European Covered Bond Council (ECBC)

Collation of Feedback on the adopted documents of the Covered Bond legislative package (Derivative and Regulation amending the CRR) by the Parliament (ECON Committee) and the Council

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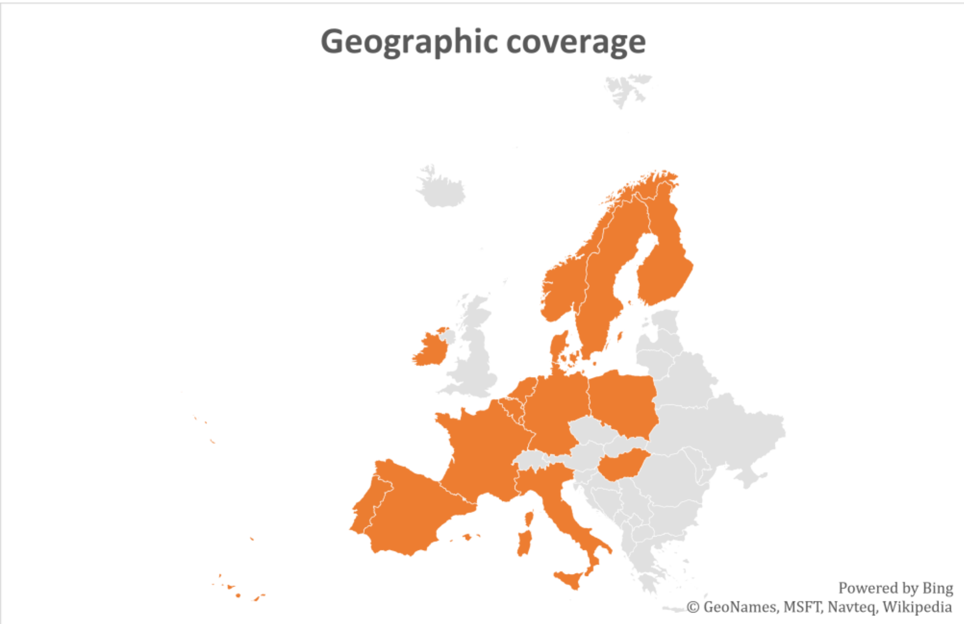
Brussels, 02 January 2019

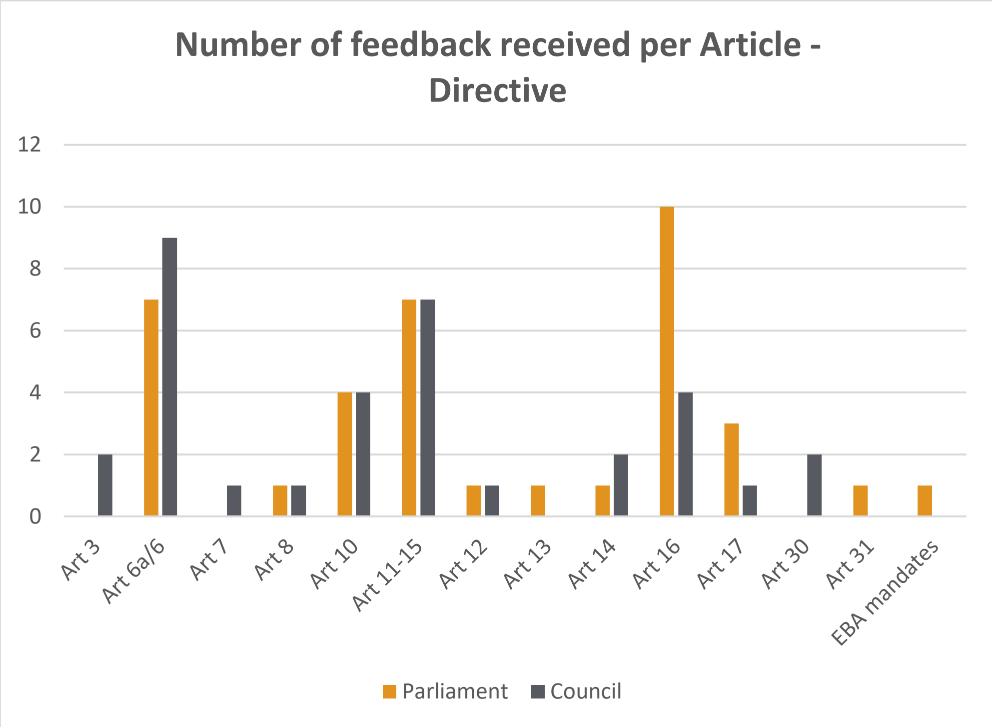
Introductory remarks:

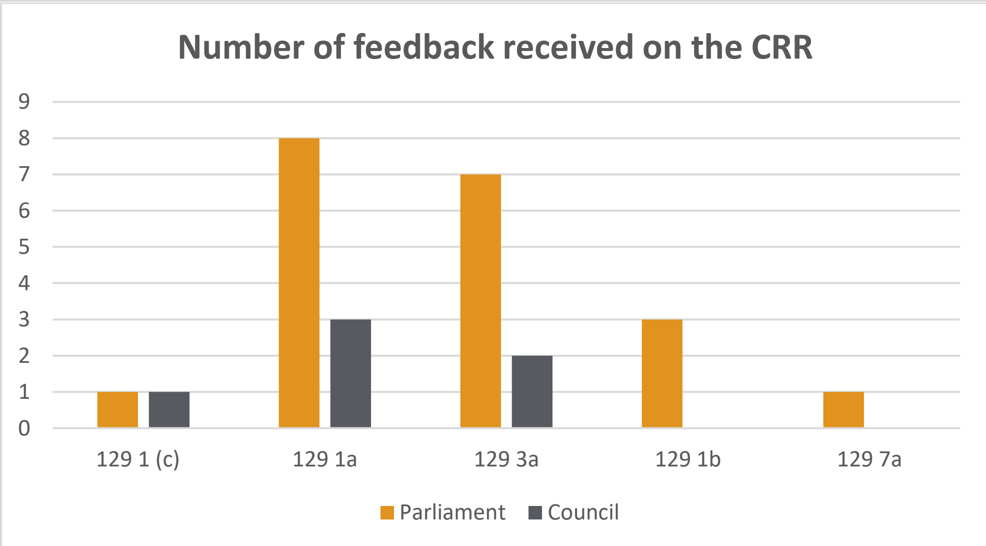
The EMF-ECBC welcomes the objectives of the European Commission's proposals for an EU Covered Bond Legislative Framework to promote further integration of the EU's financial markets and reinforce the Capital Markets Union (CMU) and is following very closely the work of the European Parliament in this area. In this respect and given the significance of this file for its membership, since the adoption by both the European Parliament on the 26 November (here the Directive and the Regulation texts) and the Council on the 28 November (here the Directive and the Regulation texts) of their respective versions of the Covered Bond legislative package, the EMF-ECBC has worked intensively in order to highlight the most pressing concerns which the covered bond industry still sees in the documents which are going to be discussed during the upcoming Trilogue meetings among Commission, Council and European Parliament.

The feedback collected would like to present article by article the issues which are considered to cause major concerns either from the Parliament or the Council versions in the various jurisdictions. This exercise consolidates feedback received from **15 countries** (depicted in the map here below) representing **87.3% of outstanding covered bonds** and **74.6% of total outstanding residential mortgages** in the European Economic Area (EEA).



For a more detailed overview of the feedback including the priority ranking and the underlying justification please refer to the Annex here below. The ECBC received in all 71 feedback on the directive versions and 26 on the regulation with a slight majority of comments on the Parliament versions over the Council ones. For the directive the most commented articles were (in decreasing order) Art 6, Art 16, the combination of Arts 11&15, and Art 10, whilst in the Regulation the amendments foreseen for Art 129 1a and 3a of the CRR had the most comments.





Overview of most critical concerns

The following overview collects most pressing concerns expressed for the 15 jurisdictions for which the ECBC received a feedback. It is organised around the articles on which the industry expressed concerns and highlights, besides the country raising it, also the precise issue and if there is a preference between the Parliament, Council or original Commission text added eventually by a new wording proposal. Moreover, if applicable, it is highlighted whether the concern is of national nature. Please refer to the Annex for the more detailed overview of replies in which the ranking of concerns per country and also the underlying justification for this concerns can be found.

Directive

Article 3 – Definitions

Country	Parliament Version	Council Version	Preference
Poland (1)		Art 3.3 - cover pool definition: The definition should be more precise as it is proposed in Parliament Report	**Parliament**
Poland (2)		Art 3.5 – specialised mortgage credit institution: The definition should be more precise as it is proposed in Parliament Report	**Parliament**

Article 6 – Cover Assets

Country	Parliament Version	Council Version	Preference
Belgium		Art 6.5: This is not how fire insurance contract works. The clients are free to choose the insurance company during the life of the loan. The claims from a damage are only ancillary rights (*national issue*).	**Commission**
Denmark	Article 6a, par. 4 (b): The interpretation of Article 6a, par. 4(b) should give a 70 percent LTV for all physical assets and the possibility to be raised to 80 percent LTV for residential property. The interpretation may not set a 60 percent with reference to points (f) and (g) of CRR Article 129(1) for commercial real estate and ships. The LTV limit for ships and commercial real estate should be 70 percent according to the first sentence in par. 4 (b) Article 6a, the section after par. 4 (e) : From a principle based approach any regulation in these areas should be left to Member States.		**An amendment to secure the correct interpretation could be necessary** **The section after par. 4 (e) should be deleted.**
France		Legal constraints/weaknesses could apply against this request	**Own wording**
Luxembourg (1)	6a 3: a required rating by a nominated ECAI is not feasible for many assets (also true for 129 CRR-compliant assets). A minimum rating threshold is neither appropriate nor justified. (*national issue*)		**Own wording**
Luxembourg (2)	**6a 4:** An insurance is not available for assets in the form of exposures (also true for assets referred to in CRR 129, 1 (a) to (c)). Shall be restricted to physical assets. (*national issue*)		**Own wording**

[Luxembourg (3)]()	**6a 4c:** The use of discount rates is not justified and has a negative effect on the financing / lending conditions for borrowers. (*national issue*)		**Own wording**
[Luxembourg (4)]()		6.1(b): Compared to the Parliament Report the definition of public undertaking is limited to "essential public services". The current wording requires that the public undertaking is the direct provider of the essential service. However, also a direct support provided by a public undertaking towards the essential public services shall be eligible. (*national issue*)	**Own wording**
[Luxembourg (5)]()		6.2 (a)-(d): The term "other guarantee" is not sufficiently determined. It is unclear if "other security rights" could also be included under this term.	**Own wording**
[Luxembourg (6)]()		6.3: Amended structure that describes the legal requirements for the collateral assets. The mandatory existence of a public register or certification of ownership recording the ownership and collateral rights is harming innovation in covered bond markets. There are assets where a public registration or an equivalent certification of ownership is not available and also not required to secure the enforceability of security interests.	**Own wording**
[Netherlands]()		The current description of eligible assets is too extensive and broad which could give rise to confusion in the market and could - potentially - cause harm to the CB label.	**Parliament**
[Norway]()	Allowing types of assets of lower quality will harm the Covered Bond brand.		**Parliament**
[Spain]()	Introduction of two categories of CB	No need to add new assets to current ones	**Commission**
[Sweden]()	Parliament art 6a and Council art 6.1(b) : non CRR compliant assets dilute CB product		Prefer the provisions to be deleted, otherwise prefer the **Parliament** Art 6a to the Council Art. 6.1(b)

Article 7 – Assets located outside of the Union

Country	Parliament Version	Council Version	Preference

Germany		Art 7.2: Scope of equivalence is unclear. Clarification that equivalence requirement refers to the collateral (enforceability of the collateral) and not to the insolvency laws	**Parliament**

Article 8 – Intragroup pooled covered bond structures

Country	Parliament Version	Council Version	Preference
Denmark	Setting a credit quality requirement on the covered bonds part of an intragroup joint funding setup seems not justified and would give an unwanted rating cliff effects that should be avoided. In addition, when rating agencies are rating the externally issued covered bonds, expectedly the rating agencies are considering the whole intragroup joint funding setup, i.e. all cover assets are assessed as if they were placed in only one cover pool. Thus, a specific rating of the internally issued covered bonds is irrelevant.		**Own wording**
Spain	Art 8 c: External CB necessarily intended to be sold to investors outside the group		**Own wording added**

