

Securitisations – ECB Collateral

This note considers the current requirements to comply with the European Central Bank's (ECB) collateral rules relating to asset backed securities (ABS) and some areas where potential issues can arise.

BACKGROUND

The ECB Open Market Operations allow the ECB to manage liquidity and provide refinancing facilities to the financial sector. There has been an increase in the volumes of ABS being repurchased with the ECB in recent years. Two particular advantages to banks structuring deals to be eligible as ECB collateral are that: (i) ECB eligible securities held by a regulated institution can be treated as liquid securities for the purposes of Basel III (however not all ECB eligible collateral will fall within that definition as the range of assets (and related haircuts) considered eligible under Basel III provisions is narrower than that required for eligible collateral with the ECB); and (ii) the holders of such securities can obtain short term finance by entering into a repurchase agreement with the ECB.

Counterparties should also consider where they can utilise any national central bank (NCB) liquidity schemes in relation to their proposed structure and whether such schemes may offer better value funding. For example, the Bank of England's Discount Window Facility does not require additional haircuts for sterling denominated securities and may therefore be better suited for securitisations involving underlying sterling receivables.

Under the scheme the local central bank and the participant will enter into a repurchase agreement under which the local central bank will purchase eligible securities for euro cash and the participant will repurchase those securities at a later date. Alternatively, the transaction may be documented under a secured loan with the eligible securities being held by the local central bank as collateral for the loan (this being the practice in Germany with the Bundesbank).

Transactions under the ECB's Open Market Operations are usually undertaken either as 'main refinancing operations' or 'longer-term refinancing operations'¹. The repurchase date for main refinancing operations will usually be 1 week. The repurchase date for longer-term refinancing operations will usually be 3 months (although there have been some 6 month auctions) depending on the ECB auction in which the eligible securities were purchased.

On 2 April 2015, the latest version of the ECB's Guideline on the implementation of the Eurosystem monetary policy framework (the Guideline) was published in the Official Journal. It came into force on 1 May 2015, with the exception of the revised rules on liquidity support for ABS which came into force on 1 November 2015.

The Guideline aggregated all changes made to the framework by various ECB decisions published up to that time. It also introduced some further amendments to the framework; those changes relevant to the eligibility of ABS are summarised below. The Guideline has subsequently been amended to include further revisions to the collateral criteria for ABS (among other matters), which came into force on 25 January 2016. Relevant changes are discussed below, key among which is the exclusion of notes backed by residual values under personal contract plan (PCP) agreements.

More recently, the Guideline has been further updated to include requirements for the investment of monies in the accounts of ABS issuers or intermediary SPVs and to amend provisions on negative coupons, the acceptance criteria for credit rating agencies and the criteria for designated loan-level data repositories, among other matters. In addition, the Guideline specifying valuation haircuts for ECB collateral has been revised to adjust haircuts to take account of weighted average life of the assets. The Guideline setting out the temporary framework has also been amended to incorporate references to the Eurosystem's harmonised rating scale, adjust haircuts to take account of the weighted average life of the assets and to revise the servicing continuity provisions, among other matters. These changes applied from 1 January 2017.



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¹ Transactions under the ECB's Open Market Operations can also be undertaken as fine-tuning or structural operations.

ACCESS TO THE SCHEME

Any institution wishing to access ECB funding must:

- a) be required to maintain minimum reserves with the ECB;
- b) subject to at least one form of harmonised EU/EEA supervision by national authorities in accordance with the Capital Requirements IV Directive (CRD IV) and the Capital Requirements Regulation (CRR) or be a publicly owned credit institution subject to supervision of a standard comparable to supervision by under CRD IV and the CRR. However, institutions subject to non-harmonised national supervision of a comparable standard can also be accepted as counterparties.
- c) they must be financially sound. As of 2 November 2015, the Guideline has included details of how the financial soundness of institutions would be assessed. The Eurosystem may take account of quarterly information on capital, leverage and liquidity ratios of individual institutions reported under the CRR (or where applicable, comparable information). Where such information is not made available to the relevant NCB or the ECB by the national authorities, it may be requested from the institution. Asset management vehicles resulting from a resolution action under the Single Resolution Mechanism Regulation or the Bank Recovery and Resolution Directive are not eligible counterparties; and
- d) satisfy the ECB that it will fulfil any operational criteria specified in the relevant contractual or regulatory arrangements applied by the respective national central bank (or the ECB).

