

European Covered Bond Council (ECBC)

ECBC Position on Draft ECON Report on Covered Bond Legislative Package

Brussels, 17 September 2018

The European Mortgage Federation – European Covered Bond Council (EMF-ECBC) welcomes the objectives of the European Commission's proposals for an EU Covered Bond Legislative Framework to promote further integration of the EU's financial markets and reinforce the Capital Markets Union (CMU).

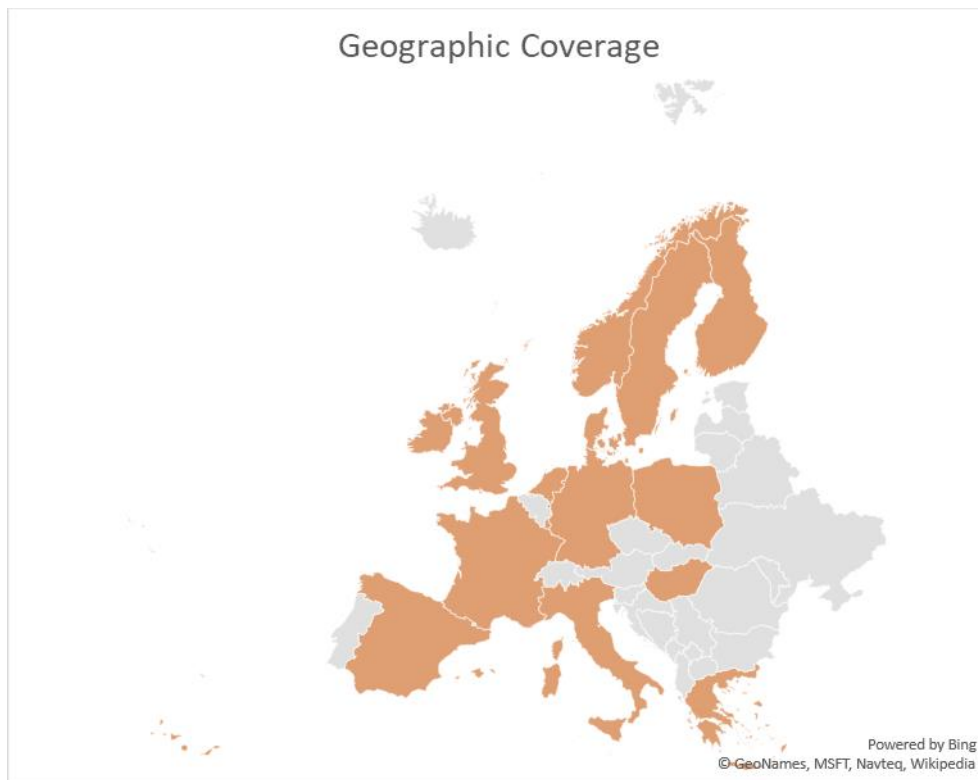
The ECBC recognises the significance of the work of the EU Institutions to identify common ground and secure a qualitative benchmark at European and global level for the covered bond asset class. With a view to facilitating the current legislative debates in the European Parliament and Council of the EU, the ECBC worked intensively to assess MEP Lucke's proposed amendments ([here](#) for the proposal for a directive and [here](#) for the proposal for a regulation) to the European Commission's proposals and gathers, within this paper, an overall understanding of the main concerns of the European covered bond industry through its national experts and representatives.

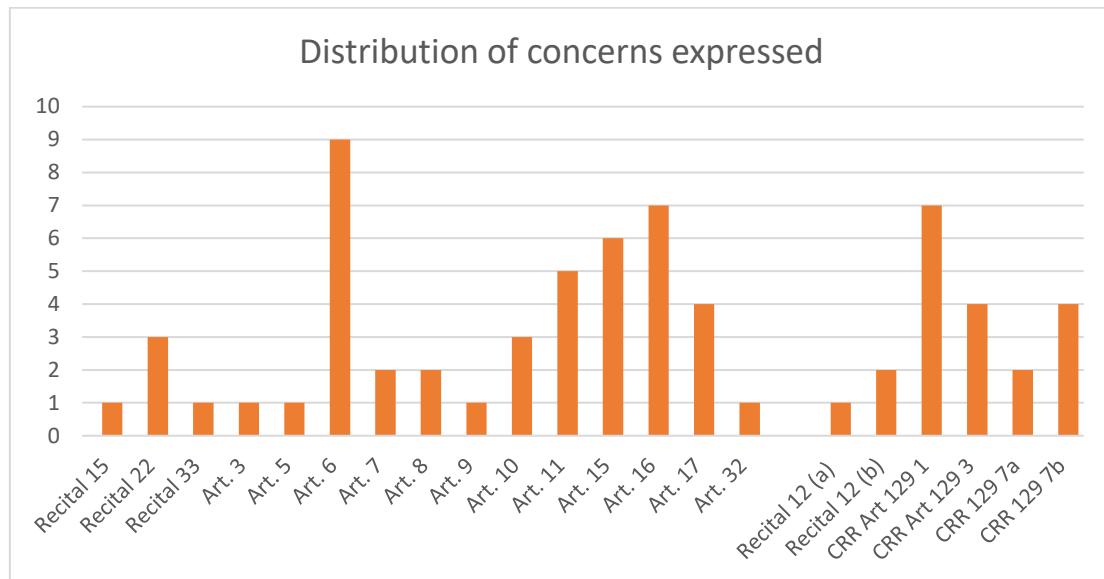
The feedback collected is ranked from 1 to 4 according to level of seriousness and scope (national or European), and consolidates feedback received from **15 countries** representing **94.2% of outstanding covered bonds** and **91.2% of total outstanding residential mortgages** in the European Economic Area (EEA).

During its meeting in Munich on 11 September 2018, the ECBC Steering Committee analysed the feedback received on MEP Lucke's draft Report and discussed the potential implications for the current, well-functioning markets. Indeed, we strongly believe that a European covered bond legislative framework should reinforce quality, add value for issuers and investors, and safeguard the macroprudential characteristics of covered bonds as a long-term funding instrument for the real economy and a crisis management tool in stress scenarios. To this end, the Steering Committee identified the following common areas, which are deemed to be the most critically important to the covered bond industry:

- 1. Directive scope/asset eligibility (Art. 6):** The ECBC is concerned about the potential watering-down of the quality of the covered bond asset class and the risk of contagion which could result from the proposed two-tier classification. A careful balance must be struck to safeguard the perimeter of traditional (CRR & UCITS compliant) covered bonds, whilst recognising non-traditional asset classes, beyond the traditional perimeter, i.e. European Secured Notes (ESN). Furthermore, the name "Ordinary" Covered Bonds is considered inappropriate and potentially confusing.
- 2. Derivatives (Arts. 11 & 15):** The ECBC would like to reiterate the importance of derivatives to mitigate currency and interest rate risk. The proposals to essentially limit the use of this instrument to counter parties with minimum credit quality step 1 rating could have serious implications in the event of a stress scenario as there would be fewer eligible counter parties available which could have a negative effect and increase risk for investors.
- 3. Extendable Maturities (Art. 17):** The ECBC is greatly concerned about the proposed risk weight differential for extendable maturity covered bonds, which will distort an otherwise well-functioning and well-accepted segment of covered bond markets. The ECBC is continuing its commitment to define market best practice in this area.
- 4. Liquidity Buffer (Art. 16):** The ECBC recognises the efforts of the EU Institutions to avoid concerns about double-counting between the Liquidity Coverage Ratio (LCR) at bank level and the 180-day liquidity buffer in the cover pool. A potential solution to this issue could be determined at Member State level, according to national best practice. A future revision of the LCR would represent an opportunity for a more harmonised solution.

The ECBC invites the EU Institutions to carefully consider these common areas of concern and closely analyse the national priorities identified below.





The majority of concerns expressed are around Art.6 – Eligible Assets, Art 16. Requirements for a cover pool buffer, and the amendment to CRR Art 129 par 1.