Article 10 – Composition of the cover pool

Country	Parliament Version	Council Version	Preference
Belgium	What is considered homogeneous? Allowing different standards in different countries		**Council**
Denmark	Regarding the composition of the cover pool there is no need for such a requirement and it should be deleted. There is extensive disclosure on the composition of the cover pool.		**Deletion. If not deleted, better Council**
France	Paragraph 1 of the Article separates 3 primary assets classes. However, the list of eligible assets should only be defined in article 6. Then the second sub-paragraph, introduces uncertainty related to the existing possibility to mix, in one and only one cover pool, the first 2 primary assets classes: public assets (points (a) to (c)) with real estate assets (points (d) to (d)). Finally, we would prefer that the European directive text be clear enough so that there are no different interpretations when transposing it. Consequently, EBA guidelines would not be necessary.		**Council**
Germany	Art 10.1: Given the principle based nature of the Directive it is not justified to force Member States to allow multiple separate homogenous cover pools. It could lead to a number of small cover pools, which would have a negative impact on liquidity and would be much more difficult to manage.		**Council**

Poland		The possibility of multiple separate cover pools consisting of assets acceptable from the perspective of Art. 129 CRR should be clearly allowed.	**Parliament**
Spain		Homogeneity rule	**Parliament**

Article 11-15 – Derivative contracts in the cover pool & Requirements for coverage

Country	Parliament Version	Council Version	Preference
Denmark (1)	A specific valuation principle should not be mentioned in Art 11. This could give inconsistency with Art. 15 and valuation principles for the coverage requirement. In Article 15 investors are not necessary protected by a 'nominal principle' only including 'principal amounts'.		**Own wording**
Denmark (2)		**All** derivatives and not only currency derivatives should be in the coverage calculation. At the same time the cover assets and covered bonds which have been hedged by derivatives should be valued at the same valuation principle as the derivatives. This means that the technical valuation principles should be consistent.	**Own wording**
France	Art. 11 & Art. 15 Very unclear : meaning of : valuation; net cash-flow, period? How to deal properly with derivatives relating to currencies?	Art 15: confusion brought by the market value notion while addressing the possibility for MS to retain the nominal principle approach	**Own wording**
Italy	On Art 11: more clarity about the valuation criteria - market value instead of net cash flow basis	On Art 11: We would ask for more clarity about valuation criteria. We support a definition including "market-value" meaning MtM	**Own wording**
Netherlands	not clear wording regarding the valuation of derivatives are calculated on a net cash flow basis		**deletion**
Norway	We support the Parliament-proposal on including derivative contracts with a risk hedging purpose in the cover pool. However, we disagree with the proposal on valuation based on net cash flow.	We support the Council's proposal on including derivative contracts with a risk hedging purpose in the cover pool. Furthermore, it is crucial that the regulation allows the effects on outstanding debt from fx-movements to be counteracted by the corresponding effects on the derivatives. (*national issue*)	**Council**
Poland	1. The inclusion of derivatives is defined (how to value it) in Point b and Point c (iv) is defining other approach. 2. There is no clearly stated that liabilities resulting from derivatives		

	also should be included in coverage calculation.		
Sweden	Requirements for coverage are a central part of any covered bond legislation and it is still unclear how this provision should be transposed into national law and then applied. Specifically, it is not clear how derivatives should be treated in the calculation of coverage.	Art 15: Requirements for coverage are a central part of any covered bond legislation and it is still unclear how this provision should be transposed into national law and then applied. Specifically, it is not clear how derivatives should be treated in the calculation of coverage. The proposed article 15.2 and 15.3 are very technical and detailed and not in line with the minimum harmonisation objective of the directive.	**Council for 15.1 Parliament for 15.2 and 15.3**

Article 12 – Segregation of assets in the cover pool

Country	Parliament Version	Council Version	Preference
Germany	Art 12b: segregation of all assets in the cover pool shall be enforced at the latest immediately upon insolvency or resolution of the credit institution issuing covered bonds;	Art 12.2: Mandatory asset segregation in case of resolution	**Own wording**
Spain	External CB necessarily intended to be sold to investors outside the group		**Own wording added**

Article 13 – Cover pool monitor

Country	Parliament Version	Council Version	Preference
Portugal	The auditor of the credit institution should not be excluded from being appointed as cover pool monitor		**Council**

Article 14 – Investor information

Country	Parliament Version	Council Version	Preference
Germany		Art 14.2: Investor information on a glossary, data and criteria	**deletion**
Spain		Art 14.2: Member States' option	**deletion**

Article 16 – Requirement for a cover pool liquidity buffer

Country	Parliament Version	Council Version	Preference
Finland	Liquidity buffer as stated in Art 16 par (1-4) on cover pool is a new requirement for some jurisdictions and it will increase the costs substantially. Maturity extension should be allowed to be used as an efficient tool to handle liquidity risks.		**Council (Art 16.4)** **Commission (Art 16.5)**
France	Art 16.5: Uncertainty regarding liquidity benefits of Soft bullet instruments translating into buffer requirements		**Council**
Hungary (1)	Based on the text the liquidity buffer shall be composed in the part of cover pool, as additional coverage which results administrative		**Own wording**

	burden and costs for institutions who do not have additional coverage. (i.e. due to cover pool monitor cost) (*national issue*)		
Hungary (2)	Art 16.3: Regarding Article 16. of Directive – to provide exemption for specialized banks: Throughout Europe a universal banking principle is in place, however there are countries (like Hungary, Poland or Denmark) that use a specialized banking principle. In these latter cases the scope of the banks is severely limited (most importantly they cannot collect deposits) and satisfying the liquidity requirements would generate a disproportionately large problem for these mortgage banks. (*national issue*)		**deletion**
Italy	Art 16.5: not clear wording. Consistently with the right of selling a portion of the portfolio after the extension trigger has occurred, the new regulatory liquidity buffer for soft bullet (SB) or conditional pass through (CPT) has to be calculated on the final maturity (including the relevant extension) and stated at directive level, not delegated to each EU Member State.	The liquidity buffer requirement is a new legal requirement and its implementation should be homogenous across all the jurisdictions. Therefore, we believe that this element should be stated at directive level and not delegated to each EU Member State.	**Council**
Netherlands	Art 16.5: This would make both the SB and CPT structured considerably less attractive if not kill these type of structures all together		**Commission**
Norway	Finance Norway supports the derogation in paragraph 4 allowing member states to coordinate different liquidity requirements to avoid double requirements with the same purpose. However, from our point of view it should have been explicitly stated that this also should be the case for liquid assets in the cover pool which are perceived as encumbered and hence cannot be used in fulfilling the LCR-requirement. (*national issue*)		**Council** proposal on the intention to coordinate the interaction between the different liquidity requirements in preamble 21. **Parliament** proposal on the interaction between the liquidity buffer and the LCR as described in Art. 16. 4. (suggesting to include an expectation on avoiding double liquidity requirements also on the encumbrance and LCR-issue)
Portugal	Art 16.5: Excessive Liquidity provision		**Council**
Spain	Art 16.3: Option on behalf of Member States to avoid "overlapping" between LCR assets and CB buffer assets		**Deletion** since the Directive itself should directly prevent any form of overlapping
Sweden	Art 16.5: In order for extendable maturity structures to have the intended effect, the calculation of the liquidity buffer requirements should be based on the extended final maturity date.		**Council**

Article 17 – Conditions for extendable maturity structures

Country	Parliament Version	Council Version	Preference
Belgium	Art 17 b: Approval of the competent authority will jeopardize the liquidity benefit we get from the rating agencies. As the maturity extension should be automatic under the trigger of an extension		**Council**
Denmark	Article 17, par. 1(b): The wording is not clear and could give different interpretations. Article 17, par. 1a: There is no need for EBA to develop objective financial triggers.		**Own wording** **Art.17 par 1a should be deleted**
Finland	Art 17 par. (1)(b) wording might be too restrictive considering the current formats, depending on the interpretation. An objective and clearly defined trigger can also be a notification from the issuer, stated in the contract according to art 17 par (1)(a).		**Deletion**
Portugal (1)		The proposed version by Council raises doubts and is hardly practicable	**Parliament**
Portugal (2)	Art 17b: Lesser flexibility in setting out the specific circumstance whereby the maturity can be extended		**Council**

Article 30 – Transitional measures

Country	Parliament Version	Council Version	Preference
France		Art 30.2: Should also apply to assets or way of transfer	**Own wording**
Sweden		Art 30.2: ASCB appreciates that there are transitional measures, to avoid interruptions in the markets, and that those transitional measures also allow for tap issues. The requirement which have to be fulfilled in order for tap issues to be allowed are however too extensive, at least the volume caps should be deleted. The geographical limitation set out in point (d) seems contrary to the principle of freedom of movement, which is a key element of the EU single market. (*national issue*)	**Parliament**

Article 31 - Equivalence

Country	Parliament Version	Council Version	Preference
Italy	The provision leaves space to create a potential future differentiation between Covered Bonds creating a possible market disruption also deriving from a uncertainty on the evaluation. In this regard, it should be considered that extendable maturity covered bonds are a well-established form of bond present in the portfolio of investors.		**Council**

EBA Mandates

Country	Parliament Version	Council Version	Preference
Germany	EBA shall develop draft regulatory technical standards further specifying … (granularity & concentration criteria and objective financial triggers for maturity extension): Full technical harmonisation incompatible with principles based approach, jeopardises small issuers and small CB markets. Contradiction with Art. 17 par. 1(b) where financial triggers must be established by national law		**deletion**

Regulation

Article 129 1(c)

Country	Parliament Version	Council Version	Preference
Sweden	Issue related to the one exposed under Art 129 1a		**Own wording**

Art 129 1a

Country	Parliament Version	Council Version	Preference
Belgium	We would have liked that the primary assets would have been at all time min 85% and that the substitution assets could have been as high as needed. Would have been a solution of your liquidity needs for a high repayment of a covered bond		**Own wording**
Denmark	Article 129, new par. 1a, last section. This section of the regulation should not be deleted. Seems to be a mistake that it has been deleted since deletion not part of compromise text.		**Commission**
Germany	Art. 129 (1a) 2nd sub-par. is redundant because Art. 129 already contains a valuation/monitoring/review clause for real estate in its par. 3 (referring to Art. 208 CRR). using an indexation method based on market prices of immovable property.		**deletion**
Italy (1)	According to the new paragraph 1.a (ba) exposures in the form of short term deposits and derivative contracts to credit institutions that qualify for the credit quality step 3, shall not exceed 5% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution. It is necessary to allow exposures in the form of short-term deposit and derivatives to credit institutions which qualify for credit quality step 3 up to a maximum of 10% of the total exposure of the nominal amount of outstanding covered bonds of the issuing institution.		**Council**
Italy (2)	The proposed limit of 80% shall not be applied on a "loan-by-loan basis". Moreover, it is not necessary that the values of the pledged properties shall be monitored on a regular basis and updated annually by the issuer.		**Council**
Italy (3)	The limit of 5% provided for by letter (ba) is not aligned with the 15% cap provided for by letter c). It is necessary to amend letter (ba) by increasing that limit to 10% also to make this provision fully consistent with provision under letter c).		**Council**
Netherlands	How is exposure calculated/determined? We assume that derivative contracts in this respect will be valued at market value and that the exposure will be calculated AFTER collateral has been taken into account (in which case the exposure will be close to zero). The current text is not clear with respect to this.		**Own wording**

Sweden	If derivative contracts for risk hedging purposes are to be seen as exposures, limiting the amount of allowed exposures to credit institutions in the form of assets held for liquidity buffer purposes as well as such derivative contracts for risk hedging purposes would entail a considerable risk that these actors would have to choose between exceeding the set limits or not hedging their currency and interest rate risks properly. This could severely undermine the functioning of the affected covered bond markets	**Own wording**

Article 129 1b

Country	Parliament Version	Council Version	Preference
Spain	The compulsory use of indexation methods is in opposition to current Spanish practice. (*national issue*).		**deletion**
Poland	In Poland Mortgage Lending Value (MLV) is used with is long term value of the property. So it is not indexed and such requirement is excessive and hard to apply. (*national issue*)		

Article 129 3a

Country	Parliament Version	Council Version	Preference
Denmark	There is no need to change the Commission's proposal regarding the treatment of OC-assets in the form of exposures to credit institutions		**Commission**
Germany (1)	(a) the calculation of overcollateralisation is either based on a model which takes into account the assigned risk weights of the assets or a model where the valuation of the assets is subject to mortgage lending value as defined in Article 4(1)(74);		**Council**
Germany (2)	3a par 3: The assets contributing to a minimum level of overcollateralisation shall be subject to the requirements on credit quality and to the limits on exposure size set out in paragraph 1. They shall count towards the respective limits.		**Council**
Hungary	Responsibility on OC derogation		**Council**
Poland	Exclusion form the calculation of the overcollaterlisation part of exposure above soft LTV limit (*national issue*)		**Council**
Sweden	Par 3: Assets contributing to a minimum level of overcollateralisation should not count towards the exposure limits.		