THE ECB FRAMEWORKS

The ECB accepts securities for use as ECB collateral under its general (permanent) and temporary frameworks. The temporary framework allows the ECB to derogate from the permanent framework by implementing temporary measures in response to prevailing market conditions and regulatory developments. The permanent and the temporary frameworks co-exist side by side and therefore the requirements of one framework do not override the other unless specifically stated to do so.

ELIGIBLE ABS

This section focuses on the eligibility requirements for ABS. There are separate requirements for eligibility of straight debt and syndicated loans, credit claims, debt instruments backed by credit claims and covered bonds which are outside the scope of this note.

• Provision of eligible assets

Counterparties are required to provide eligible assets by the transfer of ownership in the form of a repurchase agreement or the creation of a security interest (pledge, assignment, or charge granted over the assets) in the form of a collateralised loan.

• Type of securities

Eligible securities must be debt securities having a fixed, unconditional principal amount or 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. These requirements do not, however, apply to ABS.

• Coupon

Until recently, securities could not have a coupon that could result in a negative cash flow. From 1 January 2017, negative cash flows are permitted for coupon payments of marketable assets (and for non-marketable debt instruments backed by eligible credit claims (DECCs)). The coupon must have a fixed rate, be zero rated or multi-step rated with a predefined coupon value or be a floating rate coupon. Floating rate coupons must have (i) a reference rate which is either a euro money market rate (e.g. EURIBOR or LIBOR), a constant maturity swap rate, a euro area inflation index or a euro area government bond yield, and (ii) a floor, ceiling, leveraging/deleveraging factor and margin which must be predefined and fixed at issuance but may change over the lifetime of the asset. Further, eligible coupons can have no issuer optionality.

All other coupon structures render the securities ineligible for use as ECB collateral.

As of 1 January 2017, the Guideline contains provisions to deal with eligible assets with negative cash flows. Counterparties are liable for the timely payment of any amount of negative cash flows related to eligible assets submitted by it or used by it as collateral. If the counterparty fails to make timely payment, the Eurosystem may discharge the payment and be reimbursed by the counterparty.

• Senior debt

Within a structured issue, in order to be eligible, a tranche (or sub-tranche) may not be subordinated to other tranches of the same issue or to the rights of holders of other debt instruments of the same issuer. A tranche (or sub-tranche) is considered to be non-subordinated vis-à-vis other tranches (or sub-tranches) of the same issue if, in accordance with the priority of payment applicable after the delivery of an enforcement notice, as set out in the offering circular, no other tranche (or sub-tranche) is given priority over that tranche or sub-tranche in respect of receiving payment (principal and interest), and thereby such tranche (or sub-tranche) is last in incurring losses among the different tranches or sub-tranches of a structured issue. Such non-subordination must prevail even under any acceleration or enforcement notice related priority of payments that the relevant prospectus may provide for.

• True sale

If the securities are themselves backed by assets, the receivables must be legally acquired by way of a 'true sale' from an originator or an intermediary (if applicable) incorporated in the EEA to a special purpose vehicle (SPV) under the laws of a Member State, which is enforceable against any third party even in the event of insolvency.

Whether this means that the underlying assets can be outside the EU is unclear as there may be difficulties when, under conflicts of laws principles, the *lex situs* of an asset determines the effectiveness of such a transfer.

The scope of the 'true sale' requirement is not entirely clear. However, certain local central banks have taken the view that they will require legal opinions on each step in the chain of acquisition of the receivables. An example of this approach is on refinancing of warehouse transactions through a sale of receivables to a securitisation SPV which involved an earlier sale of assets to the warehousing SPV.