Overview Table of Comments

Directive

Where	What	Who commented
Recital 15	Eligible assets	Luxembourg
Recital 22	Maturity structures	Greece Italy , Poland
Recital 33	European Covered Bonds Label	Netherlands
Art. 3	Dual recourse	Sweden
Art. 5	Bankruptcy remoteness of the covered bonds	Poland
Art. 6	Eligible assets	Finland , Denmark , Germany , Italy , Luxembourg , Netherlands , Norway , Spain , Sweden ,
Art. 7	Assets located outside of the Union	Germany , Luxembourg
Art. 8	Intragroup pooled covered bond structures	Denmark , Luxembourg , Spain
Art. 9	Joint funding	Denmark
Art. 10	Composition of the Cover Pool	France , Hungary , Denmark
Art. 11	Derivative contracts in the cover pool	Finland , France , Norway , Italy , Ireland
Art. 15	Requirements for coverage	Denmark , France , Norway , UK , Poland
Art. 16	Requirements for a cover pool liquidity buffer	Finland , France , Hungary , Italy , Norway , Sweden , Ireland
Art. 17	Conditions for extendable maturity structures	Finland , Denmark , France , Netherlands
Art. 32	Transposition	Norway

Regulation

Where	What	Who commented
Recital 12 (a)	Risk weight exposures	Poland
Recital 12 (b)	Extendable maturity structures	Greece , Italy
CRR Art 129 1	Exposures to Credit Institutions and derivatives	Germany , Denmark , Italy , Ireland , Sweden , UK , Poland
CRR Art 129 3	Overcollateralisation	Hungary , Ireland , Sweden , UK
CRR Art 129 7	Risk weights for CB and extendable maturities	Denmark , Greece , Italy , Poland , UK

Detailed Country Replies (ordered alphabetically):

1. Denmark

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Article 6 and new 6a of Directive - eligible assets - and article 10 - composition of the cover pool	The rapporteur suggests splitting eligible assets in a covered bond in article 6 - CRR compliant covered bonds - and in article 6a -non CRR compliant covered bonds. Article 6a allows for a broad range of cover assets. Regarding article 10 on the composition of the cover pool the rapporteur suggests to split assets in what he calls homogenous groups.	The proposal in article 6a from the rapporteur is too broad. The most problematic part is the inclusion of exposures to counterparties in a very broad sense in article 6a, paragraph 3 and the requirements on this part in paragraph 4. Requirements on composition of the cover pool is not necessary and might have undesirable negative effects on investors in terms of issue size and risk diversification.		High	Article 6 - in process Article 10 -delete	EU
1	Article 8 and 9 of Directive and propose a transitional period in CRR 129 - intragroup pooled covered bonds structures	Rapporteur suggests deleting article 8 + modifying article 9	The concerns raised by the rapporteur regarding the use of internally issued covered bonds seems unfounded and the proposal for a modified article 9 doesn't necessarily entail level playing field between different business models.		high	Keep the proposal from the Commission with some amendments	National EU
1	Article 17 of Directive and new paragraph 7b in Article 129 CRR - extendable maturity	Rapporteur suggests to add a new paragraph 7b in Article 129 in CRR which gradually increases the risk weight for covered bonds whose maturity can be extended by more than a year. The rapporteur also suggests amendments in Article 17 saying that extension may only be used in the event of insolvency or resolution.	There should be room for developments in the market regarding the use of extendable maturity structures. This will not be possible with the amendments from the rapporteur. Regarding the specific proposals there is no need for a modification of the risk weighting of covered bonds with extendable maturity. The investors have full transparency of these structures.		high	Keep the proposal from the Commission with some minor amendments	EU
1	Article 129 of CRR - exposures to credit institutions (credit quality step 2) and Article 15 of Directive	The rapporteur cannot support the proposal from the Commission to allow a use of credit quality step 2 exposures to credit institutions without documentation of problems with concentration risk in the market and without notifying EBA. It is proposed to give a possibility to use credit quality 2 exposures but only in times of stress and temporarily.	It is important to be able to use exposures to credit institutions of credit quality step 2 on a permanent basis and not only in times of stress. It is also necessary with an amendment saying that if the market value of the derivative is secured by cash or government bonds the exposure is not against a credit institution and should not fall under the limits for exposures to credit institutions in CRR 129. In the coverage requirements in article 15 in the Covered Bond directive is should be stated that derivatives can contribute to coverage by their market value.		high	Keep the proposal from the Commission	EU

Source: Finance Denmark

2. Finland

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Liquidity buffer, Art. 16, par 4 and 5	Art. 16, par 4. Where the credit institution issuing covered bonds is subject to liquidity requirements set out in other acts of Union law, Member States may decide that the national rules transposing paragraphs 1, 2 and 3 do not apply throughout the period foreseen in those acts of Union law. Art. 16, par.5.: Member States may allow for the calculation of the principal for extendable maturity structures to be based on the final maturity date of the covered bond.	Overall, we found the 180 day buffer requirements excessive, considering elements already in place in other regulation. Firstly, issuers are already subject to strict LCR liquidity buffer requirements, which are calibrated for stressed conditions. Secondly, in the CRR2 proposal for net stable funding ratio (NSFR), covered bonds with remaining maturity of less than 6 months will not constitute any available stable funding. Banks need to cover the shortfall with other forms of stable funding.	We do not have a separate liquidity requirement for cover pool at the moment in our national legislation but we have other tools to handle liquidity risk. EU harmonisation efforts should not disturb well-functioning markets. Extra requirements would increase funding costs substantially. There are much more efficient ways to handle liquidity risks, for example maturity extensions. We have small issuers in our market and cost efficiency is critical for us. Lucke's wording for Art. 16 par 5. is problematic and Commission text should be kept as it is.	high	As a first choice, we propose to delete article 16 as a whole. As an alternative, we propose to keep Commission wording for Art 16 (4) and not to delete it as Lucke proposes. Member States should be allowed to decide that the 180 day liquidity buffer do not apply if the issuer is subject to other liq. requirements in other acts of Union or national laws. For Art 16 (5) we propose to keep Commission text as it is.	EU
2	Maturity extensions , Art.17 par. 1(b)	Art 17, par. 1(b) the maturity extension is not triggered at the discretion of the credit institution issuing covered bonds;	Maturity extension is an important tool for issuers to manage liquidity and re-funding risks and the use of these structures should not be penalised. The idea of the maturity extension is to <i>avoid</i> resolution/insolvency of the issuer. It is particularly useful when the bank is in trouble but <i>not yet defaulted</i> . The investors have full transparency of these structures.	Maturity extension triggers are specified in contracts as stated in Art 17 par 1 (a), which preserves investor protection. We fear that the advantages of soft bullet structures will diminish if Art 17 1 (b) will stay in the final text as it is.	high	We propose to delete Art. 17 par 1 (b) Art 17, par. 1(b) the maturity extension is not triggered at the discretion of the credit institution issuing covered bonds;	EU
3	Derivatives , Art. 11, par.2(b)	For the purposes of ensuring compliance with the requirements listed in paragraph 1, Member States shall lay down rules for cover pool derivative contracts including at least: (a) the eligibility criteria for the hedging counterparties; (b) the limits on the amount of derivative contracts in the cover pool; (c) the necessary documentation to be provided in relation to derivative contracts.	In article 11 (2)(b), the directive introduces a limit on <i>the amount</i> of derivative contracts in the cover pool. Our view is that a limit on the <i>amount</i> of derivatives will contradict the benefit of using derivatives for hedging purposes.	Derivatives should only be allowed for hedging purposes, but there should be no EUR limit for that purpose.	High	Art. 11 par. 2(b) should be amended as: (b) the limits on the amount of derivative contracts in the cover pool; (b) Derivatives should only be allowed for hedging purposes.	EU
4	Art. 6 and 6a	Lucke proposes new article 6a for "ordinary covered bonds".	Lucke proposes two layers of CBs, <i>premium</i> and <i>ordinary</i> .	We fear that broadening the scope of eligible assets too much will dilute the CB product and have negative effects on the market. ESNs should be clearly separated from CBs.	high	delete art. 6a	EU

Source: Finance Finland

3. France

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Directive - Article 15	Amendments 45 to 48	We suggest to add another amendment to that article.	In order to be more precise, it is useful to specify that it is the book values of assets and liabilities that should be used to verify the coverage requirement.	High	1. Member State shall ensure investor protection by requiring covered bond programmes to comply at all times with at least the following coverage requirements: (a) all book value of liabilities of the covered bonds, including the obligations for the payment of principal and any accrued interest of outstanding covered bonds and costs related to maintenance and administration of a covered bond programme, are covered by the book value of assets in the cover pool;	EU
2	Directive - Article 16 Directive - Article 17	Amendment 53 and 54	We wish to conserve the Commission Proposal wording.	This wording may be problematic because it could be wrongly interpreted. Indeed, it implies that the initial maturity should be taken into account for the liquidity buffer, yet the maturity extension is regarded as an efficient liquidity tool to prevent covered bonds default and should be taken into account for the calculation of the net liquidity outflow. This proposal adds unnecessary additional constraints on the parties (investors and issuers). Conditions to trigger the maturity extension are already set up in the covered bonds documentation, which preserves investors' protection, notwithstanding that such investors are, at least, "professional investors" or "eligible counterparties" under MIFID clients categorization. The maturity extension should occur before the insolvency / resolution of the issuer and allow to avoid such default (a distinction should be made in France between the default of the sponsor and the default of the issuer, which is a separate credit institution) and be triggered if such extension enables to avoid the default.	High	5. Member States may allow for the calculation of the principal for extendable maturity structures to be based on the final maturity date of the covered bond. (b) the maturity extension is not triggered at the discretion of the credit institution issuing covered bonds;	EU
3	Directive - Article 11	No amendment in the Bernd Lucke report on the matter	We suggest an amendment that removes the limits on the amount of derivative contracts in the cover pool.	The obligation to set a limit on the amounts of derivatives does not seem consistent with the fact that derivatives are used only for hedging purposes and cannot be terminated upon the insolvency or resolution of the credit institution issuing the covered bonds, and hence provide additional protection to the covered bond holders. Regarding paragraph (3), issuers will be only be able to negotiate the clause required in (11)(1)(d), (i.e. insolvency is not a termination event), at an acceptable price, if the derivatives counterparties have the same level of protection as the bond holders.	High	Derivative contracts in the cover pool 1. Member States shall ensure investor protection by allowing derivative contracts to be included in the cover pool only where at least the following requirements are met: (a) the derivative contracts are included in the cover pool exclusively for risk hedging purposes; (b) the derivative contracts are sufficiently documented; (c) the derivative contracts are segregated in accordance with Article 12; (d) the derivative contracts cannot be terminated upon the insolvency or resolution of the credit institution issuing covered bonds; (e) the derivative contracts comply with the rules laid down in accordance with paragraph 2. 2. For the purposes of ensuring compliance with the requirements listed in paragraph 1, Member States shall lay down rules for cover pool derivative contracts including at least: (a) the eligibility criteria for the hedging counterparties; (b) the limits on the amount of derivative contracts in the cover pool; (be) the necessary documentation to be provided in relation to derivative contracts. 3. When derivative contracts are concluded to hedge risks linked to covered bond issuance or assets in the cover pool, they benefit from the provisions mentioned in Chapter 1 (Dual recourse and bankruptcy remoteness).	EU
4	Directive - Article 10	Amendment 38	French issuers wish to maintain the current practice of having mixed cover pool assets (residential and commercial	This amendment is in contradiction with the EBA and European Commission's objective which is reminded on page 4 of the Directive: "A fundamental aim of the approach in this package is to avoid disrupting well-functioning and mature national markets". This is supported by the European Central Bank opinion dated August 22nd, 2018 that mentions: "Member States may allow for mixed pools where they specify the safeguards needed to ensure that the risk profile of the	High	Member States shall ensure investor protection by providing for a sufficient level of homogeneity of the assets in the cover pool so that they shall be of a similar nature in terms of structural features, lifetime of assets or risk profile.	National