ANNEX - Detailed Country Replies (ordered alphabetically):

1. Belgium

Source: Belfius, BNP Paribas Fortis, ING

1.1. Directive

1.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**Art.6 (5)**	… and the insurance claim is segregated in accordance with Article 12	This is not how fire insurance contract works. The clients are free to choose the insurance company during the life of the loan. The claims from a damage are only ancillary rights in case of an enforcement of a defaulted loan.	High	see description of the issue	national	Keep the wording of the commission → delete "and the insurance claim is segregated in accordance with Article 12"

1.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art17 (b)	***the maturity can be extended only in the event of insolvency or resolution of the issuer and with approval by the competent supervisory authority or under objective financial triggers established by national law***;	Approval of the competent authority will jeopardize the liquidity benefit we get from the rating agencies. As the maturity extension should be automatic under the trigger of an extension	high		EU	Council text is fine
2	Art10	***Member States shall allow multiple separate homogeneous cover pools***	What is considered homogeneous? Allowing different standards in different countries	Medium		EU	**Council text is fine**

1.2. Regulation

1.2.1. Council

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 129 1a	"(a) for exposures to credit institutions that qualify for the credit quality step 1 the exposure shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing credit institution; (b) for exposures to credit institutions that qualify for the credit quality step 2 the exposure shall not exceed 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;"	We would have liked that the primary assets would have been at all time min 85% and that the substitution assets could have been as high as needed. Would have been a solution of your liquidity needs for a high repayment of a covered bond.	medium		EU	We would inverse the reasoning. Min 85% primary assets and rest can be substitution assets

1.2.2. Parliament

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 129 1a	(a) for exposures to credit institutions that qualify for the credit quality step 1 the exposure shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing credit institution; (b) for exposures to credit institutions that qualify for the credit quality step 2 the exposure shall not exceed 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;	We would have liked that the primary assets would have been at all time min 85% and that the substitution assets could have been as high as needed. Would have been a solution of your liquidity needs for a high repayment of a covered bond	Medium		EU	We would inverse the reasoning. Min 85% primary assets and rest can be substitution assets

2. Denmark

Source: Finance Denmark

2.1. Directive

2.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 15, par. 2	The calculation of the level of coverage required shall ensure that the aggregate principal amount of all cover assets is equal to or exceeds the aggregate principal amount of outstanding covered bonds ('nominal principle'). For this purpose, Member States may allow derivative contracts relating to currencies to be included in the calculation of the level of coverage in accordance with the nominal principle, calculated at market value. Where the derivative contract relating to currencies is governed by a master agreement including only derivative contracts relating to currencies, the market value shall be replaced by the amount payable by one counterparty to the other upon early termination of the master agreement. Member States may allow for other principles of calculation provided they do not result in a higher ratio of coverage than that calculated under the nominal principle.	**All** derivatives and not only currency derivatives should be in the coverage calculation. At the same time the cover assets and covered bonds which have been hedged by derivatives should be valued at the same valuation principle as the derivatives. This means that the technical valuation principles should be consistent.	High	In general, valuation principles should be consistent between instruments. Otherwise risk hedging/matching efforts between loans and covered bonds might be ignored and even contribute to fluctuations in the coverage ratio and in random overcollateralization needs due to fluctuations in the part of the instruments valued at market value. If the market value of interest rate derivatives (and all other types of derivatives) are not included in the coverage calculation it can lead to an increase in the risk in the cover pool to the detriment of investor protection. The increased costs associated with the nominal principle and the exclusion of some types of derivatives can also lead to increased consumer prices on covered bond loans. Furthermore the valuation principle and coverage requirement in CRR Article 129, new par. 3a regarding the level of overcollateralisation should be consistent with an amendment of the principle in Article 15.	EU	The calculation of the level of coverage required ensures that the total value of all assets in the cover pool are at least of the same value as the total outstanding covered bonds. Member States may lay down rules on the valuation of assets and covered bonds. For this purpose, Member States may allow derivative to be included in the calculation of the level of coverage.
2	Art 10	Member States shall ensure investor protection by laying down rules on the composition of cover pools. The rules shall describe, where relevant, the conditions for credit institutions issuing covered bonds to include primary cover assets that have different characteristics in terms of structural features, lifetime of the cover assets or risk profile. Member States may lay down rules on the level of homogeneity required from assets in the cover pool.	Regarding the composition of the cover pool there is no need for such a requirement and it should be deleted. There is extensive disclosure on the composition of the cover pool.	High			Delete Article 10 in both Council and parliament text. If not deleted prefer the Council text.

3	Art 8, par. 1 (d)	(d) both the internally and the externally issued covered bonds qualify for credit quality step 1 or credit quality step 2 as referred to in Part Three, Title II, Chapter 2 of Regulation (EU) No 575/2013 and are collateralised by eligible cover assets as referred to in Article 6;	Setting a credit quality requirement on the covered bonds part of an intragroup joint funding setup seems not justified and would give an unwanted rating cliff effects that should be avoided. In addition, when rating agencies are rating the externally issued covered bonds, expectedly the rating agencies are considering the whole intragroup joint funding setup, i.e. all cover assets are assessed as if they were placed in only one cover pool. Thus, a specific rating of the internally issued covered bonds is irrelevant.	High		EU	(d)both the internally and the externally issued covered bonds are collateralised by eligible cover assets as referred to in Article 6; An amendment in line with this is needed in the parliament text.

2.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 11, par. 1 (a) and Art 15(b)	Article 11, par. 1 (a) the derivative contracts are included in the cover pool exclusively for risk hedging purposes; the valuation of which is calculated on a net cash flow basis; Article 15, par. 1 (b) the calculation of the level of coverage required ensures that: (i) the total nominal amount of all assets in the cover pool, with the exception of assets which are derivatives, are at least of the same value as the total nominal amount of outstanding covered bonds ('nominal principle'); and (ii) assets and liabilities resulting from derivatives are valued on a net cash flow basis;	A specific valuation principle should not be mentioned in Article 11. This could give inconsistency with Article15 and valuation principles for the coverage requirement. In Article 15 investors are not necessary protected by a 'nominal principle' only including 'principal amounts'.	High	In general, valuation principles should be consistent between instruments. Otherwise risk hedging/matching efforts between loans and covered bonds might be ignored and even contribute to fluctuations in the coverage ratio and in random overcollateralization needs due to fluctuations in the part of the instruments valued at market value. Depending on business model cover assets and the outstanding covered bonds plus derivatives can be valued on an accounting, nominal or market value basis. Thus, the paragraph must be more principle based leaving it to the Member States to make sure that the technical valuation principles are consistent.	EU	Article 11, par. 1 (a): the derivative contracts are included in the cover pool exclusively for risk hedging purposes. (Delete: the valuation of which is calculated on a net cash flow basis) Article 15, par. 1(b): The calculation of the level of coverage required shall ensures that the total value of all assets in the cover pool are at least of the same value as the total outstanding covered bonds. Member States may lay down rules on the valuation of assets and covered bonds. For this purpose, Member States may allow derivative contracts held in accordance with Article 11 to be included in the calculation of the level of coverage

					Furthermore the valuation principle and coverage requirement in CRR Article 129, new par. 3a regarding the level of overcollateralisation should be consistent with an amendment of the principle in Article 15.		
2	Art 6a, par. 4 (b) and Art 6a, the section after par. 4 (e)	**Article 6a, par. 4 (b):** (b) physical assets referred to in point (a) of paragraph 3 serve as collateral for cover pool claims with at most 70% of their value. For physical assets referred to in points (d) to (g) of Article 129(1) of Regulation (EU) No 575/2013, the percentage of the value may be higher, but it shall not exceed the maximum percentage applicable to that type of asset in that Regulation. The value shall be determined in accordance with the applicable rules referred to in paragraph 3 of this Article at the time of initial funding of the loans with covered bonds **Article 6a, the section after par. 4 (e)** : EBA shall develop draft regulatory technical standards further specifying for each class of primary assets of a cover pool: (a) the minimum number of distinct cover pool assets that ensures sufficient granularity, as referred to in point (d) of the first subparagraph; (b) the absence of material concentration, referred to in point (e) of the first subparagraph, as a percentage of aggregate exposure not to be exceeded by any exposure to a single obligor. The EBA shall submit those draft regulatory standards by ... [one year after the date of entry into force of this Directive]. Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No. 1093/2010.	**Article 6a, par. 4 (b):** The interpretation of Article 6a, par. 4(b) should give a 70 percent LTV for all physical assets and the possibility to be raised to 80 percent LTV for residential property. The interpretation may not set a 60 percent with reference to points (f) and (g) of CRR Article 129(1) for commercial real estate and ships. The LTV limit for ships and commercial real estate should be 70 percent according to the first sentence in par. 4 (b) **Article 6a, the section after par. 4 (e) :** From a principle based approach any regulation in these areas should be left to Member States.	High		EU	**Article 6, par. 4 (b)** An amendment to secure the correct interpretation could be necessary **Article 6a, the section after par. 4 (e)** The mandates to EBA should be deleted.

2	Art 17, par. 1 (b) and Art 17, par. 1a	**Article 17, par. 1 (b):** (b) the maturity can be extended only in the event of insolvency or resolution of the issuer and with approval by the competent supervisory authority or under objective financial triggers established by national law; **Article 17, par. 1a:** The EBA shall develop draft technical standards further specifying the objective financial triggers referred to in point (b) of paragraph 1, including objective tests for such triggers. The EBA shall submit those draft regulatory standards by ... [one year after the date of entry into force of this Directive]. Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the third subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.	**Article 17, par. 1(b):** The wording is not clear and could give different interpretations. **Article 17, par. 1a:** There is no need for EBA to develop objective financial triggers.	High		EU	**Article 17, par. 1(b):** **Keep the text from the Commission's proposal .** **Article 17, par. 1a:** The mandates to EBA should be deleted.

2.2. Regulation

2.2.1. Council – no comment

2.2.2. Parliament

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 1: Art 129, new par. 1a (last section deleted)	This paragraph shall not apply to the use of covered bonds as eligible collateral as permitted pursuant to Article 9 of Directive (EU) 20xx/xxxx [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].	This section of the regulation should not be deleted. Seems to be a mistake that it has been deleted since deletion not part of compromise text.	High	Collateralisation of covered bonds by pooled covered bond structures should be allowed without limits related to the amount of outstanding covered bonds of the issuing credit institution. This is also stated in recital 7.	EU	Keep the text from the Commission proposal with an amendment of the reference to Article 8 instead of Article 9 in the Covered Bonds directive .
2	Art 1: Art 129, new par. 3a	The assets contributing to a minimum level of overcollateralisation shall ▌ be subject to the ***requirements on credit quality and to the limits on exposure size set out in*** paragraph 1***.*** ***They*** shall ▌ count towards ***the respective*** limits.	There is no need to change the Commission's proposal regarding the treatment of OC-assets in the form of exposures to credit institutions	High	Assets used to fulfil the OC-requirement should not be subject to limits on exposures to credit institutions in CRR article 129.It will still only be able to use exposures with a high credit quality.	EU	Keep the text from the Commission proposal .