• **Underlying assets**

Underlying assets must not be synthetic or consist in whole or in part, actually or potentially, of credit-linked notes, swaps or other derivative instruments or synthetic securities. The underlying pool should not consist, in whole or in part, of tranches of other ABS. The cash flow generating assets backing commercial-mortgage backed securities must not contain any loans which are at any time structured, syndicated or leveraged.

From 1 May 2015, underlying assets comprising lease receivables with residual lease values were no longer eligible. The ECB clarified that, from 25 January 2016, PCP agreements are treated as leases for these purposes².

Eligible underlying assets have to be considered to be of a homogenous class, i.e. they can consist of only one type of assets (residential mortgages, commercial real estate mortgages, loans to SMEs, auto loans, consumer loans, leasing receivables or credit card receivables).

The underlying assets must not be originated directly by the SPV issuing the ABS

• **Ratings and Haircuts**

All ABS must have at least 2 single 'A' public credit ratings from two different accepted external credit assessment institutions (ECAIs) for the issue³. In order for an ECAI to be accepted, it must comply with the Eurosystem's credit assessment framework (ECAf) for marketable assets⁴. If more than two ECAI issue ratings are available, the ECB shall take account of the two highest ratings. An ECAI assessment for a programme or issuance series shall only be relevant if it applies to the particular asset in question and is explicitly and unambiguously matched with the asset's ISIN code by the ECAI. For ABS, the credit quality assessment must be based on a public issue rating that is explained in a publicly available new issue report.

From 1 May 2015, regular surveillance reports must be published by the ECAIs in respect of eligible ABS no later than four weeks after the coupon payment date of the ABS (except for ABS paying the coupon on a monthly basis, in which case the report must be published at least quarterly). The surveillance reports must include the key transaction data (such as the composition of the collateral pool, transaction participants, capital structure and performance data).

The credit quality threshold referred to above can also be met by an unconditional irrevocable first demand guarantee provided by a financially sound guarantor under the laws of a Member State and supported by a binding legal opinion to that effect. However, this has not applied to ABS since 30 September 2013.

Fungible tap issuances of ABS are treated as new issuances and must comply with the eligibility criteria in place at the time of the tap issue.

From 1 January 2017, the haircuts applicable under the permanent framework for eligible ABS (which are all included in haircut Category V regardless of the classification of the issuer) are determined by reference to the weighted average life of the senior tranche of the ABS (the weighted average time remaining until repayment of the expected cash flows for that tranche)⁵. For retained mobilised ABS⁶, the calculation of the weighted average life assumes that issuer call options will not be exercised. The valuation haircuts for ABS rated AAA to A-are as follows:

Weighted Average Life (WAL)	Valuation Haircut
0-1	4.0
1-3	4.5
3-5	5.0
5-7	9.0
7-10	13.0
10	20.0

Some ABS issued by credit institutions may be subject to an additional valuation haircut in the form of a valuation markdown of 5%⁷.

The temporary framework currently allows ABS which meet all of the eligibility requirements of the permanent framework, other than the ratings provisions, to be eligible for use as ECB collateral if they have two ratings of at least BBB level from any accepted ECAI for the issue⁸. The underlying assets must consist of only one homogenous class and the ABS must not contain loans which are non-performing (on issuance or during the lifetime of the ABS) or structured, syndicated or leveraged. The ABS transaction documents must contain servicing continuity provisions⁹. In addition, such ABS cannot be submitted as eligible collateral by counterparty if such counterparty or a third party with which it has close links acts as an interest rate hedge provider in relation to the ABS.

From 1 January 2017, ABS not having two public credit ratings of at least single 'A'¹⁰ are subject to a valuation haircut that depends upon the weighted average life of the senior tranche of the ABS (the weighted average time remaining until repayment of the expected cash flows for that

² ABS containing residual lease values (including PCP contracts with residual values) which were on the list of eligible assets on 1 May 2015 were considered eligible until 31 August 2015. Article 73(7) of the Guideline specifying this has now been deleted as the grandfathering period has now expired.

