3.18 GREECE

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I. FRAMEWORK

In Greece, the institution of covered bonds was originally regulated by Article 91 of the now repealed Law 3601/2007. This was later replaced by Article 152 of Law 4261/2014, that was identical to it. These provisions were supplemented by Acts of the Governor of the Bank of Greece.

On 12 March 2018, the European Commission adopted a proposal for an enabling EU framework on covered bonds. The legislative proposal consisted of (a) the adoption of a directive providing inter alia a common definition of covered bonds, defining the structural features of the instrument and identifying those high quality assets that can be considered eligible in the pool backing the debt obligations, establishing a sound special public supervision for covered bonds and setting out the rules which will allow the use of the "European Covered Bonds" label; and (b) the adoption of a regulation amending the Regulation (EU) 575/2013 (the "Capital Requirements Regulation" or "CRR") with the aim of strengthening the conditions for granting preferential capital treatment to covered bonds by adding further requirements. Following this proposal, Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU was enacted (the "Covered Bonds Directive"). EU Member States were obliged to adopt and publish, by 8 July 2021, the laws, regulations and administrative provisions necessary to comply with the Covered Bond Directive and to apply those measures at the latest from 8 July 2022.

Law 4920/2022 (the "Covered Bond Law") transposed the Covered Bond Directive into Greek law. The Covered Bond Law entered into force on 8 July 2022. Covered bonds issued prior to such date continue in principle to be governed by article 152 law 4261/2014. The Covered Bond Law supersedes general provisions of law contained in the Civil Code, the Code of Civil Procedure and the Insolvency Code. The legislative framework in Greece is supplemented by Law 3156/2003 "On Bond Loans, Securitization of Claims and of Claims from Real Estate and Other Provisions" (the "Bond Loan and Securitization Law") and Law 4548/2018 "Reform of law on sociétés anonymes" (the "New Company Law"), to the extent that the Covered Bond Law cross-refers to these laws. Finally, the Covered Bond Law authorizes the Bank of Greece to issue rules supplementing the provisions of the Covered Bond Law. Pursuant to this authorization, the Executive Committee of the Bank of Greece issued Decision 215/03.02.2023 "Framework of Issuance and Supervision of Covered Bonds" (the "Secondary Legislation").

II. STRUCTURE OF THE ISSUER

Contrary to article 152 law 4261/2014, which permitted the issuance of covered bonds in two ways, either directly by a credit institution, or indirectly by a subsidiary of a credit institution, the Covered Bond Law only allows the direct issuance of covered bonds by credit institutions. The segregation of the cover pool is achieved through a statutory pledge over the cover pool assets.

III. COVER ASSETS

The type of assets that may form part of the cover pool is regulated by article 8 of the Covered Bond Law (transposing article 6 of the Covered Bond Directive). Specifically, the Covered Bond Law provides for two categories of cover pool assets, (i) assets that are eligible pursuant to article 129(1) of the CRR and (ii) other high-quality cover assets that meet the conditions of the Covered Bond Law and in addition belong to categories of assets that are specified as eligible in a decision of the Bank of Greece. It is worth noting that article 8 of the Covered Bond Law has not transposed subparagraph (c) of article 6(1) of the Covered Bond Directive and consequently cover assets do not include assets in the form of loans to or guaranteed by public undertakings. Furthermore, the Bank of Greece has not used the authorization to specify as eligible other high-quality cover assets. Consequently, the only cover assets that are currently permitted in Greece are cover assets considered eligible according to article 129(1) of the CRR.

Cover assets considered eligible according to article 129(1) of the CRR are primarily residential mortgage loans, loans secured by a mortgage on commercial properties, loans secured by a mortgage on ships and exposures to or guaranteed by state entities. The loans may be secured by mortgage prenotations instead of full mortgages (as is the practice for cost reasons in Greece). According to the Secondary Legislation (Chapter III, A (4)), loans secured by residential and commercial real estate may only be included in the cover pool, if they are located in the territory of Greece, a provision that is problematic, as it contravenes EU law. Exposures to credit institutions may be included in the cover pool up to an aggregate limit of 15% of the nominal value of the outstanding covered bonds. According to article 13 of the Covered Bond Law, derivatives may also be included in the cover pool, subject to certain conditions, including the requirements that the derivative contracts are included in the cover pool exclusively for risk hedging purposes and that the derivative contracts cannot be terminated upon the insolvency or reorganisation of the issuer.

