warranted in some of the cases which fall within the notion of the “default” of a counterparty as defined in the contractual or regulatory arrangements applied by the NCBs.

Finally, on the grounds of prudence, the Eurosystem may also reject assets, limit the use of assets or apply supplementary haircuts to assets submitted as collateral in Eurosystem credit operations by specific counterparties.’

11. The introductory paragraph to Chapter 3 is replaced by the following:

‘Open market operations play an important role in the Eurosystem’s monetary policy. They are used for steering interest rates, managing the liquidity situation in the market and signalling the stance of monetary policy. With regard to their aims, regularity and procedures, Eurosystem open market operations can be divided into four categories: main refinancing operations, longer-term refinancing operations, fine-tuning operations and structural operations. As for the instruments used, reverse transactions are the main open market instrument of the Eurosystem and can be employed in all four categories of operations, whereas ECB debt certificates may be used for structural absorption operations. Structural operations may also be conducted by means of outright transactions i.e. purchases and sales. In addition, the Eurosystem has two other instruments available for the conduct of fine-tuning operations: foreign exchange swaps and the collection of fixed-term deposits. In the following sections, specific features of the different types of open market instruments used by the Eurosystem are presented in detail.’

12. In Section 3.1.4, the sixth bullet point of the second paragraph is replaced by the following:

‘they are normally executed in a decentralised manner by the NCBs (the Governing Council of the ECB can decide that, under exceptional circumstances, bilateral fine-tuning reverse operations may be executed by the ECB);’

13. In Section 3.2, the fourth bullet point of the fourth paragraph is replaced by the following:

‘they are normally executed in a decentralised manner by the NCBs (the Governing Council of the ECB can decide that, under exceptional circumstances, outright transactions may be executed by the ECB);’

14. Section 3.3 is amended as follows:

- (a) The second paragraph is replaced by the following:

‘ECB debt certificates constitute a debt obligation of the ECB vis-à-vis the holder of the certificate. They are issued and held in book-entry form in securities depositories in the euro area. The ECB does not impose any restrictions on the transferability of the certificates. Further provisions related to ECB debt certificates will be contained in the terms and conditions for such certificates.’

- (b) The third paragraph is replaced by the following:

‘ECB debt certificates are issued at a discount, i.e. they are issued at below the nominal amount and are redeemed at maturity at the nominal amount. The difference between the issue amount and the redemption amount equals the interest accrued on the issue amount, at the agreed interest rate, over the maturity of the certificate. The interest rate applied is a simple interest rate based on the day-count convention “actual/360”. The calculation of the issue amount is shown in Box 1.’

- (c) Box 1 is replaced by the following:

<p><b>BOX 1</b></p> <p><b>Issuance of ECB debt certificates</b></p> <p>The issue amount is: <math display="block">P_T = N \times \frac{1}{1 + \frac{r_1 \times D}{36\,000}}</math></p> <p>where:</p> <p>N = nominal amount of the ECB debt certificate</p> <p><math>r_1</math> = interest rate (in %)</p> <p>D = maturity of the ECB debt certificate (in days)</p> <p><math>P_T</math> = discounted issue amount of the ECB debt certificate'</p>
--

15. In Section 3.4, the fifth bullet point of the fourth paragraph is replaced by the following:

‘they are normally executed in a decentralised manner by the NCBs (the Governing Council of the ECB can decide that, under exceptional circumstances, bilateral foreign exchange swaps may be executed by the ECB); and’

16. In Section 3.5, the fifth bullet point of the fourth paragraph is replaced by the following:

‘the collection of deposits is normally executed in a decentralised manner by the NCBs (the Governing Council of the ECB can decide that, under exceptional circumstances, the bilateral collection of fixed-term deposits (\*) may be executed by the ECB); and

(\*) Fixed-term deposits are held on accounts with the NCBs; this would be the case even if such operations were to be executed in a centralised manner by the ECB.’

17. In Section 4.1, footnotes 1 and 2 in the third paragraph are replaced by the following:

<sup>(1)</sup> Since 19 May 2008, the decentralised technical infrastructure of TARGET has been replaced by TARGET2. TARGET2 consists of the single shared platform (through which all payment orders are submitted and processed and through which payments are received in the same technical manner) and, while applicable, the proprietary home accounting systems of NCBs.

<sup>(2)</sup> In addition, access to the marginal lending facility is only granted to counterparties with access to an account with the NCB where the transaction can be settled, for example in the single shared platform of TARGET2.

18. Section 4.2 is amended as follows:

(a) The following footnote (\*) is added at the end of the third paragraph (the first paragraph under the heading 'Access conditions':

(\*) In addition, access to the deposit facility is only granted to counterparties with access to an account with the NCB where the transaction can be settled, for example in the single shared platform of TARGET2.

(b) Footnote 12 in the seventh paragraph (the second paragraph under the heading 'Maturity and interest terms') is replaced by the following:

<sup>(12)</sup> See footnote 6 in this chapter.

19. In Section 5.1.1, Box 3 is replaced by the following:

BOX 3	
Operational steps for tender procedures	
Step 1	Tender announcement
	a. Announcement by the ECB through public wire services and the ECB's website
	b. Announcement by the NCBs through national wire services and directly to individual counterparties (if deemed necessary)
Step 2	Counterparties' preparation and submission of bids
Step 3	Compilation of bids by the Eurosystem
Step 4	Tender allotment and announcement of tender results
	a. ECB allotment decision
	b. Announcement of the allotment results through public wire services and the ECB's website
Step 5	Certification of individual allotment results
Step 6	Settlement of the transactions (see Section 5.3)

20. Section 5.1.3 is amended as follows:

(a) The introductory part of the first paragraph is replaced by the following:

'Eurosystem standard tenders are publicly announced by means of wire services and the ECB's website. In addition, NCBs may announce the tender operation directly to counterparties without access to wire services. The public tender announcement message normally contains the following information:'

- (b) The tenth bullet point of the first paragraph is replaced by the following:

‘the start date and the maturity date of the operation (if applicable), or the value date and the maturity date of the instrument (in the case of the issuance of ECB debt certificates);’

- (c) The seventeenth bullet point of the first paragraph is replaced by the following:

‘the denomination of the certificates (in the case of the issuance of ECB debt certificates); and’

- (d) The eighteenth bullet point of the first paragraph is replaced by the following:

‘the ISIN code of the issue (in the case of the issuance of ECB debt certificates).’

21. Section 5.1.4 is amended as follows:

- (a) The third paragraph is replaced by the following:

‘In variable rate tenders, counterparties may submit bids for up to 10 different interest rate/price/swap point levels. In exceptional circumstances the Eurosystem may impose a limit on the number of bids that may be submitted as regards variable rate tenders. In each bid, counterparties must state the amount of money that they are willing to transact with the NCBs and the relevant interest rate (\*) (\*\*). The interest rates bid must be expressed as multiples of 0,01 percentage points. In the case of a variable rate foreign exchange swap tender, the swap points must be quoted according to standard market conventions and bids must be expressed as multiples of 0,01 swap points.

(\*) With regard to the issuance of ECB debt certificates, the ECB may decide that bids are to be expressed in the form of a price rather than an interest rate. In such cases, prices must be quoted as a percentage of the nominal amount.

(\*\*) In variable rate foreign exchange swaps, the amount of the currency kept fixed that the counterparty is willing to transact with the Eurosystem and the relevant swap point level must be stated.’

- (b) The seventh paragraph is replaced by the following:

‘Counterparties are expected always to be in a position to cover the amounts allotted to them with a sufficient amount of eligible underlying assets (\*). The contractual or regulatory arrangements applied by the relevant NCB allow the imposition of penalties if a counterparty fails to transfer a sufficient amount of underlying assets or cash to settle the amount it has been allotted in a tender operation.

(\*) Or to settle in cash in the case of liquidity-absorbing operations.’

22. In Section 5.1.5, the third paragraph (the second paragraph under the heading ‘Variable rate tenders in euro’) is replaced by the following:

‘In the allotment of liquidity-absorbing variable rate tenders (which may be used for the issuance of ECB debt certificates and the collection of fixed-term deposits), bids are listed in ascending order of offered interest rates (or descending order of offered prices). Bids with the lowest interest rate (highest price) levels are satisfied first and subsequently bids with successively higher interest rates (lower price bids) are accepted until the total liquidity to be absorbed is exhausted. If, at the highest interest rate (lowest price) level accepted (i.e. the marginal interest rate/price), the aggregate bid amount exceeds the remaining amount to be allotted, the remaining amount is allocated pro rata among the bids according to the ratio of the remaining amount to be allotted to the total bid amount at the marginal interest rate/price (see Box 5). For the issuance of ECB debt certificates, the amount allotted to each counterparty is rounded to the nearest multiple of the denomination of the ECB debt certificates. For other liquidity-absorbing operations, the amount allotted to each counterparty is rounded to the nearest euro.’