			mortgage and public loans).	assets in a pool is of a sufficiently similar nature and that the composition of the cover pool does not materially change over time". Moreover, restraining precisely the assets in three specific groups, as proposed in the ECON Draft Report, would, for example, exclude the possibility for a mortgage covered bond issuer to dispose of substitute assets or assets for liquidity purposes which are supposed to correspond to categories (a), (b) or (c) of Article 129(1) of Regulation (EU) No 575/2013.			
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Source: CFF

4. Germany

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Art. 6a par. 3(b) of the Directive	(b) for assets in the form of exposures to a counterparty, the counterparty's safety and soundness is inferred from its tax-raising powers or from being subject to either public supervision or an on-going credit assessment by an independent professional third party. For the purposes of this point, the rating by a nominated ECAI shall be regarded as an independent third party's credit assessment.	Narrow the scope/eligibility of Art. 6a assets	As soon as the cover asset is not collateralised any more, a correlation with the public sector shall be required	High	(b) for assets in the form of exposures to public undertakings, the counterparty's safety and soundness is inferred from its tax-raising powers or from being subject to either public supervision or a rating by a nominated ECAI.	EU
2	Art. 6a par. 4 (d) + (e) of the Directive	(d) The cover pool assets shall be sufficiently granular to enable risk diversification. For the purposes of this point, sufficient granularity shall mean that the cover pool contains at least 500 counterparties exposures, loans or other types of claims all of which shall have some degree of idiosyncratic risk. (e) The cover pool shall be free of material concentration. For the purposes of this point, material concentration shall mean that aggregate exposure to a single obligor exceeds 2% of the nominal cover pool value.	Deletion of granularity of 500 exposures & material concentration of < 2%	Granularity and concentration criteria appear inappropriate	High	Deletion	EU
3	Art. 129 par. 1 third subparagraph of the Regulation	If significant concentration problems in some Member States can be documented due to the application of the credit quality step 1 requirement referred to in point (c) of the first subparagraph, EBA may, for all credit institutions concerned and for a period of at most three years, waive the application of this subparagraph and allow credit quality step 2 exposures for up to 10% of the total exposure of the nominal amount of outstanding covered bonds of the issuing institution. EBA may repeal this decision any time, provided it grants credit institutions an adequate transition period	Extension of exposures to institutions from credit quality step 1 to credit quality step 2 institutions and confirmation that derivative exposures are not imputed to the exposure limits for credit institutions	Rareness of credit quality step 1 institutions & different purpose of derivative transactions securing cover assets	High	Re-establishment of the COM draft proposal, complemented by: Claims under derivative transactions with credit institutions that qualify for credit quality step 1 or 2 shall not be comprised in calculating the limits referred to paragraph 1(c) if they are complying with the requirements of Article 11 of Directive (EU) 2017/1371 of the European Parliament and of the Council* [OP: Please insert reference to Directive (EU) on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU].	EU
4	Art. 7 par. 2 of the Directive (Assets located outside of the Union)	Where Member States allow for the inclusion referred to in paragraph 1, they shall ensure investor protection by verifying whether the assets located outside of the Union meet all the requirements set out in Article 6 and that the realisation of such assets is legally enforceable in a way similar to assets located within the Union.	Clarification that the comparability of non-EU collateral refers to its security profile and not to the recognition of the bankruptcy privilege	Clarification of the scope of Art. 7 of the Directive	High	Where Member States allow for the inclusion referred to in paragraph 1, they shall ensure investor protection by verifying whether the assets located outside of the Union meet all the requirements set out in Article 6. The collateral defined under Article 3 (18) shall offer comparable security in a way similar to collateral located within the Union	EU

Source: vdp

5. Greece

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Regulation - Amendment 4	"Extendable maturities are a new development in the covered bond universe. They have not been taken into account when Article 129 of the CRR was devised. The possibility of maturity extensions makes covered bonds on the asset side of bank balances more risky - and less liquid in times of financial distress. This calls for increasing the risk weight. On the other hand, these bonds may be less risky if the maturity extension serves at preserving the value of cover pool assets by avoiding fire sales. This is an offsetting factor to the risk of reduced liquidity. For this reason, extendable maturities of one year or less should not be penalized with an increase in the risk factor. However, if asset prices have not recovered after a year, their reduced level may actually be persistent. Hence, covered bonds with maturity extensions of more than a year should be viewed as shifting risk from the issuer to the investor. Since this type of covered bond is of higher risk than a standard fixed maturity bond, an increased risk weight is warranted."	The Rapporteur proposes to amend Article 129 CRR by a new paragraph 9, which gradually increases the risk weight for covered bonds whose maturity can be extended by more than a year.	There is no market or other evidence to support the claim that covered bonds with extendable maturity features are riskier or less liquid in times of financial distress. On the contrary, these structures have been designed to avoid the risk of fire sales in times of financial distress. Furthermore, in jurisdictions where covered bonds have not traditionally been a funding tool, like Greece, extendable maturity structures were the means for banking institutions to re-gain access to the capital markets, as they provide clarity on the treatment of the covered bonds following a default of the issuer. Additionally, the differentiation highlighted in the Rapporteur, between structures with an extension feature of less than one year ("soft bullet") and structures with an extension feature of more than a year ("conditional pass-through"), cannot be supported by any actual data. In both soft bullet and conditional pass-through structures, the portfolio managers try to liquidate the cover pool assets at a price at least equal to the required redemption amount, which includes principal and interest on the covered bonds and senior expenses. In soft bullet structures the portfolio can typically liquidate at any price 6 months prior to the extended maturity date (so in essence six months after the extension event), whereas in conditional pass-through structures the portfolio managers can continue the process for a longer period. In both structures however, bondholders can typically force a sale with majorities. As a result, the risk of the investors being trapped in a structure without having access to the estate of the issuer is mitigated. The set-forth assumption that if asset prices have not recovered in one year, then their reduced level is persistent is also not supported by any evidence. It does not account for systemic risk, especially in times of financial distress or banking systems that covered bonds are a major part of their funding structure. Furthermore, no rationale is provided as to why a one-year period mitigates the risk of fire sale, whereas for example a period of three year does not. The focus of the Directive and Regulations should shift back to the arbitrary element of these structures, which is related to the issuers' discretion to extend - an element which although is highlighted at conditional pass-through structures - is almost a market standard for soft-bullet structures. We agree on the approach of the related ECB's opinion on the triggers to extend, which is based on EBA's relevant recommendations.	High	Delete	EU
2	Regulation - Amendment 15	"(eb) after paragraph 7, the following paragraph is inserted: 7b. The risk weights....."	Increased risk weights for extendable maturity covered bonds	as per above	High	Delete	EU
3	Directive - Amendment 7	"while investors....increasing risk"	Increased risk weights for extendable maturity covered bonds	As per above	High	Delete	EU

