

# GUIDELINES

## GUIDELINE (EU) 2022/987 OF THE EUROPEAN CENTRAL BANK

of 2 May 2022

### amending Guideline (EU) 2015/510 on the implementation of the Eurosystem monetary policy framework (ECB/2014/60) (ECB/2022/17)

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) The retention of bilateral procedures for money market transactions is no longer warranted as experience has shown that tender procedures are effective and provide eligible counterparties equal access to Eurosystem monetary policy operations.
- (4) Adjustments to the eligibility criteria for asset-backed securities (ABSs) need to be made in order to explicitly exclude cash-flow generating assets that do not entail full recourse against the obligors, and to enhance the transparency of the Eurosystem disclosure requirements related to the eligibility assessment process for ABSs.
- (5) Certain adjustments need to be made to provide greater clarity with regard to the treatment for eligibility purposes of credit claims with a current coupon-related cash flow which is negative.
- (6) In view of the Eurosystem's decision to change the loan-level data reporting requirements of the Eurosystem's collateral framework in line with the disclosure requirements specified in Regulation (EU) 2017/2402 of the European Parliament and of the Council <sup>(2)</sup>, adjustments to the loan-level data reporting requirements for non-marketable debt instruments backed by eligible credit claims are necessary.

<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> 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).

- (7) Certain adjustments need to be made to ensure the consistency of the Eurosystem's collateral framework with the relevant provisions of Directive (EU) 2019/2162 of the European Parliament and of the Council <sup>(3)</sup>, and Regulation (EU) No 575/2013 of the European Parliament and of the Council <sup>(4)</sup>, following the amendments introduced in that Regulation in relation to covered bonds by Regulation (EU) 2019/2160 of the European Parliament and of the Council <sup>(5)</sup>, which apply from 8 July 2022.
- (8) The number of credit assessment sources accepted by the Eurosystem for the mobilisation of credit claims as collateral has been reduced from four to three, following the phasing out of the use of rating tools as credit assessment sources from the general framework. The relevant provisions need to be updated to reflect that change.
- (9) The Governing Council conducted a comprehensive review of the temporary collateral easing measures adopted since 2020 in response to the exceptional economic and financial circumstances associated with the spread of coronavirus disease (COVID-19). These measures included the increase in the limit with respect to unsecured debt instruments issued by credit institutions and their closely linked entities that can be submitted or used as collateral by Eurosystem counterparties. The review took into account (a) that Eurosystem counterparties participating in targeted longer-term refinancing operations conducted under Decision (EU) 2019/1311 of the European Central Bank (ECB/2019/21) <sup>(6)</sup> should be able to continue mobilising sufficient collateral for these operations; (b) the collateral impact for Eurosystem counterparties associated with each of such measures; (c) risk considerations associated with each of such measures; (d) other market and policy considerations. In that context, the Governing Council decided on 23 March 2022, *inter alia*, to restore the previous limit with respect to the abovementioned unsecured debt instruments, in order to reduce the Eurosystem's exposure to concentration risk. This needs to be reflected in the relevant provisions of Guideline (EU) 2015/510 (ECB/2014/60).
- (10) Eligible counterparties whose access to monetary policy operations has been limited on the grounds of prudence or following an event of default pursuant to Article 158 of Guideline (EU) 2015/510 (ECB/2014/60) may have recourse to the marginal lending facility following an automatic request under the credit extension procedure set out in Annex III to Guideline ECB/2012/27 <sup>(7)</sup>. It is necessary to specify the sanctions that are applicable if, and to the extent that, defined limits are exceeded as a result of recourse to the marginal lending facility in such circumstances.
- (11) It is necessary to provide greater clarity with regard to the treatment for eligibility purposes of interest reference rates for marketable and non-marketable assets.
- (12) In line with the Governing Council's decision of 17 February 2021, the collateral eligibility criteria applied to sustainability-linked bonds need to be further clarified.
- (13) Updates to the provisions on the eligibility of securities settlement systems and links are necessary to explicitly address the case of central securities depositories (CSDs) established in Member States that join the euro area, and to reflect the fact that references to the relevant user assessment framework became redundant with the finalisation of the authorisation process under Regulation (EU) No 909/2014 of the European Parliament and of the Council <sup>(8)</sup>.

<sup>(3)</sup> Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU (OJ L 328, 18.12.2019, p. 29).

<sup>(4)</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

<sup>(5)</sup> Regulation (EU) 2019/2160 of the European Parliament and of the Council of 27 November 2019 amending Regulation (EU) No 575/2013 as regards exposures in the form of covered bonds (OJ L 328, 18.12.2019, p. 1).

<sup>(6)</sup> Decision (EU) 2019/1311 of the European Central Bank of 22 July 2019 on a third series of targeted longer-term refinancing operations (ECB/2019/21) (OJ L 204, 2.8.2019, p. 100).

<sup>(7)</sup> Guideline ECB/2012/27 of 5 December 2012 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) (OJ L 30, 30.1.2013, p. 1).

