

Issue of covered bonds and covered bond public supervision

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

The ECB welcomes the objectives of the proposed directive [and regulation](#) of promoting further integration of Union financial markets and deepening the Capital Markets Union (CMU). It sees the proposed directive as an important step towards creating a developed, harmonised, high quality and transparent covered bond market in the Union.

The ECB also sees merit in the proposed directive serving as a basis for new national legislation on covered bonds. However, the implementation of the proposed directive might not lead to full harmonisation to the extent that Member States will have flexibility in its implementation. This degree of flexibility should not endanger the objective of further convergence towards a common, high standard in all Member States.

Specific observations on the proposed directive

Eligible assets

The ECB welcomes the qualitative requirements for eligible assets by which covered bonds must be collateralised, which include both certain predefined high-quality assets and ‘other high quality assets’ that meet certain requirements. However, regarding these ‘other high quality assets’, the relevant requirements may not be sufficient to ensure the harmonised treatment of assets as high-quality assets.

Therefore, the ECB supports the introduction of stricter requirements into the proposed directive.

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

The proposed directive should also:

- clarify that the segregation requirement applies to all assets, including assets held by way of overcollateralisation, even if such overcollateralisation is provided on a voluntary basis;
- clarify that assets in the cover pool should be segregated either by: (a) registration of the cover pool assets in a cover pool register; (b) transfer of the cover pool assets to a special purpose vehicle; or (c) holding the cover pool assets in a specialised mortgage credit institution.
- make the appointment of a cover pool monitor at issuance of a covered bond mandatory rather than merely voluntary. The cover pool monitor should at least comply with the minimum requirements set out in the proposed directive;

-require additional and more detailed information in order to further facilitate investor due diligence and comparability of covered bonds. Moreover, the information should be presented in a template format.

The ECB makes further recommendations.

Coverage and liquidity requirements. The ECB stresses the need to have a number of additional criteria to ensure investor protection. Less liquid assets, such as Level 2B assets, should not contribute to the cover pool liquidity buffer. Additionally, assets issued by the credit institution itself, its parent undertaking, its subsidiary, another subsidiary of its parent undertaking, or a securitisation special purpose entity with which the credit institution has close links should not be used as part of the liquidity buffer. Member States should ensure a sufficient level of diversification to enable a rapid liquidation of these assets without a significant loss in value.

Soft bullet and conditional pass-through structures. The ECB notes that over the past few years covered bonds with extendable maturity structures whereby the scheduled maturity date of the covered bonds can be extended by the issuing credit institution have been used more extensively, while the specific risks posed by these structures may not have been sufficiently considered.

Effective cooperation between supervisory authorities. The ECB should be able to request relevant information on an ad-hoc basis from the competent authorities responsible for covered bond public supervision in order to take this information into account for the ongoing prudential supervision of the credit institution concerned.

Label for covered bonds issued by credit institutions established in the Union. Certain issues remain to be clarified at Member State level, such as the competent authority to grant the label and specified requirements relating to the granting of the label. The ECB suggests a neutral name, e.g. EU Covered Bond.