Source: National Bank of Greece

6. Hungary

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	CRR Art. 129. new (3a) OC	COM: "Competent authorities designated pursuant to Article 18(2) of Directive (EU) 20xx/xxx [OP: Please insert reference to Directive (EU) on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU] may decide to apply a lower minimum level of overcollateralisation to covered bonds provided that the following conditions are met:"	We support the additional amendments made by the EP, where <i>the Member States may decide to apply</i> a lower minimum level of overcollateralisation to covered bonds or may authorise their competent authorities designated pursuant to Article 18(2) of Directive (EU) 20xx/xxx[OP: Please insert reference to Directive (EU) on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU] to do so, provided that the following conditions are met.	Agree with the EP. There is more democratic scrutiny if Member States lay out the OC requirements in legislative acts rather than leave the decision to the discretion of a competent authority.	high	See EP text	EU
2	Directive Art. 16. Liquidity buffer	COM "Member States shall ensure investor protection by requiring that the cover pool includes at all times a liquidity buffer composed of liquid assets available to cover the net liquidity outflow of the covered bond programme.	The liquidity buffer of the cover pool must provide for at least 180 days cover for net liquidity outflows and may include liquid assets. In countries applying the non-universal model the liquidity requirement covering the net cash outflow is less plausible, since it overly restricts the operation of mortgage credit institutions appearing as separate institutions. Considering that liquidity requirements are applicable to mortgage credit institutions, they can only be supported only if liquidity requirements can be met at group level.		high		EU
3	Directive Art. 10. homogeneity	Member States shall ensure investor protection by providing for a sufficient level of homogeneity of the assets in the cover pool so that they shall be of a similar nature in terms of structural features, lifetime of assets or risk profile.	Currently there is no requirement for such cover pool break down, it can only be decided on supporting it the details are disclosed. It is a question whether it means several cover pools. If homogeneity means a requirement to segregate pools based on asset types, like ships from properties, than we support.		high		
4	Level playing field (many articles, where there is a discretion to MS)		We believe that uniform and competition neutral regulation of matters left to Member State competence by the Directive is essential.		high		

Source: Hungarian Banking Association

7. Ireland

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Directive - Article 11 - Limits on the amount of derivative contracts in the cover pool	No amendment in the Bernd Lucke report on the matter	Limits on the amount of derivative contracts in the cover pool should be removed as proposed in the Council text.	Article 11 paragraph 2(b) outlines the requirement of derivative contracts to be "included in the cover pool exclusively for risk hedging purposes". The obligation to set a limit on the amounts of derivatives does not seem consistent with the fact that derivatives are used only for hedging purposes and cannot be terminated upon the insolvency or resolution of the credit institution issuing the covered bonds, and hence provide additional protection to the covered bond holders.	High	(b) the limits on the amount of derivative contracts in the cover pool;	EU
2	Article 1(1) a) iii) in the Regulation, proposing amendments to CRR art 129, paragraph 1, subparagraph 3. No provision for step 2 as per article 129.1a CRR (under Regulation) and current article 129(1)(c) CRR. Under article 129 1(c)/1(a) step 2 exposures are restricted to maturities up to 100 days, but step 2 exposures should be capable of covering the first 100 days of the liquidity buffer of 180 days required under article 16 Directive.	Bernd Lucke cannot support the proposal from the Commission to allow a use of credit quality step 2 exposures to credit institutions without documentation of problems with concentration risk in the market and without notifying EBA. It is proposed to give a possibility to use credit quality 2 exposures but only in times of stress and temporarily.	It is important to be able to use exposures to credit institutions of credit quality step 2 on a permanent basis and not only in times of stress.	If exposures were to be confined to credit institutions meeting credit quality step 1 it would be increasingly challenging to impossible to meet.	High	If significant concentration problems in some Member States can be documented due to the application of the credit quality step 1 requirement referred to in point (c) of the first subparagraph, EBA may, for all credit institutions concerned and for a period of at most three years, waive the application of point c) of the first subparagraph this subparagraph and allow credit quality step 2 exposures for up to 10% of the total exposure of the nominal amount of outstanding covered bonds of the issuing institution. EBA may repeal this decision any time, provided it grants credit institutions an adequate transition period.	EU

3	Article 16 in the Directive, paragraphs 3.1 a (new) and 4 (deleted)	(New) 3.1 a <i>Member States shall ensure that the assets referred to in (a) will only be eligible for satisfying the cover pool liquidity buffer requirement if those assets are not essential for maintaining the credit institution's liquidity buffer referred to in Title II of Delegated Regulation (EU) 2015/61 at least at a level equal to the "net liquidity outflows over a 30 calendar day stress period" referred to in Article 4 of that Delegated Regulation, assuming that the net liquidity outflow of the covered bond programme over the same 30 calendar day stress period is zero on the grounds of a sufficient liquidity buffer contained in the cover pool by virtue of paragraphs 1 and 2.</i> (Deleted) 4. <i>Where the credit institution issuing covered bonds is subject to liquidity requirements set out in other acts of Union law, Member States may decide that the national rules transposing paragraphs 1, 2 and 3 do not apply throughout the period foreseen in those acts of Union law.</i>	Mr Lucke's proposed subparagraph 3 is not an adequate solution for solving the problem with 30 days' double counting. The wording in article 16(4) should be kept, but amended in line with recital 21 and thus allow the Member States to decide that the paragraphs do not apply if the credit institution is subject to liquidity requirements in other acts of Union or national law	Liquidity should be managed centrally in the credit institution in accordance within the scope of legislation regarding liquidity already, and soon, in place (LCR, NSFR). Existing liquidity requirements offer sufficient bondholder protection in addition to OC and other notational requirements specifically related to cover pools. Implementing a liquidity buffer within the pool would increase the risk of a liquidity stress to an institution.	High	[The new paragraph 3.1 a deleted] 4. Where the credit institution issuing covered bonds is subject to liquidity requirements set out in other acts of Union or national law, Member States may decide that the national rules transposing paragraphs 1, 2 and 3 do not apply throughout the period foreseen in those acts of Union or national law.	EU
4	Regulation Article 1 paragraph 1d - Limits on assets contributing to OC	Limits on assets contributing to OC	Amended to include assets in exposure limits	If an asset is eligible for the pool it is essential that it is eligible to be counted towards OC from an implementation perspective. Do not believe that these assets should be subject to exposure limits.	Moderate	Revert to original text	EU

Source: bpfi

8. Italy

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Derivative contracts Directive: Art. 11 Regulation: Art. 129, 1 c	Directive, Art. 11: "1. Member States shall ensure investor protection by allowing derivative contracts to be included in the cover pool only where at least the following requirements are met: [...]" Directive, Art. 15 1(c) "(...) the following assets in the cover pool contribute to the coverage requirement: (...)" Regulation, Art. 129, 1 c: " exposures to credit institutions that qualify for the credit quality step 1 or credit quality step 2 as set out in this Chapter".	The Directive provides specific requirements for derivative contracts. Among such requirements there is their inclusion in the cover pool. This is a not-applicable concept in many EU jurisdictions, including the Italian one. In fact, derivatives are tools used to address interest rates mismatch. The Rapporteur of the European Parliament has clarified that derivative contracts cannot contribute to the coverage requirement (amendment n. 45, art. 15). It should therefore be clarified if the proposal of the Rapporteur only concerns the nominal coverage (where only assets should be considered) or if it also refers to the interest coverage (in which case derivatives should be considered). In addition, in case derivatives are included in the cover pool, the Regulation provides, according to the Commission's proposal, that their counterparty be credit quality "Step 1" or credit quality "Step 2".	It is necessary to clarify that derivatives can or cannot be included in the cover pool. If they are included, derivatives have to meet Directive requirements. Otherwise - if they are not included in the cover pool - this is not necessary. We welcome Rapporteur amendment to the art. 15 that provides that derivative contracts are allowed for risk hedging purposes only and they do not contribute in any way to the calculation of the coverage requirement (if such coverage relates to the nominal principle only. In case the coverage relates also the interest component, derivatives should be considered even if they do not belong to the cover pool - as it is the case in many EU jurisdictions). We propose two amendments: (i) an amendment to the Directive in order to make sure that practises in jurisdictions where derivatives are not part of the cover pool are not disrupted (so a modification of Art 11 or 15); (ii) if derivatives are relevant for the coverage requirement calculation, the Regulation should provide that derivative counterparties can qualify also for the credit quality "step 3". Otherwise the new legal framework would limit the covered bond issuing in many European jurisdictions - where there are not step 1 or step 2 derivatives counterparties - paving the way for an unwanted disruption and fragmentation of the current market conditions.	high	Directive, Art. 11: "1. Member States shall ensure investor protection by allowing Derivative contracts to can be included in the cover pool. When derivatives are part of the cover pool, only where at least the following requirements are met: [...]" Regulation, Art. 129, 1 c: " exposures to credit institutions that qualify for the credit quality step 1 or credit quality step 2 or credit quality step 3 as set out in this Chapter".	EU
2	Extendable maturity structures Directive: Recital 22; Art. 16, par 5 Regulation: Recital 12(b), Art. 129, par. 7b	Directive, Recital 22: " [...] While investors are free to invest in assets with increased risk, the preferential treatment of covered bonds with extendable maturity structures should be scaled down with increasing risk." Regulation, Recital (12b) "Extendable maturities are a new development in the covered bond universe. They have not been taken into account when Article 129 of the CRR was devised. The possibility of maturity extensions makes covered bonds on the asset side of bank balances more risky - and less liquid in times of financial distress. This calls for increasing the risk weight. On the other hand, these bonds may be less risky if the maturity extension serves at preserving the value of cover pool assets by avoiding fire sales. This is an offsetting factor to the risk of reduced liquidity. For this reason, extendable maturities of one year or less should not be penalized with an increase in the risk factor. However, if asset prices have not recovered after a year, their reduced level may actually	The Rapporteur proposes to amend Article 129 CRR by a new paragraph 9, which gradually increases the risk weight for covered bonds whose maturity can be extended by more than a year. It is worth noting that covered bonds with extendable maturities (soft bullet and conditional pass through) account for more than 50% of the new issuances over the last years at EU level.	The different prudential treatment proposed by the Rapporteur for CB programmes with extendable maturities structures bring negative disruptive consequences in many EU markets, as Italy. Soft bullet or conditional pass-through structures smooth liquidity concerns embedded in the hard bullet model whose lack of flexibility in liquidating the cover pool could pave the way for a potential large fire sale that has to be addressed by requiring a specific liquidity buffer for each maturing bond. Conversely, in absence of a liquid and depth secondary mortgage market the extendable maturity structures provide to the investors additional relief reducing the expected losses associated to the cover pools. In fact, structures with extendable maturities reduce the probability of default of covered bonds and mitigate the physiological illiquidity of mortgage loans/public assets' secondary markets. After the issuer event of default, the Portfolio Manager could sell part of the cover pool in order to match payments due to the investors and other CB counterparties: the extension of the CB maturity would provide to the Portfolio Manager some flexibility during the sale of selected assets procedure, limiting the risks for the SPV in the fire-sale. We strongly support the principle that the switch to the extendable maturity phase of the	High	Directive, Recital 22, is deleted Regulation, Recital 12b is deleted Regulation, art. 129, par.7b, is deleted	EU