<sup>(8)</sup> Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

- (14) The retention of the emergency foreign collateral framework is no longer warranted given the operational burden of maintaining the framework, the fact that the framework has never been activated, and the likely limited availability of the targeted assets to Eurosystem counterparties in case of need.
- (15) Regulation (EC) No 1745/2003 of the European Central Bank (ECB/2003/9) <sup>(9)</sup> on the application of minimum reserves has been recast and repealed by Regulation (EU) 2021/378 of the European Central Bank (ECB/2021/1) <sup>(10)</sup>. The changes introduced by Regulation (EU) 2021/378 (ECB/2021/1) need to be reflected in the provisions relating to minimum reserves in Guideline (EU) 2015/510 (ECB/2014/60).
- (16) Certain provisions of the Guideline need to be updated to reflect the consequences for the monetary policy implementation framework, and the rights and obligations of stakeholders, in particular as regards open market operations, liquidity management, standing facilities, the sanctioning regime, minimum reserve requirements, and remuneration of current accounts, in the event of the activation of the Enhanced Contingency Solution (ECONS) under the TARGET2 system, and a prolonged disruption of TARGET2 lasting more than one business day.
- (17) 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) point 4 is replaced by the following:

‘(4) “bilateral procedure” means a procedure whereby the NCBs or, if appropriate, the ECB conduct outright transactions directly with one or more counterparties, or through stock exchanges or market agents, without making use of tender procedures;’;

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

‘(24-a) “ECONS credit” means credit provided within contingency processing as referred to in paragraph 6 of Appendix IV to Annex II to Guideline ECB/2012/27;’;

(c) point 31 is replaced by the following:

‘(31) “Eurosystem credit operations” means: (a) liquidity-providing reverse transactions, i.e. liquidity-providing Eurosystem monetary policy operations excluding foreign exchange swaps for monetary policy purposes and outright purchases; (b) intraday credit; and (c) ECONS credit;’;

(d) point 42 is replaced by the following:

‘(42) “indicative calendar for the Eurosystem’s regular tender operations” means a calendar prepared by the Eurosystem that indicates the timing of the reserve maintenance period, as well as the announcement, allotment and maturity of main refinancing operations and regular longer-term refinancing operations;’;

(e) point 53 is replaced by the following:

‘(53) “maintenance period” has the same meaning as defined in Regulation (EU) 2021/378 of the European Central Bank (ECB/2021/1) (\*);’;

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(\* ) Regulation (EU) 2021/378 of the European Central Bank of 22 January 2021 on the application of minimum reserve requirements (ECB/2021/1) (OJ L 73, 3.3.2021, p. 1).;

<sup>(9)</sup> 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).

<sup>(10)</sup> Regulation (EU) 2021/378 of the European Central Bank of 22 January 2021 on the application of minimum reserve requirements (ECB/2021/1) (OJ L 73, 3.3.2021, p. 1).

(f) point 68 is replaced by the following:

‘(68) “non-EEA G10 countries” means the countries participating in the Group of Ten (G10) that are not EEA countries, i.e. Canada, Japan, Switzerland, the United Kingdom and the United States;’;

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

‘(88-a) “sustainability-linked bond issuer group” means a group of undertakings that operate as a single economic entity and constitute a reporting entity for the purposes of presenting consolidated accounts, comprising the parent undertaking and all of its direct and indirect subsidiaries;’;

(h) point 88a is replaced by the following:

‘(88a) “sustainability performance target” (SPT) means a target set out in a publicly available issuance document, measuring quantified improvements in the sustainability profile of the issuer or of one or more undertakings belonging to the same sustainability-linked bond issuer group 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 of 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.’;

(2) in Article 3, paragraph 2 is replaced by the following:

‘2. The minimum reserve requirements are specified in Regulation (EC) No 2531/98 and Regulation (EU) 2021/378 (ECB/2021/1). Certain features of the minimum reserve requirements are illustrated in Annex I for information purposes.’;

(3) in Article 4, Table 1 is amended as follows:

(a) in the row ‘Fine-tuning operations’ of the fifth column (‘Procedure’), the words ‘Bilateral procedures’ and the footnote are deleted;

(b) in the row ‘Structural operations’ of the fifth column (‘Procedure’), the following footnote (\*) is inserted after the words ‘Bilateral procedures’:

‘(\*) Procedures for bilateral outright transactions are communicated when needed.’;

(4) in Article 8(2), point (c) is replaced by the following:

‘(c) are normally executed by means of quick tender procedures, unless the Eurosystem decides to conduct the specific fine-tuning operation by means of a standard tender procedure in the light of specific monetary policy considerations or in order to react to market conditions;’;

(5) in Article 10(4), point (c) is replaced by the following:

‘(c) that fall into the category open market operations are executed by means of standard tender procedures, with the exception of fine-tuning operations, where they are executed by means of tender procedures;’;

(6) in Article 11(5), point (c) is replaced by the following:

‘(c) are executed by means of quick tender procedures, unless the Eurosystem decides to conduct the specific operation by means of a standard tender procedure, in the light of specific monetary policy considerations or in order to react to market conditions;’;

(7) in Article 12(6), point (c) is replaced by the following:

‘(c) is executed by means of quick tender procedures, unless it is decided by the ECB to conduct the specific operation by means of a standard tender procedure, in the light of specific monetary policy considerations or in order to react to market conditions;’;

(8) in Article 14(3), point (d) is replaced by the following:

'(d) are executed in a decentralised manner by the NCBs, unless the ECB's Governing Council decides that the ECB or one or more NCBs, acting as the ECB's operating arm, shall conduct the specific operation;'

(9) in Article 17, paragraph 6 is replaced by the following:

'6. The ECB's Governing Council shall decide on the interest rates for the standing facilities on a regular basis. The revised interest rates shall become effective from the beginning of the new reserve maintenance period, as defined in Article 8 of Regulation (EU) 2021/378 (ECB/2021/1). The ECB publishes a calendar of the reserve maintenance periods at least three months before the start of each calendar year.'

