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*Plenary sitting*

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**A8-0235/2017**

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# REPORT

Towards a pan-European covered bonds framework  
(2017/2005(INI))

Committee on Economic and Monetary Affairs

Rapporteur: Bernd Lucke

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### **Towards a pan-European covered bonds framework (2017/2005(INI))**

*The European Parliament,*

- having regard to the EBA report of 20 December 2016 on Covered Bonds: recommendations on harmonisation of covered bond frameworks in the EU (EBA-Op-2016-23),
- having regard to the Commission consultation document of 30 September 2015 on ‘Covered Bonds in the European Union’ and to the undated Commission document ‘Summary of contributions to the public consultation on “Covered Bonds”’,
- having regard to the Commission report of 20 October 2015 on ‘Article 503 of Regulation (EU) No 575/2013: Capital requirement for covered bonds’ (COM(2015)0509),
- having regard to the EBA opinion of 1 July 2014 on the preferential capital treatment of covered bonds (EBA/Op/2014/04),
- having regard to the EBA report of 1 July 2014 on ‘EU covered bond frameworks and capital treatment: response to the Commission’s call for advice of December 2013 related to Article 503 of the Regulation (EU) No 575/2013 and to the ESRB Recommendation E on the funding of credit institutions of December 2012’ (ESRB/12/2),
- having regard to Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depository functions, remuneration policies and sanctions, in particular Article 52(4) thereof (henceforth ‘the UCITS Directive’)<sup>1</sup>,
- having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, in particular Article 129 thereof<sup>2</sup> (henceforth ‘CRR’),
- having regard to Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council, in particular Article 44(2)

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<sup>1</sup> OJ L 257, 28.8.2014, p. 186.

<sup>2</sup> OJ L 176, 27.6.2013, p. 1.

thereof<sup>1</sup>,

- having regard to Article 1(2) of Commission Delegated Regulation (EU) 2015/2205 of 6 August 2015 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation<sup>2</sup>,
  - having regard to Article 1(2) of Commission Delegated Regulation (EU) 2016/1178 of 10 June 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation<sup>3</sup>,
  - having regard to Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (henceforth ‘LCR Delegated Act’)<sup>4</sup>,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0235/2017),
- A. whereas covered bonds (CBs) are instruments with a long-established track record of low default rates and reliable payments which help to finance around 20 % of European mortgages and accounted for more than EUR 2 000 billion of liabilities in Europe in 2015; whereas some 90 % of CBs worldwide are issued in nine European countries;
- B. whereas CBs have played a key role in the funding of credit institutions, in particular during the financial crisis; whereas CBs retained high levels of security and liquidity during the crisis, which must be attributed to the quality of national regulation; whereas the 2008-2014 episode of increasing spreads in CB prices across Member States provides no compelling evidence of market fragmentation, since the spreads were highly correlated with spreads in government bonds and were possibly mere reflections of underlying risks in cover pools; whereas appropriate risk sensitivity of covered bond prices across Member States is evidence of properly functioning and well-integrated markets;
- C. whereas there is significant cross-border investment in European CB markets; whereas CBs have a well-diversified investor base in which banks feature prominently, with a market share of roughly 35 % between 2009 and 2015; whereas the market share of asset managers, insurance companies and pension funds has shrunk by almost 20 percentage points and was essentially replaced by higher central bank investments in CBs;
- D. whereas CBs are attractive debt instruments since they are – up to the level of collateral in the cover pool – exempted from the bail-in tool set out in Article 44 of the Bank

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<sup>1</sup> OJ L 173, 12.6.2014, p. 190.

<sup>2</sup> OJ L 314, 1.12.2015, p. 13.

<sup>3</sup> OJ L 195, 20.7.2016, p. 3.

<sup>4</sup> OJ L 11, 17.1.2015, p. 1.