3. Finland

Source: Finance Finland

3.1. Directive

3.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art. 17 (1)(b)	(b) the maturity extension is not triggered at the discretion of the credit institution issuing covered bonds;	Art 17 par. (1)(b) wording might be too restrictive considering the current formats, depending on the interpretation. An objective and clearly defined trigger can also be a notification from the issuer, stated in the contract according to art 17 par (1)(a).	High	Investors have full transparency of soft bullet structures since maturity extension triggers are specified in contracts as stated in Art 17 par (1)(a), which preserves investor protection. Investors are institutional, professional investors, not retail investors.	EU	Delete art. 17 par (1)(b)

3.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 16	par 1-5	Liquidity buffer as stated in Art 16 par (1-4) on cover pool is a new requirement for some jurisdictions and it will increase the costs substantially. Maturity extension should be allowed to be used as an efficient tool to handle liquidity risks.	Very high	To maintain national flexibility to handle liquidity risks in the most efficient manner, Member States should be allowed to decide that the 180-day liquidity buffer should not apply if the issuer is subject to other appropriate liquidity requirements in other acts of Union or national laws in line with recital 21.	EU	For 16 (4) we support the Council text which leaves national flexibility to coordinate between different liquidity requirements. For 16 (5) we prefer the Commission ordinary wording.
2	Art. 17 (1)(b)	(b) the maturity can be extended only in the event of insolvency or resolution of the issuer and with approval by the competent supervisory authority or under objective financial triggers established by national law;	Art 17 par. (1)(b) wording might be too restrictive considering the current formats, depending on the interpretation. An objective and clearly defined trigger can also be a notification from the issuer, stated in the contract according to art 17 par (1)(a).	High	Investors have full transparency of soft bullet structures since maturity extension triggers are specified in contracts as stated in Art 17 par (1)(a), which preserves investor protection. Investors are institutional, professional investors, not retail investors.	EU	Delete art. 17 par (1)(b)

3.2. Regulation

3.2.1. Council – no comments

3.2.2. Parliament – no comments

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4. France

Source: CRH

4.1. Directive

4.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Requirement for coverage Art 15	Art 15.2 "For this purpose, MS may allow derivative contracts relating to currencies to be included in the calculation of the level of coverage in accordance with the nominal principle, calculated at market value	confusion brought by the market value notion while addressing the possibility for MS to retain the nominal principle approach	Very High	It is critical that countries that apply accrued accounting and not market value not suffer any uncertainty	EU	Art 15.2 "For this purpose, MS may allow derivative contracts relating to currencies to be included in the calculation of the level of coverage in accordance with the nominal principle~~, calculated at market value~~
2	Eligible Cover assets Art 6.5	Art 6.5 "MS shall require that credit institutions issuing covered bonds have in place procedures to monitor that physical assets used as collateral assets referred to in paragraph 1 point (a) and (b) are adequately insured against the risk of damage a**nd the insurance claim is segregated in accordance with Article 12**	Legal constraints/weaknesses could apply against this request	Very High	Form a legal standpoint, the insurance indemnification might be directly captured by the borrower, making it impossible to get it captured by the lender and segregated in the cover pool	EU	Art 6.5 "MS shall require that credit institutions issuing coverd bonds have in place procedures to monitor that physical assets used as collateral assets referred to in paragraph 1 point (a) and (b) are adequately insured against the risk of damage a~~nd the insurance claim is segregated in accordance with Article 12~~
3	Art. 30	Transitional measures	Should also apply to assets or way of transfer	High	Would make sure the CB Directive will not disrupt any CB market by allowing potential pitfalls to be remedied by the transposition date	EU	« Transitional measures should be added for the assets in the cover pool included to the cover pool before the date laid down in the second subparagraph of Article 32(1) of this Directive + 1 day"]. These assets are not subject to the requirements set out in Articles 6 to 12"

4.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Derivatives and connex Coverage Ratio(Arts 11 &15)	Art. 11. 1 (a)(addition to initial text) "... the valuation of which is calculated on a net cash flow basis" & Art.15 1 (b)ii	Art. 11 & Art. 15Very unclear : meaning of : valuation; net cash-flow, period? How to deal properly with derivatives relating to currencies?	Very High	It is critical that countries that apply accrued accounting and not market value can have a consistent approach between assets in the cover pool and derivatives (which on top would be coherent with Art. 15 2, setting coherence in method b/w coverage ratio and liabilities)	EU	Art 11 1 (a)delete addition to original text: beyond unclarity, valuation concept misplaced in this article. Art.15 1. (b) (ii) Member States may allow derivative contracts relating to currencies to be included in the calculation of the level of coverage in accordance with the nominal principle Art.15 1. (c) (iv) upon Member States decision, cash payments received from derivative contracts held in the cover pool

1	Requirement for a cover pool liquidity buffer **Art. 16.5**	For extendable maturity structures, MS shall ensure that the liquidity requirements for the repayment of principal are updated after a possible maturity extension	Uncertainty regarding liquidity benefits of Soft bullet instruments translating into buffer requirements	Very High	it is legitimate that the extended period of these instruments are taken into account for the computation of the requirements for the liquidity buffer, as proposed by the EC and the Council. EC and Council's wording should be reinstated.	EU	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.
1	Homogeneity (Art. 10)	3 last sentences in Article 10: "Member Sates shall allow multiple separate homogeneous cover pools in respect of a class of primary assets. This Article shall not apply to public credit assets, derivative contracts or substitution assets comprised in the cover pool. 2, EBA shall monitor the range of practices in this area and shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines on the application of this Article".	Par 1 of the Article separates 3 primary assets classes. However, the list of eligible assets should only be defined in article 6. Then the second sub-paragraph, introduces uncertainty related to the existing possibility to mix, in one and only one cover pool, the first 2 primary assets classes: public assets (points (a) to (c)) with real estate assets (points (d) to (d)). Finally, we would prefer that the European directive text be clear enough so that there are no different interpretations when transposing it. Consequently, EBA guidelines would not be necessary.	Very High	May unduly jeopardise existing and well-functioning covered bond business models	EU	We support the amendments suggested by the Council of the European Union. "Member States shall ensure investor protection by laying down rules on the composition of cover pools. The rules shall describe, where relevant, the conditions for credit institutions issuing covered bonds to include primary cover assets that have different characteristics in terms of structural features, lifetime of the cover assets or risk profile. Member States may lay down rules on the level of homogeneity required from assets in the cover pool."

4.2. Regulation

4.2.1. Council

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 1 1a (b1)	For exposures in the form of short-term deposits **and derivative contracts** to credit institutions that qualify for credit quality step3, the exposures shall not exceed 10% of the total exposures of the nominal outstanding covered bonds of the issuing institution	Could potentially mean that derivatives must be taken into account in the computation of the maximum substitution assets amount	Very High	Taking into account that derivative contracts are used for hedging purpose only, implementing a limit in the amount on these contracts could conduct to the situation where issuers would not be able to hedge all of currency and interests rate risks.	EU	For exposures in the form of short-term deposits ~~and derivative contracts~~ to credit institutions that qualify for credit quality step3, the exposures shall not exceed 10% of the total exposures of the nominal outstanding covered bonds of the issuing institutions

4.2.2. Parliament – no comments

5. Germany

Source: vdp

5.1. Directive

5.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art. 7 par 2	MS shall ensure investor protection by requiring assets located outside of the Union to 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.	Scope of equivalence is unclear. Clarification that equivalence requirement refers to the collateral (enforceability of the collateral) and not to the insolvency laws	high	Alignment of the wording with the parliament version	EU	Member States shall ensure that the collateral offers a similar level of security to collateral held in the Union and that the realisation of such assets is legally enforceable in a way similar to assets located within the Union. Parliament
2	Art. 14 par. 2 (h)	a glossary with definitions, data sources and criteria	Investor information on a glossary, data and criteria	high	Investor information on a glossary, data and criteria is legally uncertain (type of data & criteria?) and will not be comparable on European level - no added value	EU	Deletion
3	Art. 12 par. 2	The segregation of assets in the cover pool referred to in paragraph 1 shall also apply in the case of insolvency or resolution of the credit institution issuing covered bonds.	Mandatory asset segregation in case of resolution	high	Asset segregation in case of resolution is systemically inconsistent. Resolution is designed to rescue the bank as a going concern. Asset segregation in such a case is incompatible with this target.	EU	The segregation of assets in the cover pool referred to in paragraph 1 shall apply in the case of insolvency of the credit institution issuing covered bonds.

5.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art. 10 par. 1, last sub-par.	Member States shall allow multiple separate homogeneous cover pools in respect of a class of primary assets.	Contradiction with Art. 10 par. 1. first part	high	This par. must be designed as a national option instead of a mandatory rule. Or alignement with the Council version	EU	Member States MAY allow multiple separate homogeneous cover pools in respect of a class of primary assets - or application of the Council wording
2	EBA mandates: Art. 6a par. 4 last sub-par.	EBA shall develop draft regulatory technical standards further specifying … (granularity & concentration criteria and objective financial triggers for maturity extension):	EBA mandates for RTS (granularity & concentration risks and	high	Full technical harmonisation incompatible with principles based approach, jeopardises small issuers and small CB markets. Contradiction with	EU	Deletion

	Art. 17 par. 1a		maturity extension triggers)		Art. 17 par. 1(b) where financial triggers must be established by national law		
3	Art. 12 (b)	segregation of all assets in the cover pool shall be enforced at the latest immediately upon insolvency or resolution of the credit institution issuing covered bonds;	Asset segregation in case of resolution	high	Asset segregation in case of resolution is systemically inconsistent. Resolution is designed to rescue the bank as a going concern. Asset segregation in such a case is incompatible with this target.	EU	segregation of all assets in the cover pool shall be enforced at the latest immediately upon insolvency of the credit institution issuing covered bonds;

5.2. Regulation

5.2.1. Council – no comments

5.2.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art. 129 (1a) new	The values of the pledged properties shall be monitored on a regular basis and updated annually by the issuer by using an indexation method based on market prices of immovable property.	Art. 129 (1a) 2nd sub-par. is redundant because Art. 129 already contains a valuation/monitoring/review clause for real estate in its par. 3 (referring to Art. 208 CRR).	high	Art. 129 (1b) would contradict Art. 129 (3). In Art. 129 (3), statistical methods are restricted to monitoring and not available for reviewing/updating property values. Art. 129(1b) would allow statistical methods also for update/review. Update/review of property values is different from monitoring property values!	EU	Deletion of Art. 1(b) first sentence of the second sub-par.
2	Art. 129 (3a point a) new	(a) the calculation of overcollateralisation is either based on a model which takes into account the assigned risk weights of the assets or a model where the valuation of the assets is subject to mortgage lending value as defined in Article 4(1)(74);	The wording restricts the option to apply a lower ratio than 5% OC to real estate finance and excludes the application of a 2% OC to public sector lending	high	Alignment with the Council version in order to make lower ratios than 5% OC available for public sector lending	EU	the calculation of overcollateralisation is either based on an approach which takes into account the underlying risk of the assets or an approach where the valuation of the assets is subject to mortgage lending value as defined in Article 4(1)(74);
3	Art. 129 (3a), 3rd sub-par.	The assets contributing to a minimum level of overcollateralisation shall be subject to the requirements on credit quality and to the limits on exposure size set out in paragraph 1. They shall count towards the respective limits.	OC subject to all eligibility criteria and exposure limits	high	Alignment with the Council version in order to remove the limits	EU	The assets contributing to a minimum level of overcollateralisation shall not be subject to the limits on exposure size as set out in paragraph 1a and shall not count towards those limits.

6. Hungary

Source: Hungarian Banking Association

6.1. Directive

6.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**Article 16.**	**Article 16 para 3a and 4**	Regarding Article 16. of Directive – to provide exemption for specialized banks: Throughout Europe a universal banking principle is in place, however there are countries (like Hungary, Poland or Denmark) that use a specialized banking principle. In these latter cases the scope of the banks is severely limited (most importantly they cannot collect deposits) and satisfying the liquidity requirements would generate a disproportionately large problem for these mortgage banks.	HIGH	Liquidity requirements should address risks that are not mortgage bond specific and we believe that the existing regulation (LCR) provides a satisfactory environment to potential investors. Furthermore having to provide the liquid assets 180 days prior maturity might have side effects as it may push issuers towards issuing series of smaller volumes. **While this may result in a smoother maturity structure it would also mean a market saturated with less liquid mortgage bond series.**	**national**	We believe that the proposed regulation should take the case of these countries into consideration by : a) either offering exemption for the specialized banks b) by enable these institutions to meet the requirements in group level
2	**Art 16.**	**Art. 16 para 1 liquidity buffer in cover pool**	Based on the text the liquidity buffer shall be composed in the part of cover pool, as additional coverage which results administrative burden and costs for institutions who do not have additional coverage. (i.e. due to cover pool monitor cost)	HIGH	The text results administrative burden and costs for institutions who do not have additional coverage. (i.e. due to cover pool monitor cost) -This encumbered liquid asset cannot be taken into account at LCR.	national/EU	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

6.1.1. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**Art 16.**	**Article 16 para 3a and 4**	Regarding Article 16. of Directive – to provide exemption for specialized banks: Throughout Europe a universal banking principle is in place, however there are countries (like Hungary, Poland or Denmark) that use a specialized banking principle. In these latter cases the scope of the banks is severely limited (most importantly they cannot collect deposits) and satisfying the liquidity requirements would generate a disproportionately large problem for these mortgage banks.	HIGH	Liquidity requirements should address risks that are not mortgage bond specific and we believe that the existing regulation (LCR) provides a satisfactory environment to potential investors. Furthermore having to provide the liquid assets 180 days prior maturity might have side effects as it may push issuers towards issuing series of smaller volumes. **While this may result in a smoother maturity structure it would also mean a market saturated with less liquid mortgage bond series. We believe that the proposed regulation should take the case of these countries into consideration by : a) either offering exemption for the specialized banks b) by enable these institutions to meet the requirements in group level.**	**national**	**We propose the deletion of point 3a and 4.** - since other regulations regarding liquidity are already in place (LCR) and the new directive is one-sided in that it differentiates between assets that can be taken into account regarding the different requirements but it does not do the same for liabilities. This could result in a case where mortgage banks would need to provide twice as much liquid assets for their bonds maturing within 30 days (once for LCR and once for the liquidity buffer requirement).
2	**Art 16.**	**Art. 16 para 1 liquidity buffer in cover pool**	Based on the text the liquidity buffer shall be composed in the part of cover pool, as additional coverage which results administrative burden and costs for institutions who do not have additional coverage. (i.e. due to cover pool monitor cost)	HIGH	The text results administrative burden and costs for institutions who do not have additional coverage. (i.e. due to cover pool monitor cost) - This encumbered liquid asset can not be taken into account at LCR.	national/EU	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