³ Equivalent to Credit Quality Step 2 on the Eurosystem's harmonised rating scale. The Guideline defines a public credit rating as a credit rating which is (i) issued or endorsed by a credit rating agency registered in the EU that is accepted as an ECAI and (ii) disclosed publicly or distributed by subscription.

⁴ The ECAf requires an ECAI to be registered with ESMA in accordance with the Credit Rating Agency Regulation and includes criteria to determine the operational criteria and relevant coverage of the ECAI.

⁵ Previously, the haircut for all eligible ABS was 10%, regardless of the maturity of the ABS or its coupon structure.

⁶ i.e., ABS used in a percentage greater than 75% of the outstanding nominal amount by a counterparty that originated the ABS or by entities closely linked to the originator.

⁷ The valuation haircuts are now contained in a separate legal act ECB 2015/34 to streamline the implementation of amendments to the haircuts promptly once the corresponding decisions are adopted by the ECB.

⁸ Corresponding to Credit Quality Step 3 of the Eurosystem harmonised ratings scale: <https://www.ecb.europa.eu/paym/coll/risk/ecaf/html/index.en.html>

⁹ These provisions include servicer termination triggers and, either, a back-up servicer or a back-up servicer facilitator. As of 1 January 2017, in respect of back-up servicer facilitator provisions, there must be no close links between each of the servicer, the back-up servicer facilitator and the issuer account bank at the same time.

¹⁰ At least credit quality step 2 in the Eurosystem harmonised rating scale.

tranche)¹¹. The valuation haircuts for collateral under the temporary framework are set out below¹²:

Weighted Average Life	Valuation Haircut
0-1	6.0
1-3	9.0
3-5	13.0
5-7	15.0
7-10	18.0
>10	30.0

The temporary framework also provides that ABS with underlying assets consisting of non-performing loans, where the transaction documentation does not provide for servicing continuity provisions and/or where the counterparty submitting the collateral or a third party with which it has close links acts as interest rate hedge provider for the ABS, can still be eligible for use as ECB collateral provided that the ABS was issued before 20 June 2012, has a rating of at least 'BBB' and otherwise complies with the eligibility requirements set out in the ECB's permanent framework. From 1 January 2017, the applicable valuation haircut depends upon the weighted average life of the asset (details of which can be found in the table above). Previously, a valuation haircut of 22% applied to such ABS.

Under the temporary framework, the ECB has currently suspended the minimum credit rating thresholds of marketable debt instruments issued or fully guaranteed by central governments of euro area Member States under a European Union/International Monetary Fund programme, provided that the relevant Member State is compliant with the conditionality of the financial support and/or macroeconomic programme.

As of 1 April 2016, Cyprus is no longer considered to be compliant with a European Union/International Monetary Fund Programme for these purposes, and the ECB has reinstated its minimum credit thresholds for marketable debt instruments issued or fully guaranteed by Cyprus.

Following a period of non-compliance, as of 29 June 2016, Greece is now considered to be in compliance with the European Union/International Monetary Fund programme and therefore the Eurosystem's minimum requirements for credit quality thresholds, no longer apply to marketable debt instruments issued or fully guaranteed by Greece although they are subject to specific haircuts¹³.

- **Type of issuer/guarantor**

The issuer or guarantor must be either a central bank of an EU Member State, a public sector entity, a private sector entity or a multilateral development bank or international organisation. An SPV will usually meet this criterion.

- **Place of establishment of issuer/ originator/ guarantor/ creditors**

In the case of ABS, the issuer and guarantor must be established in the EEA. Issuers/guarantors that are multilateral development banks or international organisations are eligible irrespective of their place of establishment.

The underlying assets must be originated by an originator incorporated in the EEA or by an intermediary (such as a mortgage trustee or receivables trustee) incorporated in the EEA.

From 1 May 2015, mortgage trustees and receivables trustees must be incorporated in the EEA. Those ABS which were eligible as on 1 May 2015, but did not meet the new requirement relating to incorporation of the mortgage or receivables trustee, remained eligible until 1 May 2016.

