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DECISION OF THE EUROPEAN CENTRAL BANK

of 26 September 2013

on additional measures relating to Eurosystem refinancing operations and eligibility of collateral

(ECB/2013/35)

(2013/645/EU)

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on additional measures relating to Eurosystem refinancing operations and eligibility of collateral

(ECB/2013/35)

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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, Article 12.1, Article 14.3 and Article 18.2 thereof,

Having regard to Guideline ECB/2011/14 of 20 September 2011 on monetary policy instruments and procedures of the Eurosystem ⁽¹⁾ and Decision ECB/2013/6 of 20 March 2013 on the rules concerning the use as collateral for Eurosystem monetary policy operations of own-use uncovered government-guaranteed bank bonds ⁽²⁾,

Whereas:

- (1) Pursuant to Article 18.1 of the Statute of the European System of Central Banks and of the European Central Bank, the European Central Bank (ECB) and the national central banks of Member States whose currency is the euro (hereinafter the 'NCBs') may conduct credit operations with credit institutions and other market participants, with lending being based on adequate collateral. The standard conditions under which the ECB and the NCBs stand ready to enter into credit operations, including the criteria determining the eligibility of collateral for the purposes of Eurosystem credit operations, are laid down in Annex I to Guideline ECB/2011/14 and Decision ECB/2013/6.
- (2) Guideline ECB/2013/4 of 20 March 2013 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral and amending Guideline ECB/2007/9 ⁽³⁾ and Decision ECB/2013/22 of 5 July 2013 on temporary measures relating to the eligibility of marketable debt instruments issued or fully guaranteed by the Republic of Cyprus ⁽⁴⁾, established additional temporary measures relating to the eligibility of collateral for the Eurosystem credit operations.

⁽¹⁾ OJ L 331, 14.12.2011, p. 1.

⁽²⁾ OJ L 95, 5.4.2013, p. 22.

⁽³⁾ OJ L 95, 5.4.2013, p. 23.

⁽⁴⁾ OJ L 195, 18.7.2013, p. 27.

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- (3) Pursuant to Section 1.6 of Annex I to Guideline ECB/2011/14, the Governing Council may, at any time, change the instruments, conditions, criteria and procedures for the execution of Eurosystem monetary policy operations.
- (4) On 17 July 2013, the Governing Council decided to further strengthen its risk control framework, by adjusting the eligibility criteria and haircuts applied to collateral accepted in Eurosystem monetary policy operations and adopting certain additional measures to improve the overall consistency of the framework and its practical implementation.
- (5) The decisions mentioned in Recital 4 should be laid down in an ECB Decision,

HAS ADOPTED THIS DECISION:

Article 1

Changes and additions to certain provisions of Guideline ECB/2011/14

- 1. The rules for the conduct of Eurosystem monetary policy operations and the eligibility criteria for collateral laid down in this Decision shall apply in conjunction with other Eurosystem legal acts related to the monetary policy instruments and procedures of the Eurosystem and, in particular, Guideline ECB/2011/14.
- 2. In the event of any discrepancy between this Decision and Guideline ECB/2011/14 and/or any measures implementing them at national level, this Decision shall prevail. The NCBs shall continue to apply all provisions of Guideline ECB/2011/14 unaltered unless otherwise provided for in this Decision.

Article 2

Information requests

- 1. As part of the monetary policy framework referred to in Chapter 1 of Annex I to Guideline ECB/2011/14, the Eurosystem reserves the right to request and obtain any relevant information needed to carry out its tasks and achieve its objectives in relation to monetary policy operations.
- 2. This right is without prejudice to any other existing specific rights of the Eurosystem to request information related to monetary policy operations.

Article 3

Common eligibility criteria for marketable assets

- 1. The following paragraphs shall be read in conjunction with the Eurosystem common eligibility requirements for marketable assets

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mentioned in Section 6.2.1.1(1) of Annex I to Guideline ECB/2011/14 and the risk control measures for marketable assets mentioned in Section 6.4.2 of Annex I to Guideline ECB/2011/14.

