

## ECBC Response to the EBA's Advice on the Review of the EU Covered Bond Framework

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Following the publication of the European Banking Authority (EBA)'s [Advice on the Review of the EU Covered Bond Framework](#), the European Covered Bond Council (ECBC) Steering Committee—the highest governance body representing major covered bond jurisdictions and leading investment banks—mandated its working groups to conduct a detailed assessment. These groups, representing the whole ECBC membership and comprising more than 1.200 market experts, were tasked with analysing the report, identifying areas of potential market impact, and consolidating stakeholder views on the EBA's recommendations.

This mandate triggered an extensive consultation process involving all key stakeholders across the covered bond ecosystem, including issuers, lenders, investors, rating agencies, and system providers. The outcome of this holistic analysis provides strong evidence of the substantial market value generated by the implementation of the Covered Bond Directive (CBD). The Directive has effectively transformed previously fragmented national frameworks into a coherent European system characterised by convergence in best practices, supervisory standards, and market performance.

At this stage, and in light of its recent implementation and the positive results achieved, **there is no market evidence-based justification for further legislative intervention within the scope of the Covered Bond Directive.**

Introduced as a cornerstone of the Capital Markets Union, the CBD pursued several core objectives: enhancing transparency, strengthening investor confidence, promoting market integration, aligning national regimes, establishing minimum regulatory standards, reinforcing preferential capital treatment, improving credit quality, and supporting affordable housing financing.

The implementation of the CBD represents a true legislative lighthouse, driving harmonisation and alignment of market best practices across the 30 countries of the European Economic Area and setting a high and strict standard at international level. It provides an overarching benchmark that has fostered structural convergence in legal frameworks and market practices, while delivering a stable long-term funding instrument. This has enabled lenders to diversify their funding strategies and offered investors a proven safe-harbour asset class. Moreover, the Directive has strengthened macroprudential safeguards, contributing to financial stability in periods of geopolitical and financial stress, and reinforcing the broader objectives of the Capital Markets Union.

Since its adoption in 2019 and full application in 2022, the Directive has delivered a number of significant outcomes:

- Establishment of a harmonised EU-wide framework
- Significant improvements in investor protection mechanisms
- Implementation of a flexible, principle-based regulatory architecture
- Structural market evolution, notably the widespread adoption of soft bullet maturity structures
- Successful introduction and uptake of “European Covered Bond” labels
- Strengthened liquidity requirements through mandatory buffers
- Legal recognition of extendable maturity structures

- Enhanced alignment with prudential capital frameworks

These developments confirm the CBD’s effectiveness in reinforcing the resilience, attractiveness, and integration of the European covered bond market.

Importantly, the analysis conducted by ECBC market experts—also in light of the relatively recent implementation of the Directive—does not indicate a need for additional legislative measures at this stage. The CBD is widely regarded as a well-performing, principle-based framework that strikes an appropriate balance between robustness and flexibility, allowing markets to adapt and innovate to evolving conditions. The growing need in the EU of financing economic sectors such as infrastructures, utilities, defence, is already embedded in the asset eligibility criteria of the CBD and can be activated in case of need.

This flexibility has proven particularly valuable in times of market stress. During the financial turbulence following the collapses of Silicon Valley Bank and Credit Suisse in early 2023—as well as during more recent geopolitical tensions—covered bonds once again demonstrated their resilience and safe-harbour characteristics. Notably, they also played a key role in reopening primary markets after periods of disruption. With a track record spanning more than 250 years, covered bonds continue to play a central role in banks’ wholesale funding, providing a cost-efficient and reliable long-term financing instrument for mortgage and public-sector lending. Market innovations, such as extendable maturities issuances, have now become the norm in the market, are disciplined by the CBD and well recognised by market participants.

Looking ahead, the industry remains committed to building on lessons learned from past financial crises, while preserving the core features that underpin the success of the covered bond asset class. While the industry’s priority is regulatory stability and simplification, no immediate legislative revision of the CBD is deemed necessary.

In parallel, outside of the scope of the CBD, the strategic importance for the EU of Small and Medium Enterprises (SMEs) calls for further innovation. In this context, European Secured Notes (ESNs) represent a promising legislative instrument. Building on the dual-recourse model of covered bonds, ESNs could provide a dedicated funding channel to support SME financing, complementary to securitisation and also contributing to enhance Europe’s economic transition.

The financing of SMEs is critical to the competitiveness of the Single Market and represents a key strategic priority for Europe. SMEs employ nearly 85 million people and generate more than half of the EU’s economic output, yet they face increasing challenges in accessing finance due to higher interest rates and tighter lending conditions.

### On Section 2. “Cover Assets”

ECBC Members find the current framework on cover assets based on a two-tier approach (CRR-CBD) is appropriate and successfully supports lending to the real economy with benign implications for investors and issuers.