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6.2. Regulation

6.2.1. Council

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**Article 1. of amendment fully agree with Council text**	Article 1 d) **Member State** is responsible for OC	Responsibility on OC derogation	HIGH	In order to have a level playing field and homogenous legislation in place Member State shall be responsible for OC derogation exclusively.	**EU**	

6.2.2. Parliament

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**Article 1.**	Article 1 d) Member States may decide to apply a lower minimum level of overcollateralisation to covered bonds or may authorise their competent authorities to do so, provided that the following conditions are met:	Responsibility on OC derogation	HIGH	In order to have a level playing field and homogenous legislation in place Member State shall be responsible for OC derogation exclusively.	**EU**	We suggest to **delete** the text **" or may authorise their competent authorities to do so".**

7. Ireland

Source: BPFI

7.1. Directive

7.1.1. Council

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 10	allows member states to set rules around pool composition and homogeneity of assets.	We prefer the certainty provided by the Parliament text which sets out what will be considered sufficiently homogenous thus removing any doubt as to what rules a member state will introduce which results in a more harmonised approach.				Parliament
2	Art 15.1a	Coverage requirement to include “expected costs related to maintenance and administration for the wind down of the covered bond programme”	this is a massively difficult calculation to make and again, we would suggest deletion as it adds a layer of undue complexity without a clear value for investors.				deletion
3	Art 15.1b	b) the calculation of the level of coverage required ensures that: (i) the total nominal amount of all assets in the cover pool, with the exception of assets which are derivatives, are at least of the same value as the total nominal amount of outstanding covered bonds ('nominal principle'); and (ii) assets and liabilities resulting from derivatives are valued on a net cash flow basis;	text here is unclear – what does “claims attached to derivatives” mean? The Parliament text is preferable as it is clearer by referring to money actually received				Parliament

7.1.2. Parliament

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 14.2	Investor requirements	What does "available" coverage mean? Unclear. Should be clarified that it just refers to assets in the cover pool to remove any doubt it is referring to non-pool assets.				Council text on this is preferable.
2	Art 15 1a and Art 15 1c v		1.(1)(a) – including costs relating to admin and maintenance is a hard calculation to make and should be removed as it will add undue complexity to the calculation with little value for investors that we can see. 2. (1)(c) (v) – as raised before, we don't understand how "Statutory Overcollateralisation" can count towards the pool coverage requirements. Suggest deletion and not in Council text.				Deletion or Council text (for Art 15 1c v)
3	Art 16.5		language is very unclear.				Council text is much clearer, so we would prefer to see that text used

7.2. Regulation

7.2.1. Council

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 129 1a b	(b) for exposures to credit institutions that qualify for the credit quality step 2 the exposure shall not exceed 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;	issue with the 10% limit on credit quality step 2 exposures as this is a new limit and would currently have a 15% limit.				

2	**Art 129 3a**	For the purposes of the first subparagraph, the total nominal amount of all assets in the cover pool shall be at least of the same value as the total nominal amount of outstanding covered bonds ('nominal principle') and consist of eligible assets as set out in paragraph 1.	This should be expanded to also allow for other more conservative methodologies that may be in use e.g. prudent market approach.				

7.2.2. Parliament

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**Art 129 1a b**	(b) for exposures to credit institutions that qualify for the credit quality step 2 the exposure shall not exceed 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;	issue with the 10% limit on credit quality step 2 exposures as this is a new limit and would currently have a 15% limit.				
2	**Art 129 3a**	For the purposes of the first subparagraph, the total nominal amount of all assets in the cover pool shall be at least of the same value as the total nominal amount of outstanding covered bonds ('nominal principle') and consist of eligible assets as set out in paragraph 1.	This should be expanded to also allow for other more conservative methodologies that may be in use e.g. prudent market approach.				
3	**Art 129 7a**	(d) the limit referring to the portion of the loan contributing to the coverage of liabilities is not higher than 100%."	new paragraph 7(a) which appears to permit up to 100% LTV. We feel that allowing such high LTV levels weaken the covered bond product. This proposal is not in the Council text.				

8. Italy

Source: ABI

8.1. Directive

8.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 16 (Requirement for a cover pool liquidity buffer)	Art.16 5. Member States may allow for the calculation of the principal for extendable maturity structures has to be based on the final maturity date of the covered bond.		High	The liquidity buffer requirement is a new legal requirement and its implementation should be homogenous across all the jurisdictions. Therefore, we believe that this element should be stated at directive level and not delegated to each EU Member State.		Art.16 5. ~~**Member States may allow for**~~ **T**he calculation of the principal for extendable maturity structures has to be based on the final maturity date of the covered bond.
2	Art 11 (Derivative contracts in the cover pool)	Art. 11 par. 1 lett. a) 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;	We would ask for more clarity about valuation criteria.	High	We support a definition including "market-value" meaning MtM		Art. 11 par. 1 lett. a) 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; **the valuation of which is calculated on mark-to-market basis;**

8.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 16 (Requirement for a cover pool liquidity buffer)	Art.16 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 up to the time when the last principal is due.	Consistently with the right of selling a portion of the portfolio after the extension trigger has occurred, the new regulatory liquidity buffer for soft bullet (SB) or conditional pass through (CPT) has to be calculated on the final maturity (including the relevant extension) and stated at directive level, not	High	We tend to support - albeit with some changes - the EC and the Council proposals (seemingly, they are identical). In particular, the liquidity buffer requirement is a new legal requirement and its implementation should be homogenous across all the jurisdictions. Therefore, we believe that this element should be stated at directive level and not delegated to each EU Member State. Consistently with the right of selling a portion of the portfolio after the extension trigger has occurred, the new regulatory liquidity buffer for soft bullet (SB) or conditional pass through (CPT) has to be calculated on the final maturity (including the relevant extension; in line with EBA 2016 Report). The extendable maturity structures are		Article 16 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 up to the time when the last principal is due.~~ **The calculation of the principal for extendable maturity**

			delegated to each EU Member State		measures used to address the liquidity risk as the liquidity buffer. These structures reduce the PD of CBs and mitigate the physiological illiquidity of mortgage loans/public assets secondary assets.		**structures has to be based on the final maturity date of the covered bond**
2	Art 31 a (Reviews and reports)	Art. 31 a 2.By ... [two years after the date of entry into force of this Directive], the Commission shall, after ordering and receiving a study on the subject and after consulting the EBA and the ECB, adopt a report assessing the risks stemming from extendable maturities of covered bonds with such structures. Particular emphasis shall be devoted to the risks borne by investors which hold such bonds in times of crisis. The Commission shall submit that study and that report to the European Parliament and to the Council, together with a proposal if appropriate.	The provision leaves space to create a potential future differentiation between Covered Bonds creating a possible market disruption also deriving from a uncertainty on the evaluation. In this regard, it should be considered that extendable maturity covered bonds are a well-established form of bond present in the portfolio of investors.	High	We strongly support the Council stance on this matter (i.e. no clause at all). We tend to believe that the Directive should incorporate best practices and avoid market disruption. It should be considered that extendable maturity covered bonds are a well-established form of bond present in the portfolio of investors.		***Delete*** ~~Art. 31 a 2.By ... [two years after the date of entry into force of this Directive], the Commission shall, after ordering and receiving a study on the subject and after consulting the EBA and the ECB, adopt a report assessing the risks stemming from extendable maturities of covered bonds with such structures. Particular emphasis shall be devoted to the risks borne by investors which hold such bonds in times of crisis. The Commission shall submit that study and that report to the European Parliament and to the Council, together with a proposal if appropriate.~~
3	Art 11 (Derivative contracts in the cover pool)	Art. 11 par. 1 lett. a) 1. Member States shall ensure that derivative contracts can be included in the cover pool. They shall also ensure that, where derivatives are part of the cover pool at least the following requirements are met: (a) the derivative contracts are included in the cover pool exclusively for risk hedging purposes; the valuation of which is calculated on a net cash flow basis;	We would ask for more clarity about valuation criteria.	High	We support a definition including "market-value" meaning MtM, instead of "net cash flow basis"		Art. 11 par. 1 lett. a) 1. Member States shall ensure that derivative contracts can be included in the cover pool. They shall also ensure that, where derivatives are part of the cover pool at least the following requirements are met: (a) the derivative contracts are included in the cover pool exclusively for risk hedging purposes; the valuation of which is calculated on ~~a net cash flow basis~~ **mark-to-market basis**;

8.2. Regulation

8.2.1. Council – no comments

8.2.2. Parliament

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 1 Amendments to Regulation (EU) No 575/2013	... (b) the following paragraphs 1a, 1b and 1c are inserted: "1a. For the purposes of point (c) of the first subparagraph of paragraph 1, the following shall apply: ... (ba) for exposures in the form of short term deposits and derivative contracts to credit institutions that qualify for the credit quality step 3, the exposure shall not exceed 5% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;	According to the new paragraph 1.a (ba) exposures in the form of short term deposits and derivative contracts to credit institutions that qualify for the credit quality step 3, shall not exceed 5% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution. It is necessary to allow exposures in the form of short-term deposit and derivatives to credit institutions which qualify for credit quality step 3 up to a maximum of 10% of the total exposure of the nominal amount of outstanding covered bonds of the issuing institution	High	We strongly support the Council's stance on this matter. The 5% limit excessively restricts the possibility for credit institutions which qualify for credit quality step 3 to use derivatives and short-term deposit as collateral for covered bonds. It is necessary to amend the rule, allowing exposures in the form of short-term deposit and derivatives to credit institutions which qualify for credit quality step 3 up to a maximum of 10% of the total exposure of the nominal amount of outstanding covered bonds of the issuing institution. Please also consider that the introduction of a specific cap for CQS3 risks creating an unlevel playing field between short term exposures merely on the basis of their rating quality (i.e. exogenous assessments by rating agencies) and in so doing risks representing a very serious anomaly within the CRR framework as a whole (with particular reference to Article 120 CRR). Therefore, we strongly support the Council's approach in this regard i.e. the proposal to increase this limit to 10%.	EU	... (b) the following paragraphs 1a, 1b and 1c are inserted: "1a. For the purposes of point (c) of the first subparagraph of paragraph 1, the following shall apply: ... (ba) for exposures in the form of short term deposits and derivative contracts to credit institutions that qualify for the credit quality step 3, the exposure shall not exceed ~~5%~~ **10%** of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;

2	Art 1 Amendments to Regulation (EU) No 575/2013	... (b) the following paragraphs 1a, 1b and 1c are inserted: ... 1b. For the purposes of point (d)(i) of the first subparagraph of paragraph 1, the limit of 80 % shall apply on a loan by loan basis and shall determine the portion of the loan contributing to the coverage of liabilities attached to the covered bond and be applicable throughout the entire maturity of the loan. The values of the pledged properties shall be monitored on a regular basis and updated annually by the issuer by using an indexation method based on market prices of immovable property. The full loan amount, irrespective of the limit set out in the first subparagraph of this paragraph, shall be subject to the segregation of assets in the cover pool pursuant to Article 12 of Directive (EU) 20xx/xxxx [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 Directive2014/59/EU].	According to paragraph 1.b. first sentence, the proposed limit shall apply on a loan by loan basis. According to paragraph 1.b second sentence, the values of the pledged properties shall be monitored on a regular basis and updated annually by the issuer.	High	With reference to the first sentence, we strongly support the Council stance i.e. not to apply a "loan-by-loan basis" principle. With reference to the second sentence, we strongly support the Council stance i.e. in our opinion this provision is not necessary.		(b) the following paragraphs 1a, 1b and 1c are inserted: 1b. For the purposes of point (d)(i) of the first subparagraph of paragraph 1, the limit of 80 % shall ~~**apply on a loan by loan basis and shall determine**~~ **refer to** the portion of the loan contributing to the coverage of liabilities attached to the covered bond and be applicable throughout the entire maturity of the loan. ~~**The values of the pledged properties shall be monitored on a regular basis and updated annually by the issuer by using an indexation method based on market prices of immovable property. The full loan amount, irrespective of the limit set out in the first subparagraph of this paragraph, shall be subject to the segregation of assets in the cover pool pursuant to Article 12 of Directive (EU) 20xx/xxxx [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 Directive2014/59/EU].**~~
3	Art 1 Amendments to Regulation (EU) No 575/2013	(c) the total exposure to credit institutions that qualify for at least quality step 3 as set out in this Chapter shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing credit institution. The total exposure to credit institutions that qualify for less than credit quality step 1 as set out in this Chapter shall not exceed 10 % of the nominal amount of outstanding covered bonds of the issuing credit institution.	The proposed limit of 80% shall not be applied on a "loan-by-loan basis". Moreover, it is not necessary that the values of the pledged properties shall be monitored on a regular basis and updated annually by the issuer.	High	We support Council's wording. Actually, the limit of 5% provided for by letter (ba) is not aligned with the 15% cap provided for by letter c). It is necessary to amend letter (ba) by increasing that limit to 10% also to make this provision fully consistent with provision under letter c). In any case, should the Council's wording be retained, this issue is solved.		~~(c) the total exposure to credit institutions that qualify for at least quality step 3 as set out in this Chapter shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing credit institution. The total exposure to credit institutions that qualify for less than credit quality step 1 as set out in this Chapter shall not exceed 10 % of the nominal amount of outstanding covered bonds of the issuing credit institution.~~ **(c) the total exposures to credit institutions that qualify for credit quality step 1, credit quality step 2 or credit quality step 3 shall not exceed 15 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution. The total exposures to credit institutions that qualify for credit quality step 2 or credit quality step 3 shall not exceed 10% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution.**