		be persistent. Hence, covered bonds with maturity extensions of more than a year should be viewed as shifting risk from the issuer to the investor. Since this type of covered bond is of higher risk than a standard fixed maturity bond, an increased risk weight is warranted." Regulation, art. 129, par. 7b: "The risk weights provided for in paragraphs 4, 5, and 8 shall be increased if the covered bond was issued with an extendable maturity structure under which its maturity can be extended by more than one year. The increase of the risk weight shall be equal to 5 percentage points if the maturity can be extended by at most three years; 10 percentage points if the maturity can be extended by at most five years; 15 percentage points if the maturity can be extended by at most ten years; 20 percentage points if the maturity can be extended by more than ten years. For the purpose of this Article, the length of a possible maturity extension is always the possible extension at the date of issue. " Directive, Art. 16, par. 5: " For extendable maturity structures, Member States shall ensure that the liquidity requirements for the repayment of principal are updated after a possible maturity extension so that they always match the payment needs at the time at which the principal is due."		guaranteed bonds must not be discretionary in order to avoid any regulatory arbitrage amongst asset classes. The importance of these structures is also recognised by investors. They have welcomed these structures without requiring additional premia; in particular, these structures have enhanced their level of comfort and transparency in case of insolvency scenarios. These structures represent a soft element not a hard element which is very much linked to investor appetite and market conditions. Bringing rigidity around this concept could trigger market disruptions in terms of the investors' perceptions and ultimate impact on the funding costs of issuers. The introduction of a different regulatory framework for these structures could be priced in by investors making these structures artificially different from the conceptual nature of other CB structures. In relation to above, the proposal of a different prudential treatment for extendable maturities structures should be deleted. Moreover, it is necessary to clarify that the liquidity buffer is not required in relation to "soft bullet" or "conditional pass through" structures, according to art. 16, par 5.			
3	Ordinary Covered Bonds Directive: Art. 6a	Directive, Art. 6 a	The Article 6a proposed by the Rapporteur allows for a broad range of non-CRR-compliant cover assets. As highlighted also by the Rapporteur, even assets which have been mentioned under the European Secured Notes (ESN) proposal in the INI report - such as SMEs credits - might be considered. Furthermore, we are in principle very cautious in evaluating the split of the 'traditional' Covered Bonds between Premium and Ordinary as at this stage neither from the investor side nor from the issuer side questions about this point have ever been raised.	We strongly believe that the banking industry needs a new dual recourse funding instrument for SMEs financing. Article 6a introduces a new category of instrument labelled as covered bond (OCB) that could meet this need. Although, the requirements for eligible cover assets seem to be envisaged for assets different from SMEs exposures and in practice there is no room to use this new instrument for SME financing. For this reason, we propose to reconsider the introduction of the "European Secured Notes" as SMEs funding instrument, as originally proposed in July 2017 also by the European Parliament in the INI Report ("Towards a pan-European covered bonds framework"). In alternative, we call for a revision of eligible criteria of OCB cover assets, that allows for the possibility to have SME portfolios to collateralise OCB issues. Concerning the proposed OCB category, it is essential to be cautious as many current covered bonds that are not CRR compliant or which may lose the CRR eligibility may also fall outside the scope of the OCB category. This would clearly be a paradox and should be avoided.	High	Art. 6b "1. Member States may allow credit institutions issuing debt instruments which meet the requirements laid down in this Directive, covered by SMEs exposures. These new instruments are labelled "European Secured Notes" (ESNs). 2. EBA lays down the minimum requirements that SMEs exposures have to meet. 3. The Regulation (EU) 575/2013 allows for a preferential treatment of ESNs."	EU

4	Liquidity Buffer Directive: Art. 16, par. 3 Regulation, Art. 129, par. 1 c	Directive, Art. 16, par 3. "Member States shall ensure that the cover pool liquidity buffer referred to in paragraph 1 consists of the following types of assets: (a) assets qualifying as level 1, level 2A and level 2B assets pursuant to Articles 10, 11 and 12 of Delegated Regulation (EU) 2015/61, valued in accordance with Article 9 of that Delegated Regulation and segregated in accordance with Article 12 of this Directive; (b) exposures to institutions as specified in Article 129(1)(c) of Regulation (EU) No 575/2013."	Liquidity buffers cover the net liquidity outflows of the covered bond programme over the next 180 days. Eligible liquid assets are Level 1, 2A assets and Level 2B as well as exposures to credit institutions qualifying "Step 1" or "Step 2".	It is necessary to allow exposures to credit institutions qualified also for the credit quality "Step 3" - to be eligible for liquidity buffer purposes. Limiting eligible counterparties to those with credit quality "Step 1" and "Step 2" restricts the market to a very limited number of eligible counterparties for many issuing banks, increasing the all-in cost of the programmes. Moreover, it is necessary to clarify that the liquidity buffer is not required in relation to "soft bullet" or "conditional pass through" structures, according to art. 16, par 5. We assume that liquidity segregated by provision of law in accordance with art. 12 of the Directive can also be eligible for liquidity buffer purposes. The credit quality of the counterparty is irrelevant for risk protection's purposes; in fact, the priority claim of the covered bond investor is ensured in the event of the issuer's insolvency or resolution.	High	Regulation, Art. 129, 1 c: "exposures to credit institutions that qualify for the credit quality step 1 or credit quality step 2 or credit quality step 3 as set out in this Chapter".	EU
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Source: ABI