2. Each eligible debt instrument shall have:

- (a) (i) a fixed, unconditional principal amount ⁽¹⁾; or
- (ii) an unconditional principal amount that is linked on a flat basis to only one euro area inflation index at a single point in time, containing no other complex structures ⁽²⁾; and
- (b) (i) fixed, zero or multi-step coupons with a predefined coupon schedule and predefined coupon values that cannot result in a negative cash flow; or
- (ii) a floating coupon that cannot result in a negative cash flow and has the following structure: coupon rate = (reference rate * l) ± x, with $f \leq \text{coupon rate} \leq c$, where:

1. reference rate is only one of the following at a single point in time:

- (a) a euro money market rate (e.g. EURIBOR, LIBOR) or similar indices;
- (b) a constant maturity swap rate (e.g. CMS, EIISDA, EUSA);
- (c) the yield of one or an index of several euro area government bonds that have a maturity of one year or less; or
- (d) a euro area inflation index provided by Eurostat or a national statistical authority of a Member State (e.g. HICP);

and it must be the same reference rate as under (a)(ii) above in case the repayment of the principal is linked to a reference rate; and

- 2. f (floor), c (ceiling), l (leveraging/deleveraging factor) and x (margin) are, if present, numbers that are fixed and predefined at issuance, which may change over time, where f, c, and x are greater than or equal to zero and l is greater than zero throughout the entire lifetime of the asset. For floating coupons with an inflation index reference rate, l shall be equal to one.

⁽¹⁾ Bonds with warrants or other similar rights attached are not eligible.

⁽²⁾ Debt instruments with a principal amount linked to only one euro area inflation index at a single point in time are also permissible given that the coupon structure is as defined in Article 3(2)(b)(ii)(1)(d) and is linked to the same inflation index.

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3. All structures not included in paragraph 2 are ineligible. Hence, the list of excluded coupon structures of the second subparagraph of Section 6.2.1.1(1) of Annex I to Guideline ECB/2011/14 shall be deemed inapplicable. Assets that were on the list of eligible assets on the date of entry into force of this Decision and that become ineligible because of paragraph 2 will remain eligible for 12 months from the date of entry into force of this Decision.

4. The eligibility assessment of an asset as regards its coupon structure, in the event that the coupon is of a multi-step type — either fixed or floating — shall be based on the entire lifetime of the asset with both a forward and backward-looking perspective.

5. Eligible coupons shall have no issuer optionalities, i.e. they shall not allow changes in the coupon structure during the entire lifetime of the asset, based on a forward and backward-looking perspective, that are contingent on an issuer's decision.

6. The second paragraph of Section 6.7 of Annex I to Guideline ECB/2011/14 shall cease to apply.

*Article 4***Additional eligibility criterion for commercial-mortgage backed securities**

Without prejudice to the eligibility criteria of Section 6.2.1.1.2 of Annex I to Guideline ECB/2011/14, the cash-flow generating assets backing commercial-mortgage backed securities shall not contain loans which are at any time, structured, syndicated or leveraged. For the purposes of this Article, the terms 'structured loan', 'syndicated loan' and 'leveraged loan' shall have the meanings given to them in points 4 to 6 of Article 3(6) of Guideline ECB/2013/4.

*Article 5***Specific eligibility criteria for covered bonds**

1. The following paragraphs shall be read in conjunction with the additional eligibility criteria for covered bonds specified in Section 6.2.1.1.3 of Annex I to Guideline ECB/2011/14.

2. For the purposes of Section 6.2.1.1.3(b) of Annex I to Guideline ECB/2011/14, an entity is considered to be part of a consolidated group or affiliated to the same central body if there are close links between the entities involved as described in Section 6.2.3.2. The common group membership or affiliation is to be determined at the time the senior units of the asset-backed security are transferred into the cover pool of the covered bond, in line with Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions ⁽¹⁾.

⁽¹⁾ OJ L 177, 30.6.2006, p. 1.

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3. Covered bonds which were on the list of eligible assets on 30 March 2013 shall benefit from a grandfathering period until 28 November 2014. Tap issues of such covered bonds may also benefit from the grandfathering period provided that, from 31 March 2013, asset-backed securities that do not comply with the requirements specified in Section 6.2.1.1.3(a) to (c) of Annex I to Guideline ECB/2011/14 are not added to the cover pool.

4. Paragraphs 1 to 3 above shall be understood without prejudice to the rules of Decision ECB/2013/6 concerning the use as collateral for Eurosystem monetary policy operations of own-use uncovered government-guaranteed bank bonds.

