

**Regulation of the “Banque centrale du Luxembourg” 2013/ N°15 of 3 May 2013  
implementing the Guideline of the European Central Bank of 20 March 2013 on  
additional temporary measures relating to Eurosystem refinancing operations  
and eligibility of collateral and amending Guideline ECB/2007/9 (recast)  
(ECB/2013/4)**

**Unofficial English translation – For information purposes only**

In case of discrepancy between the French and the English text, the French text shall prevail

## BANQUE CENTRALE DU LUXEMBOURG

### **Regulation of the “Banque centrale du Luxembourg” 2013/ N°15 of 3 May 2013 implementing the Guideline of the European Central Bank of 20 March 2013 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral and amending Guideline ECB/2007/9 (recast) (ECB/2013/4)**

The “Direction” of the “Banque centrale du Luxembourg”;

Having regard to the Treaty on the functioning of the European Union and notably to article 127(2), first indent;

Having regard to the Statute of the European System of Central Banks and of the European Central Bank and in particular Article 12.1 and Article 14.3 in conjunction with the first indent of Article 3.1 and Article 18.2 thereof;

Having regard to Article 108 *bis* of the Constitution;

Having regard to the law of 23 December 1998 concerning the monetary status and the “Banque centrale du Luxembourg” (the “Banque centrale”) as amended, in particular Articles 2 (1), 2 (2) and 34 (1);

Considering that Guideline ECB/2012/18 of 2 August 2012 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral and amending Guideline ECB/2007/9<sup>1</sup> has been substantially amended. Since further amendments are to be made, Guideline ECB/2012/18 should be recast in the interest of clarity.

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<sup>1</sup> OJ L 218, 15.8.2012, p. 20.

Considering that, 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 general 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 of 20 September 2011 on monetary policy instruments and procedures of the Eurosystem<sup>2</sup>.

Considering that on 8 December 2011 and 20 June 2012 the Governing Council decided on additional enhanced credit support measures to support bank lending and liquidity in the euro area money market, including measures set out in Decision ECB/2011/25 of 14 December 2011 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral<sup>3</sup>.

Considering that Decision ECB/2012/4 of 21 March 2012 amending Decision ECB/2011/25 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral<sup>4</sup> provided that NCBs should not be obliged to accept as collateral in Eurosystem credit operations eligible bank bonds guaranteed by a Member State under a European Union/International Monetary Fund programme or by a Member State whose credit assessment does not comply with the Eurosystem benchmark for establishing its minimum requirement for high credit standards.

Considering that Decision ECB/2012/12 of 3 July 2012 amending Decision ECB/2011/25 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral<sup>5</sup> also reviewed the exception from the close links prohibition set out in Section 6.2.3.2 of Annex I to Guideline ECB/2011/14 with respect to government-guaranteed bank bonds own used as collateral by counterparties.

Considering that counterparties participating in Eurosystem credit operations should be allowed to increase the levels of own use of government-guaranteed bank bonds that they had on 3 July 2012 subject to the ex-ante approval of the ECB Governing Council in exceptional circumstances. The requests submitted to the ECB Governing Council for ex-ante approval need to be accompanied by a funding plan.

Considering that on 2 August 2012, Decision ECB/2011/25 was replaced by Guideline ECB/2012/18, which was implemented by the NCBs in their contractual or regulatory arrangements.

Considering that Guideline ECB/2012/18 was amended on 10 October 2012 by Guideline ECB/2012/23<sup>6</sup>, which temporarily widened the criteria determining the eligibility of assets to be used as collateral in Eurosystem monetary policy operations, accepting marketable debt instruments denominated in pounds sterling, yen or US dollars as

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<sup>2</sup> OJ L 331, 14.12.2011, p. 1.

<sup>3</sup> OJ L 341, 22.12.2011, p. 65.

<sup>4</sup> OJ L 91, 29.3.2012, p. 27.

<sup>5</sup> OJ L 186, 14.7.2012, p. 38.

<sup>6</sup> OJ L 284, 17.10.2012, p. 14.

eligible assets for monetary policy operations. Valuation markdowns reflecting the historical volatility of the relevant exchange rates were applied to such marketable debt instruments.

Considering that Guideline ECB/2013/2 of 23 January 2013 amending Guideline ECB/2012/18 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral<sup>7</sup> specifies the procedure applicable to the early repayment of longer-term refinancing operations by counterparties in order to ensure that the same conditions are applied by all NCBs. In particular, the sanctions regime set out in Appendix 6 to Annex I to Guideline ECB/2011/14 applies where a counterparty that has opted for early repayment fails, in full or in part, to settle the amount to be repaid to the relevant NCB by the due date.