23. Section 5.1.6 is amended as follows:

- (a) The introductory part of the first paragraph is replaced by the following:

‘The results of standard and quick tenders are announced publicly by means of wire services and the ECB’s website. In addition, NCBs may announce the allotment result directly to counterparties without access to wire services. The public tender result message normally contains the following information:’



- (b) The thirteenth bullet point is replaced by the following:

‘the start date and the maturity date of the operation (if applicable) or the value date and the maturity date of the instrument (in the case of the issuance of ECB debt certificates);’

- (c) The sixteenth bullet point is replaced by the following:

‘the denomination of the certificates (in the case of the issuance of ECB debt certificates); and’

- (d) The seventeenth bullet point is replaced by the following:

‘the ISIN code of the issue (in the case of the issuance of ECB debt certificates).’

24. In Section 5.2, the first paragraph is replaced by the following:

‘The NCBs may execute operations on the basis of bilateral procedures. These procedures may be used for fine-tuning open market operations and structural outright operations (\*). They are defined in a broad sense as any procedures where the Eurosystem conducts a transaction with one or a few counterparties without a tender. In this respect, two different types of bilateral procedures can be distinguished: operations where counterparties are contacted directly by the Eurosystem, and operations executed through stock exchanges and market agents.

- (\*) The Governing Council of the ECB can decide that, under exceptional circumstances, these operations may also be executed by the ECB itself.’

25. In Section 5.3.1, Table 3 is replaced by the following:

Table 3

**Normal settlement dates for Eurosystem open market operations <sup>(1)</sup>**

Monetary policy instrument	Settlement date for operations based on standard tenders	Settlement date for operations based on quick tenders or bilateral procedures
Reverse transactions	T + 1 <sup>(2)</sup>	T
Outright transactions	—	According to market convention for underlying assets
Issuance of ECB debt certificates	T + 2	—
Foreign exchange swaps	—	T, T + 1 or T + 2
Collection of fixed-term deposits	—	T

<sup>(1)</sup> T refers to the trade day. The settlement date refers to Eurosystem business days.

<sup>(2)</sup> If the normal settlement date for the main or the longer-term refinancing operations coincides with a bank holiday, the ECB may decide to apply a different settlement date, with the option of same-day settlement. The settlement dates for the main and the longer-term refinancing operations are specified in advance in the Eurosystem’s tender operations calendar (see Section 5.1.2).’

26. In Section 5.3.2, the first paragraph is replaced by the following:

‘Open market operations based on standard tenders (i.e. main refinancing operations, longer-term refinancing operations and structural operations) are normally settled on the first day following the trade day on which TARGET2 and all relevant SSSs are open. However, the issuance of ECB debt certificates is settled on the second day following the trade day on which TARGET2 and all relevant SSSs are open. As a matter of principle, the Eurosystem aims to settle the transactions related to its open market operations at the same time in all Member States with all counterparties that have provided sufficient underlying assets. However, owing to operational constraints and the technical features of SSSs, the timing within the day of the settlement of open market operations may differ across the euro area. The time of settlement of the main and the longer-term refinancing operations normally coincides with the time of reimbursement of a previous operation of corresponding maturity.’

27. In Section 6.1, footnote 2 in the second paragraph is deleted.

28. Section 6.2.1 is amended as follows:

- (a) The fifth paragraph is replaced by the following:

‘The cash flow generating assets backing the asset-backed securities must fulfil the following requirements:

- (a) the acquisition of such assets must be governed by the law of an EU Member State;
- (b) they must be acquired from the originator or from an intermediary by the securitisation special-purpose vehicle in a manner which the Eurosystem considers to be a “true sale” that is enforceable against any third party, and be beyond the reach of the originator and its creditors, or the intermediary and its creditors, including in the event of the originator’s or the intermediary’s insolvency;
- (c) they must be originated and sold to the issuer by an originator or, if applicable, an intermediary incorporated in the EEA;
- (d) they must not consist, in whole or in part, actually or potentially, of tranches of other asset-backed securities (\*). In addition, they must not consist, in whole or in part, actually or potentially, of credit-linked notes, swaps or other derivatives instruments (\*\*) (\*\*\*), or synthetic securities; and
- (e) if they are credit claims, the obligors and the creditors must be incorporated (or, if natural persons, resident) in the EEA and, if relevant, the related security must be located in the EEA. The law governing those credit claims must be the law of an EEA country. If they are bonds, the issuers must be incorporated in the EEA, they must be issued in an EEA country under the law of an EEA country and any related security must be located in the EEA (\*\*\*).

In cases where originators or, if applicable, intermediaries, were incorporated in the euro area, or in the United Kingdom, the Eurosystem has verified that there were no severe clawback provisions in those jurisdictions. If the originator or, if applicable, the intermediary, is incorporated in another EEA country, the asset-backed securities can only be considered eligible if the Eurosystem ascertains that its rights would be protected in an appropriate manner against claw back provisions considered relevant by the Eurosystem under the law of the relevant EEA country. For this purpose, an independent legal assessment in a form acceptable to the Eurosystem must be submitted setting out the applicable clawback rules in the country, before the asset-backed securities can be considered eligible (\*\*\*). To decide whether its rights are adequately protected against claw back rules, the Eurosystem may require other documents, including a solvency certificate from the transferee, for the suspect period. Claw back rules which the Eurosystem considers to be severe and therefore not acceptable include rules whereby the sale of underlying assets can be invalidated by the liquidator solely on the basis that it was concluded within a certain period (suspect period) before the declaration of insolvency of the seller (originator/intermediary), or where such invalidation can only be prevented by the transferee if they can prove that they were not aware of the insolvency of the seller (originator/intermediary) at the time of the sale.

- (\*) 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 and all cash flows from the cash flow generating assets are transferred from the first to the second special-purpose vehicle.
- (\*\*) This restriction does not encompass swaps used in asset-backed securities transactions strictly for hedging purposes.
- (\*\*\*) Asset-backed securities which are on the list of eligible marketable assets as of 10 October 2010 are exempted from this requirement and remain eligible until 9 October 2011.’

- (b) The sixth paragraph is replaced by the following:

‘Within a structured issue, in order to be eligible, a tranche (or sub-tranche) may not be subordinated to other tranches of the same issue. A tranche (or sub-tranche) is considered to be non-subordinated vis-à-vis other tranches (or sub-tranches) of the same issue if, in accordance with the priority of payment applicable after the delivery of an enforcement notice, as set out in the prospectus, no other tranche (or sub-tranche) is given priority over that tranche or sub-tranche in respect of receiving payment (principal and interest), and thereby such tranche (or sub-tranche) is last in incurring losses among the different tranches or sub-tranches of a structured issue. For structured issues where the prospectus provides for the delivery of an acceleration and an enforcement notice, non-subordination of a tranche (or sub-tranche) must be ensured under both acceleration and enforcement notice-related priority of payments.’

- (c) In the ninth paragraph (under the heading 'Place of issue'), footnote 7 (the first footnote in that paragraph) is replaced by the following:

'(7) International debt securities in global bearer form issued on or after 1 January 2007, through the ICSDs Euroclear Bank (Belgium) and Clearstream Banking Luxembourg must, in order to be eligible, be issued in the form of new global notes and must be deposited with a common safekeeper which is an ICSD or, if applicable, a CSD that fulfils the minimum standards established by the ECB. International debt securities in global bearer form that were issued in the form of classical global notes prior to 1 January 2007 and fungible securities issued under the same ISIN code on or after that date remain eligible until maturity. International debt securities issued in global registered form through the ICSDs Euroclear Bank (Belgium) and Clearstream Banking Luxembourg after 30 September 2010 must, in order to be eligible, be issued under the new safekeeping structure for international debt securities. International debt securities in global registered form issued before or on that date remain eligible until their maturity. International debt securities in individual note form will cease to be eligible if issued after 30 September 2010. International debt securities in individual note form issued before or on that date remain eligible until their maturity.'

- (d) The tenth paragraph (the first paragraph under the heading 'Settlement procedures') is replaced by the following:

'The debt instrument must be transferable in book-entry form. It must be held and settled in the euro area through an account with the Eurosystem or with an SSS that fulfils the standards established by the ECB, so that perfection and realisation are subject to the law of a Member State.'

- (e) In the twelfth paragraph (the only paragraph under the heading 'Acceptable markets'), footnote 13 (the last footnote) is replaced by the following:

'(13) Marketable assets, which were accepted as tier two assets, and which have been issued prior to 31 May 2007 and are traded on non-regulated markets that currently fulfil the Eurosystem's requirements for safety and accessibility, but not for transparency, remain eligible until 31 December 2010, provided they fulfil the other eligibility criteria, and become ineligible after that date. This does not apply to uncovered marketable assets issued by credit institutions that were accepted as tier two assets and became ineligible on 31 May 2007.'

- (f) The fifteenth paragraph (the second paragraph under the heading 'Place of establishment of the issuer/guarantor') is replaced by the following:

'The guarantor must be established in the EEA, unless a guarantee is not needed to establish the high credit standards for marketable assets, as set out in Section 6.3.2.'

29. Section 6.2.2 is amended as follows:

- (a) The second bullet point of the second paragraph (the first paragraph under the heading 'Credit claims') is replaced by the following:

*'Type of debtor/guarantor:* Eligible debtors and guarantors are non-financial corporations (\*), public sector entities and international or supranational institutions. Each debtor is individually and severally liable for the full repayment of the credit claim in question (co-debtors jointly liable for individual credit claims are excluded).

(\*) As defined in the ESA 95.'