*Article 6***Additional high credit standards for marketable assets**

1. The ECAI credit assessment of marketable assets other than asset-backed securities, mentioned in Section 6.3.2(a) ECAI credit assessment, of Annex I to Guideline ECB/2011/14, shall be subject to the following criteria:

- (i) At least one credit assessment from an accepted ECAI ⁽¹⁾ for either the issue or, in the absence of an issue rating from the same ECAI, the programme/issuance series under which the asset is issued, must comply with the Eurosystem's credit quality threshold ⁽²⁾. The ECB publishes the credit quality threshold for all accepted ECAs, as established under Section 6.3.1 of Annex I to Guideline ECB/2011/14 ⁽³⁾. If multiple ECAI credit assessments are available for the same issue or, if applicable, for programme/issuance series, then the first-best rule (i.e. the best available ECAI credit assessment for the issue or, if applicable, for the programme/issuance series) is applied. If the first-best credit assessment for the issue or, if applicable, for the programme/issuance series does not comply with the Eurosystem's credit quality threshold, the asset is not eligible, even if a guarantee acceptable under Section 6.3.2(c) of Annex I to Guideline ECB/2011/14 exists. In the absence of an ECAI credit assessment for the issue or, if applicable, the programme/issuance series, the best available ECAI credit assessment for the issuer or the guarantor (if the guarantee is acceptable under Section 6.3.2(c) of Annex I to Guideline ECB/2011/14) must comply with the Eurosystem's credit quality threshold for the asset to be eligible.

⁽¹⁾ The accepted ECAs, ICASs and third-party RTs and their providers are listed on the ECB's website at www.ecb.europa.eu

⁽²⁾ An ECAI assessment for a programme/issuance series is only relevant if it applies to the particular asset and no different issue rating from the same ECAI exists.

⁽³⁾ This information is published on the ECB's website at www.ecb.europa.eu

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- (ii) For ECAI issue and programme/issuance series ratings, no distinction by original maturity of the asset is made for the purposes of establishing high credit standards for marketable assets. Any ECAI rating assigned to the issue or programme/issuance series that meets the Eurosystem credit quality threshold is acceptable. As regards the ECAI issuer/guarantor rating, the acceptable ECAI credit assessment depends on the original maturity of the asset. A distinction is made between short-term assets (meaning those assets with an original maturity of up to 390 days) and long-term assets (meaning those assets with an original maturity of more than 390 days). For short-term assets, ECAI short-term and long-term issuer ratings and long-term guarantor ratings are acceptable, on a first-best rule basis. For long-term assets, only ECAI long-term issuer or long-term guarantor ratings are acceptable.

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2. The credit quality threshold applicable to asset-backed securities, as laid down in Section 6.3 of Annex I to Guideline ECB/2011/14, shall correspond to Credit Quality Step (CQS) 2 of the Eurosystem's harmonised rating scale ('single A')⁽¹⁾. All asset-backed securities shall have at least two credit assessments at a 'single A' level from any accepted ECAI for the issue.

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4. In the absence of an ECAI credit assessment for the issue (or, if applicable, the programme/issuance series) rating, the high credit standards for marketable assets, other than asset-backed securities, can be established on the basis of guarantees provided by financially sound guarantors as referred to in Section 6.3.2(c) of Annex I to Guideline ECB/2011/14. The financial soundness of the guarantor is assessed on the basis of long-term ECAI guarantor ratings meeting the Eurosystem's credit quality threshold. The guarantee shall meet the requirements set out in points (i) to (iv) of Section 6.3.2(c) of Annex I to Guideline ECB/2011/14.

*Article 7***Determination of haircuts**

The credit assessment used for the purpose of determining eligibility in accordance with Sections 6.3.2 and 6.3.3 of Annex I to Guideline ECB/2011/14 shall apply in determining the applicable haircut pursuant to Section 6.4.1 of Annex I to Guideline ECB/2011/14.

⁽¹⁾ A 'single A' rating is a rating of at least 'A3' from Moody's, 'A-' from Fitch or Standard & Poor's, or 'AL' from DBRS.