Considering that Guideline ECB/2012/18 has been further amended to incorporate the content of Decision ECB/2012/34 of 19 December 2012 on temporary changes to the rules relating to the eligibility of foreign currency denominated collateral<sup>8</sup> and to ensure that NCBs are not obliged to accept as collateral for Eurosystem credit operations eligible uncovered bank bonds which are: (a) issued by the counterparties using them or by entities closely linked to the counterparty; and (b) fully guaranteed by a Member State whose credit assessment does not meet the Eurosystem's high credit standards and which the Governing Council considers as complying with a European Union/International Monetary Fund programme.

Considering that, in the interest of clarity and simplicity, Guideline ECB/2013/4<sup>9</sup> has included the content of Decisions ECB/2011/4 of 31 March 2011 on temporary measures relating to the eligibility of marketable debt instruments issued or guaranteed by the Irish Government<sup>10</sup>, ECB/2011/10 of 7 July 2011 on temporary measures relating to the eligibility of marketable debt instruments issued or guaranteed by the Portuguese Government<sup>11</sup> and ECB/2012/32 of 19 December 2012 on temporary measures relating to the eligibility of marketable debt instruments issued or fully guaranteed by the Hellenic Republic<sup>12</sup> together with all other temporary measures relating to Eurosystem refinancing operations and eligibility of collateral.

Considering that the additional measures set out in Guideline ECB/2013/4 should apply temporarily, until the ECB Governing Council considers that they are no longer necessary to ensure an appropriate monetary policy transmission mechanism.

Considering that the implementation of Guideline ECB/2013/4 by the Banque centrale implies that the Regulations of the BCL 2012/ N° 12 of 12 September 2012 implementing the Guideline of the European Central Bank of 2 August 2012 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral (ECB/2012/18), the Regulation 2012/ N°13 of 9 November 2012

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<sup>7</sup> OJ L 34, 5.2.2013, p. 18.

<sup>8</sup> OJ L 14, 18.1.2013, p. 22.

<sup>9</sup> OJ L 95, 5.6.2013, p. 23.

<sup>10</sup> OJ L 94, 8.4.2011, p. 33.

<sup>11</sup> OJ L 182, 12.7.2011, p. 31.

<sup>12</sup> OJ L 359, 29.12.2012, p. 74.

implementing the Guideline of the European Central Bank of 10 October 2012 (ECB/2012/23) and the Regulation 2013/ N° 14 of 7 March 2013 implementing Guideline ECB/2013/2 of 23 January 2013 (ECB/2013/2) shall be repealed and replaced by the following text.

#### **Art. 1. Additional measures relating to refinancing operations and eligible collateral**

1. The rules for the conduct of Eurosystem monetary policy operations and the eligibility criteria for collateral laid down in this Regulation shall apply in conjunction with the General Terms and Conditions of the operations of the Banque centrale (the “General Terms and Conditions”).

2. In the event of any discrepancy between this Regulation and the General Terms and Conditions, this Regulation shall prevail. The provisions of the General Terms and Conditions shall be unaltered unless otherwise provided for in this Regulation.

3. For the purposes of Article 5(1) and Article 7, Ireland, the Hellenic Republic and the Portuguese Republic shall be considered euro area Member States compliant with a European Union/International Monetary Fund programme.

#### **Article 2 Option to reduce the amount of, or terminate, longer-term refinancing operations**

1. The Eurosystem may decide that, under certain conditions, counterparties may reduce the amount of, or terminate, certain longer-term refinancing operations before maturity (such reduction of the amount or termination hereinafter also collectively referred to as ‘early repayment’). The tender announcement shall specify whether the option to reduce the amount of, or terminate, the operations in question before maturity applies, as well as the date from when such option may be exercised. This information may alternatively be provided in another format deemed appropriate by the Eurosystem.

2. A counterparty may exercise the option to reduce the amount of, or terminate, longer-term refinancing operations before maturity by notifying the relevant NCB of the amount it intends to repay under the early repayment procedure, as well as of the date on which it intends to make such early repayment, at least one week in advance of that early repayment date. Unless otherwise specified by the Eurosystem, an early repayment may be effected on any day that coincides with the settlement day of a Eurosystem main refinancing operation, provided that the counterparty makes the notification referred to in this paragraph at least one week in advance of that date.