- (b) The third bullet point of the second paragraph is replaced by the following:

*'Place of establishment of the debtor and guarantor:* The debtor must be established in the euro area. The guarantor must also be established in the euro area, unless a guarantee is not needed to establish the high credit standards for non-marketable assets, as set out in Section 6.3.3. This requirement does not apply to international or supranational institutions.'

- (c) The fourth bullet point of the second paragraph is replaced by the following:

*'Credit standards:* The quality of credit claims is assessed through the underlying creditworthiness of the debtor or guarantor. Credit claims must meet the high credit standards specified in the ECAF rules for non-marketable assets, as set out in Section 6.3.3.'

- (d) The seventh bullet point of the second paragraph is replaced by the following:

*'Governing laws:* The credit claim agreement and the agreement between the counterparty and the NCB mobilising the credit claim as collateral ("mobilisation agreement") must both be governed by the law of a Member State. Furthermore, the total number of different governing laws that are applicable to (a) the counterparty; (b) the creditor; (c) the debtor; (d) the guarantor (if relevant); (e) the credit claim agreement; and (f) the mobilisation agreement may not exceed two.'

- (e) In the eighth bullet point of the second paragraph footnote 20 is replaced by the following:

*'(20)* See footnote 20 in this chapter.'

- (f) The fourth bullet point of the third paragraph (the first paragraph under the heading 'Non-marketable retail mortgage-backed debt instruments') is replaced by the following:

*'Place of establishment of the issuer:* The issuer must be established in the euro area.'

- (g) Footnote 22 in the sixth bullet point of the third paragraph is replaced by the following:

*'(22)* See footnote 20 in this chapter.'

30. Section 6.2.3 is amended as follows:

- (a) The following paragraph is inserted after the fifth paragraph (the third paragraph under the heading 'Rules for the use of eligible assets'):

*'For monetary policy implementation purposes, in particular for the monitoring of compliance with the rules for the use of eligible assets concerning close links, the Eurosystem internally shares information on capital holdings provided by supervisory authorities for such purposes. The information is subject to the same secrecy standards as applied by supervisory authorities.'*

- (b) The sixth paragraph (the fourth paragraph under the heading 'Rules for the use of eligible assets') is replaced by the following:

*'The above provisions concerning close links do not apply to: (a) close links between the counterparty and an EEA public sector entity which has the right to levy taxes, or in the case where a debt instrument is guaranteed by an EEA public sector entity which has the right to levy taxes; (b) covered bank bonds issued in accordance with the criteria set out in Article 22(4) of the UCITS Directive; or (c) cases in which debt instruments are protected by specific legal safeguards comparable to those instruments given under (b) such as in the case of (i) non-marketable retail mortgage-backed debt instruments (RMBDs) which are not securities; or (ii) residential real estate loan-backed structured covered bonds (i.e. certain covered bonds not declared UCITS compliant by the European Commission) that fulfil all the criteria that apply to asset-backed securities, as set out in Sections 6.2 and 6.3 and the following additional criteria (\*):*

- *Any residential real estate loans underlying the structured covered bonds must be denominated in euro; the issuer (and the debtor and guarantor, if they are legal persons), must be incorporated in a Member State, their underlying assets must be located in a Member State, and the law governing the loan must be that of a Member State.*
- *Residential real estate loans are eligible for the cover pool of relevant structured covered bonds, if they are guaranteed by an eligible guarantee or secured by a mortgage. An eligible guarantee must be payable within 24 months upon default. Eligible guarantees for the purposes of such guaranteed loans can be provided in different contractual formats, including contracts of insurance, provided that they are granted by a public sector entity or a financial institution subject to public supervision. The guarantor for the purposes of such guaranteed loans must not have close links to the issuer of the covered bonds, and must be rated at least A+/A1/AH by an accepted ECAI over the life of the transaction.*
- *High quality substitute collateral up to 10 % of the cover pool is accepted. This threshold can only be exceeded after an in-depth review by the relevant NCB.*
- *The maximum portion of each individual eligible loan that can be funded through the structured covered bond issuance is 80 % loan-to-value (LTV). The LTV calculation must be based on a conservative market valuation.*
- *The minimum mandatory over-collateralisation is 8 %.*
- *The maximum loan amount for residential real estate loans is EUR 1 million.*
- *The stand-alone credit assessment of the cover pool must correspond to an annual PD level of 10 basis points in line with the "single A" threshold (see Section 6.3.1).*

- A long-term minimum threshold of “single A” (“A-” by Fitch or Standard & Poor’s, or “A3” by Moody’s, or “AL” by DBRS) must be applied to the issuer and related entities which are part of or relevant to the transaction relating to the structured covered bond.
- Furthermore, counterparties have to provide legal confirmation from a reputable law firm confirming the fulfilment of the following conditions:
- The issuer of the bonds is a credit institution incorporated in an EU Member State, and is not a special-purpose vehicle, even if such bonds are guaranteed by a credit institution incorporated in an EU Member State.
- The issuer/issue of the bonds is subject, by the law of the Member State where the issuer is incorporated or where the bonds were issued, to special public supervision designed to protect bondholders.
- In the event of the insolvency of the issuer, bondholders have priority as regards reimbursement of the principal and payment of interest deriving from the (underlying) eligible assets.
- Sums deriving from the issue of the bonds must be invested (according to the investment rules set out by the bond documentation) in conformity with the relevant national covered bond legislation or other legislation applicable to the assets in question.

(\*) Structured covered bonds submitted before 10 October 2010 that do not comply with these criteria can continue to be used until 31 March 2011.’

(c) Table 4 is replaced by the following:

Table 4

**Eligible assets for Eurosystem monetary policy operations**

Eligibility criteria	Marketable assets <sup>(1)</sup>	Non-marketable assets <sup>(2)</sup>	
Type of asset	ECB debt certificates  Other marketable debt instruments <sup>(3)</sup>	Credit claims	RMBDs
Credit standards	The asset must meet high credit standards. The high credit standards are assessed using ECAF rules for marketable assets <sup>(3)</sup>	The debtor/guarantor must meet high credit standards. The creditworthiness is assessed using ECAF rules for credit claims	The asset must meet high credit standards. The high credit standards are assessed using ECAF rules for RMBDs
Place of issue	EEA <sup>(3)</sup>	Not applicable	Not applicable
Settlement/handling procedures	Place of settlement: euro area  Instruments must be centrally deposited in book-entry form with central banks or a SSS fulfilling the ECB’s minimum standards	Eurosystem procedures	Eurosystem procedures
Type of issuer/debtor/guarantors	Central banks  Public sector  Private sector  International and supranational institutions	Public sector  Non-financial corporations  International and supranational institutions	Credit institutions

Eligibility criteria	Marketable assets <sup>(1)</sup>	Non-marketable assets <sup>(2)</sup>	
Place of establishment of the issuer, debtor and guarantor	Issuer <sup>(3)</sup> : EEA or non-EEA G10 countries Debtor: EEA Guarantor <sup>(3)</sup> : EEA	Euro area	Euro area
Acceptable markets	Regulated markets Non-regulated markets accepted by the ECB	Not applicable	Not applicable
Currency	Euro	Euro	Euro
Minimum size	Not applicable	Minimum size threshold at the time of submission of the credit claim  Between 1 January 2007 and 31 December 2011: — for domestic use: choice of the NCB, — for cross-border use: common threshold of EUR 500 000,  As from 1 January 2012: common minimum threshold of EUR 500 000 throughout the euro area	Not applicable
Governing laws	For asset-backed securities the acquisition of the underlying assets must be governed by the law of an EU Member State. The law governing underlying credit claims must be the law of an EEA country	Governing law for credit claim agreement and mobilisation: law of a Member State  The total number of different laws applicable to (a) the counterparty; (b) the creditor; (c) the debtor; (d) the guarantor (if relevant); (e) the credit claim agreement; and (f) the mobilisation agreement shall not exceed two	Not applicable
Cross-border use	Yes	Yes	Yes

<sup>(1)</sup> Further details are set out in Section 6.2.1.

<sup>(2)</sup> Further details are set out in Section 6.2.2.

<sup>(3)</sup> The credit standard of non-rated marketable debt instruments issued or guaranteed by non-financial corporations is determined on the basis of the credit assessment source chosen by the relevant counterparty in accordance with the ECAF rules applicable to credit claims, as set out in Section 6.3.3. In the case of these marketable debt instruments, the following eligibility criteria for marketable assets have been amended: place of establishment of the issuer/guarantor: euro area; place of issue: euro area.'

## 31. Section 6.3.1 is amended as follows:

- (a) The fourth paragraph is replaced by the following:

‘With regard to the ECAI source, the assessment must be based on a public rating. The Eurosystem reserves the right to request any clarification that it considers necessary. For asset-backed securities, ratings must be explained in a publicly available credit rating report, namely a detailed pre-sale or new issue report, including, inter alia, a comprehensive analysis of structural and legal aspects, a detailed collateral pool assessment, an analysis of the transaction participants, as well as an analysis of any other relevant particularities of a transaction. Moreover ECAIs must publish regular surveillance reports for asset-backed securities. The publication of these reports should be in line with the frequency and timing of coupon payments. These reports should at least contain an update of the key transaction data (e.g. composition of the collateral pool, transaction participants, capital structure), as well as performance data.’