ABS backed by EEA law governed credit claims must derive from obligors and creditors incorporated or resident in the EEA and the related security must be located in the EEA. Accordingly, the underlying borrowers or obligors in the asset portfolio should be resident or incorporated in the EEA. If the underlying assets are bonds, the issuance and any related security must be located in the EEA, by an EEA incorporated issuer and under an EEA country's laws.

Note that, depending on the form it takes, following Brexit the United Kingdom (and therefore the laws of England and Wales, Scotland and Northern Ireland) will cease to be in the EEA.

- **Currency**

Under the permanent framework, all securities must be denominated in euro.

The temporary framework currently allows for ABS denominated in pounds sterling, US dollars and yen, subject to certain conditions. A markdown of 16% on assets denominated in pounds sterling or US dollars and a markdown of 26% on assets denominated in yen will apply. Non-Euro denominated ABS must not have a coupon value that results in a negative cash flow.

- **No close links**

A counterparty cannot submit as collateral any asset issued or guaranteed by itself or by any other entity with which it has 'close links', except in some circumstances in relation to covered bank bonds.

Close links means that:

- a) the counterparty, directly or indirectly through one or more other undertakings, owns 20% or more of the capital of the issuer/debtor/guarantor or vice versa;
- b) a third party owns more than 20% of the capital of the counterparty and more than 20% of the capital of the issuer/debtor/guarantor, directly or indirectly through one or more other undertakings; or
- c) the counterparty (or a party with which it has close links) has entered into a currency hedge with the issuer of the ABS.

¹¹ For retained mobilised ABS, the calculation of the weighted average life assumes that issuer call options will not be exercised.

¹² Previously, under the temporary framework, a valuation haircut of 10% was applied to ABS that had two ratings of at least single 'A'. A valuation haircut of 22% was applied to ABS that had ratings below single 'A', provided they met the other eligibility criteria.

¹³ Previously, Greece had not been considered to be in compliance with the European Union/International Monetary Fund Programme and the ECB had reinstated the minimum credit quality thresholds for Greece in February 2015.

From 1 November 2015, the Eurosystem rules relating to liquidity support became more prescriptive and draw a distinction between liquidity support in the form of cash reserves and liquidity facilities.

ABS with liquidity support in the form of cash reserves will not be eligible as collateral if (i) the counterparty has close links with the issuer account bank, (ii) the current amount of the reserve fund is greater than 5% of the outstanding amount of the senior and subordinated tranches of the ABS and (iii) the current amount of the reserve fund is greater than 25% of the outstanding amount of the subordinated tranches of the ABS.

ABS with liquidity support in the form of a liquidity facility will not be eligible as collateral if the counterparty has close links with the liquidity facility provider and the current amount of the liquidity facility is greater than 20% of the initial outstanding amount of all senior and subordinated tranches of the ABS.

Close links between a counterparty and an EEA public sector entity which has the right to levy taxes, or where a debt instrument is guaranteed by such entity, and certain covered bonds (and certain debt instruments comparable to covered bonds), are currently exempt.

Under the temporary framework, in relation to back-up servicer provisions, there must be no close links between each of the servicer, the back-up servicer facilitator and the issuer account bank at the same time,

- **Place of issue**

The securities must be issued in the EEA with a central bank or central securities depository that fulfils the ECB standards¹⁴. Securities must be issued in the euro area where the issuer is a non-financial corporation that is not rated by an accepted ECAI.

Debt instruments issued in global registered form on or after 1 October 2010 must be issued under the new safekeeping structure. Debt instruments issued in global bearer form on or after 1 January 2007 must be issued under the new global note structure (unless they are fungible tap of a pre-January 2007 issuance). Debt instruments in individual note form are not eligible unless they issued prior to 1 October 2010.

- **Restrictions on investments**

From 1 January 2017, any investments or monies standing to the credit of the issuer's or intermediary SPV's bank accounts under the transaction documentation must not consist, in whole or in part, actually or potentially, of tranches of other ABSs, credit-linked notes, swaps or other derivative instruments, synthetic securities or similar claims.