9. Luxembourg

Source: ABBL

9.1. Directive

9.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**Art. 6.1. (b)**	Member States may include in point (a) assets in the form of loans involving public undertakings as defined in Article 2(b) of Commission Directive 2006/111/EC, insofar as they are of a similar high quality as assets eligible in accordance with this paragraph due to these public undertakings providing essential public services and their safety and soundness being ensured by sufficient revenue generating powers	Compared to the Parliament Report the definition of public undertaking is limited to "essential public services". The current wording requires that the public undertaking is the direct provider of the essential service. However, also a direct support provided by a public undertaking towards the essential public services shall be eligible.	high	Definition of a "public undertaking" should be aligned to the definition used in the Parliament report without the limitation to the (non-defined) term "essential public service".	national	Member States may include in point (a) assets in the form of loans involving public undertakings as defined in Article 2(b) of Commission Directive 2006/111/EC, as they are of a similar high quality as assets eligible in accordance with this paragraph.
2	**Art. 6.2. (a) - (d)**	The claim for payment referred to in paragraph 1 point (b) shall meet the following legal requirements: (a) the asset represents a claim for payment of monies with a minimum value determinable at all points in time, which is legally valid and enforceable and not subject to conditions other than that it matures at a future date and is secured by a mortgage, charge, lien or other guarantee; (b) the mortgage, charge, lien or other guarantee securing the claim for payment is enforceable; (c) all legal requirements for establishing the mortgage, charge, lien or guarantee securing the claim for payment have been fulfilled; (d) the mortgage, charge, lien or guarantee securing the claim for payment enables the credit institution issuing covered bonds to recover the value of the claim without undue delay.	The term "other guarantee" is not sufficiently determined. It is unclear if "other security rights" could also be included under this term.	high	Due to the fact that "other guarantee" is not sufficiently determined, "other security rights" should be included explicitly.	EU	The claim for payment referred to in paragraph 1 point (b) shall meet the following legal requirements: (a) the asset represents a claim for payment of monies with a minimum value determinable at all points in time, which is legally valid and enforceable and not subject to conditions other than that it matures at a future date and is secured by a mortgage, charge, lien, guarantee or other security right; (b) the mortgage, charge, lien, guarantee or other security right securing the claim for payment is enforceable; (c) all legal requirements for establishing the mortgage, charge, lien, guarantee or other security right securing the claim for payment have been fulfilled; (d) mortgage, charge, lien, guarantee or other security right securing the claim for payment enables the credit institution issuing covered bonds to recover the value of the claim without undue delay.

3	**Art. 6.3.**	Where, for the purposes of point (a), a public register is not available for a specified physical asset, Member States may provide for an alternative form of certification of ownership and claims over that physical asset, insofar as it is equivalent to the protection provided by a public register	Amended structure that describes the legal requirements for the collateral assets. The mandatory existence of a public register or certification of ownership recording the ownership and collateral rights is harming innovation in covered bond markets. There are assets where a public registration or an equivalent certification of ownership is not available and also not required to secure the enforceability of security interests.	high	Certain security rights do not legally require a registration in a public register to make the security right effective and enforceable. Legal opinions can be provided to confirm the legal effectiveness of such rights and their enforceability. Examples of legal opinions confirming the effectiveness of collaterals for regulatory purposes can already be found in the CRR.	EU	For physical assets, Member States shall lay down rules for the purposes of point (a) ensuring the prompt filing or registration of mortgages, charges, liens, guarantees or other securities on the claims in the cover pool. In cases where a filing or registration in a public register is not legally required to perfect the security, Member States shall lay down rules for legal opinions confirm their legal effectiveness and enforceability.
GENERAL REMARK	**Art. 6**	The intention of the harmonisation was not to put existing, functioning covered bond markets in a worse position than under current existing covered bond legislations and to avoid any market disruptions. The report on the proposal by ECON represent a missed opportunity of linking the CB directive to the sustainability agenda and permitting expansion and innovation of the covered bond framework.					

9.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**6a; para 3. (b)**	for loans to a public undertaking, that undertaking is subject to public supervision, or the exposure or the counterparty is rated as investment-grade by a nominated ECAI	a required rating by a nominated ECAI is not feasible for many assets (also true for 129 CRR-compliant assets). A minimum rating threshold is neither appropriate nor justified.	serious risk	A regulator-permitted IRB Approach as defined in Articles 143 and 144 of Regulation (EU) No 575/2013 should be considered equal to a rating provided by a nominated ECAI.	national	(b) for loans involving public undertakings, that undertaking is subject to public supervision or the exposure or the counterparty is subject to 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 is rated as by a nominated ECAI.
2	**6a; para 4. (a)**	all collateral for cover pool assets shall be adequately insured against the risk of loss or damage and the claim out of the insurance shall be part of the substitution assets of the cover pool;	An insurance is not available for assets in the form of exposures (also true for assets referred to in CRR 129, 1 (a) to (c)). Shall be restricted to physical assets.	serious risk	An insurance is not available for assets in the form of exposures (also true for assets referred to in CRR 129, 1 (a) to (c)). Shall be restricted to physical assets.	national	(a) all collateral for cover pool physical assets referred to in point (a) of paragraph 3 shall be adequately insured against the risk of loss or damage and the claim out of the insurance shall be part of the substitution assets of the cover pool;

3	**6a; para 4. (c)**	loans to public undertakings referred to in point (b) of paragraph 3 shall be cover pool eligible at a discount rate applicable to their nominal amount and not exceeding - 80% of the exposure where the counterparty is under public supervision, - 60% of the exposure where the counterparty is subject to a credit assessment by an ECAI of not less than its own threshold for investment grade quality;	The use of discount rates is not justified and has a negative effect on the financing / lending conditions for borrowers.	serious risk	There should be no discounts on exposures involving public undertakings as we regard those assets as comparable protected versus CRR eligible public exposures. The high quality of the assets are sufficiently secured by the requirement set in Article 6a, para 3 (b).	national	shall be deleted
GENERAL REMARK	**6a**	The intention of the harmonisation was not to put existing, functioning covered bond markets in a worse position than under current existing covered bond legislations and to avoid any market disruptions. The report on the proposal by ECON represent a missed opportunity of linking the CB directive to the sustainability agenda and permitting expansion and innovation of the covered bond framework.					

9.2. Regulation

9.2.1. Council – no comments

9.2.2. Parliament – no comments

10. The Netherlands

Source: Dutch Banking Association

10.1. Directive

10.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**Art 6**	Entire Article	The current description of eligible assets is too extensive and broad which could give rise to confusion in the market and could - potentially - cause harm to the CB label.	HIGH	The current description of eligible assets is too extensive and broad which could give rise to confusion in the market and could - potentially - cause harm to the CB label.	EU	To protect the CB label we are in favour of introducing two different tables - similar to the proposals of Parliament - a Primary Covered Bond (PCB) label and an Ordinary Covered Bond label. PCBs are covered bonds that solely use Article 129 (1) (a) to (g) assets

10.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art. 11.1(a) and Art. 15.1(b)(ii)	***the valuation of which is calculated on a net cash flow basis***; and **assets and liabilities resulting from derivatives are valued on a net cash flow basis**	It is not clear what is meant with: *the valuation of derivatives are calculated on a net cash flow basis*, this is not a terminology that is commonly used in financial markets, hence it will cause confusion. The valuation methodology of derivatives should therefore be further clarified and specified, also in order to be able to assess the impact of such methodology.	Moderate	Unclear text could result in different approaches taken in different jurisdictions	EU	Delete text in bold in both Articles
2	Art. 16.5	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 up to the time when the last principal is due.	Depending on how this is interpreted it could mean that all soft bullet and conditional pass through covered bonds have to take the principal amount into account in their liquidity buffer based on the scheduled maturity date instead of the final maturity date.	High	This would make both the SB and CPT structured considerably less attractive if not kill these type of structures all together	EU	Stick to wording used by European Commission: 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.

10.2. Regulation

10.2.1. Council – no comments

10.2.2. Parliament

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**Page 12**	(ba) for exposures in the form of short term deposits and derivative contracts to credit institutions that qualify for the credit quality step 3, the exposure shall not exceed 5% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;	What is the definition of exposure?	Moderate	How is exposure calculated/determined? We assume that derivative contracts in this respect will be valued at market value and that the exposure will be calculated AFTER collateral has been taken into account (in which case the exposure will be close to zero). The current text is not clear with respect to this.	EU	(ba) for exposures in the form of short term deposits and **exposure in the form of** derivative contracts **(taking collateral into account)** to credit institutions that qualify for the credit quality step 3, the exposure shall not exceed 5% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;

11. Norway

Source: Finance Norway

11.1. Directive

11.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art. 15 (and Art. 11)	2. … For this purpose, Member States may allow derivative contracts relating to currencies to be included in the calculation of the level of coverage in accordance with the nominal principle, calculated at market value.	We support the Council's proposal on including derivative contracts with a risk hedging purpose in the cover pool. Furthermore, it is crucial that the regulation allows the effects on outstanding debt from fx-movements to be counteracted by the corresponding effects on the derivatives.	High	We have interpreted the Council's proposal as to reflect that the effects on outstanding debt from fx-movements are counteracted by the corresponding effects on derivatives. On this basis we support the Council's proposal.	EU/National	Prefer the Council proposal
2	Art. 16	4. Where the credit institution issuing covered bonds is subject to liquidity requirements set out in other acts of Union law resulting in overlapping with the cover pool liquidity buffer, 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. Member States making use of this option shall inform the Commission and the EBA.	Finance Norway supports the option in paragraph 4 allowing member states to coordinate different liquidity requirements to avoid double requirements with the same purpose. However, from our point of view it should have been explicitly stated that this also should be the case for liquid assets in the cover pool which are perceived as encumbered and hence cannot be used in fulfilling the LCR-requirement.	High	Given the market consensus on avoiding double liquidity requirements we find it reasonable that this also should apply for the liquid assets in the cover pool being encumbered and hence not eligible for satisfying the LCR-requirement. Since a solution probably would imply amending the LCR regulation (EU 2015/61) one should state a clear expectation of such a change in the Directive. On this background we highly support the Council's statement in preamble 21.	EU/National	Prefer the Council's proposal on the intention to coordinate the interaction between the different liquidity requirements in preamble 21. Prefer the Parliament proposal on the interaction between the liquidity buffer and the LCR as described in Art. 16. 4. (suggesting to include an expectation on avoiding double liquidity requirements also on the encumbrance and LCR-issue)
3	Art. 6	Art. 6 …	Allowing types of assets of lower quality will harm the Covered Bond brand.	High	It is necessary to create a clear distinction between covered bonds based on assets of higher and lower quality to avoid contagion risk. The use of other instruments such as the ESN for other types of assets would take this into account in a better way. However, we find it desirable to introduce the distinction between premium and ordinary covered bonds if the alternative is accepting a wider range of assets as eligible for the cover pool under only one covered bond label. We are hence in favour of the two covered bond labels as proposed by Parliament and not the Commission and Council proposal.	EU	Prefer the Parliament proposal

11.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 11 (and Art. 15)	(a) the derivative contracts are included in the cover pool exclusively for risk hedging purposes; the valuation of which is calculated on a net cash flow basis;	We support the Parliament-proposal on including derivative contracts with a risk hedging purpose in the cover pool. However, we disagree with the proposal on valuation based on net cash flow.	High	We have interpreted the Council's proposal as to reflect that the effects on outstanding debt from fx-movements are counteracted by the corresponding effects on derivatives. Given that it is unclear to us what a valuation based on net cash flow would imply we are in favour of the Council proposal.	EU/National	Prefer the Council proposal
2	Art. 16	3a. and 4.	Finance Norway supports the derogation in paragraph 4 allowing member states to coordinate different liquidity requirements to avoid double requirements with the same purpose. However, from our point of view it should have been explicitly stated that this also should be the case for liquid assets in the cover pool which are perceived as encumbered and hence cannot be used in fulfilling the LCR-requirement.	High	Given the market consensus on avoiding double liquidity requirements we find it reasonable that this also should apply for the liquid assets in the cover pool being encumbered and hence not eligible for satisfying the LCR-requirement. Since a solution probably would imply amending the LCR regulation (EU 2015/61) one should state a clear expectation of such a change in the Directive.	EU/National	Prefer the Parliament proposal on the interaction between the liquidity buffer and the LCR (suggesting to include an expectation on avoiding double liquidity requirements also on the encumbrance and LCR-issue)
3	Art. 6 and 6a	Art. 6 and 6a	Allowing types of assets of lower quality will harm the Covered Bond brand.	High	It is necessary to create a clear distinction between covered bonds based on assets of higher and lower quality to avoid contagion risk. The use of other instruments such as the ESN for other types of assets would take this into account in a better way. However, we find it desirable to introduce the distinction between premium and ordinary covered bonds if the alternative is accepting a wider range of assets as eligible for the cover pool under only one covered bond label.	EU	Prefer the Parliament proposal

11.2. Regulation

11.2.1. Council – no comments

11.2.2. Parliament – no comments

12. Poland

Sources: PKO Bank Hipoteczny S.A., mBank Hipoteczny S.A., pekao Bank Hipotezny S.A.