- (b) The fifth paragraph is replaced by the following:

‘The Eurosystem’s benchmark for establishing its minimum requirement for high credit standards (its “credit quality threshold”) is defined in terms of a “single A” credit assessment (\*). The Eurosystem considers a PD over a one-year horizon of 0,10 % as equivalent to a “single A” credit assessment, subject to a regular review. The ECAF follows the definition of a default event given in the Capital Requirements Directive (CRD) (\*\*). The Eurosystem publishes the lowest rating grade meeting the required credit quality threshold for each accepted ECAI, without assuming any responsibility for its assessment of the ECAI, again subject to regular review. With regard to asset-backed securities, the Eurosystem’s benchmark for establishing its minimum requirements for high credit standards is defined in terms of a “triple A” credit assessment (\*\*\*) at issuance. Over the lifetime of the asset-backed security, the Eurosystem’s minimum threshold of “single A” must be retained.

(\*) “Single A” means a minimum long-term rating of “A-” by Fitch or Standard & Poor’s, or “A3” by Moody’s, or “AL” by DBRS.

(\*\*) The CRD comprises 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 (recast) (OJ L 177, 30.6.2006, p. 1) and Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast) (OJ L 177, 30.6.2006, p. 201).

(\*\*\*) “Triple A” means a long-term rating of “AAA” by Fitch, Standard & Poor’s or DBRS or “Aaa” by Moody’s or, if this is not available, a short-term rating of “F1+” by Fitch, or “A-1+” by Standard & Poor’s, or “R-1H” by DBRS.’

- (c) The seventh paragraph is replaced by the following:

‘Assets issued or guaranteed by entities subject to a freezing of funds and/or other measures imposed by the EU under Article 75 of the Treaty or by an EU Member State restricting the use of their funds, or in respect of which the ECB’s Governing Council has issued a decision suspending or excluding their access to open market operations or the Eurosystem’s standing facilities, may be excluded from the list of eligible assets.’

## 32. Section 6.3.2 is amended as follows:

- (a) The second bullet point in the first paragraph is replaced by the following:

‘ECAI credit assessment of asset-backed securities: For asset-backed securities issued on or after 1 March 2010, the Eurosystem requires at least two credit assessments from any accepted ECAIs for the issue. To determine the eligibility of these securities, the “second-best rule” is applied, which means that not only the best, but also the second-best available ECAI credit assessment must comply with the credit quality threshold for asset-backed securities. Based on this rule, the Eurosystem requires for both credit assessments an “AAA”/“Aaa” level at issuance and a “single A” level over the life of the security in order for the securities to be eligible.

From 1 March 2011 all asset-backed securities, regardless of their date of issuance, must have at least two credit assessments from any accepted ECAI for the issue, and the second-best rule must be complied with in order for the securities to remain eligible.



Concerning asset-backed securities issued before 1 March 2010 that have only one credit assessment, a second assessment must be obtained before 1 March 2011. For asset-backed securities issued before 1 March 2009 both credit assessments must comply with the “single A” level over the life of the security. For asset-backed securities issued between 1 March 2009 and 28 February 2010, the first credit assessment must comply with the “AAA”/“Aaa” level at issuance and the “single A” level over the life of the security, while the second credit assessment must comply with the “single A” level both at issuance (\*) and over the life of the security.

Fungible tap issuances of asset-backed securities are considered to be new issuances of asset-backed securities. All asset-backed securities issued under the same ISIN code must comply with the eligibility criteria in place at the date of the latest fungible tap issuance. For fungible tap issues of asset-backed securities which are not compliant with the eligibility criteria in place at the date of the latest fungible tap issuance, all the asset-backed securities issued under the same ISIN code are considered ineligible. This rule shall not apply in the case of fungible tap issuances of asset-backed securities which were on the Eurosystem list of eligible assets on 10 October 2010 if the latest tap issuance occurred before that date. Non-fungible tap issuances are considered to be different asset-backed securities.

(\*) Concerning the second ECAI assessment, credit assessment at issuance refers to the credit assessment when first issued or published by the ECAI.

- (b) The third indent of the third bullet point of the first paragraph is replaced by the following:

‘The guarantee must be governed by the law of an EU Member State and be legally valid, and binding and enforceable against the guarantor.’

- (c) The introductory part of the first bullet point of the second paragraph is replaced by the following:

*‘Euro area public sector issuers or guarantors:* If a marketable asset is issued or guaranteed by a regional government, local authority or public sector entity (PSE) established in the euro area as defined in the CRD, the following procedure applies:’

- (d) The second bullet point of the second paragraph is replaced by the following:

*‘Euro area non-financial corporate issuers or guarantors:* If the high credit standards for marketable assets which are issued/guaranteed by non-financial corporations (\*) established in the euro area cannot be established on the basis of an ECAI credit assessment for the issue, issuer or guarantor, the ECAF rules for credit claims will be applicable and counterparties are allowed to make use of their own IRB system, NCBs’ in-house credit assessment systems or third-party rating tools. The non-rated marketable debt instruments issued by non-financial corporations are not included in the public list of eligible marketable assets.

(\*) See footnote 12 in this chapter.’

33. Section 6.3.3 is amended as follows:

- (a) In point (ii) in the first bullet point (Public sector debtors or guarantors) of the fifth paragraph footnote 35 is replaced by the following:

‘<sup>(35)</sup> See footnote 34 in this chapter.’

- (b) In point (iii) in the first bullet point of the fifth paragraph footnote 36 is replaced by the following:

‘<sup>(36)</sup> See footnote 39 in this chapter.’

- (c) In the second bullet point (Non-financial corporate debtors or guarantors) of the fifth paragraph footnote 37 (the first footnote in that bullet point) is replaced by the following:

‘<sup>(37)</sup> If the counterparty has chosen an ECAI as a credit assessment source, it may use the first-best rule (see footnote 34 in this chapter).’

- (d) The third bullet point of the sixth paragraph is replaced by the following:

‘The guarantee must be governed by the law of an EU Member State and be legally valid, and binding and enforceable against the guarantor.’



34. In Section 6.3.4, the fourteenth paragraph (the first paragraph under the heading 'Third-party rating tool source') is replaced by the following:

'The RT source consists of entities that assess the credit quality of debtors by using primarily quantitative models in a systematic and mechanical manner, relying among other information on audited accounts, and whose credit assessments are not intended for general public disclosure. An RT provider wishing to participate in the ECAF has to submit a request to the NCB of the country in which it is incorporated, using the template provided by the Eurosystem, supplemented by additional documentation as specified in the template. Counterparties wishing to use a specific RT provider for ECAF purposes that is not accepted by the Eurosystem have to submit a request to the NCB of the country in which they are incorporated, using the template provided by the Eurosystem, supplemented by additional documentation as specified in the template. The Eurosystem decides whether to accept the RT provider based on evaluation of compliance with the acceptance criteria set by the Eurosystem (\*).

(\*) The acceptance criteria are listed on the ECB's website ([www.ecb.europa.eu](http://www.ecb.europa.eu)).'

35. In Section 6.4.1, Box 7 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 NCB 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 unsecured debt instruments*

The Eurosystem applies limits to the use of unsecured debt instruments as 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 risk 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 means 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 the use of unsecured debt instruments, 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.

— *Application of supplementary haircuts*

The Eurosystem may apply supplementary haircuts if required to ensure adequate risk protection of the Eurosystem in line with Article 18.1 of the Statute of the ESCB.

— *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 exclusion 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.'

36. Section 6.4.2 is amended as follows:

(a) The third bullet point is replaced by the following:

‘The Eurosystem limits the use of unsecured debt instruments issued by a credit institution or by any other entity with which the credit institution has close links as defined in Section 6.2.3. Such assets may only be used as collateral by a counterparty to the extent that the value assigned to that 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 limit does not apply to such assets that are guaranteed by a public sector entity which has the right to levy taxes, or if the value after haircuts of the assets does not exceed EUR 50 million. In the event of a merger between two or more issuers of such assets 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 up until one year after the date of the merger or the establishment of the close link.’

(b) In Table 6, footnote 4 is replaced by the following:

‘<sup>(4)</sup> Only marketable assets issued by issuers that have been classified as agencies by the ECB are included in liquidity category II. Marketable assets issued by other agencies are included in liquidity category III or IV, depending on the issuer and asset type.’

37. Section 6.6.1 is amended as follows:

(a) In the second paragraph, footnote 52 is replaced by the following:

‘<sup>(52)</sup> See footnote 57 in this chapter.’

(b) In the third paragraph, footnote 53 is replaced by the following:

‘<sup>(53)</sup> See footnote 57 in this chapter.’

38. In Section 6.7, the third paragraph is replaced by the following:

‘Counterparties that are branches of credit institutions incorporated outside the EEA or Switzerland cannot use such assets as collateral.’

39. In Section 7.1, the fourth paragraph is replaced by the following:

‘In the application of minimum reserves, the ECB is bound to act in pursuance of the objectives of the Eurosystem as defined in Article 127 of the Treaty and Article 2 of the Statute of the ESCB, which implies, inter alia, the principle of not inducing significant undesirable delocation or disintermediation.’