- **No claw back rules**

Where an originator is incorporated in an EEA country that is not in the euro area or the United Kingdom, ABS will only be eligible if the Eurosystem determines, pursuant to an independent legal assessment submitted to it, that its rights would be adequately protected against claw back provisions under the law of such country. The Eurosystem may also require the submission of a solvency certificate.

Claw back rules which are considered unacceptable include rules whereby the sale of underlying assets can be invalidated by the liquidator solely on the basis that it was

concluded within a certain period prior to the seller's insolvency, or where such invalidation can only be prevented upon the buyer's (issuer's) proof that they were unaware of the seller's insolvency at the time of sale.

- **Cross-border use**

Eligible ABS must be suitable for cross-border use throughout the euro area. As such, Eurosystem counterparties must be able to mobilise eligible assets through eligible links (as prescribed by the ECB) established between Securities Settlement Systems (SSSs) that fulfil the ECB standards, via the correspondent central banking model (CCBM)¹⁵, via eligible links in combination with the CCBM or via triparty collateral management services supported on a cross border basis via the CCBM. Eurosystem counterparties may also use eligible assets through a national central bank (NCB) account in an SSS located in another country, if the account has been approved by the Eurosystem.

- **Settlement procedures**

The securities must be transferable in book entry form, and must be held and settled in the euro area through an account with a NCB or an SSS that fulfils the ECB standards.

English law governed notes which are issued as 'New Global Notes' or, since 30 September 2010, under the 'New Safekeeping Structure' held through Euroclear or Clearstream will meet this requirement.

- **Acceptable markets - prospectus**

The securities must be admitted to trading on a regulated market or on certain non-regulated markets as specified by the ECB¹⁶. A complete list of regulated markets is published annually by the European Commission and includes the Irish Stock Exchange, the Luxembourg Stock Exchange and the London Stock Exchange. To obtain a listing, the issuer will need to prepare a prospectus that complies with the Prospectus Directive. Even if the rules of the eligible non-regulated market (e.g., the German *Freiverkehr*) do not require production of a prospectus, the relevant central bank will, nevertheless, require a private placement memorandum or offering circular.

ELIGIBILITY ASSESSMENT PROCEDURE

The NCB of the country where the asset is admitted to trading is responsible for the assessment of the eligibility of the marketable asset.

The eligibility assessment process only begins once the asset is issued and all the necessary documentation (see below) is made available to the respective NCB. The NCBs and the ECB do not confirm the eligibility of an asset prior to its issuance.

DOCUMENTATION REQUIRED

The following documents must be made available to the NCB:

- a) letters of rating and pre-sale reports from the rating agencies rating the securities;
- b) the final prospectus for the security approved by the listing authority;

¹⁴ The European User Assessment Framework is published on the ECB website at www.ecb.europa.eu/paym/coll/coll/sslinks/html/index.en.html.

¹⁵ See the ECB webpage for more information on the ECB's CCBM: <https://www.ecb.europa.eu/mopo/assets/coll/ccbm/html/index.en.html>

¹⁶ A list of non-regulated markets is maintained on the ECB's website at <http://www.ecb.europa.eu/mopo/assets/standards/marketable/html/index.en.html>

- c) ISIN code and Reuters/Bloomberg page codes for the security;
- d) confirmation that the security is in the 'New Global Note' form, if applicable; and
- e) a copy (on a non-reliance basis) of a legal opinion confirming the 'true sale' (see above for further details).

In some cases, copies of servicing agreements or liquidity provision agreements may also be required.

Once the assessment is complete, the asset will be included in the ECB's list of eligible assets, provided it complies with the ECB's eligibility criteria. The ECB publishes an updated list of eligible marketable assets on its website and updates it every day on which TARGET2 is operational. With a few exceptions, marketable assets become eligible for use in the Eurosystem credit operations upon their publication on the list¹⁷.

In addition, the Eurosystem reserves the right to request from any relevant third party (such as the issuer, the originator or the arranger) any clarification and/or legal confirmation that it considers necessary to assess the eligibility of ABS. Please also note the need for submission of loan level data (discussed below).