12.1. Directive

12.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 3 Point (3)	cover pool' means the assets securing the covered bonds and that are segregated from other assets held by the credit institution issuing covered bonds;	The definition should be more precise as it is proposed in Parliament Report	HIGH		EU	cover pool' means a clearly defined set of identifiable assets securing the payment obligations of the covered bond issuer until maturity of the covered bond and subject to legal arrangements ensuring that those assets will be segregated from other assets held by the credit institution issuing covered bonds at the latest when resolution or insolvency proceedings have been opened in respect of the covered bond issuer
2	Art 3 Point (5)	specialised mortgage credit institution' means a credit institution which funds loans solely or mainly through the issue of covered bonds, which is permitted by law to carry out mortgage and public sector lending only and which is not permitted to take deposits but take other repayable funds from the public;	The definition should be more precise as it is proposed in Parliament Report	HIGH		EU	specialised mortgage credit institution' means a credit institution which: (a) funds granted loans or purchased receivables through the issue of covered bonds, (b) is permitted by law to carry out mortgage and public sector lending only, and (c) is not permitted to take deposits but can take other repayable funds, without prejudice to ancillary and additional activities restricted and specified by national law of the Member States
3	Art 10	Member States shall ensure investor protection by laying down rules on the composition of cover pools. The rules shall describe, where relevant, the conditions for credit institutions issuing covered bonds to include primary cover assets that have different characteristics in terms of structural features, lifetime of the cover assets or risk profile. Member States may lay down rules on the level of homogeneity required from assets in the cover pool.	The possibility of multiple separate cover pools consisting of assets acceptable from the perspective of Art. 129 CRR should be clearly allowed.	HIGH	Multiple separate homogeneous cover pools would have positive impact on development of mortgage banking and covered bonds market .	EU	Adding (according to Parliament Report) "Member States shall allow multiple separate homogeneous cover pools in respect of a class of primary assets."

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12.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 15 par 1	Point b "*(ii) assets and liabilities resulting from derivatives are valued on a net cash flow basis*" Point c "*(iv) cash payments received from derivative contracts held in the cover pool*"	1. The inclusion of derivatives is defined (how to value it) in Point b and Point c (iv) is defining other approach. 2. There is no clearly stated that liabilities resulting from derivatives also should be included in coverage calculation.	HIGH	1. Clarity of regulation 2. Derivative contracts are used for risk hedging purposes and they contribute to the coverage through their impact on currency mismatch. Lack of derivatives in coverage calculation (if the value is negative - liability) will lead to situation in which coverage level will be exposed to foreign exchange movements.	EU	1. Point c - "(iv) ~~cash payments received from~~ derivative contracts held in the cover pool" 2. Adding in point b *(ii) assets and liabilities resulting from derivatives are valued on a net cash flow basis and are included in coverage calculation"*

12.2. Regulation

12.2.1. Council – no comments

12.2.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art 129 par 1b	*"The values of the pledged properties shall be monitored on a regular basis and updated annually by the issuer by using an indexation method based on market prices of immovable property."*	In Poland Mortgage Lending Value (MLV) is used with is long term value of the property. So it is not indexed and such requirement is excessive and hard to apply.	High	The Regulation should take into account the approaches to valuation than market value.	National	*"The values of the pledged properties shall be monitored on a regular basis and updated annually by the issuer ~~by using an indexation method based on market prices of immovable property.~~"*
2	Art 129 par 3a	Calculation of level of overcollaterisation *"The assets contributing to a minimum level of overcollateralisation shall be subject to the requirements on credit quality and to the limits on exposure size set out in paragraph 1. They shall count towards the respective limits."*	Exclusion form the calculation of the overcollaterlisation part of exposure above soft LTV limit	High	In our opinion pat of exposure above soft LtV limit should be included in OC calculation. This part is included in cover pool and benefits covered bonds investors.	National	Our proposal is to keep the Commission and Council wording.

13. Portugal

Source: Millennium BCP

13.1. Directive

13.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Article 17 Conditions for extendable maturity structures	17(1)(e) [Council version]	**The proposed version by Council raises doubts and is hardly practicable**	High	1. This is a material deviation from the original wording (which was kept by Parliament). 2. The principle underlying the original art. 17(1)(e) was clear and easy to follow: the maturity extension should not affect the ranking of the covered bonds investors. The Parliament accepted this principle in the same way. 3. The Council, however, amended it, as follows: (i) the preservation of ranking is not expressly safeguarded outside of insolvency or resolution; and (ii) it was not regarded that in pass-through programs the covered bonds will typically, upon such events, start to be paid (principal and interest) pro rata – which should be acceptable, provided that it is clear in the applicable terms and conditions of the covered bonds and has been so disclosed to investors.	EU	Keep the original wording, and which is kept by Parliament but proposed differently by the Council in its 26.11.2018 proposal: 17(1)(e) "the maturity extension does not affect the ranking of covered bond investors"

13.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art. 16 Requirement for a cover pool liquidity buffer Art. 3 Definitions	Art. 16(2) "The cover pool liquidity buffer shall cover the net liquidity outflow for 180 calendar days except in the periods of stress as defined in point 11 of Article 3 of Delegated Regulation (EU) 2015/61." Art 16(5) "For extendable maturity structures, Member States shall ensure that the liquidity requirements for the repayment of principal are updated <u>after</u> a possible maturity extension so that they always match the	**Excessive Liquidity Provision**	High	1. The wording seems to suggest under normal conditions an issuer would have deposited in an eligible financial institution an amount equivalent to any CVB issue (e.g., €1billion) over the 180 days until its maturity, including fully retained CVB issues 2. This seems to be a material deviation from the original wording (which was kept by the Council on its 26.11.2018 proposal), and a deviation from the "principles-based" approach which the directive was supposed to follow 3. The above results in inflexible, costly, and excessive liquidity provision 4. This provision is particularly unnecessary in case of soft-bullet issues and where, besides article 17 removing issuer discretion on the maturity extension, the extensions are for a short period (1 year)	EU	Option 1 is clearly the preferred route (vis-à-vis Option 2 below). **<u>Option 1:</u>** **Keep the original proposal wording (and which is the same as in the 26.11.2018 Council proposal):** "16(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." (It is for us clear that the meaning of "final maturity date" is the extended maturity date; otherwise Art. 16(5) would be pointless, since the purpose of Art. 16(5) is to serve as an optional exception for

		payment needs up to the time when the last principal is due" Art. 3(14) "'net liquidity outflow' means **all** payments made in a certain period, including **principal** and interest payments and payments under derivative contracts of the covered bond programme, net of all payments received in the same period for claims related to the assets in the cover pool;"			5. This provision will prove particularly heavy-handed in relatively small programmes (e.g., one with two issues outstanding with €1billion each) 6. All the above is compounded by any credit rating limitations of those institutions where this liquidity buffer can be held 7. **Additionally, this provision can potentially conflict with exposure limits (e.g., 5% to FIs step quality 3) of Regulation's new Art 129 (1a)** (e.g., one programme with two issues outstanding with €1billion each, requiring liquidity close to 50% of bonds outstanding)		Member States vis-à-vis the general requirement to consider the (original) maturity date in the calculation of the liquidity buffer. Notwithstanding, it could be helpful if the concept of "final maturity date" (which is only used in art. 16(5) and in art. 17(1)(d)) would either be expressly defined as extended maturity date or replaced with "the date to which the maturity of the covered bonds may be extended to".) Note: same comment applies to the Council 26.11.2018 version **Option 2:** **Amend the Parliament version wording so that it reads:** Art 16(5) "For extendable maturity structures (where extension is more than one year), 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 up to the time when the last principal is due. For extendable maturity structures (where extension is up to one year), Member States shall ensure that the liquidity requirements for the repayment of principal shall from the issue date consider the extended maturity date so that they always match the payment needs up to the time when the last principal is due if the maturity has been extended to the extended maturity date."
2	Art 13 Cover Pool Monitor	13(3) "The cover pool monitor shall be separate and independent from the credit institution issuing covered bonds and from that credit institution's auditor."	**The auditor of the credit institution should not be excluded from being appointed as cover pool monitor**	High	1. Credit institution's auditors are bound to be independent and professional, under EU and national law; we see no conflict of interest in the credit institution's auditor being appointed as cover pool monitor. Having a cover pool monitor other than the credit institution's auditor will tend to increase credit institution's costs as well as redundancy. 2. Additionally, it does not make much sense to have article 13(1) allowing for Member States to opt to have no cover pool monitor at all (this is actually the default option in the proposed text o the Directive), while those who opt	EU	13(3) "The cover pool monitor shall be the issuer's auditor or another separate and independent from the credit institution issuing covered bonds." ~~and from that credit institution's auditor~~ Note: same comment applies to the Council 26.11.2018 version

					to have it (increasing investor protection) are required to impose such unnecessary costs on the issuers.		
3	Art 17 Conditions for extendable maturity structures	17(1)(b) "the maturity can be extended only in the event of insolvency or resolution of with issuer and with the approval by the competent supervision authority or under objective financial triggers established by national law;"	**Lesser flexibility in setting out the specific circumstance whereby the maturity can be extended**	High	1. This provides lesser flexibility as in the original version (and which already seems to fully exclude the ordinary soft-bullet 1 year extensions structure – see comment in the last row) and seems to be a deviation from the "principles-based" approach which the directive was supposed to follow 2. An extension would only occur under contract, in face of objective circumstances (since art. 17(1)(b) expressly excluded in its original version discretion from the issuer). Parties (issuer and bondholders) should be able to contract among themselves (in the terms and conditions) which are those circumstances, and which may extend beyond insolvency, resolution or financial triggers set out in the law	EU	**Revert to the original wording and which is the same as in the Council proposal of 26.11.2018:** 17(1)(b) "the maturity extension is not triggered at the discretion of the credit institution issuing the covered bonds;" [Note: comment applicable to the Council 26.11.2018 version – i.e. as a preference to that wording]

13.2. Regulation

13.2.1. Council - no comments

13.2.2. Parliament - no comments

14. Spain

Source: AHE

14.1. Directive

14.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art. 10	Composition of the cover pool	Homogeneity rule	High	The article is a little confussing having a clear preference for Parliament text.	EU	Adopting Parliament Text
2	Art. 14.2. Last paragraph	Option granted to Member States to require loan by loan information	Member States' option	High	Loan by loan information unnecessary and minimal harmonisation should cover this matter	EU	Delete option.
3	Art. 6.1 b	Additional eligible cover assets	No need to add new assets to current ones	High	Collateral assets different from assets contemplated in Art. 129.1. CRR should not be permitted since it blurs the nature of covered bonds.	EU	Delete 6.1.b. Better initial EC proposal.