A restriction on eligible assets (abolishing the option currently left to Member States) entails the risk of limiting funding capacity for certain jurisdictions or sectors which in the near future might prove of strategic importance (e.g. ships and transport, defence, satellites, etc).

Conversely, global uncertainty and volatility suggest stability in the eligible assets for Covered Bond Programmes. In fact, the EBA acknowledges that no extensive use of Articles 6.1 b and 6.1 c of the CBD has been made so far by financial institutions, while recognising that a potential use may be made in the future.

By adopting Recommendation 1, EBA states that any financial innovation would be left entirely to the market: ECBC members believe that with no regulatory recognition, adopting EBA R.1 might hamper innovation itself (with consequences on infrastructure financing, space economy, public service/concession contracts, which might prove to be essential for the SIU and the competitiveness of the EU in the near future).

In light of the potential need of the EU economy and innovation, ECBC members are of the opinion that the existing possibility to issue covered bonds according to Articles 6.1 b and 6.1 c of the CBD should be preserved and that a new legislative instrument collateralised by SME loans (the European Secured Notes) should be regulated under a new specific legislation.

In fact, on the ESN initiative, ECBC Members note that no recommendation has been made and EBA expects the industry to issue ESN-like instruments before making any legislative recommendation. However, some SME-backed dual recourse transactions rated by ECAI have already been issued in the market in 2025 and 2026, showing interest from issuers and investors and paving the way for a legislative recognition.

### On Section 3. “Derivative contracts in the cover pool”

Covered Bond issuers use derivatives to mitigate risk for the benefit of investors. Ensuring investor protection by allowing derivative contracts to be included in the cover pool, exclusively for risk hedging purposes, follows explicitly from Article 11 of the Covered Bonds Directive. In our view, the current legislation works well. However, the restrictions proposed in the EBA Report may negatively impact issuance volume and risk hedging capabilities. Additionally, maintaining rating levels would likely require higher overcollateralisation, thereby increasing balance sheet encumbrance. These effects would be more pronounced in lower-rated jurisdictions and those outside the Euro Area, where derivatives are also used to mitigate currency risks when issuing in euros.

Key points:

- EBA recommends that collateral should be posted either in cash or securities issued by CQS 1 central governments. Governments in some jurisdictions are not regarded as CQS 1 and hence are ineligible for collateral posting, creating an uneven playing field. Furthermore, restricting eligible securities to "CQS 1 central governments" unnecessarily limits available collateral, thereby increasing hedging costs.
- EBA is of the view that registration of cash collateral to the cover pool is insufficient, recommending instead that it should be held in a registered, segregated account with a third-party not associated with the issuer or the derivative counterparty. This is unnecessarily conservative. In principle, collateral pledged by swap counterparties have the same segregation strength as cover pool assets. The option to hold the collateral account with a third party should be one alternative among others at the discretion of the issuer.
- EBA recommends that one of two conditions shall be in place for internal hedges; the presence of a committed substitute counterparty or a replacement trigger if credit quality falls below applicable requirements. These conditions should be regarded as alternatives, not cumulative conditions. Requiring a committed substitute counterparty from inception would impose substantially higher costs and prove challenging in jurisdictions with less-developed derivatives markets or lower-rated potential counterparties, whilst also raising concentration

risks. This may deter issuance and reduce incentives for using derivatives for risk hedging purposes.

### On Section 6. “Coverage Requirements”

The ECBC is of the opinion that Article 15 of the CBD already requires clear, effective and consistent national rules on coverage and treatment of defaulted assets. However, industry feedback highlights concerns regarding proportionality, operational feasibility, and the risk of duplicating existing safeguards. The ECBC encourages the principle-based and risk-sensitive approach of the CBD that recognises established national frameworks and avoids overly prescriptive methodologies where existing safeguards already ensure a high level of investor protection.

- **Statutory coverage regime (EBA R.9)** - Member States already define methodologies for covering non-principal obligations and winding-down costs. There is no need for further harmonisation.
- **Nominal principle (EBA R.10)** - Adjusting cover asset values for coverage calculation by both accounting provisions and statutory over-collateralisation risks double counting of credit risk mitigation. In many jurisdictions, conservative valuation, provisioning, and OC requirements already ensure prudence. Additional mandatory adjustments may add complexity without materially improving investor protection. Moreover, market values should only be used for liquidity calculations, since ordinary cover assets do not generally have to be sold before maturity.
- **Coverage of non-principal payments (EBA R.11)** - The ECBC agrees on the need for clarity regarding the coverage of non-principal obligations. However, mandatory discounting of future interest flows could introduce volatility unrelated to credit risk and prove operationally complex for diversified pools, with limited incremental benefit.
- **Frequency of coverage assessment (EBA R.12)** - A requirement for business-daily present-value (NPV) coverage assessments would represent a fundamental shift from established market practice and impose a disproportionate operational burden, particularly on smaller or diversified programmes. A risk-based approach to assessment frequency would be more appropriate.
- **Lowering statutory over-collateralisation (EBA R.13)** - The ECBC agrees that reductions in statutory OC should be subject to robust and transparent conditions. However, there is no need for stricter requirements on applying a statutory OC of 2%.
- **Defaulted collateralised assets (EBA R.14)** - Several national frameworks already exclude or heavily discount defaulted collateralised assets from coverage but do not necessarily require the removal of these assets from the cover pool since secured cover assets still have a value for the cover pool due to their expected realization proceeds. Against this background, no further harmonisation is needed.