Recovery and Resolution Directive (BRRD); whereas CBs which are compliant with Article 129 of the CRR enjoy preferential risk weight treatment;

- E. whereas one factor in bank demand for CBs is the preferential regulatory treatment for CBs in the LCR Delegated Act, which allows banks to include CBs in the liquidity buffer even if they are not LCR-eligible under Basel rules;
- F. whereas CB programmes, under some conditions, are exempt from initial margin requirements against counterparty credit risk in derivative transactions;
- G. whereas CBs may, at national discretion, be exempted from the EU requirements on large exposures;
- H. whereas the positions of unsecured bank creditors are adversely affected by asset encumbrance owing to overcollateralisation (OC) requirements, but not by the principle of debt finance with segregated cover pools; whereas such operations, if involving loan-to-value ratios well below 100 %, generally improve the positions of unsecured bank creditors to the extent that these reserves are not needed to satisfy claims against the cover pool;
- I. whereas CBs feature prominently on the asset side of the balance sheets of many banks; whereas it is essential for financial stability that these assets remain at maximum safety and liquidity; whereas this objective should not be undermined by innovations in CBs which allow issuers to transfer risk to investors at their discretion;
- J. whereas CB issuances with conditional maturity extension (soft-bullet and conditional pass-through (CPT) structures) increased by 8 % in 12 months to reach a market share of 45 % in April 2016; whereas such options mitigate liquidity risk in mismatched cover pools, reduce OC requirements and help to avoid fire sales; whereas, however, maturity extensions shift issuer risk to investors; whereas preferential regulatory treatment should only be granted to debt instruments which are particularly safe;
- K. whereas EU law lacks a precise definition of CBs;
- L. whereas CB markets are lagging behind in Member States in which there is no tradition of issuing such bonds or whose growth is impeded by sovereign risk or difficult macroeconomic conditions;
- M. whereas it is widely acknowledged that the national covered bond frameworks are highly diverse, in particular as regards technical aspects such as the level of public supervision;
- N. whereas an EU-wide framework for covered bonds must be geared towards the highest standards;
- O. whereas there are several very successful national frameworks for CBs, founded on historical and legal grounds and partly embedded in national law; whereas those national frameworks share fundamental characteristics, in particular dual recourse, the segregation of cover pools with low-risk assets, and special public supervision; whereas it may prove beneficial to extend these principles to other types of debt instruments;

- P. whereas harmonisation should not be based on a one-size-fits-all approach as this could lead to a serious reduction in product diversity and might negatively influence national markets that have been functioning successfully; whereas harmonisation should respect the principle of subsidiarity;
- Q. whereas market participants have undertaken initiatives to foster the development of CB markets, such as the creation in 2013 of the Covered Bond Label (CBL) and the Harmonised Transparency Template (HTT);
- R. whereas, following a supervisory review, the EBA has identified best practices for the issuance and supervision of CBs and assessed the alignment of national frameworks with those practices;
- S. whereas, in response to the Commission's public consultation, a large majority of stakeholders opposed complete harmonisation, while investors emphasised the value of product diversity; whereas stakeholders have shown cautious support for EU legislation provided that it is principles-based, builds on existing frameworks and respects the characteristics of national frameworks in particular;

### *General observations and positions*

1. Stresses that domestic and cross-border investments in CBs have worked well in EU markets under the current legislative framework; emphasises that diversity of sound and safe products should be maintained;
2. Points out that a mandatory harmonisation of national models or their replacement by a European one could lead to unintended negative consequences for markets whose current success relies on CB legislation being embedded in national laws; insists that a more integrated European framework should be limited to a principles-based approach which establishes the objectives but leaves the ways and means to be specified in the transposition to national laws; stresses that this framework should be based on high-quality standards and take into account best practices, building on national regimes that work well without disrupting them; emphasises that the potential new European framework for CBs, aligned with best practices, should be a benchmark for fledgling markets and should enhance the quality of CBs;
3. Calls for an EU directive which clearly distinguishes between the two types of covered bonds currently in existence, namely:
  - a) CBs (henceforth referred to as 'Premium Covered Bonds' (PCBs)) which do not fall below the standards currently set by Article 129 of the CRR. and
  - b) CBs (henceforth referred to as 'Ordinary Covered Bonds' (OCBs)) which do not meet the requirements set out for PCBs but do not fall below the standards currently set by Article 52(4) of the UCITS Directive;

Emphasises that PCBs should continue to enjoy regulatory preference over OCBs and that OCBs should enjoy regulatory preference over other forms of collateralised debts;

recognises the potential of all UCITS-compliant debt instruments for achieving the objectives of the Capital Markets Union;

