

DECISION OF THE EUROPEAN CENTRAL BANK

of 26 September 2013

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

(ECB/2013/36)

(2013/646/EU)

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 and 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⁾,

Having regard to 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⁾,

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, which was adjusted in relation to the rules concerning the use as collateral for Eurosystem monetary policy operations of own-use uncovered government-guaranteed bank bonds by Decision ECB/2013/6.

⁽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.

(2) 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.

(3) Guideline ECB/2013/4 and Decision ECB/2013/22 established additional temporary measures relating to the eligibility of collateral for the Eurosystem credit 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 the collateral accepted in Eurosystem monetary policy operations and adopting certain additional measures to improve the overall consistency of the framework and its practical implementation. Some of these decisions affect the additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral provided for in Guideline ECB/2013/4, in particular the valuation haircuts and servicing continuity provisions applicable to the asset-backed securities accepted thereunder.

(5) In addition, the Governing Council decided to adjust the eligibility criteria applied to additional credit claims under the temporary Eurosystem collateral framework.

(6) The decisions mentioned in Recitals 4 and 5 should be laid down in an ECB Decision,

HAS ADOPTED THIS DECISION:

Article 1

Changes to certain provisions of Guideline ECB/2013/4

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/2013/4.

2. In the event of any discrepancy between this Decision and Guideline ECB/2013/4 and/or any measures implementing them at national level this Decision shall prevail. The NCBs shall continue to apply all provisions of Guideline ECB/2013/4 unaltered unless otherwise provided for in this Decision.

*Article 2***Haircuts for asset-backed securities eligible under the temporary framework**

1. Asset-backed securities referred to in Article 3(1) of Guideline ECB/2013/4 shall be subject to the following valuation haircuts:

- (a) 10 % if they have two ratings of at least 'single A' ⁽¹⁾;
- (b) 22 % if they do not have two ratings of at least 'single A'.

2. Asset-backed securities referred to in Article 3(5) of Guideline ECB/2013/4 shall be subject to a valuation haircut of 22 %.

*Article 3***Servicing continuity provisions**

1. For the purposes of Article 3(6) of Guideline ECB/2013/4, 'servicing continuity provisions' shall have the meaning specified in paragraph 2 below.

2. 'Servicing continuity provisions' means provisions in the legal documentation of an asset-backed security that consist of either back-up servicer provisions or back-up servicer facilitator provisions (if there are no back-up servicer provisions). In the case of back-up servicer facilitator provisions, a back-up servicer facilitator should be nominated and the facilitator should be mandated to find a suitable back-up servicer within 60 days of the occurrence of a trigger event in order to ensure timely payment and servicing of the asset-backed security. These provisions shall also include servicer replacement triggers for the appointment of a back-up servicer, which can be rating-based and/or non-rating-based, e.g. non-performance of obligations by the current servicer.

3. Asset-backed securities with servicing continuity provisions complying with Guideline ECB/2013/4 that were

on the list of eligible assets before the entry into force of this Decision shall remain eligible for one year from the date of entry into force of this Decision.

*Article 4***Change in the rules for the admission of additional credit claims**

If the exceptional circumstances mentioned in Article 4(3) of Guideline ECB/2013/4 occur, the NCBs may, subject to the Governing Council's approval, accept credit claims:

- (a) in application of the eligibility criteria and risk control measures established by another NCB pursuant to Article 4(1) and (2) of Guideline ECB/2013/4;
- (b) governed by the law of any Member State other than the Member State in which the accepting NCB is established;
- (c) that are included in a pool of credit claims or backed by real estate assets, if the law governing the credit claim or the relevant debtor (or guarantor, where applicable) is that of any EU Member State other than the one in which the accepting NCB is established.

*Article 5***Entry into force**

This Decision shall enter into force on 1 October 2013.

Article 4 shall apply as from 1 January 2014.

Done at Frankfurt am Main, 26 September 2013.

The President of the ECB

Mario DRAGHI

⁽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.