*Article 8***Haircut categories and haircuts for marketable and non-marketable assets**

1. The liquidity categories for marketable assets, as specified in the Eurosystem risk control measures for marketable assets in Table 6 of Section 6.4.2 of Annex I to Guideline ECB/2011/14, shall be referred to as haircut categories throughout that Section, without changes in the assignment of eligible assets to the respective categories.
2. The levels of valuation haircuts applied to marketable assets, as specified in the Eurosystem risk control measures in Table 7 of Section 6.4.2 of Annex I to Guideline ECB/2011/14, shall be substituted by the haircuts set out in Annex I to this Decision.
3. The haircut applied to asset-backed securities included in haircut category V, specified in Section 6.4.2(d) of Annex I to Guideline ECB/2011/14, shall be 10 % regardless of maturity or coupon structures.
4. Own-use covered bonds are subject to an additional valuation haircut. This add-on haircut is directly applied to the value of the entire issuance of the individual debt instrument in the form of a valuation markdown of (a) 8 % for own-use covered bonds in CQS 1&2, and (b) 12 % for own-use covered bonds in CQS3. For these purposes, 'own-use covered bonds' means covered bank bonds issued by either a counterparty or entities closely linked to it, and used in a percentage greater than 75 % of the outstanding notional amount by that counterparty and/or its closely linked entities.
5. The levels of valuation haircuts applied to non-marketable assets, as specified in the Eurosystem risk control measures in Table 9 of Section 6.4.3 of Annex I to Guideline ECB/2011/14, shall be substituted by the haircuts set out in Annex II to this Decision.
6. The valuation haircut for non-marketable retail mortgage-backed debt instruments, specified in Section 6.4.3.2 of Annex I to Guideline ECB/2011/14, shall be 39,5 % of their outstanding notional amount.



Article 9

Remedies in an event of default and on grounds of prudence

1. The remedies that the relevant contractual or regulatory arrangements applied by the NCB must ensure, as referred to in Section I.7 of Annex II to Guideline ECB/2011/14, shall be subject to the terms specified in the following paragraphs.

2. Following the occurrence of an event of default or on grounds of prudence, the NCB is entitled to exercise the following remedies:

- (a) suspend, limit or exclude the Counterparty from access to open market operations;
- (b) suspend, limit or exclude the Counterparty from access to the Euro-system's standing facilities;
- (c) terminate all outstanding agreements and transactions;
- (d) demand accelerated performance of claims that have not yet matured or are contingent;
- (e) use deposits of the Counterparty placed with the NCB to set off claims against the Counterparty;
- (f) suspend the performance of obligations in respect of the Counterparty until the claim against the Counterparty has been satisfied.

3. In addition, following the occurrence of an event of default, the NCB may be entitled to exercise the following remedies:

- (a) claim default interest;
- (b) claim an indemnity for any losses sustained as a consequence of a default by the Counterparty.

4. In addition, on grounds of prudence, the NCB may be entitled to reject, limit the use of or apply supplementary haircuts to assets submitted as collateral in Eurosystem credit operations by the relevant Counterparty.

5. The NCB shall at all times be in a position legally to realise all assets provided as collateral without undue delay and in such a way as to entitle the NCB to realise value for the credit provided, if the Counterparty does not settle its negative balance promptly.

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6. In order to ensure uniform implementation of the measures imposed, the ECB's Governing Council may decide on the remedies, including suspension, limitation or exclusion from access to open market operations or the Eurosystem's standing facilities.

*Article 10***Clarification of the definition of EEA countries**

1. For the purposes of the Eurosystem collateral framework, EEA countries shall be understood to include all EU Member States, regardless of whether or not they have formally acceded to the EEA, together with Iceland, Liechtenstein and Norway.

2. The definition of EEA countries contained in Appendix 2 to Annex I to Guideline ECB/2011/14 (Glossary) shall be deemed to be amended accordingly.

*Article 11***Adjustments to the implementation of loan-level requirements for asset-backed securities**

1. Without prejudice to Section 6.2.1.1.2 of Annex I to Guideline ECB/2011/14 and Appendix 8 thereto, the Eurosystem may accept as eligible collateral asset-backed securities with a score lower than A1 after completion of the relevant transitional period, on a case-by-case basis and subject to the provision of adequate explanations for the failure to achieve the mandatory score. For each adequate explanation the Governing Council shall specify a maximum tolerance level and a tolerance horizon. The tolerance horizon shall indicate that the data quality for the asset-backed securities must improve within the specified time period.

