

GUIDELINES

GUIDELINE (EU) 2016/64 OF THE EUROPEAN CENTRAL BANK

of 18 November 2015

amending Guideline (EU) 2015/510 on the implementation of the Eurosystem monetary policy framework (General Documentation Guideline) (ECB/2015/34)

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, Articles 9.2, 12.1, 14.3, 18.2 and the first paragraph of Article 20 thereof,

Whereas:

- (1) Achieving a single monetary policy entails defining the tools, instruments and procedures to be used by the Eurosystem, which consists of the European Central Bank (ECB) and the national central banks of those Member States whose currency is the euro (hereinafter the 'NCBs'), in order to implement such a policy in a uniform manner throughout the Member States whose currency is the euro.
- (2) In the light of Article 12.1 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB'), the ECB has the authority to formulate the single monetary policy of the Union and to issue the necessary guidelines to ensure its proper implementation. In accordance with Article 14.3 of the Statute of the ESCB, the NCBs have an obligation to act in accordance with such guidelines. This Guideline is therefore addressed to the Eurosystem. The rules laid down in this Guideline will be implemented by the NCBs in contractual or regulatory arrangements. Counterparties will be required to comply with those rules as implemented by the NCBs in those contractual or regulatory arrangements.
- (3) The first indent of Article 18.1 of the Statute of the ESCB allows the Eurosystem to operate in the financial markets by buying and selling outright (spot and forward) or under repurchase agreements and by lending or borrowing claims and marketable instruments, whether in euro or other currencies, as well as precious metals. The second indent of Article 18.1 allows the Eurosystem to conduct credit operations with credit institutions and other market participants.
- (4) In order to protect the Eurosystem from counterparty risk, the second indent of Article 18.1 of the Statute of the ESCB provides that when the Eurosystem conducts credit operations with credit institutions and other market participants, lending should be based on adequate collateral.
- (5) In order to protect the Eurosystem against the risk of financial losses in the event of a counterparty's default, eligible assets mobilised as collateral for Eurosystem credit operations are to be subject to the risk control measures laid down in Title VI of Part Four of Guideline (EU) 2015/510 of the European Central Bank (ECB/2014/60) ⁽¹⁾.
- (6) The Governing Council has decided to change the rules on the own-use of covered bonds with respect to additional valuation haircuts.
- (7) The Governing Council has decided that non-marketable debt instruments backed by eligible credit claims may be used on a cross-border basis in accordance with the applicable correspondent central banking model (CCBM) procedures.

⁽¹⁾ Guideline (EU) 2015/510 of the European Central Bank of 19 December 2014 on the implementation of the Eurosystem monetary policy framework (General Documentation Guideline) (ECB/2014/60) (OJ L 91, 2.4.2015, p. 3).

- (8) The Governing Council has decided that the provisions concerning valuation haircuts are to be laid down in a legal act separate from Guideline (EU) 2015/510 (ECB/2014/60) as this would make it possible to streamline the implementation of amendments to the relevant framework promptly once the corresponding decisions are adopted by the Governing Council.
- (9) Therefore, Guideline (EU) 2015/510 (ECB/2014/60) should be amended accordingly,

HAS ADOPTED THIS GUIDELINE:

Article 1

Amendments

Guideline (EU) 2015/510 (ECB/2014/60) is amended as follows:

1. Article 2(16) is replaced by the following:

‘(16) “cross-border use” means the submission, as collateral, by a counterparty to its home NCB of:

- (a) marketable assets held in another Member State whose currency is the euro;
- (b) marketable assets issued in another Member State and held in the Member State of the home NCB;
- (c) credit claims where the credit claim agreement is governed by the laws of another Member State whose currency is the euro other than that of the home NCB;
- (d) retail mortgage-backed debt instruments (RMBDs) in accordance with the applicable procedures of the CCBM;
- (e) non-marketable debt instruments backed by eligible credit claims (DECCs) issued and held in another Member State whose currency is the euro other than that of the home NCB.’;

2. Article 2(49) is replaced by the following:

‘(49) “leasing receivables” means the scheduled and contractually mandated payments by the lessee to the lessor under the term of a lease agreement. Residual values are not leasing receivables. Personal Contract Purchase (PCP) agreements, i.e. agreements pursuant to which the obligor may exercise its option: (a) to make a final payment to acquire full legal title of the goods; or (b) to return the goods in settlement of the agreement; are assimilated to leasing agreements.’;

3. Article 128 is replaced by the following:

Article 128

Risk control measures

1. The Eurosystem shall apply the following risk control measures for eligible assets:

- (a) valuation haircuts as laid down in Guideline (EU) 2016/65 of the European Central Bank (ECB/2015/35) (*);
- (b) variation margins (marking-to-market):

the Eurosystem requires the haircut-adjusted market value of the eligible assets used in its liquidity-providing reverse transactions to be maintained over time. If the value of the eligible assets, which are measured on a daily basis, falls below a certain level, the home NCB shall require the counterparty to supply additional assets or cash by way of a margin call. Similarly, if the value of the eligible assets exceeds a certain level following their revaluation, the NCB may return the excess assets or cash;