40. Section 7.2 is replaced by the following:

‘Pursuant to Article 19.1 of the Statute of the ESCB, the ECB requires credit institutions established in Member States to hold minimum reserves. This implies that branches in the euro area of credit institutions not incorporated in the euro area are also subject to the Eurosystem’s minimum reserve system. However, branches established outside the euro area of credit institutions incorporated in the euro area are not subject to this system.

Institutions will be automatically exempt from reserve requirements from the start of the maintenance period within which their authorisation is withdrawn or surrendered, or within which a decision to submit the institution to winding-up proceedings is taken by a judicial authority or any other competent authority of a Member State. According to Council Regulation (EC) No 2531/98 and Regulation ECB/2003/9, the ECB may also exempt institutions from their obligations under the Eurosystem’s minimum reserve system on a non-discriminatory basis if they are subject to reorganisation measures or the freezing of funds and/or other measures imposed by the EU under Article 75 of the Treaty or by a Member State restricting the use of their funds or in respect of which the ECB’s Governing Council has issued a decision suspending or excluding their access to open market operations or the Eurosystem’s standing facilities or if the purposes of the Eurosystem’s minimum reserve system would not be met by imposing these obligations on those particular institutions. If its decision on any such exemption is based on the purposes of the Eurosystem’s minimum reserve system, the ECB takes into account one or more of the following criteria:

- the institution is authorised to pursue special-purpose functions only;
- the institution is prohibited from exercising active banking functions in competition with other credit institutions; and/or

- the institution is under a legal obligation to have all its deposits earmarked for purposes related to regional and/or international development assistance.

The ECB establishes and maintains a list of institutions subject to the Eurosystem's minimum reserve system. The ECB also makes public a list of any institutions exempt from their obligations under this system for reasons other than their being subject to reorganisation measures or the freezing of funds and/or other measures imposed by the EU under Article 75 of the Treaty or by a Member State restricting the use of their funds or in respect of which the ECB's Governing Council issued a decision suspending or excluding their access to open market operations or the Eurosystem's standing facilities (\*). Counterparties may rely on these lists in deciding whether their liabilities are owed to another institution that is itself subject to reserve requirements. The lists, available to the public after close of business on the last Eurosystem business day of each calendar month, are valid for the calculation of the reserve base for the maintenance period beginning in the calendar month two months later. For example, the list published at the end of February would be valid for the calculation of the reserve base for the maintenance period beginning in April.

(\*) The lists are available to the public on the ECB's website ([www.ecb.europa.eu](http://www.ecb.europa.eu)).

41. Section 7.3 is amended as follows:

- (a) In the seventh paragraph (the second paragraph under the heading 'Calculation of reserve requirements'), footnote 7 is replaced by the following:

'(7) For institutions allowed to report statistical data as a group on an aggregated basis according to the provisions of the reporting framework for the ECB's money and banking statistics (see Appendix 4), only one such allowance will be granted to the group as a whole, unless the institutions provide data on the reserve base and reserve holdings in a sufficiently detailed manner to enable the Eurosystem to verify their accuracy and quality and to determine the relevant reserve requirement of each individual institution included in the group.'

- (b) In Box 9, footnote (\*) is replaced by the following:

'(\*) Regulation (EC) No 25/2009 of the European Central Bank of 19 December 2008 concerning the balance sheet of the monetary financial institutions sector (Recast) (ECB/2008/32) (OJ L 15, 20.1.2009, p. 14) explicitly requires the reporting of deposit liabilities at nominal value. Nominal value means the amount of principal that a debtor is contractually obliged to repay to a creditor. This amendment had become necessary because Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 372, 31.12.1986, p. 1) had been amended to the effect that certain financial instruments could be priced at fair value.'

42. In Section 7.4, the second paragraph (the first paragraph under the heading 'Reserve holdings') is replaced by the following:

'Each institution must hold its minimum reserves on one or more reserve accounts with the NCB in the Member State in which it is incorporated. For institutions with more than one establishment in a Member State, the head office is responsible for fulfilling the aggregate minimum reserves of all the domestic establishments of the institution (\*). An institution with establishments in more than one Member State is required to hold minimum reserves with the NCB of each Member State in which it has an establishment, in relation to its reserve base in the corresponding Member State.'

(\*) If an institution has no head office in a Member State in which it is established, it has to designate a principal branch which would then be responsible for fulfilling the aggregate minimum reserve requirements of all the establishments of the institution in the relevant Member State.'

43. Appendix 2 is amended as follows:

- (a) The definition of 'close links' is replaced by the following:

'**Close links:** a situation in which the **counterparty** is linked to an issuer/debtor/guarantor of eligible assets by reason of the fact that: (a) the counterparty owns directly, or indirectly through one or more other undertakings, 20 % or more of the capital of the issuer/debtor/guarantor; or (b) the issuer/debtor/guarantor owns directly, or indirectly through one or more other undertakings, 20 % or more of the capital of the counterparty; or (c) a third party owns more than 20 % of the capital of the counterparty and more than 20 % of the capital of the issuer/debtor/guarantor, either directly or indirectly through one or more other undertakings.'

- (b) The definition of 'credit institution' is replaced by the following:

**'Credit institution':** a credit institution within the meaning of Articles 2 and 4(1) of 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 (recast) (\*), as implemented in national law, that is subject to supervision by a competent authority; or another credit institution within the meaning of Article 123(2) of the Treaty that is subject to supervision of a standard comparable to supervision by a competent national authority.

(\*) OJ L 177, 30.6.2006, p. 1.'

- (c) The definition of 'Electronic money' is deleted.

- (d) A definition of 'Liquidity support in an ABS transaction' is inserted:

**'Liquidity support in an ABS transaction':** any structural feature that can be used to cover any temporary cash flow shortfalls that may occur during the lifetime of the transaction.'

- (e) The definition of 'Rating tools' is replaced by the following:

**'Rating tools (RTs):** a credit quality assessment source provided for in the ECAF that is provided by those entities that assess the credit quality of debtors by using primarily quantitative models in a systematic and mechanical manner, relying among other information on audited accounts, and whose credit assessments are not intended for general public disclosure. These entities have to be individually accepted by the Eurosystem before becoming part of the ECAF.'

- (f) The definition of 'Treaty' is replaced by the following:

**'Treaty':** the Treaty on the Functioning of the European Union.'

44. Appendix 4 is amended as follows:

- (a) In Section 1, the following footnote (\*) is added at the end of the title of Regulation (EC) No 2533/98:

(\*) OJ L 318, 27.11.1998, p. 8.'

- (b) The first paragraph of Section 2 is replaced by the following:

'The purpose of Regulation (EC) No 25/2009 of the European Central Bank of 19 December 2008 concerning the balance sheet of the monetary financial institutions sector (Recast) (ECB/2008/32) (\*), is to enable the ECB and, in accordance with Article 5.2 of the Statute of the ESCB, the NCBs – which carry out the work to the extent possible – to collect the statistical material required for the fulfilment of the ESCB's tasks and, in particular, its task of defining and implementing the monetary policy of the Union in accordance with the first indent of Article 127(2) of the Treaty on the Functioning of the European Union. The statistical information collected in accordance with Regulation ECB/2008/32 is used to establish the consolidated balance sheet of the monetary financial institutions (MFI) sector, the principal aim of which is to provide the ECB with a comprehensive statistical picture of monetary developments covering the aggregated financial assets and liabilities of MFIs in the participating Member States, which are viewed as one economic territory.

(\*) OJ L 15, 20.1.2009, p. 14.'

- (c) The fourth paragraph of Section 2 is replaced by the following:

'Second, the reporting obligations set out in Regulation ECB/2008/32 must observe the principles of transparency and legal certainty. The reason for this is that that Regulation is binding in its entirety and directly applicable throughout the euro area. It imposes obligations directly on natural and legal persons on which the ECB may impose sanctions whenever the ECB's reporting requirements are not fulfilled (see Article 7 of Regulation (EC) No 2533/98). The reporting obligations are therefore clearly defined and any discretion exercised by the ECB when verifying or compulsorily collecting statistical information follows identifiable principles. Third, the ECB must minimise the reporting burden involved, in conformity with the statistical principles that govern the development, production and dissemination of statistics by the ESCB (see Article 3a of Regulation (EC) No 2533/98). These principles are further defined in the public commitment on European statistics by the ESCB, as published on the ECB's website.'

- (d) The fifth paragraph of Section 2 is replaced by the following:

'Therefore, the statistical material collected by NCBs under Regulation ECB/2008/32 is also used to calculate the reserve base in accordance with Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves (ECB/2003/9) (\*).

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

- (e) The sixth paragraph of Section 2 is replaced by the following:

'Regulation ECB/2008/32 only defines, in general terms, the actual reporting population and its reporting obligations, and the principles according to which the ECB and the NCBs normally exercise their competence to verify or compulsorily collect statistical information. The details of the statistical information to be reported in order to fulfil the ECB's statistical reporting requirements and the minimum standards to be followed are specified in Annexes I to IV to Regulation ECB/2008/32.'

- (f) Section 3 is replaced by the following:

'MFIs comprise resident credit institutions, as defined in Union law, and all other resident financial institutions whose business is to receive deposits and/or close substitutes for deposits from entities other than MFIs and, for their own account (at least in economic terms), to grant credit and/or invest in securities. The ECB establishes and maintains a list of institutions in accordance with this definition and following the classification principles specified in Annex I to Regulation ECB/2008/32. The competence to establish and maintain this list of MFIs for statistical purposes lies with the ECB's Executive Board. The population of MFIs resident in the euro area constitutes the actual reporting population. NCBs are entitled to grant derogations to small MFIs in accordance with Article 8 of Regulation ECB/2008/32. These derogations enable NCBs to apply the method of "cutting off the tail".'