(10) Article 19 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Access to the marginal lending facility shall be granted only on TARGET2 business days with the exclusion of the days on which TARGET2 is not available at the end of the day due to a 'prolonged TARGET2 disruption over several business days' as referred to in Article 187a. On days when the SSSs are not operational, access to the marginal lending facility shall be granted on the basis of eligible assets which have already been pre-deposited with the NCBs.'

(b) paragraph 6 is replaced by the following:

'6. At the end of each business day, a negative balance on a counterparty's settlement account with its home NCB after finalisation of the end-of-day control procedures shall automatically be considered as a request for recourse ('automatic request') to the marginal lending facility. In order to meet the requirement in Article 18(4), counterparties shall have pre-deposited sufficient eligible assets as collateral for the transaction with the home NCB prior to such an automatic request arising. Failure to comply with this access condition shall be subject to sanctions in accordance with Articles 154 to 157. If an automatic request in the case of a counterparty whose access to Eurosystem monetary policy operations has been limited pursuant to Article 158 results in that counterparty exceeding the defined limit, sanctions in accordance with Articles 154 to 157 shall be applicable in respect of the amount by which the limit is exceeded.'

(11) in Article 22, paragraph 1 is replaced by the following:

'1. Institutions fulfilling the eligibility criteria under Article 55 and which have access to an account with the NCB where the transaction can be settled, notably in TARGET2, may access the deposit facility. Access to the deposit facility shall be granted only on TARGET2 business days with the exclusion of the days on which TARGET2 is not available at the end of the day due to a prolonged TARGET2 disruption over several business days as referred to in Article 187a.'

(12) in Part Two, Title III, the title of Chapter 1 is replaced by the following:

***'Tender procedures for Eurosystem open market operations':***

(13) Article 24 is replaced by the following:

'Article 24

**Types of procedures for open market operations**

Open market operations shall be executed through tender procedures.'

(14) in Part Two, Title III, Chapter 1, Section 3, including Articles 44 to 48, is deleted;

(15) in Article 50(2), in Table 8, the wording 'Settlement date for open market operations based on quick tender procedures or bilateral procedures' is replaced by 'Settlement date for open market operations based on quick tender procedures';

(16) Article 52 is replaced by the following:

*'Article 52*

**Settlement of open market operations conducted by means of quick tender procedures or bilateral procedures**

1. The Eurosystem shall endeavour to settle open market operations executed by means of quick tender procedures on the trade day. Other settlement dates may be applied, in particular for outright transactions and foreign exchange swaps.

2. Fine-tuning operations and structural operations conducted by means of outright transactions and executed by means of bilateral procedures shall be settled in a decentralised manner through the NCBs.;

(17) in Article 54, paragraphs 1 and 2 are replaced by the following:

1. Pursuant to Article 3(1)(b) and (c) of Regulation (EU) 2021/378 (ECB/2021/1), a counterparty's settlement accounts with an NCB may be used as reserve accounts. Reserve holdings on settlement accounts may be used for intraday settlement purposes. The daily reserve holdings of a counterparty shall be calculated as the sum of the end-of-day balances on its reserve accounts. For the purposes of this Article, "reserve accounts" shall have the same meaning as that in Regulation (EU) 2021/378 (ECB/2021/1).

2. Reserve holdings that comply with minimum reserve requirements pursuant to Regulation (EC) No 2531/98 and Regulation (EU) 2021/378 (ECB/2021/1) shall be remunerated in accordance with Regulation (EU) 2021/378 (ECB/2021/1).;

(18) in Article 55, point (a) is replaced by the following:

(a) they shall be subject to the Eurosystem's minimum reserve system pursuant to Article 19.1 of the Statute of the ESCB and shall not have been granted an exemption from their obligations under the Eurosystem's minimum reserve system pursuant to Regulation (EC) No 2531/98 and Regulation (EU) 2021/378 (ECB/2021/1).;

(19) in Article 55a, paragraph 5 is replaced by the following:

5. A wind-down entity shall not be eligible to access Eurosystem monetary policy operations.;

(20) Article 57 is amended as follows:

(a) the title is replaced by the following:

**'Selection of counterparties for access to open market operations executed by means of quick tender procedures';**

(b) paragraphs 1 to 3 are replaced by the following:

1. For open market operations executed by means of quick tender procedures, counterparties shall be selected in accordance with paragraphs 2 and 3.

2. For structural operations conducted by means of outright transactions that are executed by means of quick tender procedures, the eligibility criteria laid down in paragraph 3(b) shall apply.