IV. VALUATION AND LTV CRITERIA

Loans secured by residential mortgages are required to have a loan-to-value (LTV) ratio of 80%, whereas loans secured by mortgages over commercial properties and ships are required to have an LTV ratio of 60%. Loans with a higher LTV ratio may be included in the cover pool, but they are taken into account for the calculation of the statutory tests described below only up to the amount indicated by the LTV ratio. Thus e.g. a loan of 900,000 Euros secured through a residential mortgage over a property valued at 1,000,000 Euros may be included in the cover pool but will be deemed for the purposes of the calculation of the statutory tests to be equal to 800,000 Euros.

The evaluation of properties must be performed by an independent valuer at or below the market value and must be repeated on a frequent basis, at least once every year in relation to commercial properties and once every three years in relation to residential properties (Article 208 of the CRR).

V. ASSET-LIABILITY MANAGEMENT

Article 17 of the Covered Bond Law provides coverage requirements that must be met for the full duration of the covered bonds. More particularly, the Covered Bond Law provides for the following coverage requirements:

(a) All liabilities of the covered bonds shall be covered by claims for payment attached to the cover assets.

(b) The nominal value of the cover assets must exceed by at least 5% the nominal value of the outstanding covered bonds.

The Covered Bond Law authorizes the Bank of Greece to issue decisions specifying and potentially rendering stricter the coverage requirements. Based on this authorization, the Secondary Legislation provides that:

(a) The net present value of the obligations to investors in covered bonds and other creditors secured by the cover pool must not exceed at any time the net present value of the cover assets, including the derivative contracts used to hedge risks related to the cover assets. This requirement must also apply in the hypothesis of a parallel movement of the yield curve by 200 basis points.

(b) The amount payable as interest to covered bondholders must not exceed the amount of interest expected to be received from the cover assets (including derivatives used for hedging) for a period of 12 months.

For the purposes of the tests under (a) and (b) above, claims in relation to which a default has occurred according to article 178 of the CRR and in any case claims that are in arrears for more than 90 days shall not be deemed to be part of the cover assets.

Article 18 of the Covered Bond Law provides that the cover pool shall include at all times a liquidity buffer composed of liquid assets available to cover the net liquidity outflow of the covered bond programme. Such cover pool liquidity buffer shall cover the maximum cumulative net liquidity outflow over the next 180 days.

VI. TRANSPARENCY

Currently, the issuer's reporting obligations (as described in detail under paragraph on reporting duties of section VII) and the disclosure of the cover pool as conducted via the summary registered with the competent pledge registry for the establishment of a statutory pledge (for more details on this issue we cross-refer to paragraph on the cover pool monitor of section VII) are the basic transparency tools provided under applicable covered bonds legislation. The label 'European Covered Bond' may be used only for covered bonds which meet the requirements of the Covered Bond Law. Furthermore, the label 'European Covered Bond (Premium)' may be used only for covered bonds which also meet the requirements of Article 129 of the CRR. So far in Greece no market or regulatory initiatives have been undertaken on the creation of a national transparency template, in line with the guidelines of the ECBC Label Initiative.

VII. COVER POOL MONITOR AND BANKING SUPERVISION

Cover pool monitor

The compliance of cover pool assets with the requirements of the Covered Bond Law and of the secondary legislation to be issued by the Bank of Greece is monitored by a cover pool monitor, that is an auditor independent from the issuer of the covered bonds and from the issuer's auditor. In case the cover pool monitor finds that the cover pool assets to not comply with the requirements of the Covered Bond Law and of the Secondary Legislation, it shall immediately notify that issuer who must take action to remedy the default without delay. The Secondary Legislation specifies further the obligations of the cover pool monitor, including the requirement to compile an report, which is submitted to the Bank of Greece.