3. The notification referred to in paragraph 2 shall become binding on the counterparty one week before the early repayment date it refers to. Failure by the counterparty to settle, in full or in part, the amount due under the early repayment procedure by the due date may result in the imposition of a financial penalty as set out in Section 5.7.1 of

Annex 8 of the General Terms and Conditions. The provisions of Section 5.7.1 of Annex 8 which apply to infringements of rules related to tender operations shall apply where a counterparty fails to settle, in full or in part, the amount due on the early repayment date referred to in paragraph 2. The imposition of a financial penalty shall be without prejudice to the Banque centrale's right to exercise the remedies provided for on the occurrence of an event of default as set out in the General Terms and Conditions.

### **Article 3 Admission of certain additional asset-backed securities**

1. In addition to asset-backed securities (ABS) eligible under Chapter 4 of Annex 8 of the General Terms and Conditions<sup>13</sup>, ABS which do not fulfil the credit assessment requirements under Section 4.5.2 of Annex 8 of the General Terms and Conditions<sup>14</sup> but which otherwise comply with all eligibility criteria applicable to ABS pursuant to the General Terms and Conditions<sup>15</sup>, shall be eligible as collateral for Eurosystem monetary policy operations, provided that they have two ratings of at least triple B<sup>16</sup>, at issuance and at any time subsequently. They shall also satisfy all the following requirements:

- (a) the cash-flow generating assets backing the ABS shall belong to one of the following asset classes: (i) residential mortgages; (ii) loans to small and medium-sized enterprises (SMEs); (iii) commercial mortgages; (iv) auto loans; (v) leasing; (vi) consumer finance;
- (b) there shall be no mix of different asset classes in the cash- flow generating assets;
- (c) the cash-flow generating assets backing the ABS shall not contain loans which are any of the following:
  - (i) non-performing at the time of issuance of the ABS;
  - (ii) non-performing when incorporated in the ABS during the life of the ABS, for example by means of a substitution or replacement of the cash-flow generating assets;
  - (iii) at any time, structured, syndicated or leveraged;
- (d) the ABS transaction documents shall contain servicing continuity provisions.

2. ABS referred to in paragraph 1 that have two ratings of at least single A<sup>17</sup> shall be subject to a valuation haircut of 16 %.

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<sup>13</sup> Chapter 6 of Annex I to Guideline ECB/2011/14.

<sup>14</sup> Section 6.3.2 of Annex I to Guideline ECB/2011/14.

<sup>15</sup> Guideline ECB/2011/14.

<sup>16</sup> A 'triple B' rating is a rating of at least 'Baa3' from Moody's, 'BBB-' from Fitch or Standard & Poor's, or a rating of 'BBB' from DBRS.

<sup>17</sup> A 'single A' rating is a rating of at least 'A3' from Moody's, 'A-' from Fitch or Standard & Poor's, or a rating of 'AL' from DBRS.

3. ABS referred to in paragraph 1 that do not have two ratings of at least single A shall be subject to the following valuation haircuts: (a) ABS backed by commercial mortgages shall be subject to a valuation haircut of 32 %; and (b) all other ABS shall be subject to a valuation haircut of 26 %.

4. A counterparty may not submit ABS that are eligible pursuant to paragraph 1 as collateral if the counterparty, or any third party with which it has close links, acts as an interest rate hedge provider in relation to the ABS.

5. The Banque centrale may accept as collateral for Eurosystem monetary policy operations ABS whose underlying assets include residential mortgages or loans to SMEs or both and which do not fulfil the credit assessment requirements under Section 4.5.2 of Annex 8 of the General Terms and Conditions<sup>18</sup> and the requirements referred to in paragraph 1(a) to (d) and paragraph 4 above but which otherwise comply with all eligibility criteria applicable to ABS pursuant to the General Terms and Conditions<sup>19</sup> and have two ratings of at least triple B. Such ABS shall be limited to those issued before 20 June 2012 and shall be subject to a valuation haircut of 32 %.

