

# GUIDELINES

## GUIDELINE (EU) 2020/1690 OF THE EUROPEAN CENTRAL BANK

of 25 September 2020

amending Guideline (EU) 2015/510 on the implementation of the Eurosystem monetary policy framework

(ECB/2020/45)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular the first indent of Article 3.1, Articles 9.2, 12.1, 14.3 and 18.2 and the first paragraph of Article 20 thereof,

Whereas:

- (1) Achieving a single monetary policy entails defining the tools, instruments and procedures to be used by the Eurosystem in order to implement such a policy in a uniform manner throughout the Member States whose currency is the euro.
- (2) Guideline (EU) 2015/510 of the European Central Bank (ECB/2014/60) <sup>(1)</sup> should be amended to incorporate necessary technical and editorial adjustments relating to certain aspects of monetary policy operations.
- (3) In order to reduce the overall complexity of the Eurosystem's collateral framework, the Eurosystem risk exposure and the operational burden on the eligibility assessment, non-legislative covered bonds (i.e. contractual covered bonds) should no longer be accepted as Eurosystem collateral. Therefore, the definitions and provisions relating to covered bonds in the Eurosystem collateral framework should be amended to restrict the type of eligible covered bonds to legislative covered bonds and *multi cédulas*.
- (4) To reflect the Eurosystem's two-tier system for remunerating excess reserve holdings applicable since 30 October 2019 in accordance with Decision (EU) 2019/1743 of the European Central Bank (ECB/2019/31) <sup>(2)</sup>, it should be specified which legal framework applies for the remuneration of minimum reserves and of excess reserve holdings.
- (5) To further reduce the complexity of the Eurosystem's collateral framework, and taking into account the limited extent to which they have been used, marketable debt instruments issued or guaranteed by non-financial corporations for which no appropriate credit assessment is available should no longer be accepted as Eurosystem collateral after a transition period.
- (6) With a view to reflecting recent financial innovations in the area of sustainable finance, the Eurosystem intends to accept certain marketable debt instruments with coupon structures linked to the issuer's fulfilment of pre-defined sustainability targets.
- (7) It should be clarified that assets with coupons linked to interpolated reference rates are eligible only under certain conditions, and these conditions should be specified.
- (8) In order to establish a consistent and transparent approach to the categories of secured marketable assets eligible as collateral for Eurosystem credit operations, secured marketable assets other than ABSs and covered bonds should no longer be accepted as Eurosystem collateral.

<sup>(1)</sup> Guideline (EU) 2015/510 of the European Central Bank of 19 December 2014 on the implementation of the Eurosystem monetary policy framework (General Documentation Guideline) (ECB/2014/60) (OJ L 91, 2.4.2015, p. 3).

<sup>(2)</sup> Decision (EU) 2019/1743 of the European Central Bank of 15 October 2019 on the remuneration of holdings of excess reserves and of certain deposits (ECB/2019/31) (OJ L 267, 21.10.2019, p. 12).

- (9) The loan-level data requirements for asset-backed securities (ABSs) that are eligible as Eurosystem collateral should be adjusted for those ABSs for which loan-level data are reported in accordance with Regulation (EU) 2017/2402 of the European Parliament and of the Council <sup>(3)</sup>.
- (10) Certain provisions related to the eligibility as Eurosystem collateral of credit claims and to data reporting regarding credit claims should be amended in order to improve the information availability for credit claims under the collateral framework, increase clarity of the rules determining a credit claim's eligibility as collateral and clarify the verification procedures for such assets.
- (11) To ensure greater transparency, consistency and legal certainty, the general acceptance criteria for external credit assessment institutions (ECAIs) in the Eurosystem credit assessment framework (ECAAF) should be clarified.
- (12) The rules regarding the use of unsecured debt instruments issued by a counterparty or its closely linked entities should be simplified.
- (13) In order to increase the transparency of the Eurosystem counterparty framework, the details relating to the length of the grace period applicable to counterparties that do not meet minimum own funds requirements should be clarified.
- (14) The financial penalty for breaches related to the use of eligible assets as Eurosystem collateral should be adjusted to provide incentives to counterparties to proactively report such breaches.
- (15) Therefore, Guideline (EU) 2015/510 (ECB/2014/60) should be amended accordingly,

HAS ADOPTED THIS GUIDELINE:

#### *Article 1*

#### **Amendments**

Guideline (EU) 2015/510 (ECB/2014/60) is amended as follows:

(1) Article 2 is amended as follows:

(a) the following point (24a) is inserted:

‘(24a) “EEA legislative covered bond” means a covered bond which is issued in accordance with the requirements under Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council <sup>(\*)</sup>;

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

(b) point (48) is replaced by the following:

‘(48) “jumbo covered bond” means an EEA legislative covered bond with an issuing volume of at least EUR 1 billion, for which at least three market-makers provide regular bid and ask quotes;’;

(c) the following point (49a) is inserted:

‘(49a) “legislative covered bond” means a covered bond which is either an EEA legislative covered bond or a non-EEA G10 legislative covered bond;’;

<sup>(3)</sup> Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).