2. The full list of adequate explanations, their tolerance levels and tolerance horizons is available on the ECB's website and contains, inter alia, descriptions of legacy assets and legacy IT systems.

*Article 12***Entry into force and application**

1. This Decision shall enter into force on 1 October 2013.
2. As an exception, Article 8(4) shall apply from 1 November 2013.



ANNEX I

LEVELS OF VALUATION HAIRCUTS APPLIED TO ELIGIBLE MARKETABLE ASSETS

		Haircut categories								
Credit quality	Residual maturity (years)	Category I		Category II (*)		Category III (*)		Category IV (*)		Category V (*)
		fixed coupon	zero coupon	fixed coupon	zero coupon	fixed coupon	zero coupon	fixed coupon	zero coupon	
Steps 1 and 2 (AAA to A-)(**)	0-1	0,5	0,5	1,0	1,0	1,0	1,0	6,5	6,5	10,0
	1-3	1,0	2,0	1,5	2,5	2,0	3,0	8,5	9,0	
	3-5	1,5	2,5	2,5	3,5	3,0	4,5	11,0	11,5	
	5-7	2,0	3,0	3,5	4,5	4,5	6,0	12,5	13,5	
	7-10	3,0	4,0	4,5	6,5	6,0	8,0	14,0	15,5	
	> 10	5,0	7,0	8,0	10,5	9,0	13,0	17,0	22,5	
		Haircut categories								
Credit quality	Residual maturity (years)	Category I		Category II (*)		Category III (*)		Category IV (*)		Category V (*)
		fixed coupon	zero coupon	fixed coupon	zero coupon	fixed coupon	zero coupon	fixed coupon	zero coupon	
Step 3 (BBB+ to BBB-)(**)	0-1	6,0	6,0	7,0	7,0	8,0	8,0	13,0	13,0	Not eligible
	1-3	7,0	8,0	10,0	14,5	15,0	16,5	24,5	26,5	
	3-5	9,0	10,0	15,5	20,5	22,5	25,0	32,5	36,5	
	5-7	10,0	11,5	16,0	22,0	26,0	30,0	36,0	40,0	
	7-10	11,5	13,0	18,5	27,5	27,0	32,5	37,0	42,5	
	> 10	13,0	16,0	22,5	33,0	27,5	35,0	37,5	44,0	

(*) Individual asset-backed securities, covered bank bonds (jumbo covered bank bonds, traditional covered bank bonds and other covered bank bonds) and uncovered bank bonds that are theoretically valued in accordance with Section 6.5 of Annex I to Guideline ECB/2011/14 are subject to an additional valuation haircut. This haircut is directly applied at the level of the theoretical valuation of the individual debt instrument in the form of a valuation markdown of 5 %. Furthermore, an additional valuation markdown is applied to own-use covered bonds. This valuation markdown is 8 % for own-use covered bonds in CQS1&2 and 12 % for own-use covered bonds in CQS3.

(**) Ratings are as specified in the Eurosystem's harmonised rating scale, published on the ECB's website at www.ecb.europa.eu



ANNEX II

LEVELS OF VALUATION HAIRCUTS APPLIED TO CREDIT CLAIMS WITH FIXED INTEREST PAYMENTS

		Valuation methodology	
Credit quality	Residual maturity (years)	Fixed interest payment and a valuation based on a theoretical price assigned by the NCB	Fixed interest payment and a valuation according to the outstanding amount assigned by the NCB
Steps 1 and 2 (AAA to A-)	0-1	10,0	12,0
	1-3	12,0	16,0
	3-5	14,0	21,0
	5-7	17,0	27,0
	7-10	22,0	35,0
	> 10	30,0	45,0
		Valuation methodology	
Credit quality	Residual maturity (years)	Fixed interest payment and a valuation based on a theoretical price assigned by the NCB	Fixed interest payment and a valuation according to the outstanding amount assigned by the NCB
Step 3 (BBB+ to BBB-)	0-1	17,0	19,0
	1-3	29,0	34,0
	3-5	37,0	46,0
	5-7	39,0	52,0
	7-10	40,0	58,0
	> 10	42,0	65,0