4. Calls on the Member States to protect the ‘covered bond’ label (for both PCBs and OCBs) by ensuring in national legislation that CBs are highly liquid and close to risk-free debt instruments; strongly suggests that debt instruments covered by assets which are substantially more risky than government debt and mortgages (e.g. non-government-backed infrastructure investments or credits to small and medium-sized enterprises (SMEs)) should not be labelled ‘covered bonds’ but, possibly, ‘European Secured Notes’ (ESNs); supports the principle that cover pools for PCBs and OCBs should be fully backed by assets of a long-lasting nature which can be valued and repossessed;
5. Calls on the Commission to include in the directive principles of a legal framework for European Secure Notes (ESNs) such as dual recourse, special public supervision, bankruptcy remoteness and transparency requirements; calls on the Member States to integrate these principles into their national law and insolvency procedures; emphasises that a sound legal framework for ESNs would have the potential to make ESNs more transparent, more liquid and more cost efficient than securities which make use of contractual arrangements; points out that this could help ESNs to finance riskier activities such as SME credits, consumer credits or infrastructure investments which lack government guarantees; notes that ESNs would be exempted from the scope of the bail-in tool set out in Article 44 BRRD;
6. Encourages the incorporation into the directive of minimum supervisory standards which reflect identified best practices for CBs; encourages supervisory convergence across the EU;
7. Calls for the directive to increase transparency with respect to information about cover pool assets and the legal framework designed to ensure dual recourse and segregation of those assets in the event of issuer insolvency or resolution; insists furthermore in this respect that the directive be principles-based and focus solely on informational requirements;

#### ***Defining PCBs, OCBs, ESNs and their regulatory framework***

8. Calls on the Commission to present a proposal for a European Covered Bond framework (directive) defining PCBs, OCBs and ESNs simultaneously, with a view to avoiding market disruptions during transition phases; calls on the Commission to include in this definition all of the following common principles achievable throughout the life of this issued instrument, independent of potential preferential treatment:
  - a) PCBs, OCBs and ESNs should be fully backed by a cover pool of assets;
  - b) National law should ensure dual recourse, i.e. the investor has:
    - i) a claim on the issuer of the debt instrument equal to the full payment obligations;
    - ii) an equivalent priority claim on the cover pool assets (including substitution assets and derivatives) in the event of the issuer’s default;

Should these claims be insufficient to fully meet the issuer's payment obligations, the investor's residual claims must be *pari passu* with claims of the issuer's senior unsecured creditors;

- c) Effective segregation of all cover pool assets is ensured in legally binding arrangements which are easily enforceable in the event of insolvency or resolution of the issuer; the same will hold for all substitution assets and derivatives hedging risks of the cover pool;
- d) PCBs, OCBs and ESNs are bankruptcy-remote, i.e. it is ensured that the issuer's payment obligations are not automatically accelerated in the event of the issuer's insolvency or resolution;
- e) Overcollateralisation (OC) reflecting the specific risks of PCBs, OCBs and ESNs is applied, by magnitudes to be determined in national law. The value of all cover pool assets must always be greater than the value of outstanding payment obligations. The valuation methods for cover pool assets and the calculation frequency should be clearly defined in national law and should properly take all relevant downside risks into account;
- f) European or national law defines maximum loan-to-value (LTV) parameters for cover pool assets. The removal of cover pool assets in breach of LTV limits should not be mandatory, but rather it must be ensured that such removal occurs only if they are replaced by eligible assets of at least the same market value;
- g) A part of the cover pool assets or liquidity facilities is sufficiently liquid such that the payment obligations of the covered bond or ESN programme can be met for the next six months, except in cases with match funded bonds or bonds with a soft bullet and conditional pass through (CPT);
- h) Derivative instruments are allowed only for risk hedging purposes, and derivative contracts entered into by the issuer with a derivative counterparty and registered in the cover pool cannot be terminated upon the issuer's insolvency;
- i) National law provides for a robust special public supervision framework by specifying the competent authority, the cover pool monitor and the special administrator, along with a clear definition of the duties and supervisory powers of the competent authority, to ensure that:
  - i) issuers have qualified staff and adequate operational procedures in place for the management of the cover pools, including in the event of stress, insolvency or resolution;
  - ii) the features of cover pools meet the applicable requirements both prior to issuance of and until maturity of the debt instrument;
  - iii) the compliance of PCBs, OCBs and ESNs with relevant requirements (including in relation to eligibility of cover assets and coverage) is subject to ongoing, regular and independent monitoring;



- iv) issuers regularly carry out stress tests on the calculation of the coverage requirements, taking into account the main risk factors affecting the debt instrument, such as credit, interest rate, currency and liquidity risks;

The duties and powers of the competent authority and the special administrator in the event of the issuer's insolvency or resolution must be clearly defined.