CORPORATE ACTIONS

Certain central banks (such as The Central Bank and Financial Services Authority of Ireland) will return eligible collateral in respect of which a 'corporate action' occurs (including, a request for certification as to non-U.S. beneficial ownership).

Where it is anticipated that the length of the initial repurchase transactions will extend beyond the relevant certification date, it should be considered whether the issuer requires this protection and instead the notes be issued in permanent global note form using TEFRA C (which of course may only be appropriate to the extent that US originators, arrangers or advisers are not involved).

ABS DISCLOSURE REQUIREMENTS

On 16 December 2010, the ECB announced the establishment of loan-by-loan information requirements for ABS in the Eurosystem collateral framework. This loan level information is intended to increase transparency and contribute to more informed risk assessments of ABS and restore the weakened confidence in the securitisation markets.

The Eurosystem published the loan-by-loan information requirements on existing and newly issued ABS, first for residential mortgage-backed securities and gradually for other ABS thereafter (most recently for credit card receivables on 19 September 2013). Loan level data is submitted in accordance with an ECB specified template and at least on a quarterly basis on, or within one month of, the interest payment date for the relevant security. To facilitate reporting of loan-level data, the assets backing an ABS must consist of a homogeneous pool. The ABS data supplied via the templates is processed, stored and disseminated by designated loan-level data repositories, such as the European Datawarehouse¹⁸.

As of 1 January 2017, the Guideline contains details of the requirements and procedures for designation and withdrawal of designation for loan-level data repositories.

A summary of the implementation timeframes for the various loan level data templates introduced by the ECB is set out below. In relation to the effective date, such loan level data needs to be provided in respect of any relevant ABS from the effective date in order to comply, whether issued before or after the effective date.

UNDERLYING ASSET	PUBLICATION DATE ¹⁹	EFFECTIVE DATE
RMBS	December 2011	3 January 2013
SME loans	April 2011	3 January 2013
CMBS	April 2011	1 March 2013
Auto loans, consumer finance and leasing transactions	May 2012	1 January 2014
Credit card receivables	September 2013	1 April 2014

A nine-month phasing-in period following the relevant effective date applied for each underlying asset class (these phasing-in periods have all now come to an end) Therefore, subject to the derogations mentioned below, all existing and newly issued ABS must fully comply with the loan level data requirements.

ABS will only be admitted as eligible collateral once the first set of loan level data has been submitted and scored by a designated loan-level repository such as the European Datawarehouse. The calculation of compliance scores is performed automatically when a loan-level report is uploaded so the score should therefore be available once the upload has completed.

If loan level data is not reported or updated within one month of the relevant interest payment date, the ABS will cease to be eligible. Even if coupon payments are made less frequently than quarterly, data must still be submitted each quarter for the assets to maintain eligibility.

As of October 2013, the Eurosystem may temporarily accept as collateral RMBS and SME ABS that does not comply with the required loan level data reporting requirements on a case by case basis and subject to the provision of adequate explanations for the failure to achieve the mandatory level of compliance.

In addition, as of October 2014, the Eurosystem may also temporarily accept as collateral non-compliant auto loan, leasing, consumer finance and credit card receivables ABS on a case by case basis and subject to the provision of adequate explanations for the failure to achieve the mandatory compliance score required.

There are also Bank of England Eligibility Requirements for collateral as part of its market operations that cover CMBS, SME Loans, RMBS, Auto, Consumer Loans, Leasing ABS, Covered Bonds and ABCP which are similar but not identical to the ECB criteria.

MODIFICATIONS TO ABS

There is currently no requirement for counterparties to inform the Eurosystem of modifications to ABS that took place in the preceding six months and of any planned modification to the ABS.

¹⁷ The ECB may grant eligibility for short term debt instruments with same day value settlement from the date of issue.

¹⁸ www.eurodw.eu/

¹⁹ Updated versions have subsequently been published for some of the templates.