(d) the following point (68a) is inserted:

‘(68a) “non-EEA G10 legislative covered bond” means a covered bond issued in accordance with the requirements of the national covered bond legislative framework of a non-EEA G10 country;’;

(e) point (71) is deleted;

(f) point (88) is deleted;

(g) the following point (88a) is inserted:

‘(88a) “sustainability performance target” (SPT) means a target set by the issuer in a publicly available issuance document, measuring quantified improvements in the issuer’s sustainability profile over a predefined period of time with reference to one or more of the environmental objectives set out in Regulation (EU) 2020/852 of the European Parliament and of the Council (\*) and/or to one or more of the Sustainable Development Goals set by the United Nations relating to climate change or environmental degradation (\*\*);’

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

(\*\*) Contained in the “2030 Agenda for Sustainable Development” adopted by the UN General Assembly on 25 September 2015.’;

(h) point (94) is deleted;

(2) Article 54 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. Reserve holdings that comply with minimum reserve requirements pursuant to Regulation (EC) No 2531/98 and Regulation (EC) No 1745/2003 (ECB/2003/9) shall be remunerated in accordance with Regulation (EC) No 1745/2003 (ECB/2003/9).’;

(b) the following paragraph 3 is added:

‘3. Reserve holdings that exceed the minimum reserves referred to in paragraph 2 shall be remunerated in accordance with Decision (EU) 2019/1743 of the European Central Bank (ECB/2019/31) (\*).’

(\*) Decision (EU) 2019/1743 of the European Central Bank of 15 October 2019 on the remuneration of holdings of excess reserves and of certain deposits (ECB/2019/31) (OJ L 267, 21.10.2019, p. 12).’;

(3) in Article 61(1) the following sentence is added:

‘Such assets shall only be eligible until the date on which the Eurosystem Collateral Management System starts to operate (“go-live date”).’;

(4) Article 63(1) is amended as follows:

(a) the introductory wording is replaced by the following:

‘In order to be eligible, debt instruments shall have one of the following coupon structures until final redemption:’;

(b) in point (b), point (i) is replaced by the following:

‘(i) the reference rate is only one of the following at a single point in time:

— a euro money market rate, e.g. the euro short-term rate (€STR) (including compounded or averaged daily €STR), Euribor, LIBOR or similar indices; for the first or/and the last coupon the reference rate can be a linear interpolation between two tenors of the same euro money market rate e.g. a linear interpolation between two different tenors of Euribor,

— a constant maturity swap rate, e.g. CMS, EIISDA, EUSA,

— the yield of one or an index of several euro area government bonds that have a maturity of one year or less,

— a euro area inflation index;’;

(c) the following point (c) is added:

‘(c) Multi-step or floating coupons with steps linked to SPTs, provided the issuer’s compliance with SPTs is subject to verification by an independent third party in accordance with the terms and conditions of the debt instrument.’;

(5) the following Article 64a is inserted:

‘Article 64a

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

1. In order to be eligible, marketable assets other than ABSs, legislative covered bonds and *multi cédulas* shall be unsecured obligations of both the issuer and guarantor. For marketable assets with more than one issuer or with more than one guarantor, the requirement in this paragraph shall apply to each issuer and each guarantor.

2. Marketable assets which are secured and were eligible before 1 January 2021 but do not comply with the eligibility requirements as set out in this Article shall remain eligible until 1 January 2026, provided that they fulfil all other eligibility criteria for marketable assets. By derogation from the first sentence of this paragraph, covered bonds which are neither legislative covered bonds nor *multi cédulas*, shall become ineligible from 1 January 2021.’;

(6) Article 78 is amended as follows:

(a) paragraph 1 is replaced by the following:

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

(b) paragraph 2 is deleted;

(7) Article 80 is replaced by the following:

‘Article 80

#### **Eligibility criteria for covered bonds backed by asset-backed securities**

1. Without prejudice to the eligibility of legislative covered bonds pursuant to Article 64a, in order for EEA legislative covered bonds backed by ABSs to be eligible, the cover pool of such bonds (for the purposes of paragraphs 1 to 4, “the cover pool”) shall only contain ABSs that comply with all of the following.

(a) The cash-flow generating assets backing the ABSs meet the criteria laid down in Article 129(1)(d) to (f) of Regulation (EU) No 575/2013.

(b) The cash-flow generating assets were originated by an entity closely linked to the issuer, as described in Article 138.