- j) The issuer is required to disclose at least biannually aggregate data on the cover pools to a level of detail that enables investors to carry out a comprehensive risk analysis. Information should be provided on the credit risk, market risk and liquidity risk characteristics of cover assets, on counterparties involved in the cover pools and on the levels of legal, contractual and voluntary OC, while there should also be a section on derivatives attached to cover pool assets and liabilities;
  - k) 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 and approved by the competent European authority; the exact conditions of the extension and potential changes to the coupon, maturity and other features should be made clear in the terms and conditions of each bond;
9. Calls on the Commission to include in the directive's definition of PCBs the following additional principles:
- a) The debt instrument is fully collateralised by assets defined by Article 129(1) of the CRR and satisfies the additional requirements of Article 129(3) and (7) of the CRR; for residential loans backed by guarantees as specified under Article 129(1)(e) of the CRR there must be no legal impediments for the administrator of the CB programme to place senior mortgage liens on the loans when the covered bond issuer is in default or resolution and the guarantee is, for any reason, not honoured. The eligibility of ships as cover pool assets (Article 129(1)(g) of the CRR) shall be reviewed;
  - b) The maximum LTV parameters for mortgages included in the cover pool are set by European law in such a way that they do not surpass the LTV ratios currently fixed in Article 129 of the CRR, but are subject to regular review and adjustment in line with stress tests relying on independent assessments of market prices which might prevail in the relevant real estate markets under stress; the use of loan-to-mortgage lending values rather than loan-to-market values should be encouraged;
10. Emphasises that the risk weights assigned to CBs in European legislation must reflect market assessments of underlying risks; observes that the same does not apply to all other types of debt instruments that enjoy preferential regulatory treatment owing to certain characteristics;
11. Calls on the Commission to empower the European Supervisory Authorities (ESAs) to evaluate compliance with the criteria for PCBs, OCBs and ESNs with the aim of supplementing or even replacing the lists provided for in Article 52(4) of the UCITS Directive with an authoritative list of compliant PCBs, OCBs and ESN regimes at

European level;

12. Calls on the EBA to issue recommendations for PCB, OCB and ESN regimes on eligibility criteria for assets (including substitution assets), on LTV ratios and minimum effective OC levels for different types of assets, and on possible revisions of the CRR; calls on the EBA to provide the necessary guidelines for the establishment of the special public supervisory and administrative framework;
13. Recommends that market access barriers for issuers in developing covered bond markets outside the EEA be removed by providing equitable treatment to covered bonds from issuers in third countries, provided their legal, institutional and supervisory environment passes a thorough equivalence assessment by a competent European institution; recommends promoting the key principles of European legislation in order to establish a potential benchmark for the covered bond markets globally;
14. Calls on the Commission to propose a revision of the European financial services legislation which specifies the regulatory treatment of PCBs, OCBs and ESNs;
15. Calls on the Commission, when assessing existing EU financial services legislation, to take into account the potential of PCBs, OCBs and ESNs for achieving the objectives of the Capital Markets Union;
16. Calls on the Commission to identify possible obstacles at national level to the development of covered bonds systems and to publish guidelines to eliminate these barriers, without prejudice to banks' sound and prudent conduct of business;
17. Calls on the Commission and the EBA to reassess (possibly as part of an impact assessment) the eligibility of maritime liens on ships as cover pool assets as set out in Article 129(1)(g) of the CRR; is concerned that preferential treatment for ships distorts competition with other means of transportation; asks the Commission and the EBA to investigate whether ship CBs are on an equal footing with other CRR-compliant covered bonds in terms of their liquidity and their risk assessments carried out by independent rating agencies, and whether preferential treatment of such bonds on the basis of LCR eligibility and lower risk weights in the CRR is therefore warranted;
18. Calls on the Member States to provide in national law for the opportunity to create separate cover pools, with each comprising a homogenous asset class (such as residential loans); calls on the Member States to allow all cover assets as specified in Article 129(1)(a), (b) and (c) of the CRR as substitution assets contributing towards the coverage requirement, and to clearly specify limits on credit quality, exposure size and upper bounds for coverage contributions of substitution assets;