- (g) Section 4 is replaced by the following:

'To establish the consolidated balance sheet, the actual resident reporting population must report statistical information related to their balance sheet on a monthly basis. Further information is required on a quarterly basis. The statistical information to be reported is further specified in Annex I to Regulation ECB/2008/32. The relevant statistical data are collected by the NCBs, which must define the reporting procedures to be followed.

Regulation ECB/2008/32 does not prevent NCBs from collecting, from the actual reporting population, the statistical information necessary to fulfil the statistical requirements of the ECB as part of a broader statistical reporting framework which the NCBs establish under their own responsibility in accordance with Union or national law or established practice and which serves other statistical purposes. However, this should be without prejudice to the fulfilment of the statistical requirements set out in Regulation ECB/2008/32. In specific cases, the ECB may rely on statistical information collected for such purposes to fulfil its requirements.

The consequence of a derogation being granted by an NCB as defined above is that the small MFIs concerned are subject to reduced reporting obligations (implying, inter alia, only quarterly reporting) which are compulsory in the context of minimum reserves and are specified in Annex III to Regulation ECB/2008/32. Requirements for those small MFIs that are not credit institutions are set out in Article 8 to that Regulation. However, MFIs which have been granted a derogation have the option of fulfilling the full reporting requirements.'

- (h) The first to eighth paragraphs of Section 5 are replaced by the following:

'To minimise the reporting burden and to avoid any duplication in the collection of statistical information, the statistical information related to the balance sheet reported by MFIs under Regulation ECB/2008/32 is also used to calculate the reserve base under Regulation ECB/2003/9.

Indeed, for statistical purposes, the reporting agents have to report data to their respective NCB in accordance with the framework of Table 1 below, which is included in Annex III to Regulation ECB/2008/32. In Table 1, the boxes marked with an “\*” are used by the reporting institutions to calculate their reserve base (see Box 9 in Chapter 7).

In order to make a correct calculation of the reserve base to which a positive reserve ratio is applied, a detailed breakdown is required for deposits with an agreed maturity of over two years, for deposits redeemable at notice of over two years and for repo liabilities of credit institutions vis-à-vis the (“domestic” and “other participating Member States”) “MFIs”, “credit institutions subject to reserve requirements, ECB and NCBs” and “general government” sectors, and vis-à-vis the “rest of the world”.

Furthermore, depending on the national collection systems and without prejudice to full compliance with the definitions and classification principles of the MFI balance sheet set out in Regulation ECB/2008/32, credit institutions subject to reserve requirements may alternatively report the data necessary to calculate the reserve base, except those on negotiable instruments, in accordance with Table 1a, provided that no bold printed positions of Table 1 are affected.

Annex III to Regulation ECB/2008/32 contains specific and transitional provisions and provisions on mergers involving credit institutions in respect of the application of the minimum reserve system.

Annex III to Regulation ECB/2008/32 includes, in particular, a reporting scheme for credit institutions in the “tail”. Credit institutions in the tail have to report, as a minimum, quarterly data necessary to calculate the reserve base in accordance with Table 1a. These institutions ensure that the reporting according to Table 1a is fully consistent with the definitions and classifications applicable in Table 1. The tail institutions’ reserve base data for three reserve maintenance periods are based on end-of quarter data collected by the NCBs.

Annex III also includes provisions on reporting on an aggregated basis as a group by credit institutions. On receiving authorisation from the ECB, credit institutions subject to minimum reserves within a single national territory may report statistical data regarding their consolidated reserve base as a group, provided that all the institutions concerned have renounced the benefit of any lump-sum allowance from the reserve requirement. The benefit of the lump-sum allowance remains, however, for the group as a whole. If a group of credit institutions has been permitted to hold minimum reserves through an intermediary but does not benefit from such group reporting, the relevant NCB may authorise the intermediary to carry out aggregated statistical reporting (other than in respect of the reserve base) on behalf of this group of credit institutions. In this case, the benefit of the lump-sum allowance remains for each member of the group. All the institutions concerned are included separately in the ECB’s list of MFIs.

Furthermore, the annex includes provisions to be applied in the case of mergers involving credit institutions. The terms “merger”, “merging institutions” and “acquiring institution” have the meaning laid down in Article 1 of Regulation ECB/2003/9. For the maintenance period within which a merger takes effect, the reserve requirements of the acquiring institution are calculated and have to be fulfilled as set out in Article 13 of that Regulation. For consecutive reserve maintenance periods, the reserve requirements of the acquiring institution are calculated on the basis of a reserve base and of statistical information in accordance with specific rules (see the table in Annex III to Regulation ECB/2008/32), if applicable. Otherwise, the normal rules for the reporting of statistical information and the calculation of reserve requirements, as set out in Article 3 of Regulation ECB/2003/9, apply. Moreover, the relevant NCB may authorise the acquiring institution to fulfil its obligation to report statistical information through temporary procedures. This derogation from normal reporting procedures must be limited to the minimum time possible and, in any case, should not exceed six months after the merger has taken effect. This derogation is without prejudice to the obligation for the acquiring institution to fulfil its reporting obligations in accordance with Regulation ECB/2008/32 and, if applicable, its obligation to assume the reporting obligations of merging institutions.’

- (i) Section 6 is replaced by the following:

‘The ECB itself and the NCBs normally exercise the competence to verify and compulsorily collect statistical information whenever minimum standards for transmission, accuracy, conceptual compliance and revisions are not fulfilled. These minimum standards are set out in Annex IV to Regulation ECB/2008/32.’

- (j) Section 7 is replaced by the following:

‘As a regulation under Article 34.1 of the Statute of the ESCB does not confer any rights or impose any obligations on Member States with a derogation (Article 42.1 of the Statute of the ESCB) and on Denmark (Article 2 of the Protocol on certain provisions relating to Denmark) and is not applicable to the United Kingdom (Article 8 of the Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland), Regulation ECB/2008/32 is applicable only in the participating Member States.

However, Article 5 of the Statute of the ESCB concerning the competence of the ECB and the NCBs in the field of statistics and Regulation (EC) No 2533/98 are applicable in all Member States. This also implies, together with the second and third indents of Article 4(3) of the Treaty on European Union, an obligation on the non-participating Member States to design and implement at the national level all the measures that they consider appropriate in order to carry out the collection of statistical information needed to fulfil the ECB’s statistical reporting requirements and the timely preparations in the field of statistics in order for them to become participating Member States. This obligation is made explicit in Article 4 and recital 17 to Regulation (EC) No 2533/98. For reasons of transparency, this special obligation is reiterated in the recitals to Regulation ECB/2008/32.’

- (k) The table is replaced by the following:

Table 1

Monthly stocks <sup>(1)</sup>

BALANCE SHEET ITEMS	A. Domestic											
	MFIs <sup>(3)</sup>			Non-MFIs								
	(a)	Credit institutions	of which: credit institutions subject to RRs, ECB and NCBs	General government (S.13)		Total	Other resident sectors					
				Central Government (S.1311)	Other general government		Other financial intermediaries + financial auxiliaries (S.123 + S.124)			Insurance corporations and pension funds (S.125)	Non-financial corporations (S.11)	Households + non-profit institutions serving households (S.14 + S.15)
							of which: CCP <sup>(4)</sup>	of which: FVCs				
(b)	(c)	(d)	(e)	(f)		(g)	(h)	(i)				
LIABILITIES												
8 Currency in circulation												
9 Deposits	*	*	*									
up to 1 year												
over 1 year												
Of which Transferable deposits												
Of which up to 2 years												
Of which syndicated loans												
9e Euro	*	*										
9.1e Overnight												
Of which Transferable deposits				*	*							
9.2e With agreed maturity												
up to 1 year												
over 1 and up to 2 years												
over 2 years	*	*	*	*	*							
9.3e Redeemable at notice												
up to 3 months												
over 3 months												
of which over 2 years <sup>(2)</sup>	*	*	*	*	*							
9.4e Repos	*	*	*	*	*							
9x Foreign currencies												
9.1x Overnight												
9.2x With agreed maturity												
up to 1 year												
over 1 and up to 2 years												
over 2 years	*	*	*	*	*							
9.3x Redeemable at notice												
up to 3 months												
over 3 months												
of which over 2 years <sup>(2)</sup>	*	*	*	*	*							
9.4x Repos	*	*	*	*	*							



B. Other participating Member States												C. Rest of the world			D. Not allocated
MFIs <sup>(3)</sup>			Non-MFIs									Total	Banks	Non-Banks	
	Credit institutions	of which: credit institutions subject to RRs, ECB and NCBs	General government (S.13)		Total	Other resident sectors									
			Central Government (S.1311)	Other general government		Other financial intermediaries + financial auxiliaries (S.123 + S.124)	Insurance corporations and pension funds (S.125)	Non-financial corporations (S.11)	Households + non-profit institutions serving households (S.14 + S.15)						
(j)		(k)	(l)	(m)	(n)	(o)	of which: CCP <sup>(4)</sup>	of which: FVCs	(p)	(q)	(r)	(s)			(t)
*		*	*									*			
*		*													
*		*	*	*	*	*	*					*			
*		*	*	*	*	*	*					*			
*		*	*	*	*	*	*					*			
*		*	*	*	*	*	*					*			
*		*	*	*	*	*	*					*			