(c) They are used as a technical tool to transfer mortgages or guaranteed real estate loans from the originating entity into the cover pool.

2. Subject to paragraph 4, the NCBs shall use the following measures to verify that the cover pool does not contain ABSs that do not comply with paragraph 1.

(a) On a quarterly basis, the NCBs shall request a self-certification and undertaking of the issuer confirming that the cover pool does not contain ABSs that do not comply with paragraph 1. The NCB’s request shall specify that the self-certification must be signed by the issuer’s Chief Executive Officer (CEO), Chief Financial Officer (CFO) or a manager of similar seniority, or by an authorised signatory on their behalf.

(b) On an annual basis, NCBs shall request an *ex post* confirmation by external auditors or cover pool monitors from the issuer, confirming that the cover pool does not contain ABSs that do not comply with paragraph 1 for the monitoring period.

3. If the issuer fails to comply with a particular request or if the Eurosystem deems the content of a confirmation incorrect or insufficient to the extent that it is not possible to verify that the cover pool complies with the criteria in paragraph 1, the Eurosystem shall decide not to accept the EEA legislative covered bonds as eligible collateral or to suspend their eligibility.

4. Where the applicable legislation or prospectus exclude the inclusion of ABSs that do not comply with paragraph 1 as cover pool assets, no verification pursuant to paragraph 2 shall be required.
  5. For the purposes of paragraph 1(b), the close links shall be determined at the time that the senior units of the ABSs are transferred into the cover pool of the EEA legislative covered bond.
  6. The cover pool of non-EEA G10 legislative covered bonds shall not contain ABSs.;
- (8) Article 87 is amended as follows:
- (a) in paragraph 2, point (c) is replaced by the following:

‘(c) If the issuers or guarantors are “public sector entities” as defined in point (75) of Article 2 and are not referred to in points (a) and (b), no implicit credit assessment is derived and the debt instruments issued or guaranteed by these entities shall be treated equally to debt instruments issued or guaranteed by private sector entities, i.e. as not having an appropriate credit assessment.’;
  - (b) paragraph 3 is replaced by the following:

‘3. Subject to the provisions of Article 61(1), if the debt instruments are issued or guaranteed by non-financial corporations established in a Member State whose currency is the euro, the credit quality assessment shall be performed by the Eurosystem based on the credit quality assessment rules applicable to the credit quality assessment of credit claims in Chapter 2 of Title III.’;
  - (c) in Table 9, the wording ‘treated like private sector issuers or debtors’ is replaced by ‘treated like private sector issuers or debtors, i.e. their marketable assets are not eligible’;
- (9) Article 90 is amended as follows:
- (a) the introductory wording is replaced by the following:

‘In order to be eligible, credit claims shall comply with the following requirements from the moment they are mobilised until their final redemption or demobilisation.’;
  - (b) point (a) is replaced by the following:

‘(a) they have a fixed, unconditional principal amount; and’;
  - (c) in point (b), the wording ‘an interest rate that shall, until final redemption, be one of the following;’ is replaced by the wording ‘an interest rate that shall be one of the following.’;
  - (d) in point (b)(iii), the bullet point ‘– a euro money market rate, e.g. Euribor, LIBOR or similar indices;’ is replaced by the following:

‘— a euro money market rate, e.g. €STR (including compounded or averaged daily €STR), Euribor, LIBOR or similar indices.’;
- (10) Article 100 is replaced by the following:

‘Article 100

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

NCBs, or supervisors or external auditors, shall conduct a verification of the appropriateness of the procedures and systems used by the counterparty to submit the information on credit claims to the Eurosystem prior to the first mobilisation of credit claims by the counterparty. The verification of the procedures and systems shall subsequently be conducted at least once every five years. In the event of significant changes to such procedures or systems, a new verification may be conducted.’;

- (11) in Article 101, the following new point (aa) is inserted after point (a):
- ‘(aa) They shall require counterparties to submit in relation to credit claims mobilised as collateral from May 2021, where applicable, the relevant analytical credit database (AnaCredit) identifiers (i.e. the “Observed Agent” identifier, the “Contract” identifier and the “Instrument” identifier), as submitted under the statistical reporting requirements in accordance with Regulation (EU) 2016/867 of the European Central Bank (ECB/2016/13) (\*).

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

(12) in Article 102, the second sentence is replaced by the following:

‘All the necessary legal formalities to ensure the validity of the agreement and to ensure the mobilisation of a credit claim as collateral shall be fulfilled by the counterparty and/or the transferee, as appropriate.’;

(13) in Article 120, paragraphs 2 and 2a are replaced by the following:

2. Following the application process outlined in Annex IXc, the Eurosystem reserves the right to decide whether to initiate an ECAF acceptance procedure upon request from a credit rating agency (CRA). In making its decision, the Eurosystem shall take into account, among other things, whether the CRA provides relevant coverage for the efficient implementation of the ECAF in accordance with the requirements set out in Annex IXa.

