

ECB eligible collateral — Changed criteria from 1 January 2011

With effect from 1 January 2011 there has been a significant change in the eligibility criteria for collateral that counterparties for Eurosystem monetary policy operations are required to provide to the Eurosystem in order to obtain liquidity. This briefing highlights the changes and the criteria which are currently applicable.

What changed in January 2011?

With effect from 1 January 2011:

- the only acceptable currency is Euro;
- subordinated debt is no longer eligible; and
- debt instruments issued by credit institutions and traded on certain non-regulated markets (such as Short Term European Paper (STEP)) are no longer eligible.

However, the expanded criteria introduced in response to the financial crisis in late 2008 in relation to ratings thresholds (that is, to include investment grade ratings of BBB-, other than for asset-backed securities) remain in place. In addition, the European Central Bank (ECB) announced in May 2010, that it would suspend the application of the minimum credit rating threshold in the case of marketable debt instruments issued or guaranteed by the Greek government until further notice, and this suspension remains in place.

Are assets which met the expanded criteria "grandfathered"?

There is no grandfathering. That means, for example, that a sterling or US dollar denominated bond which might have been eligible prior to 1 January 2011 has now ceased to be eligible.

What about the other eligibility criteria?

Other than in respect of ratings, the eligibility criteria are therefore now as set out in the November 2008 "General Documentation" brochure (and summarised on the ECB website), subject to other subsequent changes – for example, with regard to the New Safekeeping Structure (or NSS) for registered notes or "close links" for asset-backed securities (ABS). These basic criteria are summarised in the table below, for ease of reference. This briefing does not address additional specific requirements for ABS.

What about the future?

It is, of course, possible that the ECB may re-introduce further expanded measures in the future, should the need arise. But, for now, when structuring deals, the more restrictive criteria may mean that issuers will want to give more thought as to whether to use the New Global Note (NGN) structure or the New Safekeeping Structure (NSS) for new issues denominated in currencies other than Euro.

Key Issues

Expanded criteria fell away on 1 January 2011 – other than ratings

Is there grandfathering?

Other eligibility criteria

Future changes?

Summary table

Links

If you would like to know more about the subjects covered in this publication or our services, please contact:

[Julia Machin](#) +44 (0)20 7006 2370

[Tim Morris](#) +44 (0)20 7006 2676

[Jessica Walker](#) +44 (0)20 7006 2880

To email one of the above, please use firstname.lastname@cliffordchance.com

Clifford Chance LLP, 10 Upper Bank Street,
London, E14 5JJ, UK
www.cliffordchance.com

This table is a short summary of the current criteria. Please refer to the ECB's General Documentation brochure (November 2008) and subsequent releases and the ECB website for more detailed information.

Eligibility criteria	Marketable assets
Currency	Euro
Place of establishment	Issuer: EEA or non-EEA G10 countries Guarantor: EEA
Type of assets *	ECB debt certificates Other marketable debt instruments, for example debt instruments issued by central government, central banks, local and regional governments, credit institutions, corporates and supranationals, covered bank bonds and asset-backed securities.** * Chapter 6 of "The Implementation of Monetary Policy in the Euro Area - General Documentation, November 2008" sets out further basic criteria for debt instruments at 6.2.1 ** Additional criteria for ABS are not discussed in detail in this briefing.
Type of issuer of guarantor	Debt instrument may be issued or guaranteed by central banks, public sector entities, private sector entities, or by international or supranational institutions.
Rating threshold	At least BBB-, other than for asset-backed securities and securities backed by the Greek government.
Place of issue	EEA
Settlement / handling procedures	Place of settlement: euro area. Instruments must be centrally deposited in book-entry form with central banks or a securities settlement system fulfilling the ECB's minimum standards.
Form of Notes	Notes held in Euroclear and Clearstream must be in the appropriate form (that is, New Global Note (NGN) for bearer notes and New Safekeeping Structure (NSS) for registered notes).
Admission to trading	Regulated markets or non-regulated markets accepted by the ECB. (A list of accepted markets is set out on the ECB website.) Debt instruments (other than covered bank bonds) that are issued by credit institutions are only eligible if admitted to trading on a regulated market.

Links to ECB website, materials and press releases:

Eligibility criteria and accepted markets:

<http://www.ecb.int/paym/coll/standards/marketable/html/index.en.html>

The Implementation of Monetary Policy in the Euro Area - General Documentation, November 2008: <http://www.ecb.int/pub/pdf/other/gendoc2008en.pdf> (see Chapter 6 and subsequent releases)

Press release - 15 October 2008: <http://www.ecb.int/press/pr/date/2008/html/pr081015.en.html>

Press release - 12 November 2008: http://www.ecb.int/press/pr/date/2008/html/pr081112_1.en.html

Press release - 26 November 2008: http://www.ecb.int/press/pr/date/2008/html/pr081126_2.en.html

Press release - 8 April 2010: http://www.ecb.int/press/pr/date/2010/html/pr100408_1.en.html

Press release - 3 May 2010 (Greece): <http://www.ecb.int/press/pr/date/2010/html/pr100503.en.html>

This Client briefing does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ.

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571.

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications.

www.cliffordchance.com

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Prague ■ Riyadh* ■ Rome ■ São Paulo ■ Shanghai ■ Singapore ■ Tokyo ■ Warsaw ■ Washington, D.C.

* Clifford Chance also has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh and a 'best friends' relationship with AZB & Partners in India and with Lakatos, Köves & Partners in Hungary.

© Clifford Chance LLP January 2011