3. For fine-tuning operations that are executed by means of quick tender procedures, counterparties shall be selected as follows:

(a) For fine-tuning operations that are conducted by means of foreign exchange swaps for monetary policy purposes and executed by means of quick tender procedures, the range of counterparties shall be identical to the range of entities that are selected for Eurosystem foreign exchange intervention operations and are established in the Member States whose currency is the euro. Counterparties for foreign exchange swaps for monetary policy purposes by means of quick tender procedures do not need to fulfil the criteria laid down in Article 55. The selection criteria for counterparties participating in Eurosystem foreign exchange intervention operations are based on the principles of prudence and efficiency, as laid down in Annex V. The NCBs may apply limit-based systems in order to control credit exposures vis-à-vis individual counterparties participating in foreign exchange swaps for monetary policy purposes.

- (b) For fine-tuning operations conducted by means of reverse transactions or through the collection of fixed-term deposits and executed by means of quick tender procedures, each NCB shall select, for a specific transaction, a set of counterparties from among the institutions that fulfil the eligibility criteria laid down in Article 55 and are established in its Member State whose currency is the euro. The selection shall be primarily based on the relevant institution's activity in the money market. Additional selection criteria may be applied by the NCB, such as the efficiency of the trading desk and the bidding potential.;
- (c) paragraph 4 is deleted;
- (d) paragraph 5 is replaced by the following:
- '5. Without prejudice to paragraphs 1 to 3, open market operations executed by means of quick tender procedures may also be conducted with a broader range of counterparties than those indicated in paragraphs 2 to 3, if the ECB's Governing Council so decides.:'
- (21) Article 63 is amended as follows:
- (a) in paragraph 1(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 provided by a central bank or by an administrator located in the Union and included in the register referred to in Article 36 of Regulation (EU) 2016/1011 of the European Parliament and of the Council (\*), e.g. the euro short-term rate (€STR) (including compounded or averaged daily €STR), Euribor, 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;
- (\*) Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p. 1).';
- (b) in paragraph 1, point (c) is replaced by the following:
- '(c) multi-step or floating coupons with steps linked to SPTs, provided the compliance with SPTs by the issuer, or any undertaking belonging to the same sustainability-linked bond issuer group, is subject to verification by an independent third party in accordance with the terms and conditions of the debt instrument.:'
- (22) in Article 73, the following paragraph 6 is added:
- '6. The cash-flow generating assets must entail full recourse against the obligors.:'
- (23) the following Article 79a is inserted:

'Article 79a

#### **Assessment of information in relation to the eligibility of asset-backed securities**

The Eurosystem may decide not to accept ABSs for use as collateral in Eurosystem credit operations on the basis of its assessment of the information provided. In its assessment, the Eurosystem shall take into account whether the information submitted is deemed sufficiently clear, consistent and comprehensive to demonstrate fulfilment of each of the eligibility criteria applicable to ABSs, in particular with respect to whether the cash-flow generating assets have been acquired in a manner which the Eurosystem considers to be a "true sale" as laid down in Article 75(2).;

(24) Article 80 is amended as follows:

(a) the title is replaced by the following:

**'Legacy covered bonds backed by asset-backed securities';**

(b) paragraphs 1 to 5 are replaced by the following:

1. Without prejudice to the eligibility of legislative covered bonds pursuant to Article 64a, EEA legislative covered bonds for which an ISIN has been opened prior to 8 July 2022 and that are not subject to Directive (EU) 2019/2162 of the European Parliament and of the Council (\*) ('legacy covered bonds'), may be backed by ABSs provided that the cover pool of such bonds (for the purposes of paragraphs 1 to 4, 'the cover pool') only contains 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 at the time the ISIN was opened.

(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 referred to in paragraph 1 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 referred to in paragraph 1.

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(\*) Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU (OJ L 328, 18.12.2019, p. 29).'

(25) Article 90 is amended as follows:

(a) the title is replaced by the following:

**'Principal amount, coupon and other elements of eligible credit claims';**

(b) after the semicolon in point (a), the word 'and' is deleted;



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

‘(b) they have an interest rate that shall be one of the following:

- (i) a “zero coupon”;
- (ii) fixed;
- (iii) floating, i.e. linked to a reference interest rate and with the following structure: coupon rate = reference rate  $\pm$  x, with  $f \leq$  coupon rate  $\leq$  c, where:
  - the reference rate is only one of the following at a single point in time:
    - a euro money market rate provided by a central bank or by an administrator located in the Union and included in the register referred to in Article 36 of Regulation (EU) 2016/1011, e.g. €STR (including compounded or averaged daily €STR), Euribor, or similar indices;
    - a constant maturity swap rate, e.g. CMS, EIISDA, EUSA;
    - the yield of one or an index of several euro area government bonds;
  - f (floor) and c (ceiling), if they are present, are numbers that are either pre-defined at origination or may change over the life of the credit claim; they may also be introduced after origination of the credit claim;
  - x (margin);;

(d) the following point (ba) is inserted:

‘(ba) their coupon structure (irrespective of whether it is for a fixed or floating interest rate credit claim) may contain a margin that is either pre-defined at origination or may change over the life of the credit claim. In the event of a margin change, the eligibility assessment of the coupon structure shall be based on the remaining lifetime of the credit claim; and’;

