The Transposition of the EU CB-harmonization into the German Pfandbrief Act

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2. Amendments to the Pfandbrief Act

Timeline CBD-Transposition Act (CBDUmsG)

- **MoF-Draft**
  - German MoF publishes draft of Pfandbrief Act amendments

- **Bundestag and BT-Finance Committee**
  - Governmental draft

- **Bundesrat (Federal Council)**
  - **enactment**
  - Deadline transposition for national legislators

- **Transition Period**
  - Latest application of amended Art 129 CRR

- **All mandatory provisions of the EU-CB Directive and the requirements according to Art. 129 CRR will be implemented in the PfandBG. Consequently, Pfandbrief will continue to benefit from all EU regulatory privileges.**

- **Entry into force**
  - Art. 1 = amendments to the Pfandbrief Act – the day after promulgation, 8 July 2021, at the latest.
  - Art. 2 = further amendments to Pfandbrief Act – entry into force 8 July 2022.
2. Amendments to the Pfandbrief Act
§ 4 PfandBG – calculation of cover, overcollateralization

What will be changed

- Net present value OC will become a lump sum for costs of cover pool administrator.
  (= implementation of Art. 15 (3) (d) CBD)

- Consideration of smaller redemption values for (central-) bank accounts.
  (= beyond CBD; reflecting negative interest rates)

- Non-performing unsecured claims may not be included in the calculation of cover.
  (= implementation of Art. 15 (4) CBD)

- Introduction of 2% nominal overcollateralization for Mortgage and Public Pfandbrief, 5% for Ship and Aircraft Pfandbrief.
  (= national, optional decision following Art. 129 CRR)

to be introduced

2021
2021
2021
2022
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§ 4 par. 1a PfandBG – liquidity buffer

What will be changed

- Non-performing unsecured claims may not be used for liquidity buffer.
  (= implementation of Art. 16 (3) (b) CBD)

Eligible for liquidity buffers exclusively…

- Assets that meet the requirements of the LCR Regulation.
  (= implementation of Art. 16 para. 3 (a) of the CB Directive)
- Balances with credit institutions of credit quality step 1 or 2.
  (= implementation of Art. 16 (3) (b) of the CBD)
- Short-term deposits with credit institutions in credit quality step 3 are not permitted.
  (= option of Art. 16 (3) (b) of the CBD will not be used)

to be introduced

2021
2022
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§§ 4, 19, 20 PfandBG - claims against credit institutions and derivatives

What will be changed

- Exposure to credit institutions only allowed if external rating and not part of the same group (goes beyond CBD).

- Exposure to credit institutions...
  - …credit quality step 1 up to a maximum of 15% of outstanding Pfandbriefe;
  - …credit quality step 2 up to a maximum of 10% of outstanding Pfandbriefe;
  - …credit quality step 3 up to a maximum of 8% of outstanding Pfandbriefe, applicable only to claims on derivatives when general regulation of BaFin is enacted.

- Claims on derivative transactions are to be counted towards the limits.
  (= adjustment to Art. 129 CRR).

- Share of “substitute assets” for Public Pfandbriefe increased to a maximum of 15%.

What will be introduced

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§ 28 PfandBG – Transparency

What will be changed

- ISIN list for outstanding Pfandbriefe.
  (= implementation of Art. 14 (2) (b) CBD)
- Levels of statutory, contractual and voluntary overcollateralization.
  (= implementation of Art. 14 (2) (f) CBD)
- Information on maturity extension: triggers, conditions, cover pool administrator powers and consequences for the maturity structure of the Pfandbrief.
  (= beyond CBD; implementation of Art. 14 (2) (e) CBD)
- 5 Key figures on liquidity risk.
  (= beyond CBD; implementation of Art. 14 (2) (d) CBD)
- Amount of cover assets that have defaulted pursuant to art. 178 CRR.
  (= implementation of Art. 14 (2) (g) CBD)

to be introduced

- 2022
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§ 30 PfandBG – Maturity extension

What will be changed

Introduction of a maturity extension (= option of Art. 17 (1) CBD)

- Legal option only for the cover pool administrator, no discretion for the issuer. (= implementation of Art. 17 (1) (a) CBD)
- Applies to both outstanding and new Pfandbriefe.
- Maturity extension of interest and principal within the first four weeks after appointment to the end of the four-week period without further requirements.
- Additional maturity extension of principal by a maximum of 2 x 6 months, if (1) necessary, (2) not over-indebted and (3) subsequent solvency can be assumed. (= implementation of Art. 17 (1) (d) CBD)
- Cover pool administrator may (prematurely) fulfill Pfandbriefe within the extension period.
- Triggers must be described in the terms and conditions for new Pfandbriefe, outstanding Pfandbriefe are covered by Art. 30 CBD. (= implementation of Art. 17 (1) (b) CBD)
- Sequencing will not be inverted, original maturity schedule of Pfandbriefe must be kept. (= implementation of Art. 17 (1) (e) CBD)

2021