### On Section 9. “Third country equivalence regime”

Since the global financial crisis of 2008, covered bonds have expanded beyond their traditional European markets and gained traction in several third-country jurisdictions. Despite generally less favourable regulatory treatment, investor-placed benchmark issuance from issuers outside the European Economic Area (EEA) exceeded €70 billion (equivalent) in 2025, accounting for

around one third of total issuance. Of this amount, €33 billion third country legislative covered bonds were issued in EUR.

Against this background, the industry supports the recommendation of the EBA to establish a third-country equivalence regime for covered bonds based on compliance with the requirements of the Covered Bond Directive and Article 129 of the CRR. The principle-based approach of the CBD should also apply to third countries and quality assurance should be the general guidance. As the EBA points out, reciprocity is core for each equivalence decision. However, the interpretation of reciprocity is not entirely clear. We believe this should be equal treatment of domestic and non-domestic covered bonds in a market, or a similar preferential treatment of covered bonds in the domestic market and the EU.

The EBA has proposed additional safeguards, including requirements relating to the maturity of the third-country market, with the aim of ensuring balanced market access. However, some established jurisdictions, including Canada, may face difficulties in meeting all the criteria proposed to demonstrate market maturity. The presence of a mature market in the third country is important to further broaden the investor base for EU issuers, but the industry acknowledges that a sufficiently large domestic investor base can also develop over time. At the same time, it should be ensured that improved access to the established European covered bond investor base does not prevent the development of a domestic investor base in the third country. Given the already tight pricing of covered bonds in EUR, European issuers may not always be able to achieve cheaper funding in a foreign currency market.

An EU-level equivalence decision would also replace individual investor assessments when determining the eligibility of third-country covered bonds as Level 2A assets under the Liquidity Coverage Ratio (LCR). Market concerns should be eased for covered bonds from jurisdictions that are going-forward not deemed equivalent, in respect of allowing grandfathering provisions to retain their current LCR level 2A status. In combination with market-led initiatives such as the ECBC's Covered Bond Label, a well-designed equivalence framework could also help address potential reputational concerns as the product expands beyond its traditional markets.

### **On Section 11. “Covered bonds with extendable maturities and liquidity requirements”**

ECBC Members are of the opinion that the current CBD framework adequately addresses both the extendable maturities and liquidity requirements topics. The principle-based approach of the framework remains appropriate to ensure consistency across jurisdictions. Additionally, investors demonstrate strong understanding of the instrument and of its features.

Regarding “extendable maturity” (EM), several points of the EBA's Recommendations could pave the way for a market fragmentation and a weakening of the soft bullet structures which represent more than 90% of new issuance. This could result in reduced investors protection.

More specifically:

- National Competent Authorities (NCA) involvement should be limited to upfront (at issuance) approval of transaction documentation (which includes sections dealing with maturity extension), lengthy decision making of the relevant NCA could negatively impact the efficiency of extendable structures (engineered to respond swiftly to a liquidity shortfall, the timing of the NCA's response might not be aligned to the markets' needs);

- the NCA’s approval to the EM activation, if and when necessary, would introduce uncertainty; if extension depends on supervisory action, the instrument’s effectiveness and predictability are reduced. Market participants (investors, rating agencies, paying agents, swap counterparties) require certainty on whether and when an extension occurs, implying a defined extension date;
- a pre-defined list of extension triggers in national legislation beyond the customary Issuer insolvency/bankruptcy/resolution and non-payment triggers, could result in an overly prescriptive and rigid legislation. Such a pre-defined list might not only be conflicting with national insolvency law and local banking regulations, but also becoming outdated as markets evolve and may introduce inconsistencies across national frameworks. Issuers should therefore retain the flexibility to determine additional triggers at programme level depending, for example, on the extension format chosen.

On liquidity requirements, ECBC Members do not see any need for changes to the existing framework. The use of the expected maturity as reference point for principal outflows in liquidity buffer calculations would undermine one of the core features of the instrument (prevent immediate acceleration triggering fire sale of cover assets). Furthermore, liquidity buffers should not require pre-maturity principal repayment as it diminishes the purpose of extendable covered bonds, which have been introduced to help issuers manage liquidity risk and have been fully accepted by investors.