(e) point (c) is replaced by the following:

‘(c) their current coupon does not lead to a negative cash flow or to a reduction of principal payment. If in the current accrual period the coupon structure leads to a negative coupon-related cash flow, the credit claim is ineligible as of the moment of the coupon reset. It may become eligible again at the start of a new accrual period when the coupon-related cash flow applied to the debtor turns non-negative, provided it meets all other relevant requirements.’;

(26) in Article 107a, paragraph 2 is replaced by the following:

‘2. DECCs shall have a fixed, unconditional principal amount and a coupon structure that complies with the criteria set forth in Article 63. The cover pool shall only contain credit claims for which a specific ECB DECC loan-level data reporting template is available.’;

(27) in Article 110, paragraph 1 is replaced by the following:

‘1. Counterparties mobilising credit claims as collateral shall select one credit assessment system from one of the three credit assessment sources accepted by the Eurosystem in accordance with the general acceptance criteria in Title V of part Four. Where the ECAI source is selected by the counterparties, any ECAI system may be used.’;

(28) in Article 112a, paragraphs 1 and 2 are replaced by the following:

‘1. DECCs shall not be required to be assessed by one of the three credit assessment sources accepted by the Eurosystem in accordance with the general acceptance criteria in Title V of Part Four.

2. Each underlying credit claim in the cover pool of DECCs shall have a credit assessment provided by one of the three credit assessment sources accepted by the Eurosystem in accordance with the general acceptance criteria in Title V of Part Four. In addition, the credit assessment system or source used shall be the same system or source selected by the originator in accordance with Article 110. The rules on the Eurosystem’s credit quality requirements for the underlying credit claims laid down in Section 1 shall be applicable.’;

(29) Title VII and Article 137 are deleted;

(30) Article 138 is amended as follows:

(a) in paragraph 3, point (b), the introductory wording is replaced by the following:

‘EEA legislative covered bonds, with the exception of intragroup pooled covered bond structures issued in line with Article 8 of Directive (EU) 2019/2162, that:’;

(b) in paragraph 3, point (b), point (i) is replaced by the following:

‘(i) if issued on or before 7 July 2022, meet the requirements set out in Article 129(1) to (3) and (6) of Regulation (EU) No 575/2013 that apply on the date of issue and are included on the list of eligible marketable assets published on the ECB’s website as of 7 July 2022; or, if issued on or after 8 July 2022, meet the requirements set out in Article 129(1) to (3b) and (6) and (7) of Regulation (EU) No 575/2013 that apply on the date of issue;’;

(c) in paragraph 4, the first subparagraph is replaced by the following:

‘If compliance with paragraph 3(b)(i) or (ii) needs to be verified, that is, for EEA legislative covered bonds, where the applicable legislation or prospectus do not exclude (i) intragroup pooled covered bond structures issued in line with the relevant national measures transposing Article 8 of Directive (EU) 2019/2162 or (ii) debt instruments referred to in paragraph 3(b)(ii) as cover pool assets, respectively, 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)(i) or (ii).’;

(d) in paragraph 4, points (b) and (c) are replaced by the following:

‘(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 EEA legislative covered bond is not part of an intragroup pooled covered bond structure issued in line with the relevant national measures transposing Article 8 of Directive (EU) 2019/2162, in breach of paragraph 3(b)(i), and 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 EEA legislative covered bond is not part of an intragroup pooled covered bond structure issued in line with the relevant national measures transposing Article 8 of Directive (EU) 2019/2162, in breach of paragraph 3(b)(i), and 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.’;

(31) Article 141 is amended as follows:

(a) in paragraph 1, the percentage value ‘10 %’ is replaced by the percentage value ‘2,5 %’;

(b) paragraph 2 is replaced by the following:

‘2. If a close link is established or a merger takes place between two or more issuers of unsecured debt instruments, the threshold in paragraph 1 shall apply from three months after the date on which the close link is established or the merger becomes effective.’;

(32) in Article 153, paragraph 1 is replaced by the following:

'1. The ECB shall impose sanctions pursuant to Regulation (EC) No 2532/98, Regulation (EC) No 2157/1999 (ECB/1999/4), Regulation (EC) No 2531/98, Regulation (EU) 2021/378 (ECB/2021/1) and Decision (EU) 2021/1815 of the European Central Bank (ECB/2021/45) (\*) on institutions which do not comply with obligations arising from ECB regulations and decisions relating to the application of minimum reserves. The relevant sanctions and procedural rules for their application are specified in those legal acts.