BALANCE SHEET ITEMS	A. Domestic											
	MFIs	Non-MFIs										
		Other resident sectors										
		General government (S.13)	Total (e)	Other financial intermediaries + financial auxiliaries (S.123 + S.124) (f)		Insurance corporations and pension funds (S.125)	Non-financial corporations (S.11)	Households + non-profit institutions serving households (S.14 + S.15)				
				of which: CCP (*)	of which: FVCs			Total	Credit for consumption	Lending for house purchase	Other lending	
											of which: SP/UP (5)	
<b>ASSETS</b>												
<b>1 Cash</b>												
1e of which euro												
<b>2 Loans</b>												
up to 1 year												
over 1 year and up to 5 years												
over 5 years												
of which: syndicated loans												
of which: repos												
2e of which euro												
— of which: revolving loans and overdrafts												
— of which convenience credit card credit												
— of which extended credit card credit												
<b>3 Securities other than shares</b>												
3e Euro												
up to 1 year												
over 1 and up to 2 years												
over 2 years												
3x Foreign currencies												
up to 1 year												
over 1 and up to 2 years												
over 2 years												
<b>4 MMF shares/units</b>												
<b>5 Shares and other equity</b>												
<b>6 Fixed assets</b>												
<b>7 Remaining assets</b>												

(1) **Cells marked with an “\*”** are used in the calculation of the reserve base. With respect to debt securities, credit institutions will either present proof of liabilities to be excluded from the reserve base or apply a standardised deduction of a fixed percentage specified by the ECB. **Cells in thin print** are reported solely by credit institutions subject to reserve requirements (RRs). See also special rules on the application of minimum reserves in Annex III to Regulation ECB/2008/32.

(2) The reporting of this item is voluntary until further notice.

(3) Data under this item may be subject to different statistical collection procedures, as decided by an NCB in accordance with the rules contained in Annex I, Part 2 to Regulation ECB/2008/32.

(4) Central counterparties

(5) Sole proprietors/unincorporated partnerships

[illegible]

45. Appendix 6 is amended as follows:

(a) Footnotes 1 and 2 in the introductory part of Section 1 are replaced by the following:

- <sup>(1)</sup> This applies if a counterparty fails to transfer a sufficient amount of underlying assets or cash (when applicable, as regards margin calls) to settle on the settlement day, or to collateralise, until the maturity of the operation by means of corresponding margin calls, the amount of liquidity it has been allotted in a liquidity-providing operation, or if it fails to transfer a sufficient amount of cash to settle the amount it has been allotted in a liquidity-absorbing operation.
- <sup>(2)</sup> This applies if a counterparty fails to transfer a sufficient amount of eligible underlying assets or if it fails to transfer a sufficient amount of cash to settle the amount agreed in bilateral transactions, or if it fails to collateralise an outstanding bilateral transaction at any time until its maturity by means of corresponding margin calls.'

(b) The third paragraph of Section 1(a) is replaced by the following:

'For infringements of rules related to the use of underlying assets (\*), the financial penalties shall be calculated on the basis of the amount of ineligible assets (or assets that may not be used by the counterparty), which are either: (i) provided by the counterparty to an NCB or the ECB; or (ii) not removed by the counterparty after 20 working days following an event after which the eligible assets become ineligible or may no longer be used by the counterparty, multiplied by the coefficient 1/360.

\_\_\_\_\_

(\*) The following provisions also apply where (a) the counterparty has been using ineligible assets or has provided information affecting the collateral value negatively, for example on the outstanding amount of a used credit claim, which is or has been false or out of date; or (b) the counterparty is using assets which are ineligible owing to close links between the issuer/guarantor and the counterparty.'

(c) The second paragraph of Section 2.1 is replaced by the following:

'These financial penalties and suspension measures shall also apply, without prejudice to Section 2.3, to any other successive infringement during each 12-month period.'

(d) The second paragraph of Section 2.2 is replaced by the following:

'These financial penalties and suspension measures shall also apply, without prejudice to Section 2.3, to any other successive infringement during each 12-month period.'

\_\_\_\_\_

## ANNEX II

Sections 6.3 and 6.4 of and Appendix 2 to Annex I to Guideline ECB/2000/7 are amended as follows:

1. The fifth paragraph of Section 6.3.1 is replaced by the following:

“The Eurosystem’s benchmark for establishing its minimum requirement for high credit standards (its “credit quality threshold”) is defined in terms of a credit assessment of credit quality step 3 in the Eurosystem’s harmonised rating scale (\*). The Eurosystem considers a PD over a one-year horizon of 0,40 % as equivalent to a credit assessment of credit quality step 3, subject to regular review. The ECAF follows the definition of a default event given in the Capital Requirements Directive (CRD) (\*\*). The Eurosystem publishes the lowest rating grade meeting the required credit quality threshold for each accepted ECAI, without assuming any responsibility for its assessment of the ECAI, again subject to regular review. With regard to asset-backed securities, the Eurosystem’s benchmark for establishing its minimum requirements for high credit standards is defined in terms of a “triple A” credit assessment (\*\*\*) at issuance. Over the lifetime of the asset-backed security, the Eurosystem’s minimum threshold of credit quality step 2 of the Eurosystem’s harmonised rating scale (“single A”) must be retained (\*\*\*\*). With regard to RMBDs, the Eurosystem’s benchmark for establishing its minimum requirement for high credit standards is defined in terms of a credit assessment of credit quality step 2 in the Eurosystem’s harmonised rating scale (“single A”). The Eurosystem considers a PD over a one-year horizon of 0,10 % as equivalent to a credit assessment of credit quality step 2, subject to regular review.

- (\*) The Eurosystem’s harmonised rating scale is published on the ECB’s website ([www.ecb.europa.eu](http://www.ecb.europa.eu)). A credit quality step 3 credit assessment means a minimum long-term rating of “BBB-” by Fitch or Standard & Poor’s, of “Baa3” by Moody’s, or of “BBB” by DBRS.
- (\*\*) The CRD comprises 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 (recast) (OJ L 177, 30.6.2006, p. 1) and Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast) (OJ L 177, 30.6.2006, p. 201).
- (\*\*\*) “Triple A” means a minimum long-term rating of “AAA” by Fitch, Standard & Poor’s or DBRS, or “Aaa” by Moody’s or, if this is not available, a short-term rating of “F1+” by Fitch, or “A-1+” by Standard & Poor’s, or “R-1H” by DBRS.
- (\*\*\*\*) “Single A” means a minimum long-term rating of “A-” by Fitch or Standard & Poor’s, or “A3” by Moody’s, or “AL” by DBRS.’

2. The seventh paragraph of Section 6.3.3 (the only paragraph under the heading ‘Non-marketable retail mortgage-backed debt instruments’) is replaced by the following:

“The high credit standards for non-marketable RMBDs must be in line with credit quality step 2 of the Eurosystem’s harmonised rating scale (\*). A jurisdiction-specific credit assessment framework for these debt instruments will be specified in the applicable national documentation by the NCBs.

- (\*) As specified in the Eurosystem’s harmonised rating scale, published on the ECB’s website ([www.ecb.europa.eu](http://www.ecb.europa.eu)).’

3. The second and third paragraphs of Section 6.3.5 are replaced by the following:

“The first element of the process is the annual compilation by the credit assessment system provider of the static pools of eligible debtors, i.e. pools consisting of all corporate and public debtors, receiving a credit assessment from the system satisfying one of the following conditions:

Static pool	Condition
Static Pool for credit quality steps 1 and 2	$PD(i,t) (*) \leq 0,10 \%$
Static Pool for credit quality step 3	$0,10 \% < PD(i,t) \leq 0,40 \%$

(\*)  $PD(i,t)$  denotes the probability of default assigned by the credit assessment system to debtor  $i$  at time  $t$ .

All debtors fulfilling one of these conditions at the beginning of period  $t$  constitute the corresponding static pool at time  $t$ . At the end of the foreseen 12-month period, the realised default rate for the static pools of debtors at time  $t$  is computed. On an annual basis, the rating system provider has to agree to submit to the Eurosystem the number of eligible debtors contained in the static pools at time  $t$  and the number of those debtors in the static pool ( $t$ ) that defaulted in the subsequent 12-month period.’

4. Section 6.4.2 is amended as follows:

- (a) The fourth bullet point in the sole paragraph is replaced by the following:

'Individual debt instruments included in category V are subject to a unique haircut of 16 % regardless of maturity or coupon structure.'

- (b) The fifth bullet point in the sole paragraph is replaced by the following:

'Individual asset-backed securities, covered bank bonds (jumbo covered bank bonds, traditional covered bank bonds and other covered bank bonds) and unsecured credit institution debt instruments that are theoretically valued in accordance with Section 6.5 are subject to an additional valuation haircut. This haircut is directly applied at the level of theoretical valuation of the individual debt instrument in the form of a valuation markdown of 5 %.'