### On Section 13. “Alignment of cover asset eligibility and risk treatment under the CBD and CRR”

General point of view of the ECBC is that the principles-based Covered Bond Directive is a balanced approach to harmonization and there is no need for further harmonization by EU-legislation.

- **Construction** (*EBA R.26 - Except for the very limited exceptions recognized in CRR, properties under construction may lose their eligibility*) - Properties under construction play a minor role in cover pools but could become more important if the long awaited and needed renovation wave gains momentum. To keep regulations simple, such loans should be limited as in some jurisdictions but not entirely excluded as eligible. Moreover, in the case of securitisations, there are proposals to allow project financing for STS securitisations. It would be incoherent to completely prohibit these assets for covered bonds at the same time.
- **Second-ranking liens** (*EBA R.26 with Article 124(3)(b) CRR - Second-ranking mortgages lose eligibility unless senior and any subordinated mortgages are held by the same bank*) - Mortgage loans may remain outstanding while owners seek an additional mortgage from another bank for energy-efficient renovations. Understanding the prudential approach, the ECBC supports eligibility if the value of the prior lien is deducted from the property's valuation and where enforcement (co-ordination on default of separate creditors ensure best possible realized proceeds) can be ensured. A solution could be the application of Article 124(4) CRR, which constitutes an exception to Article 124(3)(b) CRR.
- **Valuation method** (*EBA R.27 - EBA recommends to further analyze implications using Property Value (PV) instead of Market Value (MV)*) – The ECBC recommends maintaining the status quo with MV for ships and choice between MV and Mortgage Lending Value (MLV). National legislation may add PV. The MV and MLV valuation approaches for covered bonds have proven their worth over many years, there is no indication that they need to be

adjusted. On the contrary, changes would likely contribute to uncertainty and lead to greater heterogeneity in valuation methods.

- **Loans fully guaranteed** (*EBA R.28 to Article 129(1)(e) CRR - Aligning covered bond framework with conditions in Article 108 CRR*) - Guaranteed home loans are now predominant in France, favored by both customers and banks. At year-end 2024, the share of guaranteed home loans in total outstanding home loans was 65,3% vs 27,3% for mortgage loans, and in new loans it was even higher, at > 70% vs 16% for mortgage loans. In case of default the loan is taken out of the bank's balance sheet and transferred to the insurer which will take care of the recovery process. Certain banks have their own in-house guarantors. The track-record is strong since this scheme was implemented 20 or 30 years ago.

## Conclusions

The assessment conducted under the coordination of the European Covered Bond Council provides a clear and consistent message: the Covered Bond Directive has successfully delivered on its core policy objectives and stands as a cornerstone of the Capital Markets Union.

The Directive has effectively reconciled harmonisation with flexibility, enabling convergence of national frameworks while preserving the capacity of markets to adapt to local specificities and evolving economic and market needs. This balance is a key strength of the current framework and should be carefully safeguarded.

At this stage, and in light of its recent implementation, **there is no market evidence-based justification for further legislative intervention within the scope of the Covered Bond Directive**. On the contrary, premature or overly prescriptive amendments risk undermining market efficiency, constraining innovation, and weakening the global competitiveness of the European covered bond product.

Recent developments of financial and geopolitical stress have further demonstrated the systemic value of covered bonds as a stable funding instrument and a reliable safe-harbour asset class, based on historic performance, market confidence and a dedicated preferential treatment. Their role in supporting market reopening under adverse conditions highlights their importance for financial stability and the broader functioning of EU capital markets.

Against this backdrop, policy efforts at EU level should prioritise:

- **Securing regulatory stability and simplification**, preserving the principle-based nature of the framework and avoiding unnecessary regulatory rigidity
- **Maintaining a level playing field across jurisdictions**, preventing unintended fragmentation or competitive distortions
- **Ensuring global recognition of the EU covered bond model**, including through a well-calibrated third-country equivalence regime
- **Supporting market-led innovation**, rather than constraining it through premature regulatory intervention

In parallel, and outside the scope of the Directive, the Commission is invited to consider the strategic potential of complementary instruments such as European Secured Notes (ESNs). Building on the proven dual-recourse model, ESNs could play a key role in mobilising funding for Small and Medium Enterprises (SMEs), which remain central to Europe's competitiveness, resilience, and transition objectives.

**A dedicated and proportionate EU legislative framework for ESNs would represent a forward-looking policy response**, capable of bridging existing financing gaps while leveraging the credibility and success of the covered bond model.

In conclusion, the industry calls for a **policy approach focused on consolidation rather than reform**: preserving what works, reinforcing global leadership, and enabling targeted innovation where it is most needed.

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