(\*) Decision (EU) 2021/1815 of the European Central Bank of 7 October 2021 on the methodology applied for the calculation of sanctions for non-compliance with the requirement to hold minimum reserves and related minimum reserve requirements (ECB/2021/45) (OJ L 367, 15.10.2021, p. 4).;

(33) in Article 154(1), point (d) is replaced by the following:

'(d) as regards end-of-day procedures and access conditions for the marginal lending facility, in cases where there is any remaining negative balance on a counterparty's settlement account in TARGET2 after finalisation of the end-of-day control procedures and an automatic request for recourse to the marginal lending facility is therefore considered to arise, as laid down in Article 19(6), the obligation to present sufficient eligible assets in advance as collateral or, in the case of a counterparty whose access to Eurosystem monetary policy operations has been limited pursuant to Article 158, the obligation to keep its recourse to Eurosystem monetary policy operations within the defined limit.;

(34) in Article 155, the following paragraph 2a is added:

'2a. Where the calculation of a financial penalty in accordance with Annex VII, following the application of the reduction of 50 % provided for in paragraph 2, results in an amount of less than EUR 500, the minimum financial penalty of EUR 500 shall be imposed.;

(35) the following new PART SEVEN A, containing Articles 187a to 187d, is inserted after Article 187:

PART SEVEN A

#### **SPECIAL PROVISIONS IN THE EVENT OF A TARGET2 DISRUPTION OVER SEVERAL BUSINESS DAYS**

*Article 187a*

##### **Prolonged TARGET2 disruption over several business days**

1. The ECB may declare a disruption of the TARGET2 system which impairs the normal processing of payments to be a "prolonged TARGET2 disruption over several business days" if:

- (a) the contingency solution as referred to in point (86) of Article 2 of Guideline ECB/2012/27 is activated as a result of the interruption; and
- (b) the disruption lasts or is expected by the ECB to last more than one business day.

Regular monetary policy operations may be delayed or cancelled upon activation of the contingency solution as referred to in point (a).

2. The declaration referred in paragraph 1 shall be communicated via the ECB's website. As a part of such a declaration, or subsequent to it, the ECB shall communicate the consequences of the disruption for specific monetary policy operations and instruments.

3. Following a declaration made pursuant to this Article, special measures and provisions relating to certain monetary policy operations and instruments may apply, as specified in this Guideline and in particular in Articles 187b, 187c, and 187d.

4. Once the disruption of the TARGET2 system is resolved, the ECB shall issue a communication via the ECB's website stating that the special measures and provisions adopted due to that prolonged TARGET2 disruption over several business days are no longer applicable.

#### *Article 187b*

#### **Processing of Eurosystem monetary policy operations in the event of a prolonged TARGET2 disruption over several business days**

In the event of a declaration of a prolonged TARGET2 disruption over several business days pursuant to Article 187a, the following provisions may apply in relation to the processing of Eurosystem monetary policy operations.

- (a) The settlement of open market operations in euro as set out in Title III, Chapter 2 of this Guideline shall not be processed via the contingency solution as defined in point (86) of Article 2 of Guideline ECB/2012/27. As a consequence, the settlement of such operations may be delayed until normal TARGET2 operations resume.
- (b) The interest payments of such operations shall be calculated either (i) as if no delay had occurred in the settlement of the operations or (ii) according to the actual duration, whichever results in a lower payable or higher receivable interest amount for the counterparty.
- (c) The Eurosystem shall offset in the calculation of the interest payment calculated in accordance with point (b) any extra current account balance remuneration the counterparty is entitled to receive, or obliged to pay in case of negative rates, as a consequence of the delayed settlement.
- (d) The interest shall be paid out or received when the ECB issues the communication referred to in Article 187a(4).

#### *Article 187c*

#### **Access to the marginal lending facility in the event of a prolonged TARGET2 disruption over several business days**

In the event of a declaration of a prolonged TARGET2 disruption over several business days pursuant to Article 187a, the following provisions may apply in relation to access to the marginal lending facility.

- (a) Notwithstanding Article 19(6), a negative balance on a counterparty's settlement account with its home NCB at the end of the day shall be treated as intraday liquidity and remunerated at an interest rate of zero.
- (b) An interest rate of zero shall be applied to any outstanding credit in the marginal lending facility as set out in Article 20 granted on the day before activation of the contingency solution. That interest rate shall be applied for the period of the disruption. Any credit granted under the marginal lending facility and settled in real time on the day of but before the declaration of the prolonged TARGET2 disruption over several business days shall be treated as credit granted on the business day when the prolonged TARGET2 disruption over several business days is resolved. Interest payable for any credit received under the marginal lending facility shall be payable together with repayment of the marginal lending facility credit only after the contingency solution is deactivated and the ECB has issued a communication pursuant to Article 187a(4). The calculation of the interest rate payment shall exclude the business day(s) during which the prolonged TARGET2 disruption persisted.

#### *Article 187d*

#### **No imposition of sanctions in the event of a prolonged TARGET2 disruption over several business days**

No sanction shall be imposed on a counterparty pursuant to Article 154 if a prolonged TARGET2 disruption over several business days is declared pursuant to Article 187a which affects that counterparty's ability to fulfil its obligations under this Guideline.;

- (36) Annex I is replaced by Annex I to this Guideline;
- (37) Annexes VIa and VII are amended in accordance with Annex II to this Guideline.

*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 8 July 2022. They shall notify the European Central Bank of the texts and means relating to those measures by 20 May 2022 at the latest.

*Article 3***Addressees**

This Guideline is addressed to all Eurosystem central banks.

Done at Frankfurt am Main, 2 May 2022.

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

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## ANNEX I

Annex I to Guideline (EU) 2015/510 (ECB/2014/60) is replaced by the following:

## 'ANNEX I

**MINIMUM RESERVES**

The content of this Annex is for information purposes only. In the event of conflict between this Annex and the legal framework for the Eurosystem's minimum reserve system as described in paragraph 1, the latter prevails.