### ***Supporting market transparency and voluntary convergence***

19. Welcomes improvements in CB rating methodologies and the expansion of the rating markets for CBs;
20. Underlines the importance of a level playing field to ensure fair competition in financial markets; emphasises that European legislation must not discriminate between different types of secured debt instruments unless there are good reasons to assume that these

differ in terms of either safety or liquidity;

21. Welcomes market initiatives to develop harmonised standards and templates for disclosure (e.g. the HTT) in order to facilitate the comparison and analysis of differences between covered bonds across the EU;
22. Supports the development of EBA recommendations for market standards and guidelines on best practices; encourages voluntary convergence along these lines;
23. Encourages the regular execution of stress tests for cover pools and the publication of stress test results;
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  - o
  - o
24. Instructs its President to forward this resolution to the Council, the Commission and the European Banking Authority.

## EXPLANATORY STATEMENT

Covered bonds (CBs) have always been, ever since their invention more than two centuries ago, a very specific asset class in many ways. Long-established instruments in the financing structures of several Member States, they have proved to be **reliable investments** for a variety of financial institutions and a convenient and efficient **funding option for issuers**. They rely on very strong structural characteristics such as the dual recourse, the high quality cover pools (consisting almost exclusively of mortgage loans (85%) and public debt instruments (15%)) and the segregation of cover pool assets. Investors' trust is reinforced by CBs being subject to special public supervision.

The extraordinary degree of safety and liquidity which CBs have exhibited over decades prevailed even in times of severely troubled financial markets, e. g. during the last ten years. This has led to the recognition of CBs as assets whose holding warrants preferential regulatory **treatment under the EU financial services legislation**.

A fairly vague description of the asset class given in Article 52(4) of the UCITS Directive<sup>1</sup> serves as the **“definition” of covered bonds in EU law** – although the text falls short of referring to the asset class as “covered bonds”. Subsequent EU legislation has built on this definition to

- grant a **favourable treatment to CBs held by banks** if the CBs meet certain precisely worded requirements under Article 129 of the CRR<sup>2</sup>;
- included CBs that meet certain specific conditions in the list of assets recognized as **Level 1 High Quality Liquid Assets** under the Liquidity Coverage Requirement Delegated Act<sup>3</sup>; and
- **excluded CBs, up to the collateralised part, from the bail-in** when a bank is under resolution, under Article 44(2) BRRD<sup>4</sup>.

The success of CBs can be pinned down to essentially two factors:

- (1) economically, to the **existence of collateral** in the form of high quality assets of a long-lasting nature which are **easily valued and repossessed**, i. e. mostly mortgages and government bonds
- (2) institutionally, to the existence of a legal and supervisory framework which guarantees **dual recourse** for the investor, the **segregation of the cover pool** and **special public**

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<sup>1</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)

<sup>2</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012

<sup>3</sup> Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions

<sup>4</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council Text with EEA relevance

## **supervision.**

From the perspective of European legislation, it is interesting to note that the CB “definition” in Article 52(4) of the UCITS Directive essentially requires CBs to satisfy (2), but does not impose the high quality requirements on cover pool assets as expressed in (1). Rather, admissible cover pool assets are determined by national laws. In all Member States these laws are focused on mortgages and public sector loans, but some Member States also provide for the inclusion of other, possibly riskier assets.

**From a perspective of systemic financial stability, (1) seems indispensable.** To exempt CB creditors from the bail-in tool of the BRRD can only be justified if CBs are different from other debt instruments on the grounds of extremely low default risk. Absence of significant default risk is also key in including CBs among the Level 1 liquid assets in the LCR Delegated Act and in granting investors higher exposures for these type of exposures than for other transferable securities or money market instruments.

The EBA in its 2016 report speaks out clearly **against granting preferential regulatory treatment to CBs whose cover pools include more risky types of assets**, e. g. SME loans, infrastructure loans or loans to other non-public debtors. The EBA is also sceptical towards movable assets such as ships (and aircrafts), which, if moved out of the EU, may be difficult to repossess.