14.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art. 6a	Eligible cover assets for "ordinary" CB	Introduction of two categories of CB	High	Collateral assets different from assets contemplated in Art. 129.1 CRR (premium) should not be permitted, since it blurs the nature of covered bonds.	EU	Art. 6.a. should be deleted. Better initial EC proposal.
2	Art. 16 3a) & 4	Overlapping of LCR and liquidity buffer requirements	Option on behalf of Member States to avoid "overlapping" between LCR assets and CB buffer assets	High	Overlapping completely illogical and very burdensome. The rule preventing overlapping should not be optional but mandatory for all the Member States.	EU	Directly application of the rule preventing overlapping. No need of national legislation.
3	Art. 8.c	Limitation to retain externally issued CB	External CB necessarily intended to be sold to investors outside the group	High	These CBs could also be "self-retained" by the issuer permitting their utilisation as collateral.	EU	Addition: This rule shall not prevent self-retention.

14.2. Regulation

14.2.1. Council – no comments

14.2.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	Art. 129 1b.	For the purpose of the limit on the value of the pledged properties, **such properties shall be monitored on a regular basis and updated at least on a yearly basis by the competent authority by using an <u>indexation method</u>** (...)	The compulsory use of indexation methods is in opposition to current Spanish practice.	High	The compulsory use of indexation methods is in opposition to current Spanish practice.	Mainly national	Delete any reference to indexation

15. Sweden

Source: ASCB

15.1. Directive

15.1.1. Council

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**art 6.1 (b), 6.2 - 6.6**	"Member States shall require that covered bonds are at all times secured /…/ (b) by high quality cover assets ensuring the credit institution issuing covered bonds a claim for payment as set out in paragraph 2 and secured by collateral assets as set out in paragraph 3." And the whole of art 6.2-6.6.	ASCB is of the opinion that the inclusion of non-CRR compliant assets would dilute the covered bond product.	High	The inclusion of additional layers of cover bonds would be detrimental to the whole covered bond concept and also delay the whole package.	EU	Delete article 6.1 (b), 6.2 - 6.6 ASCB prefers the council's wording of article 6. In the choice between the council's wording in article 6.1 b) and the Parliament proposal of including an article 6a regarding covered bonds, the ASCB prefers the Parliament version.
2	**art 15**	The whole of article 15.	Requirements for coverage are a central part of any covered bond legislation and it is still unclear how this provision should be transposed into national law and then applied. Specifically, it is not clear how derivatives should be treated in the calculation of coverage. The proposed article 15.2 and 15.3 are very technical and detailed and not in line with the minimum harmonisation objective of the directive.	High		EU	ASCB prefers the council's wording of article 15.1 (except regarding costs for maintenance and administration, where the Parliament wording regarding a lump sum calculation is preferable), but the Parliament wording of article 15.2 (and 15.3).

3	**art 30.2**	The whole of article 30.2.	ASCB appreciates that there are transitional measures, to avoid interruptions in the markets, and that those transitional measures also allow for tap issues. The requirement which have to be fulfilled in order for tap issues to be allowed are however too extensive, at least the volume caps should be deleted. The geographical limitation set out in point (d) seems contrary to the principle of freedom of movement, which is a key element of the EU single market.	High	It is important that the investors' expectations regarding the final total volume issued under a series of outstanding covered bonds can continue to be fulfilled, despite the entry into force of the directive. If investors are not confident that bonds issued before the entry into force of the directive will reach adequate volumes, they might turn their focus to other types of investments. Due to a risk that investors would hesitate to invest in issues that might not amount to enough volume, issuers might hold back on issuing new series of covered bonds, approaching the expected entry into force of the new rules. Any uncertainties regarding the continuation of the currently well-functioning Swedish covered bonds market, including the possibility to continue effectively with tap issues under outstanding bonds, is likely to result in a decreased market liquidity for several years.	National	ASCB prefers the Parliament wording in article 30.1.

15.1.2. Parliament

Ranking of priority	Location in the Directive [Article]	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**16.5**	***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 up to the time when the last principal is due.***	Extendable maturity structures should be able to be used as a tool to manage liquidity in the cover pool and to avoid defaults. The proposed wording would however not have that effect, but would rather require the issuer to hold a liquidity buffer based on the original maturity date and, in case of extension, continue to hold liquidity based on the extended maturity date.	High	In order for extendable maturity structures to have the intended effect, the calculation of the liquidity buffer requirements should be based on the extended final maturity date.	EU	Member States may allow for the calculation of the principal for extendable maturity structures to be based on the <u>extended</u> final maturity date of the covered bond. ASCB prefers the council's wording of article 16.5 (slightly amended).
2	**6a**	The whole of article 6a.	ASCB is of the opinion that the inclusion of non-CRR compliant assets would dilute the covered bond product.	High	The inclusion of additional layers of cover bonds would be detrimental to the whole covered bond concept and also delay the whole package.	EU	Delete article. In the choice between the council's wording in article 6.1 b) and 6.2-6.6 and the Parliament proposal of including an article 6a regarding covered bonds, the ASCB does however prefer the Parliament version.

3	**15**	The whole of article 15.	Requirements for coverage are a central part of any covered bond legislation and it is still unclear how this provision should be transposed into national law and then applied. Specifically, it is not clear how derivatives should be treated in the calculation of coverage.	HIgh		EU	ASCB prefers the council's wording of article 15.1 (except regarding costs for maintenance and administration, where the Parliament wording regarding a lump sum calculation is preferable), but the Parliament wording of article 15.2 (and 15.3).

15.2. Regulation

15.2.1. Council

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**129.1a**	For the purposes of point (c) of the first subparagraph of paragraph 1, the following shall apply: (a) for exposures to credit institutions that qualify for credit quality step 1 the exposure shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing credit institution; (b) for exposures to credit institutions that qualify for credit quality step 2 the exposure shall not exceed 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution; (b1) for exposures in the form of short-term deposits and derivative contracts to credit institutions that qualify for credit quality step 3, the exposures shall not exceed 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;	For issuers in the non-euro area operating in small capital markets, there is a need to borrow in the euro area capital markets, to have access to sufficient volumes. This is often done through bonds with long term maturity. The maturity and currency chosen by clients is, however, to a large extent short term and in a non-euro currency. Consequently, there is a need for these issuers to enter into derivative contracts to hedge the currency and interest rate risks. Issuers in these markets therefore have to, for risk hedging purposes, inter into relatively large amounts of derivative contracts connected to their cover pools. If derivative contracts for risk hedging purposes are to be seen as exposures, limiting the amount of allowed exposures to credit institutions in the form of assets held for liquidity buffer purposes as well as such derivative contracts for risk hedging purposes, would entail a considerable risk that these actors would have to choose between exceeding the set limits or not hedging their currency and interest rate risks properly. This could severely undermine the functioning of the affected covered bond markets.	Very high	As a way of avoiding the risk described and in order to ensure the continued proper functioning and resilience of the covered bond market, we propose that either derivatives held for risk management purposes or exposures resulting from assets held for liquidity buffer purposes are excluded from the exposure limit to credit institutions that qualify for credit quality step 1 and 2.		For the purposes of point (c) of the first subparagraph of paragraph 1, the following shall apply: (a) for exposures, excluding assets in the liquidity buffer in accordance with article 16 of Directive (EU) 20../... [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 credit institutions that qualify for the credit quality step 1 the exposure shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing credit institution; (b) for exposures, excluding assets in the liquidity buffer in accordance with article 16 of Directive (EU) 20../... [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 credit institutions that qualify for the credit quality step 2 the exposure shall not exceed 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution; (ba) for exposures in the form of short term deposits and derivative contracts to credit institutions that qualify for the credit quality step 3, the exposure shall not exceed 10% of

							the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;
2	**129.1 (c)**	exposures to credit institutions that qualify for credit quality step 1, credit quality step 2 or exposures in the form of short-term deposits where used to fulfil the cover pool liquidity buffer requirement in Article 16 and derivative contracts in accordance with Article 11 of Directive (EU) 20../… [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 credit institutions that qualify for credit quality step 3, where exposures in the form of derivative contracts are permitted by the competent authorities, as set out in this Chapter.	Please see description of the issue regarding article 129.1a.	High	Please see justification for the amendment regarding article 129.1a.		exposures to credit institutions that qualify for credit quality step 1, credit quality step 2 or exposures in the form of short-term deposits ~~where used to fulfil the cover pool liquidity buffer requirement in Article 16 and derivative contracts in accordance with Article 11 of Directive (EU) 20../… [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 credit institutions that qualify for credit quality step 3, where exposures in the form of derivative contracts are permitted by the competent authorities, as set out in this Chapter.";

15.2.2. Parliament

Ranking of priority	Location in the Regulation	Precise passage concerned	Description of the Issue	Level of seriousness	Justification for potential amendment	Nature of the Challenge [EU/national]	Proposal for a wording update
1	**art 129.1a**	1a. For the purposes of point (c) of the first subparagraph of paragraph 1, the following shall apply: (a) for exposures to credit institutions that qualify for the credit quality step 1 the exposure shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing credit institution; (b) for exposures to credit institutions that qualify for the credit quality step 2 the exposure shall not exceed 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution; ***(ba) for exposures in the form of short term deposits and derivative contracts to credit institutions that qualify for the credit quality step 3, the exposure shall not exceed 5% of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;***	For issuers in the non-euro area operating in small capital markets, there is a need to borrow in the euro area capital markets, to have access to sufficient volumes. This is often done through bonds with long term maturity. The maturity and currency chosen by clients is, however, to a large extent short term and in a non-euro currency. Consequently, there is a need for these issuers to enter into derivative contracts to hedge the currency and interest rate risks. Issuers in these markets therefore have to, for risk hedging purposes, enter into relatively large amounts of derivative contracts connected to their cover pools. If derivative contracts for risk hedging purposes are to be seen as exposures, limiting the amount of allowed exposures to credit institutions in the form of assets held for liquidity buffer purposes as well as such derivative contracts for risk hedging purposes would entail a considerable risk that these actors would have to choose between exceeding the set limits or not hedging their currency and interest rate risks properly. This could severely undermine the functioning of the affected covered bond markets	Very High	As a way of avoiding the risk described and in order to ensure the continued proper functioning and resilience of the covered bond market, we propose that either derivatives held for risk management purposes or exposures resulting from assets held for liquidity buffer purposes are excluded from the exposure limit to credit institutions that qualify for credit quality step 1 and 2.	EU (especially for smaller currency areas)	1a. For the purposes of point (c) of the first subparagraph of paragraph 1, the following shall apply: (a) for exposures, <u>excluding assets in the liquidity buffer in accordance with article 16 of Directive (EU) 20../… [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]</u>, to credit institutions that qualify for the credit quality step 1 the exposure shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing credit institution; (b) for exposures, <u>excluding assets in the liquidity buffer in accordance with article 16 of Directive (EU) 20../… [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],</u> to credit institutions that qualify for the credit quality step 2 the exposure shall not exceed 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution; (ba) for exposures in the form of short term deposits and derivative contracts to credit institutions that qualify for the credit quality step 3, the exposure shall not exceed <u>10%</u> of the total exposure of the nominal amount of outstanding covered bonds of the issuing credit institution;

2	**129.1 (c)**	exposures to credit institutions that qualify for the credit quality step 1, credit quality step 2***, or exposures in the form of short term deposits with a maturity not exceeding 100 days where those deposits are used to fulfil, and qualify for, the cover pool liquidity buffer requirements of national laws in accordance with Article 16 of Directive (EU) 20xx/xxxx [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] and derivative contracts satisfying the requirements of national laws in accordance with Article 11 of Directive (EU) 20xx/xxxx [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 credit institutions that qualify for the credit quality step 3, where exposure in the form of derivative contracts are permitted by the competent authorities,*** as set out in this Chapter	Please see description of the issue regarding article 129.1a.	High	Please see justification for the amendment regarding article 129.1a.	EU (especially for smaller currency areas)	"(c) exposures to credit institutions that qualify for the credit quality step 1, credit quality step 2, or exposures in the form of short term deposits with a maturity not exceeding 100 days ~~where those deposits are used to fulfil, and qualify for, the cover pool liquidity buffer requirements of national laws in accordance with Article 16 of Directive (EU) 20xx/xxxx [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]~~ and derivative contracts satisfying the requirements of national laws in accordance with Article 11 of Directive (EU) 20xx/xxxx [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 credit institutions that qualify for the credit quality step 3, where exposure in the form of derivative contracts are permitted by the competent authorities, as set out in this Chapter.";
3	**art 129.3a par 3**	The assets contributing to a minimum level of overcollateralisation shall [redacted] be subject to the ***requirements on credit quality and to the limits on exposure size set out in*** paragraph 1***. They*** shall [redacted] count towards ***the respective*** limits.	Assets contributing to a minimum level of overcollateralisation should not count towards the exposure limits.	HIgh		EU	The assets contributing to a minimum level of overcollateralisation shall not be subject to the requirements on credit quality and to the limits on exposure size set out in paragraph 1. They shall not count towards the respective limits. ASCB prefers the council's wording of this paragraph.