2a. Following the initiation of an ECAF acceptance procedure, the Eurosystem shall investigate all additional information deemed relevant to ensure the efficient implementation of the ECAF, including the ECAF’s capacity (i) to fulfil the criteria and rules of the ECAF performance monitoring process in accordance with the requirements set out in Annex IX and the specific criteria in Annex IXb (if relevant); and (ii) to comply with the acceptance criteria set out in Annex IXc. The Eurosystem reserves the right to decide whether to accept an ECAF for the purposes of the ECAF on the basis of the information provided and its own due diligence assessment.’;

(14) Article 138 is amended as follows:

(a) in paragraph 3, points (a), (b), and (c) are replaced by the following:

‘(a) close links, as defined under paragraph 2, created as a result of the existence of an EEA public sector entity that has the right to levy taxes and is either (i) an entity that owns directly, or indirectly through one or more undertakings, 20 % or more of the capital of the counterparty, or (ii) a third party that owns, either directly or indirectly through one or more undertakings, 20 % or more of the capital of the counterparty and 20 % or more of the capital of the other entity, provided that no other close links exist between the counterparty and the other entity except the close links resulting from one or more EEA public sector entities that have the right to levy taxes;

(b) EEA-legislative covered bonds that:

- (i) meet the requirements set out in Article 129(1) to (3) and (6) of Regulation (EU) No 575/2013;
- (ii) do not contain in their cover pool unsecured debt instruments issued by the counterparty or any other entity closely linked to that counterparty, as defined in paragraph 2, and fully guaranteed by one or several EEA public sector entities which have the right to levy taxes; and
- (iii) have an ECAF issue rating as defined in point (a) of Article 83 which fulfils the requirements of Annex IXb;

(c) non-marketable RMBDs and DECCs’;

(b) the following paragraph 4 is added:

‘4. If compliance with paragraph 3(b)(ii) needs to be verified, that is, for EEA legislative covered bonds, where the applicable legislation or prospectus do not exclude debt instruments referred to in paragraph 3(b)(ii) as cover pool assets and where the counterparty or an entity closely linked to the counterparty has issued such debt instruments, NCBs may take all or some of the following measures to conduct ad hoc checks of compliance with paragraph 3(b)(ii).

(a) NCBs may obtain regular surveillance reports providing an overview of assets in the cover pool of EEA legislative covered bonds;

(b) If surveillance reports do not provide sufficient information for verification purposes, NCBs may obtain a self-certification and undertaking of the counterparty mobilising an EEA legislative covered bond by which the counterparty shall confirm that the cover pool of EEA legislative covered bonds does not include, in breach of paragraph 3(b)(ii), unsecured bank bonds which are issued by that counterparty or any other entity closely linked to that counterparty, and are fully guaranteed by one or several EEA public entities which have the right to levy taxes. The counterparty’s self-certification must be signed by the counterparty’s CEO, CFO or a manager of similar seniority, or by an authorised signatory on their behalf.

- (c) On an annual basis, NCBs may obtain from the counterparty mobilising an EEA-legislative covered bond an *ex post* confirmation by external auditors or cover pool monitors that the cover pool of EEA legislative covered bonds does not include, in breach of paragraph 3(b)(ii), unsecured bank bonds which are issued by that counterparty or any other entity closely linked to that counterparty, and are fully guaranteed by one or several EEA public sector entities which have the right to levy taxes.
- (d) If the counterparty does not provide the self-certification or confirmation referred to in points (b) and (c) upon request from the NCB, the EEA legislative covered bond shall not be mobilised as collateral by that counterparty.;

(15) Article 139 is amended as follows:

(a) paragraph 1 is deleted;

(b) paragraph 2 is replaced by the following:

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

(c) paragraphs 3 and 4 are deleted;

(16) in Article 148, paragraph 2 is replaced by the following:

- ‘2. Counterparties may mobilise eligible assets other than fixed-term deposits, for cross-border use in accordance with the following:
  - (a) marketable assets shall be mobilised via one of the following: (i) eligible links; (ii) applicable CCBM procedures; (iii) eligible links in combination with the CCBM procedures;
  - (b) DECCs and RMBDs shall be mobilised in accordance with applicable CCBM procedures; and
  - (c) credit claims shall be mobilised either (i) via applicable CCBM procedures or (ii) in accordance with domestic procedures, as laid down in the relevant national documentation of the home NCB.’;

(17) Article 155 is replaced by the following:

‘Article 155

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

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

(18) in Article 156(4), point (a) is replaced by the following:

‘(a) a financial penalty was imposed;’;

(19) Article 158 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. Counterparties that are subject to supervision as referred to in Article 55(b)(i) but which do not meet the own funds requirements laid down in Regulation (EU) No 575/2013, on an individual and/or consolidated basis, in accordance with the supervisory requirements, and counterparties that are subject to supervision of a comparable standard as referred to in Article 55(b)(iii) but which do not meet requirements comparable to the own funds requirements laid down in Regulation (EU) No 575/2013, on an individual and/or consolidated basis, shall automatically have their access to Eurosystem monetary policy operations limited on the grounds of prudence. The limitation shall correspond to the level of access to Eurosystem monetary policy operations prevailing at the time such undercapitalisation is notified to the Eurosystem. This limitation is without prejudice to any further discretionary measure that the Eurosystem may take. If compliance with own funds requirements has not been restored through adequate and timely recapitalisation measures at the latest within 20 weeks from the reference date of the data collection exercise in which the non-compliance was identified, counterparties shall be automatically suspended from accessing Eurosystem monetary policy operations on the grounds of prudence.’;

(b) paragraph 3 is replaced by the following:

‘3. In the context of its assessment of financial soundness of a counterparty pursuant to Article 55(c) and without prejudice to any other discretionary measures, the Eurosystem may limit, on the grounds of prudence, access to Eurosystem monetary policy operations by the following counterparties:

(a) counterparties for which information on capital ratios under Regulation (EU) No 575/2013 is incomplete or not made available to the relevant NCB and the ECB in a timely manner and at the latest within 14 weeks from the end of the relevant quarter;

(b) counterparties which are not required to report capital ratios under Regulation (EU) No 575/2013 but for which information of a comparable standard as referred to in Article 55(b)(iii) is incomplete or not made available to the relevant NCB and the ECB in a timely manner and at the latest within 14 weeks from the end of the relevant quarter.

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

(20) in Article 159, in paragraph 4, point (b) is replaced by the following:

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

(21) Annexes I, VIII, IXa and XII are amended in accordance with Annex I to this Guideline;

(22) the text set out in Annex II to this Guideline is added as a new Annex IXc.

## Article 2

### Taking effect and implementation

1. This Guideline shall take effect on the day of its notification to the national central banks of the Member States whose currency is the euro.

2. The national central banks of the Member States whose currency is the euro shall take the necessary measures to comply with this Guideline and apply them from 1 January 2021. They shall notify the European Central Bank of the texts and means relating to those measures by 6 November 2020 at the latest.



*Article 3***Addressees**

This Guideline is addressed to all Eurosystem central banks.

Done at Frankfurt am Main, 25 September 2020.

*For the Governing Council of the ECB*  
*The President of the ECB*  
Christine LAGARDE

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## ANNEX I

Annexes I, VIII, IXa and XII to Guideline (EU) 2015/510 (ECB/2014/60) are amended as follows:

(1) in Annex I, paragraph 5, the second sentence is replaced by the following:

‘Such institutions include, inter alia, institutions subject to reorganisation measures and institutions subject to the freezing of funds and/or other measures imposed by the Union under Article 75 of the Treaty or by a Member State restricting the use of their funds or a decision of the Eurosystem suspending or excluding their access to open market operations or the Eurosystem’s standing facilities.’;

(2) Annex VIII is amended as follows:

(a) in Section II, paragraph 2 is replaced by the following:

‘2. The ABSs for which the ECB’s loan-level data reporting template is used must achieve a compulsory minimum compliance level of A1 data score, assessed by reference to the availability of information, in particular the data fields of the loan-level data reporting template, calculated in accordance with the methodology set out in Section III of this Annex. Notwithstanding the required scoring values set out in Section III in respect of loan-level data, the Eurosystem may accept as collateral ABSs for which the ECB’s loan-level data reporting templates are used with a score lower than the required scoring value (A1), on a case-by-case basis and subject to the provision of adequate explanations for the failure to achieve the required score. For each adequate explanation, the Eurosystem will specify a maximum tolerance level and a tolerance horizon, as further specified on the ECB’s website. The tolerance horizon will indicate the time period within which the data quality for the ABSs must improve.’;

(b) in Section II, in paragraph 3 the wording ‘the loan-level data reporting templates’ is replaced by the wording ‘the ECB’s loan-level data reporting templates’;

(c) in Section III, the title is replaced by the following:

‘ECB DATA SCORE METHODOLOGY’;

(d) in Section IV, the title is replaced by the following:

‘EUROSYSTEM DESIGNATION OF LOAN-LEVEL DATA REPOSITORIES’;

(e) in Section IV(I), paragraph 1 is replaced by the following:

‘1. In order to be designated by the Eurosystem, loan-level data repositories must comply with the applicable Eurosystem requirements, including open access, non-discrimination, coverage, appropriate governance structure and transparency.’;

(3) in Annex IXa, Section 2, paragraph 1 is replaced by the following:

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

(4) in Annex XII, the term ‘UCITS compliant jumbo covered bond’ is replaced by the term ‘jumbo covered bond’.