9. Luxembourg

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Recital 15	(15) Another core feature of existing national covered bond frameworks is the fact that assets serving as collateral should be of very high quality in order to ensure the robustness of the cover pool. High quality assets are characterised by having specific features making them eligible to cover the claims attached to the covered bond. It is therefore appropriate to set out the general quality features that assets should respect in order to be eligible to serve as collateral. Assets listed in points (a) to (g) of Article 129(1) of Regulation (EU) No 575/2013 should be considered eligible to serve as collateral in the cover pool, within a covered bond framework, as should loans involving public undertakings as defined in Article 2(b) of Commission Directive 2006/111/EC but also other assets of a similar high quality could be considered eligible under the Directive, provided that it is possible to determine either their market value or mortgage lending value. Furthermore, the Directive should include rules to ensure that assets, including guaranteed loans, can be repossessed or called in through an enforceable protection agreement, whether in the form of a traditional mortgage or by a charge, lien or guarantee providing the same level of legal protection, and thus ensuring the same level of safety for investors. However, those provisions on the eligibility of assets should not prevent Member States from allowing other categories of assets to serve as collateral in their national frameworks provided the assets comply with Union law. Member States should also be free to exclude assets in their national frameworks.	Public undertakings as defined in Article 2(b) of Commission Directive 2006/111/EC should be considered eligible as cover assets similar to assets listed in points (a) to (g) of Article 129(1) of Regulation (EU) No 575/2013.	Public undertakings as defined in Article 2(b) of Commission Directive 2006/111/EC are of similar high quality as those listed in points (a) to (g) of Article 129(1) of Regulation (EU) No 575/2013 due to the direct or indirect dominant influence by virtue of the public authorities' ownership, their financial participation therein, or the rules which govern it. Paragraph 1 states that if the cover assets are eligible under Article 129 of the CRR or resulting from loans to public undertakings, none on the requirements in paragraphs 2 and 3 need to be met. These requirements only need to be met for other high-quality cover assets.	High	(15) Another core feature of existing national covered bond frameworks is the fact that assets serving as collateral should be of very high quality in order to ensure the robustness of the cover pool. High quality assets are characterised by having specific features relating to the claim being secured and the collateral asset backing them. It is therefore appropriate to set out the general quality features that assets should respect in order to be eligible to serve as collateral. Assets listed in points (a) to (g) of Article 129(1) of Regulation (EU) No 575/2013 and loans to public undertakings as defined in Article 2(b) of Commission Directive 2006/111/EC should be considered eligible as cover assets, within a covered bond framework. Other cover assets of a similar high quality could also be considered eligible under the Directive, provided that they comply with the legal requirements and the requirements for the collateral backing the claim for payment, reflecting their nature as either physical assets or assets in the form of exposures. Member States should be free to exclude assets in their national frameworks.	national
2	Article 6	Eligible assets 1. Member States shall ensure investor protection by requiring that covered bonds are at all times collateralised by high quality assets referred to in points (a) to (g) of Article 129(1) of Regulation (EU) No 575/2013 or by other high-quality assets that meet at least the following requirements:	Clarification As stated under Point 15 in the recital clause, also public undertakings as defined in Article 2(b) of Commission Directive 2006/111/EC should be considered eligible as cover assets similar to assets listed in points (a) to (g) of Article 129(1) of Regulation (EU) No 575/2013.	Avoiding inconsistent use of the word "assets" Public undertakings as defined in Article 2(b) of Commission Directive 2006/111/EC are of similar high quality as those listed in points (a) to (g) of Article 129(1) of Regulation (EU) No 575/2013 due to the direct or indirect dominant influence by virtue of the public authorities' ownership, their financial participation therein, or the rules which govern it. Paragraph 1 states that if the cover assets are eligible under Article 129 of the CRR or resulting from loans to public undertakings, none on the requirements in paragraphs 2 and 3 need to be met. These requirements only need	High	Eligible Cover assets 1. Member States shall require that covered bonds are at all times secured by assets referred to as eligible in points (a) to (g) of Article 129(1) of Regulation (EU) No 575/2013 and assets resulting of loans to public undertakings as defined in Article 2(b) of Commission Directive 2006/111/EC. Other high-quality cover assets have to meet the requirements as set out in paragraph 2 and backed by collateral assets as set out in paragraph 3.	national

				to be met for other high-quality cover assets.			
		(a) either the market value or mortgage lending value of the assets can be determined; (b) a mortgage, charge, lien or other guarantee on the asset is enforceable; (c) all legal requirements for establishing the mortgage, charge, lien or guarantee on the asset have been fulfilled; (d) the mortgage, charge, lien or guarantee securing the asset enable the credit institution issuing covered bonds to realise the value of the asset without undue delay. For the purposes of point (a), Member States shall lay down rules on valuation of assets. For the purposes of point (b), Member States shall lay down rules ensuring the prompt filing and registration of mortgages, charges, liens or guarantee on assets in the cover pool. For the purposes of points (b) and (d), Member States shall ensure that credit institutions issuing covered bonds assess the enforceability of assets before including such assets in the cover pool.	Inserting a new paragraph (2) which defines the requirements regarding the claim for payment referred to in paragraph 1.	Amended structure describing the legal requirements for the claim for payment. The mandatory existence of a public register recording the ownership and collateral rights is harming innovation in covered bond markets. There are countries where no public registration is required to secure the enforceability of an asset. Even the CRR does not require a public register for all eligible asset classes (e.g. public sector and exposure to institutions used as additional cover assets as defined in Article 129(1) (a) to (c) of Regulation (EU) No 575/2013). And therefore, the requirement for a public register should only applied on physical assets.		2. The claim for payment referred to in paragraph 1 shall meet the following legal requirements: (a) the mortgage, charge, lien, guarantee or other security on the claim is enforceable; (b) all legal requirements for establishing the mortgage, charge, lien, guarantee or security on the claim have been fulfilled; (c) the mortgage, charge, lien, guarantee or security securing the claim enable the credit institution issuing covered bonds to receive the payment of the claim without undue delay. For physical assets, Member States shall lay down rules for the purposes of point (b) ensuring the prompt filing or registration of mortgages, charges, liens, guarantees or securities on the claims in the cover pool. For the purposes of points (b) and (c), Member States shall ensure that credit institutions issuing covered bonds assess the enforceability of claims before including them in the cover pool.	
		2. Member States shall ensure investor protection by requiring that credit institutions issuing covered bonds have in place procedures to monitor that the assets used as collateral are adequately insured against the risk of damage.	Inserting a new paragraph 3 which defines the requirements regarding the collateral assets referred to in paragraph 1, which can be either physical assets or assets in the form of exposures.	Amended structure describing the legal requirements for the collateral assets.		3. The collateral assets referred to in paragraph 1 shall meet either of the following requirements: (a) for physical assets either the market or the mortgage lending value can be determined or, if this is not possible, the asset is valued by rules laid down by the Member State; (b) for assets in the form of exposures to a counterparty, the counterparty's safety and soundness is inferred from being subject to either public supervision or an on-going credit risk assessment based on a regulator-permitted IRB Approach as defined in Articles 143 and 144 of Regulation (EU) No 575/2013 or provided by an independent professional third party. For the purposes of point (a), Member States shall lay down rules on the valuation methodology and process ensuring that the collateral physical asset is valued by an independent valuer at or at less than market or mortgage lending value at the moment of inclusion in the cover pool. For the purposes of point (a) Member States shall require that credit institutions issuing covered bonds have in place procedures to monitor that the collateral physical assets are adequately insured against the risk of damage.	
		3. For the purposes of paragraphs 1 and 2, Member States shall require credit institutions issuing covered bonds to document the assets used as collateral and their lending policies regarding their compliance with those paragraphs.	Inserting a new paragraph 4 which defines the requirements for documentation.	Amended structure describing the legal requirements for documentation.		4. Member States shall require credit institutions issuing covered bonds to document the cover assets as referred to in paragraph 1 and their lending policies regarding their compliance with this Article.	
3	Article 7 paragraph 2 of the Directive	2. Where Member States allow for the inclusion referred to in paragraph 1, they shall ensure investor protection by verifying whether the assets located outside of the Union meet all the requirements set out in Article 6 and that the	Confirmation needed that assets outside the Union should still	Assets outside the Union or the European Economic Area should be allowed as collateral. However, Member States shall be free to limit the scope of eligible	high	2. Where Member States allow for the inclusion referred to in paragraph 1, they shall ensure investor protection by verifying whether the assets located outside of the Union meet all the requirements set out in Article 6 and that the realisation of such assets is legally enforceable in a way similar to assets located within the	national

		realisation of such assets is legally enforceable in a way similar to assets located within the Union.	qualify as eligible asset for a cover pool.	countries in their national frameworks. It is not justified to open the market for third countries (non-EEA) covered bonds on the one hand but excluding non-EEA assets in cover pools on the other hand.		Union. Members may lay down rules to limit the amount of assets outside the Union in a cover pool.	
4	Article 8 (d) of the Directive Article 9 paragraph 1 of the Directive	(d) both the internally and the externally issued covered bonds qualify for credit quality step 1 as referred to in Part Three, Title II, Chapter 2 of Regulation (EU) No 575/2013 and are collateralised by residential or commercial property mortgages.	Intragroup pooled covered bond structures should be allowed not only for covered bonds collateralised by residential or commercial property mortgages but for all eligible Assets in accordance Article 6 of the directive. The restriction on the covered bonds qualifying for credit quality step 1 is too tight. Also, credit quality step 2 should be allowed.	Discrimination of eligible assets based on Article 6 other than residential or commercial property mortgages should be avoided. Credit quality Step 2 covered bonds still represent a high quality. The use of intragroup pooled covered bond structures (and the underlying assets) vs the direct use of the underlying assets should not be overly penalized as there is no rating requirement in the directive for the directly used assets in a cover pool.	high	(d) both the internally and the externally issued covered bonds qualify for credit quality step 1 or 2 as referred to in Part Three, Title II, Chapter 2 of Regulation (EU) No 575/2013 and are collateralised by assets in accordance with Article 6 of this Directive.	EU
		1. Subject to the provisions in paragraph 2, Member States shall allow the use of loans collateralised by residential or commercial property mortgages, charges, liens or other comparable security rights granted by a credit institution as assets in the cover pool for the issue of covered bonds by another credit institution.	Joint funding should be allowed not only for the use of loans collateralised by residential or commercial property mortgages, charges, liens or other comparable security rights but for all eligible assets defined in Article 6 of this directive.	Discrimination of eligible assets defined in Article 6 other than residential or commercial property mortgages should be avoided. This includes the use of covered bonds issued by other credit institutions as collateral for the cover pool.		1. Subject to the provisions in paragraph 2, Member States shall allow the use of loans collateralised by assets in accordance with Article 6 of this Directive granted by a credit institution as assets in the cover pool for the issue of covered bonds by another credit institution. For the avoidance of doubt, this includes covered bonds issued by other credit institutions.	