- (c) Table 6 is replaced by the following:

Table 6

**Liquidity categories for marketable assets <sup>(1)</sup>**

Category I	Category II	Category III	Category IV	Category V
Central government debt instruments	Local and regional government debt instruments	Traditional covered bank bonds	Credit institution debt instruments (unsecured)	Asset-backed securities
Debt instruments issued by central banks <sup>(2)</sup>	Jumbo covered bank bonds <sup>(3)</sup>	Debt instruments issued by non-financial corporations and other issuers <sup>(4)</sup>	Debt instruments issued by financial corporations other than credit institutions (unsecured)	
	Agency debt instruments <sup>(4)</sup>	Other covered bank bonds <sup>(5)</sup>		
	Supranational debt instruments			

<sup>(1)</sup> In general, the issuer classification determines the liquidity category. However, all asset-backed securities are included in category V, regardless of the classification of the issuer, and jumbo covered bank bonds are included in category II, while traditional covered bank bonds, other covered bank bonds and other debt instruments issued by credit institutions are included in category III and IV.

<sup>(2)</sup> Debt certificates issued by the ECB and debt instruments issued by the NCBs prior to the adoption of the euro in their respective Member State are included in liquidity category I.

<sup>(3)</sup> Only instruments with an issuing volume of at least EUR 1 billion, for which at least three market-makers provide regular bid and ask quotes, fall into the asset class of jumbo covered bank bonds.

<sup>(4)</sup> Only marketable assets issued by issuers that have been classified as agencies by the ECB are included in liquidity category II. Marketable assets issued by other agencies are included in liquidity category III or IV, depending on the issuer and asset type.

<sup>(5)</sup> Non-UCITS compliant covered bonds, including both structured covered bonds and multi-issuer covered bonds are included in liquidity category III.'

- (d) The seventh bullet point in the sole paragraph is replaced by the following:

'The haircut applied to marketable debt instruments included in liquidity categories I to IV with variable rate coupons <sup>(\*)</sup> is that applied to the zero-to-one-year maturity bucket of fixed coupon instruments in the liquidity category and credit quality category to which the instrument is assigned.'

<sup>(\*)</sup> A coupon payment is considered a variable rate payment if the coupon is linked to a reference interest rate and if the resetting period corresponding to this coupon is no longer than one year. Coupon payments for which the resetting period is longer than one year are treated as fixed rate payments, with the relevant maturity for the haircut being the residual maturity of the debt instrument.'



(e) Table 7 is replaced by the following:

Table 7

**Levels of valuation haircuts applied to eligible marketable assets**

		Liquidity categories								
Credit quality	Residual maturity (years)	Category I		Category II (*)		Category III (*)		Category IV (*)		Category V (*)
		fixed coupon	zero coupon	fixed coupon	zero coupon	fixed coupon	zero coupon	fixed coupon	zero coupon	
Steps 1 and 2 (AAA to A-) (**)	0-1	0,5	0,5	1,0	1,0	1,5	1,5	6,5	6,5	16
	1-3	1,5	1,5	2,5	2,5	3,0	3,0	8,5	9,0	
	3-5	2,5	3,0	3,5	4,0	5,0	5,5	11,0	11,5	
	5-7	3,0	3,5	4,5	5,0	6,5	7,5	12,5	13,5	
	7-10	4,0	4,5	5,5	6,5	8,5	9,5	14,0	15,5	
	> 10	5,5	8,5	7,5	12,0	11,0	16,5	17,0	22,5	
Step 3 (BBB+ to BBB-) (**)	0-1	5,5	5,5	6,0	6,0	8,0	8,0	15,0	15,0	Not eligible
	1-3	6,5	6,5	10,5	11,5	18,0	19,5	27,5	29,5	
	3-5	7,5	8,0	15,5	17,0	25,5	28,0	36,5	39,5	
	5-7	8,0	8,5	18,0	20,5	28,0	31,5	38,5	43,0	
	7-10	9,0	9,5	19,5	22,5	29,0	33,5	39,0	44,5	
	> 10	10,5	13,5	20,0	29,0	29,5	38,0	39,5	46,0	

(\*) Individual asset-backed securities, covered bank bonds (jumbo covered bank bonds, traditional covered bank bonds and other covered bank bonds) and uncovered bank bonds that are theoretically valued in accordance with Section 6.5 are subject to an additional valuation haircut. This haircut is directly applied at the level of the theoretical valuation of the individual debt instrument in the form of a valuation markdown of 5 %.

(\*\*) Ratings as specified in the Eurosystem's harmonised rating scale, published on the ECB's website ([www.ecb.europa.eu](http://www.ecb.europa.eu)).'

(f) Table 8 is replaced by the following:

Table 8

**Levels of valuation haircuts applied to eligible marketable inverse floating rate debt instruments included in categories I to IV**

Credit quality	Residual maturity (years)	Invrese floater coupon
Steps 1 and 2 (AAA to A-)	0-1	7,5
	1-3	11,5
	3-5	16,0
	5-7	19,5
	7-10	22,5
	> 10	28,0
Step 3 (BBB+ to BBB-)	0-1	21,0
	1-3	46,5
	3-5	63,5
	5-7	68,0
	7-10	69,0
	> 10	69,5'

## 5. Section 6.4.3 is amended as follows:

- (a) The first two bullet points in the first paragraph are replaced by the following:

‘Individual credit claims are subject to specific valuation haircuts. The haircuts differ according to the residual maturity, type of interest payment (fixed or variable), the credit quality category and the valuation methodology applied by the NCB (see Section 6.5), as described in Table 9 (\*).

The haircut applied to credit claims with variable rate interest payments is that applied to the credit claims with fixed interest payments classified in the zero-to-one-year maturity bucket corresponding to the same credit quality and the same valuation methodology (valuation based on a theoretical price assigned by the NCB or on the outstanding amount assigned by the NCB). An interest payment is considered a variable rate payment if it is linked to a reference interest rate and if the resetting period corresponding to this payment is no longer than one year. Interest payments for which the resetting period is longer than one year are treated as fixed rate payments, with the relevant maturity for the haircut being the residual maturity of the credit claim.

(\*) The valuation haircuts applied to credit claims with fixed rate interest payments are also applicable to credit claims, the interest payments of which are linked to the inflation rate.’

- (b) Table 9 is replaced by the following:

Table 9

**Levels of valuation haircuts applied to credit claims with fixed interest payments**

Credit quality	Residual maturity (years)	Valuation methodology	
		Fixed interest payment and valuation based on a theoretical price assigned by the NCB	Fixed interest payment and valuation based on the outstanding amount assigned by the NCB
Steps 1 and 2 (AAA to A-)	0-1	8,0	10,0
	1-3	11,5	17,5
	3-5	15,0	24,0
	5-7	17,0	29,0
	7-10	18,5	34,5
	> 10	20,5	44,5
Step 3 (BBB+ to BBB-)	0-1	15,5	17,5
	1-3	28,0	34,0
	3-5	37,0	46,0
	5-7	39,0	51,0
	7-10	39,5	55,5
	> 10	40,5	64,5’

- (c) The second paragraph is replaced by the following:

‘Non-marketable retail mortgage-backed debt instruments are subject to a valuation haircut of 24 %.’

## 6. Appendix 2 is amended as follows:

The definition of ‘*valuation markdown*’ is replaced by the following:

‘*Valuation markdown*: a risk control measure applied to underlying assets used in reverse transactions, meaning that the central bank applies a reduction of the theoretical market value of the assets by a certain percentage before applying any valuation haircut.’

## ANNEX III

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

Section I is amended as follows:

1. Point 6(p) is replaced by the following:

‘the Counterparty becomes subject to the freezing of funds and/or other measures imposed by the EU under Article 75 of the Treaty restricting the Counterparty’s ability to use its funds; or’

2. Point 6(q) is replaced by the following:

‘the Counterparty becomes subject to the freezing of funds and/or other measures imposed by a Member State restricting the Counterparty’s ability to use its funds; or’

3. Point 7 is replaced by the following:

‘The relevant contractual or regulatory arrangements applied by the NCB should ensure that if an event of default occurs, the NCB is entitled to exercise the following remedies: (a) suspension, limitation or exclusion of the Counterparty from access to open market operations; (b) suspension, limitation or exclusion of the Counterparty from access to the Eurosystem’s standing facilities; (c) terminating all outstanding agreements and transactions; or (d) demanding accelerated performance of claims that have not yet matured or are contingent. In addition, the NCB may be entitled to exercise the following remedies: (a) using deposits of the Counterparty placed with the NCB to set off claims against that Counterparty; (b) suspending the performance of obligations against the Counterparty until the claim on the Counterparty has been satisfied; (c) claiming default interest; or (d) claiming an indemnity for any losses sustained as a consequence of a default by the Counterparty. The relevant contractual or regulatory arrangements applied by the NCB should ensure that if an event of default occurs, such NCB shall be in a legal position to realise all assets provided as collateral without undue delay and in such a way as to entitle the NCB to realise value for the credit provided, if the Counterparty does not settle its negative balance promptly. In order to ensure the uniform implementation of the measures imposed, the ECB’s Governing Council may decide on the remedies, including suspension, limitation or exclusion from access to open market operations or the Eurosystem’s standing facilities.’

---