6. For the purposes of this Article:

(1) 'residential mortgage', besides residential real estate mortgage-backed loans, shall include guaranteed residential real estate loans (without a real estate mortgage) if the guarantee is payable promptly on default. Such guarantee may be provided in different contractual formats, including contracts of insurance, provided they are granted by a public sector entity or a financial institution subject to public supervision. The credit assessment of the guarantor for the purposes of such guarantees must comply with credit quality step 3 in the Eurosystem's harmonised rating scale over the life of the transaction;

(2) 'small enterprise' and 'medium-sized enterprise' means an entity engaged in an economic activity, irrespective of its legal form, where the reported sales for the entity or if the entity is a part of a consolidated group, for the consolidated group is less than EUR 50 million;

(3) 'non-performing loan' shall include loans where payment of interest or principal is past due by 90 or more days and the obligor is in default, as defined in point 44 of Annex VII to 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<sup>20</sup>, or when there are good reasons to doubt that payment will be made in full;

(4) 'structured loan' means a structure involving subordinated credit claims;

(5) 'syndicated loan' means a loan provided by a group of lenders in a lending syndicate;

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<sup>18</sup> See reference 14 above.

<sup>19</sup> See reference 15 above.

<sup>20</sup> OJ L 177, 30.6.2006, p. 1.

(6) ‘leveraged loan’ means a loan provided to a company that already has a considerable degree of indebtedness, such as buy-out or take-over-financing, where the loan is used for the acquisition of the equity of a company which is also the obligor of the loan;

(7) ‘servicing continuity provisions’ means provisions in the legal documentation of an ABS that ensure that a default by the servicer does not lead to a termination of servicing and include triggers for the appointment of a back-up servicer and a high-level action plan outlining the operational steps to be taken once a back-up servicer is appointed and how the administration of the loans will be transferred.

#### **Article 4 Admission of certain additional credit claims**

1. NCBs may accept as collateral for Eurosystem monetary policy operations credit claims that do not satisfy the Eurosystem eligibility criteria.

2. NCBs that decide to accept credit claims in accordance with paragraph 1 shall establish eligibility criteria and risk control measures for this purpose by specifying deviations from the requirements of Annex I to Guideline ECB/2011/14. Such eligibility criteria and risk control measures shall include the criterion that the credit claims are governed by the laws of the Member State of the NCB establishing the eligibility criteria and risk control measures. The eligibility criteria and risk control measures shall be subject to the Governing Council’s prior approval.

3. In exceptional circumstances NCBs may, subject to the Governing Council’s prior approval, accept credit claims: (a) in application of the eligibility criteria and risk control measures established by another NCB pursuant to paragraphs 1 and 2; or (b) governed by the law of any Member State other than the Member State in which the accepting NCB is established.

4. Another NCB shall only provide assistance to an NCB accepting credit claims pursuant to paragraph 1 if bilaterally agreed between both NCBs and subject to prior approval by the Governing Council.

#### **Article 5 Acceptance of certain government-guaranteed bank bonds**

1. The Banque centrale shall not be obliged to accept as collateral for Eurosystem credit operations eligible uncovered bank bonds which: (a) do not fulfil the Eurosystem’s requirement of high credit standards; (b) are issued by the counterparty using them or by entities closely linked to the counterparty; and (c) are fully guaranteed by a Member State: (i) whose credit assessment does not comply with the Eurosystem’s requirement of high credit standards for issuers and guarantors of marketable assets as laid down in Sections 4.5.1 and 4.5.2 of Annex 8 of the General Terms and Conditions<sup>21</sup>; and (ii) which is compliant with a European Union/International Monetary Fund programme, as assessed by the ECB Governing Council.

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<sup>21</sup> Section 6.3.1 and 6.3.2 of Annex I to Guideline ECB/2011/14.



2. The Banque centrale shall inform the Governing Council whenever it decides not to accept the securities described in paragraph 1 as collateral.

3. Counterparties may not submit as collateral for Eurosystem monetary policy operations uncovered bank bonds issued by themselves or issued by closely linked entities and guaranteed by a European Economic Area public sector entity with the right to impose taxes in excess of the nominal value of these bonds already submitted as collateral on 3 July 2012.

4. In exceptional cases, the ECB Governing Council may decide on temporary derogations from the requirement laid down in paragraph 3 for a maximum of three years. A request for a derogation shall be accompanied by a funding plan that indicates how the own use of uncovered government-guaranteed bank bonds by the requesting counterparty will be phased out by no later than three years following the approval of the derogation. Any derogation already granted since 3 July 2012 shall continue to apply until it is due for review.

#### **Article 6 Admission of certain assets denominated in pounds sterling, yen or US dollars as eligible collateral**

1. Marketable debt instruments as described in Section 4.1.1 of Annex 8 of the General Terms and Conditions<sup>22</sup>, if denominated in pounds sterling, yen or US dollars, shall constitute eligible collateral for Eurosystem monetary policy operations, provided that: (a) they are issued and held/settled in the euro area; (b) the issuer is established in the European Economic Area; and (c) they fulfil all other eligibility criteria included in Section 6.2.1 of Annex I to Guideline ECB/2011/14.