Source: ABBL

10. The Netherlands

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Regulation & Directive	Amendment 4 (Regulation) and Amendment 7 (Directive)	Increased risk weighting for CB with extendable maturities	The EBA, the EC and the EP in its own initiative report never mentioned this topic. Further to this the proposed amendments show a lack of understanding of how CPT structures actually work. Lastly the ECON proposal is not based on a proper analysis and	High	The amendments should be deleted.	EU

				therefor unsubstantiated. For more we refer to the policy paper of the DACB.			
2	Directive	Amendment 54	Approval supervisory authority for a maturity extension	Asking for supervisory approval makes the maturity extension mechanism less transparent for investors. Besides this the supervisory authority has approved the CB program when it was launched, so that can be seen as an approval as well.	moderate	Delete this part of the sentence: "... and with approval by the competent authority."	EU
3	Directive	Amendment 11 and 32	Introduction Ordinary Covered Bonds (OCBs)	The introduction of OCBs could cause confusion in the market. Although outside of the scope of its CB Harmonisation Directive & Regulation the EC is looking at European Secured Notes as an alternative form of covered financing in comparison with CB. We fear that the introduction of OCBs still could taint the good standing of CB and as a result could do harm to the PCB segment of the market as well. Further to this the proposal does not exclude the issuance of ESNs, this could cause confusion in the market given the fact that there would be three types of covered funding instruments: PCBs, OCBs and ESNs.	high	To NOT introduce the concept of OCBs.	EU
4	Directive		Dutch issuers base their coverage calculations on the notional amounts for the primary cover assets (Dutch residential mortgages) as well as for the outstanding covered bonds. However, when issuers also include liquid (substitution) assets in their cover pool than these assets have to be valued at their market value. Dutch issuers therefore propose to adjust the text to reflect this.	The current wording of Article 15-2 could result in unintended consequences when calculating the minimum required over-collateralisation ratios. Issuers are either unjustifiably penalised or obtain unjustifiable advantage when calculating these ratios.	moderate	Member States shall ensure that the calculation of coverage and the calculation of liabilities is based on the same methodology, <i>except for substitution and / or liquid assets</i> .	national

Source: DACB

11. Norway

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Directive, Article 16	Member States shall ensure that the assets referred to in (a) will only be eligible for satisfying the cover pool liquidity buffer requirement if those assets are not essential for maintaining the credit institution's liquidity buffer	The suggested amendment does not address the issue that liquid assets in the cover pool are deemed as being encumbered when calculating the LCR. In a situation where a covered bond reaches its maturity within the 30-day LCR-period an issuer cannot make use of its liquid assets in the cover pool to fulfil the LCR-requirement as these assets are encumbered. This would imply that the issuer will be perceived as being less liquid than what is reality. The consequence	It is not rational to impose requirements that force issuers to have an additional liquidity buffer outside the cover pool, only to fulfil the LCR requirement. The purpose with the liquidity in the pool is to cover outgoing cashflows, and this liquidity is not in any way encumbered for being used to redeem maturing covered bonds. The two liquidity buffers will serve the same	High	Add the following paragraph in Art.16: 7. Assets in the cover pool liquidity buffer as referred to in paragraph 1 should be considered unencumbered when calculating liquidity	EU

		referred to in Title II of Delegated Regulation (EU) 2015/61 at least at a level equal to the “net liquidity outflows over a 30 calendar day stress period” referred to in Article 4 of that Delegated Regulation, assuming that the net liquidity outflow of the covered bond programme over the same 30 calendar day stress period is zero on the grounds of a sufficient liquidity buffer contained in the cover pool by virtue of paragraphs 1 and 2.	is that liquid assets need to be placed outside the cover pool to be deemed as unencumbered. This, however, would lower the over collateralisation or, worst case, may lead to a breach of the issuer’s overcollateralization requirement. This would be to the disadvantage of the investors and also lead to an issue similar to what the rapporteur pointed out with regards to LCR liquidity being left with the bank in case of insolvency/resolution. To avoid the above issue or the need for extra liquid assets outside the cover pool (double counting and not segregated in insolvency/resolution), one should add a paragraph allowing for liquid assets in the cover pool, intended to cover payments in relation to covered bonds, that are encumbered for the benefit of the covered bond investors, to be considered unencumbered only in the calculation of covered bond related cash-flows in the LCR. If deemed necessary, the paragraph should be implemented by amending Commission Delegated Regulation (EU) 2015/61 on the LCR.	purpose of ensuring liquidity for the covered bond investors. Hence, the covered bonds directive/LCR delegated act should be amended so that the assets in a segregated liquidity buffer in the cover pool are deemed unencumbered when calculating the fulfilment of liquidity requirements. The possibility of double liquidity requirements was also raised as a concern in the EBA report on covered bonds from 2016. Also note that the topic has been commented by the Basel Committee on Banking Supervision in the second set of frequently asked questions (FAQs) on the LCR framework (June 2017). Their answer on question 16 states an alternative solution which enables amounts in the pool that will become unencumbered in the next 30 days to be considered as inflows.		requirements specifically in relation to covered bond related cash flows, set out in other acts of Union Law.	
2	Directive, Article 11	2. For the purposes of ensuring compliance with the requirements listed in paragraph 1, Member States shall lay down rules for cover pool derivative contracts including at least: (...) (b) the limits on the amount of derivative contracts in the cover pool;	The ECON-report does not suggest any amendments to article 11 regarding derivatives. However, it is still a concern that the directive proposes member state rules for limiting derivative contracts. Given the requirements in paragraph 1 of Article 11 (especially that derivative contracts are included in the cover pool for risk hedging purposes only, cf. Art. 11. 1. (a)), we do not see the need for a limit on the amount of derivative contracts in the cover pool.	From a risk perspective, it is not rational to limit the issuers hedging of risk. A limitation will be negative for the covered bond investors. Also, the impact from derivative contracts on the cover pool are dependent on market fluctuations outside of the issuers control.	High	Delete Article 11 (b): (b) the limits on the amount of derivative contracts in the cover pool;	EU
3	Directive, Article 15	Delete the following point in Article 15 1. (c): (iv) derivative contracts held in accordance with Article 11;	Deleting point (iv) would imply that the value of derivative contracts cannot contribute to the coverage requirement. This would potentially lead to a substantial reduction of the coverage for issuers that have primary assets in a currency that differs from the currency of its outstanding covered bonds.	Derivative contracts are entered into to fulfil risk hedging requirements and potentially increased coverage must be seen as a consequence of increased value of these contracts. Derivative contracts are not entered into with the intention of fulfilling coverage requirements. Derivative contracts may only be included in the cover pool when used for risk hedging purposes, cf. Article 11. The proposed amendment may have a large negative impact for an issuer that has its cover pool assets in a different currency than its covered bonds. By not allowing for derivatives to contribute to the coverage, issuers could, in case of an adverse fx-rate movement, breach the coverage requirement. This could, effectively, lead to issuers being excluded from issuing covered bonds in a currency that differs from the denomination of its cover pool assets. Both effects are unacceptable. Hence, derivative contracts that fulfil the requirements in Article 11 should be included in the cover pool and contribute to the coverage. Note that the above issue also stems from the term “nominal amount” not being defined in the directive. If the nominal amount in the coverage requirement calculation takes the derivatives into account when	High	Refrain from deleting the following point in Article 15 1. (c): (iv) derivative contracts held in accordance with Article 11;	EU national

				determining the liability value of the covered bonds, then this may also address the above issue.			
4	Directive, Article 32	1. Member States shall adopt and publish, by [to be inserted – entry into force + 1 year] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	The transposition period should be extended to 2 years.	The ECON-report does not propose any amendments to article 32 on the transposition period. However, allowing a longer transposition period will ensure a correct implementation in the different jurisdictions, enabling a successful transition to a harmonized and well-functioning covered bonds market in Europe.		1. Member States shall adopt and publish, by [to be inserted – entry into force + 2 years] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	EU