On the other hand, given the successful role CBs have played and continue to play in financing mortgages or public sector loans, it is suggestive to **make the institutional framework (2) available also to riskier types of assets** such as SME finance or infrastructure investment. A sound legal framework providing for dual recourse, segregation of cover pools and special public supervision may provide – for both issuers and investors – an attractive alternative to securitizations or other forms of debt finance. Contractual arrangements underlying securitizations are often costly to set up, difficult to monitor and subject to legal disputes in the case of issuer default or resolution.

More transparency, more public supervision, and more legal certainty can be achieved by extending the institutional principles of CBs (2) to debt instruments **which finance important and growth-enhancing economic activities** (e. g. SME or infrastructure investments). But financial stability must not be compromised. Exemptions from general capital requirements in banking regulation or from the bail-in tool should not be granted to securities whose collateral does not satisfy (1).

Therefore, your rapporteur proposes a European directive which clearly defines and distinguishes two types of assets: **Covered Bonds (CBs) and European Secured Notes (ESNs)**. Common to both types of securities would be the principles of a legal and supervisory framework (2). The label “covered bond” would be used if and only if the securities also satisfy (1) and, hence, only CBs would be able to qualify for preferential regulatory treatment. To avoid unnecessary disruptions in smoothly working CB markets, your rapporteur further suggests to define CBs building closely on Article 129 of the CRR<sup>1</sup>.

The CRR is silent on the admissibility of CBs with conditional **maturity extensions** (soft

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<sup>1</sup> This limits cover pool assets to mortgages, public loans or assets with state guarantees. Deviating slightly from the CRR, ships should not qualify for CBs.

bullets and conditional pass-through (CPT) structures). These types of CBs have greatly increased in recent years. While maturity extensions may serve as useful contractual provisions for predictability and for risk management, particularly in cases of issuer default or resolution, they clearly **shift part of the risks from the issuer to the investor**. This may, if no attention is paid thereto, cause broader systemic risks. Preferential regulatory treatment should therefore not be granted to CBs with maturity extensions except for cases of default or resolution, i. e. for cases in which the alternative to a maturity extension would be a default of the issuer on the CB. Moreover, to protect investors and safeguard financial stability, the issuer should not have discretion in the triggering of maturity extensions. Rather, any extension of CB maturities in the case of default or resolution should be contingent on approval by the competent supervisory authority.

Covered bond regimes are deeply rooted in national insolvency laws. Cover pools and the dual recourse principle are safeguards against insolvency of the issuer, where the legal proceedings necessary to satisfy creditors' claims against an illiquid CB issuer depend on national laws and vary considerably between Member States. European legislation should cause **no disruption for frameworks which are well embedded in national law** and which have enabled CB markets to operate smoothly and successfully over decades. This is why European legislation should be limited to a directive which sets the principles of CB and ESN markets. The development of technical standards should be left to the competent national supervisory authorities after in response to the transposition to national law.

Maximum loan-to-value ratios for mortgages form an important part of the eligibility criteria laid out in Article 129 CRR. Given the substantial price fluctuations which some real estate markets have experienced, LTVs must be considered a defining property of collateral for CBs which enjoy regulatory preference and not a technical standard that might be decided freely by Member States. Your rapporteur therefore proposes to continue setting maximum LTVs by European legislation and to monitor closely if these LTVs are in line with independent assessments of pricing conditions which might prevail in the relevant real estate markets under stress.

Finally, any action at the European level should also **take into account three important developments** not mentioned so far:

- Strong market-led initiatives are already in progress. For example, the Covered Bond Label developed by the issuer community in cooperation with investors and regulators has been agreed in 2013 and has reached in 2016 a coverage of 60% of outstanding CBs worldwide. Where those initiatives exist, they should be encouraged and either replace public intervention or be the basis for optional or mandatory standards. In particular, the **Harmonised Transparency Template established since 2016 under the CBL** could be a basis for common disclosure standards applicable to CB issuers.
- CBs are gaining popularity in a number of non-EU countries, e. g. Australia, Canada, Chile, New Zealand, Singapore, South Korea, Turkey and Russia. Other major jurisdictions (including Brazil, India, Japan, Mexico, Morocco, Panama, Peru, South Africa and the United States) may soon follow suit. A careful approach of European legislation limited to basic principles combined with sufficient flexibility for the idiosyncrasies of national laws and legacies will allow to integrate European CB and ESN markets with similar markets for similarly safe financial products elsewhere in the world and will therefore **reinforce the long-run prospects for economic growth** in the

EU and in third countries. Moreover, EU standards would have the potential to function as a blueprint for developing CB markets worldwide.