2. The Eurosystem shall apply the following valuation markdowns to such marketable debt instruments: (a) a markdown of 16 % on assets denominated in pounds sterling or US dollars; and (b) a markdown of 26 % on assets denominated in yen.

3. Marketable debt instruments described in paragraph 1, which have coupons linked to a single money market rate in their currency of denomination, or to an inflation index containing no discrete range, range accrual, ratchet or similar complex structures for the respective country, shall also constitute eligible collateral for the purposes of Eurosystem monetary policy operations.

4. The ECB may publish a list of other acceptable benchmark foreign currency interest rates, in addition to those referred to in paragraph 3, on its website at [www.ecb.europa.eu](http://www.ecb.europa.eu), following approval by the Governing Council.

5. Only Articles 1, 3, 5, 6 and 8 of this Regulation shall apply to foreign currency denominated marketable assets.

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<sup>22</sup> Section 6.2.1 of Annex I to Guideline ECB/2011/14.

## **Article 7 Suspension of the requirements for credit quality thresholds for certain marketable instruments**

1. The Eurosystem's minimum requirements for credit quality thresholds, as specified in the Eurosystem credit assessment framework rules for marketable assets in Section 5.3.2 of Annex 8 of the General Terms and Conditions<sup>23</sup> shall be suspended in accordance with paragraph 2.

2. The Eurosystem's credit quality threshold shall not apply to marketable debt instruments issued or fully guaranteed by the central governments of euro area Member States under a European Union/International Monetary Fund programme, unless the Governing Council decides that the respective Member State does not comply with the conditionality of the financial support and/or the macroeconomic programme.

3. Marketable debt instruments issued or fully guaranteed by the central government of the Hellenic Republic shall be subject to the specific haircuts set out in Annex I to this Regulation.

## **Article 8 Taking effect, implementation and application**

1. This Regulation shall take effect on 3 May 2013, the day of its publication.

2. Article 5 shall apply until 28 February 2015.

## **Article 9 Repeal**

1. The Regulation of the Banque centrale 2012/ N° 12 of 12 September 2012 implementing the Guideline of the European Central Bank of 2 August 2012 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral (ECB/2012/18), the Regulation 2012/ N°13 of 9 November 2012 implementing the Guideline of the European Central Bank of 10 October 2012 (ECB/2012/23) and the Regulation 2013/ N° 14 of 7 March 2013 implementing Guideline ECB/2013/2 of 23 January 2013 (ECB/2013/2) shall be repealed from 3 May 2013.

## **Art. 10. Publication**

This Regulation shall be published in the Mémorial and on the Banque centrale's website ([www.bcl.lu](http://www.bcl.lu)).

BANQUE CENTRALE DU LUXEMBOURG  
La Direction

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<sup>23</sup> See reference 14.

## ANNEX I

Haircut schedule applying to marketable debt instruments issued or fully guaranteed by the Hellenic Republic

<b>Greek government bonds (GGBs)</b>	<b>Maturity bucket</b>	<b>Haircuts for fixed coupons and floaters</b>	<b>Haircuts for zero coupon</b>
	<b>0-1</b>	15,0	15,0
	<b>1-3</b>	33,0	35,5
	<b>3-5</b>	45,0	48,5
	<b>5-7</b>	54,0	58,5
	<b>7-10</b>	56,0	62,0
	<b>&gt; 10</b>	57,0	71,0
<b>Government-guaranteed bank bonds (GGBBs) and government-guaranteed non-financial corporate bonds</b>	<b>Maturity bucket</b>	<b>Haircuts for fixed coupons and floaters</b>	<b>Haircuts for zero coupon</b>
	<b>0-1</b>	23,0	23,0
	<b>1-3</b>	42,5	45,0
	<b>3-5</b>	55,5	59,0
	<b>5-7</b>	64,5	69,5
	<b>7-10</b>	67,0	72,5
	<b>&gt; 10</b>	67,5	81,0

## ANNEX II

### REPEALED REGULATIONS

Regulation BCL 2012/ N° 12 of 12 September 2012 implementing the Guideline of the European Central Bank ECB/2012/18 of 2 August 2012

Regulation BCL 2012/ N° 13 of 9 November 2012 implementing the Guideline of the European Central Bank ECB/2012/23 du 10 October 2012

Regulation 2013/ N° 14 of 7 March 2013 implementing the Guideline of the European Central Bank ECB/2013/2 of 23 January 2013