Covered Bonds Directive – Danish transposition

European Covered Bond Council (ECBC) Implementation Task Force Virtual Meeting

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Current framework

Issue of covered bonds can be carried out by

- Specialised mortgage credit institutions
  ▪ regulated by The Mortgage-Credit Loans and Mortgage-Credit Bonds etc. Act

- Universal banks
  ▪ regulated by The Financial Business Act

- Specialised ship financing institution, Danish Ship Finance
  ▪ regulated by The Shipping Finance Institution Act
Transposition process

• Current Danish legislation in overall compliance with the Covered Bond Directive and the amendments of the CRR

• Transposition consists of targeted amendments to existing regulation
  ▪ Necessary adjustments in Executive Orders related to those Acts

• A series of transposition meetings has been carried out in 2020 – lead by the Danish FSA and participation from FinanceDenmark and representatives from all issuers in Denmark
Transposition process - status

- Proposal for an amendment of The Mortgage-Credit Loans and Mortgage-Credit Bonds etc. Act, The Financial Business Act and The Shipping Finance Institution Act has been drafted

- Public consultation of the proposal carried out 23 October – 23 November 2020
  - Generally well received

- Currently subject to scrutiny by the legal service of the Ministry of Justice

- Expected presentation in Parliament 10 February 2021

- Suggested to follow transposition deadlines from the CRR – all changes to be applied as of 8 July 2022
Less substantial changes

• Use of intragroup pooled covered bond structures already in legislation
  ▪ Will be amended slightly to accommodate the Directive requirements – no substantial change to the current use

• Rules governing extendable maturity structures in universal banks to be clarified to ensure that there is no discretion in relation to an extension

• Introduction of the requirement for the covered bonds public supervision to cooperate with the resolution authority in the event of resolution of a credit institution issuing covered bonds in order

• Clarify a minor point on valuation of some physical assets to allow only for market value to be used
Most substantial changes – overview

• Coverage requirement

• Overcollateralisation requirement

• Cover pool liquidity buffer

• Investor information

• Authorisation process
Most substantial changes – coverage and OC

• Coverage requirement
  ▪ Introduction of nominal value
  ▪ Use of option to allow for the use of the exemption in Article 15(7) on close correspondence

• Overcollateralisation requirement
  ▪ Decided on lower of level 2 %
  ▪ Based on the capital requirements of the CRR to be fulfilled for each cover pool – formalised risk based approach
  ▪ Overcollateralisation level corresponds to the historic losses
Most substantial changes – liquidity buffer

- Currently liquidity risk is handled under the balancing principle – no separate liquidity requirement

- The liquidity buffer shall be fulfilled with level 1, level 2A or level 2B assets
  - No use of short-term exposures to credit institutions or short-term deposits

- Will make use of the options in Article 16(5) and (6)
  - Allow for the calculation of the principal for extendable maturity structures to be based on the final maturity date
  - The liquidity buffer requirement will not apply to covered bonds that are subject to match funding requirements
Changes to authorisation process

- Under the current authorisation process, authorisation as a specialised mortgage credit institution includes the authorisation to issue covered bonds.
- Will be amended slightly in the transposition making the authorisation as a credit institution and the permission to issue covered bonds two separate permissions:
  - Application for an authorisation as a specialised mortgage credit institution in separate process, but mandatory for the specialised mortgage credit institution to obtain a permission to issue covered bonds.
  - The authorisation as a specialised mortgage credit institution without the subsequent permission to issue covered bonds would make the credit institution authorisation null.
- Keeping the specialist model but aligning with the Directive requirement.
- Universal banks, specialised mortgage credit institutions and the Danish Ship Finance require separate permission to issue CRR Article 129-compliant covered bonds:
  - Therefore, already separate processes - no change due to the transposition.
Investor information

• The transposition of Article 14 will be committing the Danish FSA to issue an Executive Order on the detailed requirements for investor information
  ▪ The detailed requirements yet to be finalised

• Intended to be aligned very much with the ECBC Harmonised Transparency Template (HTT)
  ▪ Currently well-known in Denmark and used by all Danish issuers

• The Executive Order will consider the investor information requirement to be fulfilled for issues where the ECBC HTT is used

• For issues not being covered by the ECBC HTT there will be a template in the Executive Order to be used
Investor information

- Based on the assumption that the ECBC HTT can be considered to fulfil the requirement in Article 14

- DK has raised this question several times with the Commission

- Specifically asked about the disclosure requirement in relation to credit risk

- The Danish FSA considers ‘credit risk’ covered by the ECBC HTT requirements in relation to assets (section B1 and B2)

- If the Commission considers this not be the case, further clarification of what information needs to be disclosed in relation to ‘credit risk’ is necessary