1. Pursuant to Article 19 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB'), the European Central Bank (ECB) requires credit institutions to hold minimum reserves on accounts with national central banks (NCBs) within the framework of the Eurosystem's minimum reserve system. The legal framework for this system is laid down in Article 19 of the Statute of the ESCB, Regulation (EC) No 2531/98 and Regulation (EU) 2021/378 (ECB/2021/1). The application of Regulation (EU) 2021/378 (ECB/2021/1) ensures that the terms and conditions of the Eurosystem's minimum reserve system are uniform throughout Member States whose currency is the euro.
2. The Eurosystem's minimum reserves system primarily pursues the aims of stabilising money market interest rates and creating (or enlarging) a structural liquidity shortage.
3. In accordance with Article 1(a) of Regulation (EU) 2021/378 (ECB/2021/1), the Eurosystem's minimum reserve system applies to credit institutions that are:
  - (i) authorised in accordance with Article 8 of Directive 2013/36/EU; or
  - (ii) exempt from such authorisation pursuant to Article 2(5) of Directive 2013/36/EU.

In addition, 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.

4. Pursuant to Article 4(1) of Regulation (EU) 2021/378 (ECB/2021/1), institutions will be exempt from reserve requirements if their authorisation is withdrawn or renounced, or they are subject to winding-up proceedings pursuant to Directive 2001/24/EC of the European Parliament and of the Council (\*).
5. Pursuant to Article 4(2) of Regulation (EU) 2021/378 (ECB/2021/1), the ECB may exempt, upon request by the relevant NCB, institutions in the circumstances set out in points (a) to (d) thereof from reserve requirements. Such institutions include, inter alia, institutions subject to a reorganisation measure pursuant to Directive 2001/24/EC, institutions subject to a freezing order imposed by the Union or by a Member State or subject to measures imposed by the Union under Article 75 of the Treaty restricting the use of their funds; institutions subject to a decision of the Eurosystem suspending or excluding their access to the Eurosystem's open market operations or standing facilities and institutions in respect of which it is not appropriate to require minimum reserves.
6. The exemptions mentioned in Article 4 of Regulation (EU) 2021/378 (ECB/2021/1) apply from the start of the maintenance period in which the relevant event occurs.
7. Pursuant to Article 3(3) of Regulation (EU) 2021/378 (ECB/2021/1), the ECB publishes on its website a list of institutions subject to the Eurosystem's minimum reserve requirements pursuant to that Regulation.
8. The ECB also publishes a list of institutions exempted from minimum reserve requirements, excluding those institutions referred to in points (a) to (c) of Article 4(2) of Regulation (EU) 2021/378 (ECB/2021/1).

9. The reserve base of each institution is determined in relation to elements of its balance sheet. The balance sheet data are reported to the NCBs within the general framework of the ECB's monetary and financial statistics. Institutions calculate the reserve base in respect of a particular maintenance period on the basis of the data relating to the month that is two months prior to the month within which the maintenance period starts pursuant to Article 5(5) of Regulation (EU) 2021/378 (ECB/2021/1), subject to the exceptions for tail institutions, as laid down in Article 5(6) of that Regulation.
10. The reserve ratios are determined by the ECB subject to the maximum limit specified in Regulation (EC) No 2531/98.
11. The amount of minimum reserves to be held by institutions are calculated using the reserve ratios set out in Article 6(1) of Regulation (EU) 2021/378 (ECB/2021/1) for each of the liabilities of the reserve base under Article 5 of that Regulation. NCBs must use the minimum reserves calculated in accordance with Article 6 of Regulation (EU) 2021/378 (ECB/2021/1) to remunerate holdings of minimum reserves and to assess whether institutions comply with the obligation to hold the required amount of minimum reserves.
12. In order to pursue the aim of stabilising interest rates, the Eurosystem's minimum reserve system enables institutions to make use of averaging provisions, implying that compliance with reserve requirements is determined on the basis of the average of the end-of-day balance on one or more reserve accounts over a maintenance period. The maintenance period is defined in Article 8 of Regulation (EU) 2021/378 (ECB/2021/1).
13. In accordance with Article 9 of Regulation (EU) 2021/378 (ECB/2021/1), institutions' holdings of minimum reserves are remunerated at the average, over the maintenance period, of Eurosystem's rate (weighted according to the number of calendar days) for the main refinancing operations according to the following formula (whereby the result is rounded to the nearest cent):

$$R_t = \frac{H_t \cdot n_t \cdot r_t}{100 \cdot 360}$$

$$r_t = \sum_{i=1}^{n_t} \frac{MR_i}{n_t}$$

Where:

- $R_t$  = remuneration to be paid on holdings of minimum reserves for the maintenance period  $t$ ;
- $H_t$  = average daily holdings of minimum reserves for the maintenance period  $t$ ;
- $n_t$  = number of calendar days in the maintenance period  $t$ ;
- $r_t$  = rate of remuneration on holdings of minimum reserves for the maintenance period  $t$ ; standard rounding of the rate of remuneration to two decimals shall be applied;
- $i$  =  $i$ th calendar day of the maintenance period  $t$ ;
- $MR_i$  = marginal interest rate for the most recent main refinancing operation settled on or before calendar day  $i$ .