Source: Finance Norway

12. Poland

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Regulation - Amendment 14/ Amendment 4 and Directive - Amendment No 7	Proposal for a regulation Article 1 – paragraph 1 – point 1 – point e Regulation (EU) 575/2013 Art. 129 7 b. The risk weights provided for in paragraphs 4, 5, and 8 shall be increased if the covered bond was issued with an extendable maturity structure under which its maturity can be extended by more than one year. The increase of the risk weight shall be equal to - 5 percentage points if the maturity can be extended by at most three years. - 10 percentage points if the maturity can be extended by at most five years. - 15 percentage points if the maturity can be extended by at most ten years. - 20 percentage points if the maturity can be extended by more than ten years. For the purpose of this Article, the length of a possible maturity extension is always the possible extension at the date of issue.	Proposed amendment increases the risk weights for covered bond issued with an extendable maturity structure under which its maturity can be extended by more than one year.	We believe that due to the following reasons the risk weights for the covered bond issued with an extendable maturity structure should not be increased: 1. The idea behind the extendable maturity structures is to reduce the risk of the investor. The Conditional Pass through feature of covered bond reduces credit risk related to the covered bond and in case of issuer's default the expected recovery rate for investor increases. 2. The maturity extension and switch to pass-through aims also to reduce refinancing risk, i.e. the risk of fire-sales. Moreover, in Poland the minimum level of overcollateralisation required by the law is 10%, which additionally increases the safety of the investor and offsets the potential refinancing risk related to the issuer's default. 3. In case of exercising the extension of maturity of covered bond the interest rate changes into float. Such a change ensures that the market value of the covered bond will not decrease due to the cash flows deferral. 4 Risk for the investors is reflected in assigned rating, which takes into account potential maturity extension. 5. Rating agencies in their methodologies underline that use of extendable maturity structures effectively decreases the risk related to the investment. See e.g. "Conditional Pass through Covered Bonds Can Remove Refinancing Risk Effectively" by Moody's. Thus, Conditional Pass through Covered Bonds have typically the higher and more stable rating. This is beneficial for rating-sensitive investors. Amendment 14 should not be implemented because it will have a huge adverse effect on the demand for CBs issued by institutions operating in jurisdictions, where cases for a maturity extension, even if not set out by the institution in the base prospectus and related final terms, are predefined in the existing national regulatory framework (in Poland especially in Insolvency Law). It means that all Polish CB should be treated as CB with extendable maturity structures and higher risk weights has highly significant impact on attractiveness of Polish CB on market and future issues. Apart from that, the justification provided for this amendment seems to be missing the fact that risk connected with such CBs will be included in their rating, therefore a new requirement for an additional increase of their risk weight will be double-penalizing.	High	As for the Regulation we would to remove the whole proposed paragraph. As for the Directive we would like to keep the Commission wording.	EU
2	Directive - Amendment No 45	Article 15 – paragraph 1 – subparagraph 1 – point c – point iv	Derivative contracts (coverage)	Derivative contracts are used for risk hedging purposes indeed but finally they contribute to the coverage through their impact on currency mismatch. Lack of derivatives in coverage calculation will lead to situation in which coverage level will be exposed to foreign exchange movements.	High	Our proposal is to keep the Commission wording.	EU
3	Regulation - Amendment 11	Article 1 - paragraph 1 - point 1 - point d	Level of overcollateralisation	In our opinion part of exposure above soft LTV limit should be included in OC calculation. This part is included in cover pool and benefits covered bonds investors.	Moderate	Our proposal is to keep the Commission wording.	National
4	Directive - Amendment No 21	Article 5 – paragraph 1	Acceleration of covered bonds	Proposal of amendment makes this provision too broad – "any form of acceleration". It will eliminate investors right to decide about potential acceleration of payment obligations.	Moderate	Our proposal is to keep the previous text, which enables the other than "automatic" acceleration of the covered bonds, especially on the basis of bondholders' decision; they should be entitled to intervene in bankruptcy procedure. Alternatively, paragraph 2 may be added as follows: "Member states may lay down rules for the covered bonds acceleration upon bondholders' decision"	national

Sources: PKO Bank Hipoteczny S.A., mBank Hipoteczny S.A., Pekao Bank Hipoteczny S.A.

13. Spain

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	art 6 of the Directive	Definition of critical assets	Introduction of a distinction between PCB and OCB	It puts at risk CB category as a well-defined and prestigious one. It represents a rather important innovation that eventually could hinder the approval of the Directive in time.	High	Keeping EC proposal wording	EU
2	art 8 of the Directive	Intragroup pooled CB structures	Elimination of the figure.	Against rapporteur's opinion joint funding (art 9) is not a perfect replacement of ICBS and the latter category ought to be preserved.	moderate	Keeping EC proposal wording BUT deleting letter c (Spanish Mortgage A. "traditional "position, since we understand it forbids self-retained CB)	EU

Source: Spanish Mortgage Association

14. Sweden

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Article 3(1) in the Directive	covered bond' means a debt obligation issued by a credit institution and secured by a cover pool of assets to which, in the case of resolution or insolvency of the covered bond issuer , covered bond investors have direct recourse to as preferred creditors;	ASCB is of the opinion that it would have been good if Mr Lucke had proposed further amendments to the definition of covered bonds, to make sure it is clear and comprehensive. Furthermore, references to the definition of covered bonds in other legal texts should always be made to (an enhanced version, see column F and H, of) article 3(1).	ASCB suggests that the definition should be based on the definition in the UCITS directive article 52(4), and 52(4) and include references to other relevant articles in the covered bonds directive. ASCB would specifically like to enhance the definition with requirements on regarding eligible assets.	High	covered bond' means a debt obligation issued by a credit institution under supervision according to article 18 secured by a cover pool of assets which covered bond investors have direct recourse to as preferred creditors that and which is a dual recourse instrument according to article 4, bankruptcy remote according to article 5, for which the assets in the cover pool shall be segregated according to article 12, and collateralised by eligible assets according to article 6;	EU
2	Article 16 in the Directive, paragraphs 3.1 a (new) and 4 (deleted)	(New) 3.1 a Member States shall ensure that the assets referred to in (a) will only be eligible for satisfying the cover pool liquidity buffer requirement if those assets are not essential for maintaining the credit institution's liquidity buffer referred to in Title II of Delegated Regulation (EU) 2015/61 at least at a level equal to the "net liquidity outflows over a 30 calendar day stress period" referred to in Article 4 of that Delegated Regulation, assuming that the net liquidity outflow of the covered bond programme over the same 30 calendar day stress period is zero on the grounds of a sufficient liquidity buffer contained in the cover pool by virtue of paragraphs 1 and 2. (Deleted) 4. Where the credit institution issuing covered bonds is subject to liquidity requirements set out in other acts of Union law, Member States may decide that the national rules transposing paragraphs 1, 2 and 3 do not apply throughout the period foreseen in those acts of Union law.	Mr Lucke's proposed subparagraph 3 is not an adequate solution for solving the problem with 30 days' double counting. The wording in article 16(4) should be kept, but amended in line with recital 21 and thus allow the Member States to decide that the paragraphs do not apply if the credit institution is subject to liquidity requirements in other acts of Union or national law	Liquidity should be managed centrally in the credit institution in accordance within the scope of legislation regarding liquidity already, and soon, in place (LCR, NSFR)	High	[The new paragraph 3.1 a deleted] 4. Where the credit institution issuing covered bonds is subject to liquidity requirements set out in other acts of Union or national law , Member States may decide that the national rules transposing paragraphs 1, 2 and 3 do not apply throughout the period foreseen in those acts of Union or national law.	EU
3	Article 6 a (new) in the directive		ASCB is of the opinion that the inclusion of non-CRR compliant assets would dilute the covered bond product.	The inclusion of additional layers of cover bonds would be detrimental to the whole covered bond concept and also delay the whole package.	High	[The new article 6 a deleted]	EU
4	Article 1(1) a) iii) in the Regulation, proposing amendments to CRR art 129, paragraph 1, subparagraph 3	If significant concentration problems in some Member States can be documented due to the application of the credit quality step 1 requirement referred to in point (c) of the first subparagraph, EBA may, for all credit institutions concerned and for a period of at most three years, waive the application of this subparagraph and allow credit quality step 2 exposures for up to 10% of the total exposure of the nominal amount of outstanding covered bonds of the issuing institution. EBA may repeal this decision any time, provided it grants credit institutions an adequate transition period.	It has become increasingly difficult to find credit institutions which have credit quality step 1. There is already relatively strict limitation for exposures towards credit institutions with lower credit quality, further limiting the possibility to get approval for such exposures would cause problems for the covered bond issuers.	There is a risk for significant concentration problems, particularly in smaller currency areas, if exposures were to be confined to credit institutions meeting credit quality step 1.	High	If significant concentration problems in some Member States can be documented due to the application of the credit quality step 1 requirement referred to in point (c) of the first subparagraph, EBA may, for all credit institutions concerned and for a period of at most three years, waive the application of point c) of the first subparagraph this subparagraph and allow credit quality step 2 exposures for up to 10% of the total exposure of the nominal amount of outstanding covered bonds of the issuing institution. EBA may repeal this decision any time, provided it grants credit institutions an adequate transition period.	EU

Source: ASCB

15. United Kingdom

Ranking of priority	Location	Precise passage concerned	Description of the Issue	Justification for potential amendment	Level of seriousness	Proposal for a wording update	Scope
1	Article 15	Paragraph 1	Deletion of derivatives from calculation of asset coverage (amendment 45)	Revert to original text so as to clarify that the hedged asset positions are recognised in coverage tests	High	Revert to original text so as to clarify that the hedged asset positions are recognised in coverage tests	National
2	Regulation Article 1 para 1 1a(iii)	Deletion of existing para	3-year limit on Step 2 credits being eligible proposed (amendment 6)	If credit ratings continue to deteriorate this may become impossible to meet	Moderate	Revert to original proposal	EU
3	Regulation article 1 para 1 e	introduction of sliding scale for extendable maturities	It goes beyond principle-based regulation and may limit valid market development/ disrupt existing markets (non-UK)	t goes beyond principle-based regulation and may limit valid market development/ disrupt existing markets (non-UK)	Moderate	Remove proposed paragraph	EU
4	Regulation article 1 para 1d	Limits on assets contributing to OC	amended to include assets in exposure limits	Do not believe that these assets should be subject to exposure limits	Moderate	Revert to original text	EU

Source: UK RCB