- The market has been living, to some extent, under public support in recent years. The ECB asset purchase programme (again most recently via the CBPP3 since October 2014) has had a significant effect on primary and secondary markets of CBs, contributing, along with regulatory treatment, to increasing issuance of CBs since 2013. However, this has caused significant crowding out of private investors and stakeholders have warned that this crowding out may continue and eventually destroy the market unless the ECB disengages from CB markets in the near future. Any legislative or regulatory initiative should therefore be carefully weighted. Significant change of rules would create uncertainty for markets which need to win back investors they have lost.

Since 2015, the Commission's **Capital Markets Union initiative** (in particular via its public consultation on CBs of September 2015) has looked at enhancing CB markets in Europe with due respect to national preferences and frameworks. This is important since the success of the asset class has relied on national frameworks developed over decades and tailored to the local long-term financing needs, banking or capital market structures and risk appetite. Those particularities and flexibilities are to be appreciated and cultivated for European CB markets to continue leading in the world.

## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	20.6.2017
<b>Result of final vote</b>	+: 43 -: 6 0: 1
<b>Members present for the final vote</b>	Burkhard Balz, Udo Bullmann, Esther de Lange, Fabio De Masi, Markus Ferber, Jonás Fernández, Sven Giegold, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Cătălin Sorin Ivan, Petr Ježek, Othmar Karas, Georgios Kyrtos, Philippe Lambert, Werner Langen, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Marisa Matias, Gabriel Mato, Costas Mavrides, Stanisław Ożóg, Dimitrios Papadimoulis, Sirpa Pietikäinen, Pirkko Ruohonen-Lerner, Alfred Sant, Molly Scott Cato, Peter Simon, Kay Swinburne, Paul Tang, Ramon Tremosa i Balcells, Ernest Urteaga, Marco Valli, Cora van Nieuwenhuizen, Jakob von Weizsäcker, Jarosław Wałęsa, Sotirios Zarianopoulos
<b>Substitutes present for the final vote</b>	Simona Bonafè, Enrique Calvet Chambon, Nessa Childers, Andrea Cozzolino, Mady Delvaux, Jan Keller, Paloma López Bermejo, Luigi Morgano, Romana Tomc, Roberts Zile
<b>Substitutes under Rule 200(2) present for the final vote</b>	Jarosław Wałęsa



## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

43	+
ALDE	Enrique Calvet Chambon, Petr Ježek, Ramon Tremosa i Balcells, Cora van Nieuwenhuizen
ECR	Bernd Lucke, Stanislaw Ożóg, Pirkko Ruohonen-Lerner, Kay Swinburne, Roberts Zile
PPE	Burkhard Balz, Markus Ferber, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Othmar Karas, Georgios Kyrtsov, Werner Langen, Ivana Maletić, Gabriel Mato, Sirpa Pietikäinen, Romana Tomc, Jarosław Wałęsa, Esther de Lange
S&D	Simona Bonafè, Udo Bullmann, Nessa Childers, Andrea Cozzolino, Mady Delvaux, Jonás Fernández, Neena Gill, Cătălin Sorin Ivan, Jan Keller, Olle Ludvigsson, Costas Mavrides, Luigi Morgano, Alfred Sant, Peter Simon, Paul Tang, Jakob von Weizsäcker
VERTS/ALE	Sven Giegold, Philippe Lamberts, Molly Scott Cato, Ernest Urtasun

6	-
EFDD	Marco Valli
GUE/NGL	Fabio De Masi, Paloma López Bermejo, Marisa Matias, Dimitrios Papadimoulis
NI	Sotirios Zarianopoulos

1	0
ENF	Gerolf Annemans

### Key to symbols:

+ : in favour

- : against

0 : abstention