The end-of-day balance of TARGET2 during the period of a prolonged TARGET2 disruption over several business days as referred to in Article 187a will be considered in the calculation of this formula retroactively after the TARGET2 disruption is resolved. The end-of-day balance, applied over the number of days of the prolonged TARGET2 disruption over several business days, will be determined according to the best information available to the ECB. Any balances held in the contingency solution used during a prolonged TARGET2 disruption over several business days, intraday or for a longer period, are remunerated at zero percent.

Where an institution fails to comply with other obligations under ECB regulations and decisions relating to the Eurosystem's minimum reserve system (e.g. if relevant data are not transmitted in time or are not accurate), the ECB is empowered to impose sanctions in accordance with Regulation (EC) No 2532/98, Regulation (EC) No 2157/1999 (ECB/1999/4) and Decision (EU) 2021/1815 (ECB/2021/45)..

(\*) Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions (OJ L 125, 5.5.2001, p. 15).'  

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## ANNEX II

Annexes VIa and VII to Guideline (EU) 2015/510 (ECB/2014/60) are amended as follows:

(1) in Annex VIa, Section I is replaced by the following:

1. ELIGIBILITY CRITERIA FOR SECURITIES SETTLEMENT SYSTEMS (SSSs) AND LINKS BETWEEN SSSs

1. The Eurosystem determines the eligibility of an SSS operated by a central securities depository (CSD) established in a Member State whose currency is the euro or a national central bank (NCB) or a public body as specified in Article 1(4) of Regulation (EU) No 909/2014 of the European Parliament and of the Council (\*) of a Member State whose currency is the euro (hereinafter an 'SSS operator' or an 'operator of an SSS') on the basis of the following criteria:
  - (a) the euro area SSS operator complies with the requirements laid down in Regulation (EU) No 909/2014; and
  - (b) the NCB of the Member State in which the respective SSS operates has set up and maintains appropriate contractual or other legally binding arrangements with the euro area SSS operator, which include the Eurosystem requirements laid down in Section II.
2. The Eurosystem determines the eligibility of a direct link or a relayed link, involving only euro area SSSs, on the basis of the following criteria:
  - (a) the direct link complies with or, in the case of a relayed link, all underlying direct links comply with the requirements laid down in Regulation (EU) No 909/2014;
  - (b) the NCBs of the Member States in which the investor SSS, any intermediary SSS and the issuer SSS are established have set up and maintain appropriate contractual or other legally binding arrangements with the euro area SSS operators, which include the Eurosystem requirements laid down in Section II;
  - (c) the investor SSS, any intermediary SSS and the issuer SSS involved in the link are all considered eligible by the Eurosystem;
  - (d) for relayed links, all underlying direct links are considered eligible by the Eurosystem.
3. Before determining the eligibility of a direct link or relayed link involving one or more SSSs operated by CSDs established in a European Economic Area (EEA) State whose currency is not the euro or NCBs or public bodies of an EEA State whose currency is not the euro (hereinafter a 'non-euro area EEA SSS' operated by a 'non-euro area EEA SSS operator'), the Eurosystem carries out a business case analysis which takes into account, inter alia, the value of the eligible assets issued by or held in those SSSs.
4. Subject to the business case analysis having a positive outcome, the Eurosystem determines the eligibility of a link involving non-euro area EEA SSSs on the basis of the following criteria.
  - (a) The non-euro area EEA operators of the SSSs involved in the link and the link itself comply with the requirements laid down in Regulation (EU) No 909/2014.
  - (b) For direct links, the NCB of the Member State in which the investor SSS operates has set up and maintains appropriate contractual or other legally binding arrangements with the euro area operator of the investor SSS. These contractual or other legally binding arrangements must stipulate the obligation of the euro area SSS operator to implement the provisions laid down in Section II in its legal arrangements with the non-euro area EEA operator of the issuer SSS.

For relayed links, all underlying direct links in which a non-euro area EEA SSS acts as issuer SSS must fulfil the criterion in the first paragraph of point (b). In a relayed link where both the intermediary SSS and the issuer SSS are non-euro area EEA SSSs, the NCB of the Member State in which the investor SSS operates must set up and maintain appropriate contractual or other legally binding arrangements with the euro area operator of the investor SSS. These contractual or other legally binding arrangements must stipulate not only the obligation of the euro area SSS operator to implement the provisions laid down in Section II in its legal arrangements with the non-euro area EEA operator of the intermediary SSS, but also the obligation of the non-euro area EEA operator of the intermediary SSS to implement the legal provisions laid down in Section II in its contractual or other legally binding arrangements with the non-euro area EEA operator of the issuer SSS.

- (c) All euro area SSSs involved in the link are considered eligible by the Eurosystem.
- (d) For relayed links, all underlying direct links are considered eligible by the Eurosystem.
- (e) The NCB of the non-euro area EEA State in which the investor SSS operates has committed to reporting information on the eligible assets traded on domestic acceptable markets in a manner determined by the Eurosystem.

(\*) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).;

(2) in Annex VII, Section II, paragraph 10 is deleted.

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