DISCRETIONARY MEASURES

On the grounds of prudence, the Eurosystem may (a) suspend, limit or exclude a counterparty's access to Eurosystem monetary policy operations, pursuant to any contractual or regulatory arrangements applied by its home NCB or by the ECB or (b) reject, limit the use of or apply supplementary haircuts to assets mobilised as collateral in Eurosystem credit operations by a specific counterparty on the basis of any information the Eurosystem considers relevant, in particular if the credit quality of the counterparty appears to exhibit a high correlation with the credit quality of the assets mobilised as collateral.

As of 2 November 2015, the provisions relating to discretionary measures have been revised to provide that counterparties that

do not meet own funds requirements (or equivalent) or for which information on capital ratios is not made available may have their access to the Eurosystem suspended or limited or may be excluded entirely. The Eurosystem is also required to limit access to the Eurosystem monetary policy operations by counterparties deemed to be "failing or likely to fail" under the BRRD, the SRM Regulation or related national measures; it may also decide, in specified conditions, to suspend or exclude such parties completely.

SUMMARY TABLE OF ECB COLLATERAL ELIGIBILITY REQUIREMENTS FOR SECURITISED ASSETS

CRITERION	REQUIREMENTS
Eligible assets	<ul style="list-style-type: none"> • ABS. • Securities must have a coupon that meets certain requirements. As of 1 January 2017, they can sometimes result in a negative cash flow. • Securities must be the most senior tranche. • Assets must be acquired by the issuer by way of a true sale under the law of a Member State. • Assets must not consist of tranches of other ABS, credit-linked notes or similar claims which transfer risk by means of credit derivatives. • Assets must not comprise lease receivables (including PCP agreements) with residual lease values. • Loan level data compliance.
Geographical restrictions	Securities must be admitted to trading on a regulated market or traded on an eligible non-regulated market and held/settled in the euro area. For ABS, the issuer, the originator and any intermediary (such as a mortgage trustee or receivables trustee) must be established in the EEA.
Claw back rules	ABS must not be subject to claw back rules deemed severe by the Eurosystem where the originator is not incorporated in either the United Kingdom or a non-euro area country.
Close links restrictions	<p>Cannot submit collateral if the counterparty (or a third party with which it has close links) provides a currency hedge to the issuer of the ABS or provides liquidity support above prescribed limits. Collateral issued or guaranteed by the counterparty is also prohibited.</p> <p>With effect from 1 November 2015, the rules relating to liquidity support were enhanced and draw a distinction between liquidity support in the form of cash reserves and liquidity facilities (see the Section entitled "No close links" on page 3 for further details).</p>
Rating	<p>ABS are required to have at least two single 'A' ratings from any two different accepted ECAs for the issue. However, the temporary framework provides for the eligibility of some ABS with ratings of 'BBB' subject to a number of conditions (see the Section entitled 'Rating' on page 3 above for further details). Haircuts for ABS are determined by reference to the weighted average life of the ABS, regardless of coupon structure; for ABS with at least two ratings of single 'A', 4.0 to 20.0. Haircuts for ABS with ratings below this range from 6.0 to 30.0 depending on the weighted average life of the ABS.</p> <p>The credit quality assessment must be based on a public issue rating explained in a publicly available new issue report. There is now a requirement for ECAs to publish regular surveillance reports no later than four weeks after the coupon payment date of the ABS.</p> <p>The ECAs must meet the acceptance criteria of the ECAF.</p>
Haircut	Applicable: linked to rating of securities, weighted average life, identity of the issuer, currency and underlying assets securing the collateral.
Denomination	Euro. Also pounds sterling, US dollars and yen but with applicable haircuts.
Settlement	The securities must be transferable in book entry form with an account with the Eurosystem or a SSS which fulfils the ECB standards. English law governed notes which are issued as 'New Global Notes' or under the 'New Safekeeping Structure' held through Euroclear or Clearstream will meet this requirement.
Loan-level data	Must be submitted to a designated repository complying with the Eurosystem's ABS loan-level data repository requirements.

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