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## ANNEX II

The following new Annex IXc is added:

## 'ANNEX IXc

**ECAI ACCEPTANCE CRITERIA AND APPLICATION PROCESS**

This Annex sets out in detail the acceptance criteria for external credit assessment institutions (ECAIs) and the process for a credit rating agency (CRA) to apply to become accepted as an ECAI under the Eurosystem credit assessment framework (ECAF), as provided for in Article 120 of this Guideline.

**I. APPLICATION PROCESS FOR ACCEPTANCE AS AN ECAI UNDER THE ECAF**

1. An application by a CRA for acceptance as an ECAI under the ECAF must be submitted to the ECB's Directorate Risk Management (DRMSecretariat@ecb.europa.eu). The application must provide appropriate reasoning and supporting documentation as set out in Section II, demonstrating the applicant's compliance with the requirements for ECAIs set out in this Guideline. The application, reasoning and supporting documentation must be provided in writing in English, using any applicable templates and in electronic format.
2. In the first stage of the application process, the CRA must demonstrate its compliance with the relevant coverage requirements set out in Article 120 of and Annex IXa to this Guideline, as well as in this Annex, and, if the CRA's application to be accepted under the ECAF was previously rejected by the Eurosystem, how it has addressed its previous non-compliance. The individual steps in this first stage are as follows.
  - (a) The CRA must provide to the ECB the documentation and information set out in Section II.1 below. The CRA may also provide any other information it considers relevant to demonstrate its compliance with the relevant coverage requirements and, if applicable, how the CRA has remedied its previous non-compliance.
  - (b) The ECB will assess whether the documentation and information provided under Section II.1 is complete. If the information is not complete, the ECB will request the CRA to provide additional information.
  - (c) In accordance with Section II.2, the ECB may request any supplemental information necessary to commence its assessment of the CRA's compliance with the relevant coverage requirements and, if applicable, how the CRA has remedied its previous non-compliance.
  - (d) After the ECB has assessed an application as complete and after having requested and received any supplemental information, if necessary, the ECB will notify the CRA accordingly.
  - (e) The ECB will assess whether the CRA complies with the relevant coverage requirements set out in Article 120 of and Annex IXa to this Guideline, as well as in this Annex, based on the information provided pursuant to Section II.1 and 2, taking both a quantitative and qualitative perspective of the concept of coverage as further specified in Section III.2.
  - (f) As part of its assessment of the CRA's compliance with relevant coverage requirements, the ECB may require the CRA to grant access to rating reports to illustrate the compliance of ratings with the ECAF requirements.
  - (g) The ECB may request additional clarifications or information from the CRA at any time during its assessment of the relevant coverage requirements and, if applicable, how the CRA has remedied its previous non-compliance.
  - (h) The Eurosystem will adopt a reasoned decision on the CRA's compliance with the relevant coverage requirements and, if applicable, how the CRA has remedied its previous non-compliance. It will notify its decision to the CRA concerned. Where the Eurosystem decides that the CRA does not meet the relevant coverage requirements and/or, if applicable, has not remedied its previous non-compliance, it will provide reasons for its decision in the notification.
  - (i) Simultaneously with any decision notified to the CRA under point (h), the Eurosystem will notify the CRA of whether or not it exercises its reserved right to decide not to initiate an ECAF acceptance procedure pursuant to Article 120(2) of this Guideline, that is, not to permit a CRA to proceed to the second stage of the application process. The Eurosystem will provide reasons for its decision in the notification. To support such a decision, the

Eurosystem may take into account, among other things, whether information provided by the CRA or derived from other sources raise material concerns that the CRA's acceptance in the ECAF would prevent the efficient implementation of the ECAF or would not be in accordance with the principles of the risk control function of the ECAF for the Eurosystem's collateral framework.