- (c) limits in relation to the use of unsecured debt instruments issued by a credit institution or by any other entity with which that credit institution has close links as described in Article 138;
 - (d) valuation markdowns as laid down in Guideline (EU) 2016/65 (ECB/2015/35).
2. The Eurosystem may apply the following additional risk control measures:
- (a) initial margins, meaning that counterparties provide eligible assets with a value at least equal to the liquidity provided by the Eurosystem plus the value of the relevant initial margin;
 - (b) limits in relation to issuers, debtors or guarantors: the Eurosystem may apply additional limits, other than those applied to the use of unsecured debt instruments referred to in paragraph (1)(c), to the exposure vis-à-vis issuers, debtors or guarantors;
 - (c) supplementary haircuts;
 - (d) additional guarantees from guarantors meeting the Eurosystem's credit quality requirements in order to accept certain assets;
 - (e) the exclusion of certain assets from use as collateral in Eurosystem credit operations.

(*) Guideline (EU) 2016/65 of the European Central Bank of 18 November 2015 on the valuation haircuts applied in the implementation of the Eurosystem monetary policy framework (ECB/2015/35) (OJ L 14, 21.1.2016, p. 30);

4. Article 148 is replaced by the following:

Article 148

General principles

1. Counterparties may use eligible assets on a cross-border basis throughout the euro area for all types of Eurosystem credit operations.
2. Counterparties may mobilise eligible assets other than fixed-term deposits, for cross-border use in accordance with the following:
 - (a) marketable assets shall be mobilised via: (i) eligible links between EEA SSSs that have been positively assessed pursuant to the Eurosystem User Assessment Framework; (ii) applicable CCBM procedures; (iii) eligible links in combination with the CCBM; and
 - (b) credit claims, DECCs and RMBDs shall be mobilised in accordance with applicable CCBM procedures.
3. Marketable assets may be used through an NCB account in an SSS located in a country other than that of the NCB in question if the Eurosystem has approved the use of such an account.
4. De Nederlandsche Bank shall be authorised to use its account with Euroclear Bank to settle collateral transactions in Eurobonds issued in that ICSD. The Central Bank of Ireland shall be authorised to open a similar account with Euroclear Bank. This account can be used for all eligible assets held in Euroclear Bank, i.e. including eligible assets transferred to Euroclear Bank through eligible links.
5. Counterparties shall execute the transfer of eligible assets via their securities settlement accounts with an SSS that has been positively assessed pursuant to the Eurosystem User Assessment Framework.
6. A counterparty that does not have a safe custody account with an NCB or a securities settlement account with an SSS that has been positively assessed pursuant to the Eurosystem User Assessment Framework may settle transactions through the securities settlement account or the safe custody account of a correspondent credit institution.;

5. Annex XI is replaced by the following:

‘ANNEX XI

SECURITY FORMS

On 13 June 2006 the European Central Bank (ECB) announced the new global notes (NGN) criteria for international global bearer form securities that would be eligible as collateral for Eurosystem credit operations from 1 January 2007. On 22 October 2008 the ECB announced that international debt securities in global registered form issued after 30 September 2010, would only be eligible as collateral for Eurosystem credit operations when the new safekeeping structure for international debt securities (NSS) is used.

The following table summarises the eligibility rules for the different forms of securities with the introduction of the NGN and NSS criteria.

Table 1

Eligibility rules for different security forms

Global/individual	Bearer/registered	NGN/classic global note (CGN)/NSS	Is the common safekeeper (CSK) an ICSD (*)?	Eligible?
Global	Bearer	NGN	Yes	Yes
			No	No
Global	Bearer	CGN	N/A	No, but those securities issued before 1 January 2007 will be grandfathered until maturity, plus any tap issues from 1 January 2007 when the ISINs are fungible.
Global	Registered	CGN	N/A	Bonds issued under this structure after 30 September 2010 are no longer eligible.
Global	Registered	NSS	Yes	Yes
Individual	Bearer	N/A	N/A	Bonds issued under this structure after 30 September 2010 are no longer eligible. Individual bearer notes issued on or before 30 September 2010 are grandfathered until maturity.

(*) Or, should it become applicable, in a positively assessed central securities depository’

Article 2

Repeal

Articles 129 to 133a in Guideline (EU) 2015/510 (ECB/2014/60) and Annex X thereto are repealed.

*Article 3***Taking effect and implementation**

1. This Guideline shall take effect on the day of its notification to the NCBs.
2. The NCBs shall take the necessary measures to comply with this Guideline and apply them from 25 January 2016. They shall notify the ECB of the texts and means relating to those measures by 5 January 2016 at the latest.

*Article 4***Addressees**

This Guideline is addressed to all Eurosystem central banks.

Done at Frankfurt am Main, 18 November 2015.

For the Governing Council of the ECB

The President of the ECB

Mario DRAGHI
