C L I F F O R D

C H A N C E

Client briefing
September 2011

Eligible collateral: Expanded for credit institutions as ECB "STEPs" in

Currently, in order to be eligible as collateral for Eurosystem monetary policy operations, securities issued by credit institutions have to be admitted to trading on a regulated market in the EEA. From 1 January 2012, this will be expanded to include securities admitted to trading on certain other markets (such as STEP, the Euro MTF and others).

Key Issues

ECB announces changes to eligibility criteria from 1 January 2012

Regulated market requirement for credit institutions to fall away

Certain non-regulated markets (such as STEP and Euro MTF) will qualify

But beware close links

Summary table

Links

Eligibility, collateral and expanded criteria

At the height of the financial crisis, in October 2008, the European Central Bank (ECB) announced a temporary expansion of the eligibility criteria for the collateral which counterparties for Eurosystem monetary policy operations are required to provide. The temporarily expanded criteria mostly fell away on 1 January 2011. In recent weeks, speculation has gathered that the ECB might expand the eligibility criteria again, in order to boost liquidity. In a press release dated 21 September 2011, the ECB has, indeed, announced one expansion to its criteria but it is fairly limited in nature and will not take effect until 1 January 2012.

Credit institutions, STEP and other non-regulated markets

The change is that, from 1 January 2012, one of the restrictions regarding eligibility of securities issued by credit institutions will fall away. Under the current criteria (set out in Chapter 6 of the ECB's February 2011 "*The Implementation of Monetary Policy in the Euro Area - General Documentation on Eurosystem monetary policy instruments and procedures*" brochure) in order to be eligible, securities issued by credit institutions must be admitted to trading on a regulated market in the EEA. From 1 January 2012, securities issued by credit institutions trading on certain other markets accepted by the ECB will be eligible as well. One such approved market is the Short Term European Paper (STEP) market. Other national markets also fall into this category, including, among others, Luxembourg's Euro MTF, the OTC market for Belgian commercial papers and the French commercial paper market.

Close links

At the same time, however, the ECB has reduced the threshold for unsecured debt issued by entities with which the credit institution has "close links". From 1 January 2012, such assets, with certain exceptions, may not exceed 5 % of the total value of the collateral. The current threshold is 10%. Briefly, "close links" are where: (a) the counterparty is linked to an issuer/debtor/guarantor by owning 20% or more of its capital (or vice versa); or b) where 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, either directly or indirectly.

Further expansion to follow?

It is impossible to say whether further changes may follow. In the meantime, we have included a refresher checklist on key current criteria and highlighted the change for credit institutions. We have also included links to the ECB's press release and the new Guideline date 20 September 2011.

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

Robert MacVicar +44 (0)20 7006 2039

Tim Morris +44 (0)20 7006 2676

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 key current criteria for marketable assets. It is not comprehensive nor does it address asset-backed securities or covered bonds. Please refer to the ECB's General Documentation brochure (February 2011) for current criteria and to the Guideline dated 20 September for criteria from 1 January 2012. Please also note subsequent releases on the ECB website (http://www.ecb.int/paym/coll/html/index.en.htm).

Currency	*Euro*
Place of establishment	*Issuer: EEA or non-EEA G10; 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; asset-backed securities.*
Types of issuer	*Debt instruments may be issued or guaranteed by central banks, public or private sector entities, or international or supranational institutions.*
Rating	*At least BBB-, other than for asset-backed securities and securities backed by the Greek government or Irish 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.) Currently, for credit institutions, securities must be admitted to trading on a regulated market, only. This will be expanded from 1 January 2012 to include certain other approved markets.*

Links
Press release: http://www.ecb.int/press/pr/date/2011/html/pr110921.en.html;
Guideline, 20 September 2011: http://www.ecb.int/ecb/legal/date/2011/html/index.en.html?skey=ECB/2011/14
General Documentation brochure, February 2011: http://www.ecb.int/pub/pdf/other/gendoc2011en.pdf