3. If the ECB decides that the CRA complies with the relevant coverage requirements and, where applicable, has remedied its previous non-compliance and the ECB decides to initiate an ECAF acceptance procedure, the CRA may proceed to the second stage of the application process. In the second stage, the CRA must demonstrate its compliance with all other relevant requirements set out in this Guideline. The individual steps in the second stage are as follows.
  - (a) The CRA must provide to the ECB the documentation and information set out in Section II.3. The CRA may also provide any other information it considers relevant to demonstrate its compliance with the requirements set out in this Guideline.
  - (b) The ECB will assess whether the documentation and information provided in relation to Section II.3 is complete. If the information is not complete, the ECB will request the CRA to provide additional information.
  - (c) In accordance with Section II.4, the ECB may request any supplemental information necessary to commence its assessment of the CRA's compliance with the requirements set out in this Guideline.
  - (d) After the ECB has assessed an application as complete and after having requested and received any supplemental information, if necessary, in relation to coverage, the ECB will notify the CRA accordingly.
  - (e) The Eurosystem will assess whether the CRA complies with the requirements set out in this Guideline based on the documentation and information provided pursuant to Section II.3 and 4 and any other relevant information available from other sources, including the CRA's website. It will conduct its assessment with a view to ensuring the efficient implementation of the ECAF, maintaining the Eurosystem's requirement for high credit standards for eligible assets and safeguarding the risk control function of the ECAF for the Eurosystem's collateral framework.
  - (f) As part of its assessment of the CRA's capacity to fulfil the criteria and rules of the ECAF performance monitoring process, the Eurosystem will apply the ECAF performance monitoring process described in Article 126 of this Guideline to the CRA's ratings covering at least three years and preferably five years prior to the application, in accordance with Section II.3 and Section III. The Eurosystem may also assess the actual ratings of the CRA against other credit assessment systems, based on its experience and knowledge gained under the ECAF.
  - (g) As part of its assessment, the Eurosystem may require the CRA to arrange for one or more on-site visits of Eurosystem staff at the CRA's premises and/or live meetings of the relevant CRA staff with Eurosystem staff at the ECB's premises. If such a visit or meeting is required, it shall be considered a mandatory requirement of the application process.
  - (h) As part of its assessment, the Eurosystem may require the CRA to grant access to rating reports to illustrate the compliance of asset ratings with the disclosure requirements set out in Annex IXb and the availability of information requirements in Article 120 and further specified in Section III.3.
  - (i) The Eurosystem may request additional clarifications or information from the CRA at any time during its assessment.
  - (j) The Eurosystem will adopt a reasoned decision on the CRA's compliance with the requirements set out in this Guideline and its acceptance as an ECAI in the ECAF. It will notify its decision to the CRA concerned. Where the ECB decides that the CRA does not meet the requirements set out in this Guideline and is not to be accepted as an ECAI in the ECAF, it will provide reasons for its decision in the notification.
  - (k) If the Eurosystem decides to accept the CRA as an ECAI in the ECAF, the ECB will also notify the CRA of the next steps required to integrate the CRA as an ECAI in the ECAF on an operational level.

## II. INFORMATION REQUIRED FOR AN APPLICATION FOR ECAF ACCEPTANCE TO BE DEEMED COMPLETE

1. As regards the first stage of the application process, a CRA must provide the following information.
  - (a) The CRA's own estimates of its rating coverage.

- (b) A statement certified by the CRA attesting to its compliance with all ECAF requirements contained in this Guideline for which it can assess its own compliance.
    - (c) Disaggregated ratings data on a granular rating level to permit the ECB to confirm the compliance of the CRA with the relevant coverage requirements. The ratings data must be submitted in the applicable ECB templates available provided by the ECB and which contain instructions regarding the presentation of the data. The data must cover all asset, issuer and guarantor ratings that are eligible for ECAF purposes in accordance with this Guideline as well as static information on the related assets, issuers and guarantors as provided for in the templates.
    - (d) Ratings data demonstrating the required rating coverage at the time of the application and in each of the three year's prior to the application, that is, 36 months prior to the application date. The ratings data must show the required coverage with data snapshots measured at every six month interval in the relevant 36 months preceding the application.
    - (e) If the CRA's application to be accepted under the ECAF was previously rejected by the Eurosystem, supporting documentation demonstrating how it has addressed its previous non-compliance.
  2. The ECB may request supplemental information, for example, to demonstrate the stability of a CRA's coverage over time, the CRA's rating issuance practices and the quality of the CRA's ratings during the relevant coverage period.
  3. As regards the second stage of the application process, a CRA must provide the following documentation and information:
    - (a) A description of the CRA's organisation, including its corporate and ownership structure, its business strategy, in particular regarding its strategy to maintain relevant coverage for ECAF purposes, and its rating process, in particular how rating committees are composed and their decision-making processes.
    - (b) All documents relevant to its rating methodologies, rating scale(s) and default definitions.
    - (c) New issue, rating and surveillance reports related to ratings selected by the ECB.
    - (d) The historical record of the CRA's default events covering at least three years and preferably five years as well as the definition of default used by the CRA, in order for the Eurosystem to perform an *ex post* performance monitoring of the CRA in accordance with the performance monitoring framework. This will also form the basis for mapping the ratings to the Eurosystem's harmonised rating scale. The submission must include:
      - (i) global disaggregated data on all ratings, including those that are not ECAF-eligible, for example due to geographic or other restrictions;
      - (ii) corresponding rating transition tables and default statistics.
4. The ECB may request relevant supplemental information from the CRA, such as in relation to the CRA's ratings of assets, issuers and guarantors which are not eligible under the ECAF, for example, due to geographical restrictions.

### III. ECAF ACCEPTANCE CRITERIA

1. In order to be accepted in the ECAF, a CRA must comply with the applicable requirements in this Guideline, including relevant coverage so as to ensure the efficient implementation of the ECAF, operational criteria, the availability of information on ECAI credit assessments and for the purposes of the performance monitoring processes and the capacity to fulfil the criteria and rules of the ECAF performance monitoring process.

2. In relation to the requirement of relevant coverage:
  - (a) a CRA must comply with the coverage requirements specified in Annex IXa to this Guideline;
  - (b) only ratings that were actually issued or endorsed by the CRA in accordance with Regulation (EC) No 1060/2009 at the relevant point in time in the three years prior to the data of the application are considered by the Eurosystem, retrospective ratings are not accepted;
  - (c) the Eurosystem will take the stability of the relevant coverage over time into account, including the pace of any increases or decreases in such coverage.
3. In relation to the availability of information on ECAI credit assessments and for the purposes of the performance monitoring processes:
  - (a) a CRA must ensure high levels of transparency in documents relevant to its rating methodologies and actual rating actions. The CRA must ensure that all information necessary to understand an ECAI credit assessment, such as rating or surveillance reports or other publications on its website, are readily accessible and comprehensible. If a specific asset rating does not comply with applicable disclosure requirements, this renders it ineligible for ECAF purposes but it may be considered in the Eurosystem's assessment of the transparency of the CRA's general rating processes;
  - (b) a CRA must ensure transparency in relation to its rating process and how it maintains sound rating issuance practices. All methodological documents shall demonstrate a thorough expertise and the methodologies should take into account all relevant information for the purpose of issuing credit assessments. In this regard, the Eurosystem may analyse, among other things, the number of ratings issued per analyst, the size, composition and expertise of members of the rating committee, the degree of independence of the rating committee from rating analysts, the frequency of rating reviews and the reasons for large issuances of ratings. The Eurosystem may take into account any current and past supervisory measures against a CRA by ESMA pursuant to Article 24(1) of Regulation (EC) No 1060/2009 in its assessment of the reliability and quality of a CRA's rating processes and practices;
  - (c) a CRA must apply its methodologies consistently to its credit ratings.
4. In relation to a CRA's capacity to fulfil the criteria and rules of the ECAF performance monitoring process, the performance of the CRA's ratings and its default assignments must be consistent over time to (a) ensure the appropriate mapping of the credit assessment information provided by the credit assessment system to the Eurosystem's harmonised rating scale; and (b) to maintain the comparability of the results from the CRA's credit assessments across the ECAF's systems and sources. The CRA's observed rating transition tables and default statistics should be in line with the expected values based on the CRA's own rating scales, because, as set out in Annex IX to this Guideline, deviations between observed default rates and assigned probability of default can call into question the quality of credit assessments, thus hampering the efficient implementation of the ECAF.
5. In relation to the operational criteria:
  - (a) a CRA must provide daily rating information to all Eurosystem central banks in accordance with the format and distribution method required by the Eurosystem;
  - (b) a CRA must ensure prompt access to relevant rating information for the Eurosystem that is necessary for ECAF eligibility and on-going monitoring requirements, including press releases, new issue reports, surveillance reports, information regarding rating coverage, in a resource- and cost-efficient manner;
  - (c) a CRA must be willing to enter into contractual arrangements with the Eurosystem in the event of its acceptance in the ECAF with sufficient data access and reasonable access fees.
6. All ECAF acceptance criteria must be fulfilled in order for a CRA to be accepted in the ECAF. As the application to be accepted in the ECAF requires a highly technical qualitative and quantitative assessment, the Eurosystem may assess further relevant factors related to the requirements of this Guideline on the ECAF, if necessary.

#### IV. ECAF ACCEPTANCE CRITERIA FOR ECAIS AND COMPLIANCE OVER TIME

1. The acceptance criteria for ECAIs must be fulfilled by CRAs at the time of their application for acceptance and at all times after their acceptance under the ECAF.

2. The Eurosystem may apply measures pursuant to Article 126 of this Guideline to a CRA that:
  - (a) was accepted in the ECAF after making false statements or by any other irregular means; or
  - (b) no longer fulfils the acceptance criteria for the ECAF.

When notifying the CRA of its decision to apply measures pursuant Article 126, the Eurosystem will provide reasons for its decision.

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