Prerequisites for the issuance of covered bonds

According to the Covered Bond Law, covered bonds may be issued by credit institutions that meet the following requirements:

> an adequate programme of operations setting out the issue of covered bonds; adequate and documented policies, processes and methodologies for the approval, amendment, renewal and refinancing of loans included in the cover pool;

> management and staff dedicated to the covered bond programme which have adequate qualifications and knowledge regarding the issue of covered bonds and the administration of the covered bond programme;

> sufficient organization and IT infrastructure for the management and monitoring of the cover pool assets, so as to meet the requirements of the Covered Bond Law and any secondary legislation issued pursuant to the Covered Bond law;

> a risk mitigation policy and appropriate mechanisms to monitor and manage risks arising from the issuance of covered bonds; and

> a detailed description of the competence of the service units and the committees involved in the issuance of covered bonds.

The prior approval of the Bank of Greece is required for the issuance of a covered bond programme.

Reporting duties of the issuer to the supervisor concerning covered bonds and cover pool

Credit institutions that issue covered bonds shall provide reports to the Bank of Greece containing information on the eligibility of assets and cover pool requirements, the segregation of cover assets, the functioning of the cover pool monitor, the coverage requirements, the cover pool liquidity buffer and the conditions for extendable maturity structures.

Banking supervision in crisis

As described in detail under section VIII of this article, article 21 of the Covered Bond Law provides that in case of insolvency or reorganization of the issuer, the Bank of Greece may appoint a special administrator to preserve the rights and interests of the covered bond investors, if the bondholders' agent does not do so.

VIII. SEGREGATION OF COVER ASSETS AND BANKRUPTCY REMOTENESS OF COVERED BONDS

Segregation of cover assets

The cover assets are segregated from the remaining estate of the credit institution through a pledge constituted by operation of law (statutory pledge). In case of assets governed by a foreign law (which will typically include *inter alia* claims from derivative contracts), a security interest must be created in accordance with such foreign law. The statutory pledge and the foreign law security interest secure claims of the holders of covered bonds and may also secure (in accordance with the terms of the covered bonds) other claims connected with the issuance of the covered bonds, such as derivative contracts used for hedging purposes. The statutory pledge and any foreign law security interest are held by a bondholders' agent for the account of the secured parties.

The claims constituting cover assets are identified by being listed in a document signed by the issuer and the bondholders' agent. A summary of such document is registered in the pledge registry of the seat of the issuer. Such summary document includes within its content a description of the assets that constitute the cover pool. Claims may be substituted and additional ones may be added to the cover pool through the same procedure.

Article 14 of the of the Covered Bonds Law creates an absolute priority of holders of covered bonds and other secured parties over the cover pool. Upon registration of the summary of the document listing the claims included in the cover pool, the issuance of the covered bonds, the establishment of the statutory pledge and the foreign law security interest and the entering into of all contracts connected with the issuance of the covered bonds are not affected by the commencement of any insolvency proceedings against the issuer.

It is worth noting that according to the Covered Bond Law the cover assets may not be attached. This has the indirect result that the Greek law claims constituting cover assets are no longer subject to set-off, because, according to Article 451 of the Civil Code, claims which are not subject to attachment are not subject to set-off. This is important because under generally applicable law borrowers the loans to whom become cover assets would have had a right to set-off, which would reduce the value of the cover pool, for all counterclaims (including notably deposits) predating the creation of the pledge.

No specific provisions exist in relation to voluntary overcollateralisation. As a result, the segregation applies to all assets of the cover pool, even if their value exceeds the minimum required by law. The remaining creditors of the credit institution will only have access to any remaining assets of the cover pool after the holders of the covered bonds and other creditors secured by the cover pool have been satisfied in full.

Bankruptcy remoteness of and impact of insolvency proceedings on covered bonds

According to article 7 the Covered Bond Law, covered bonds do not automatically accelerate upon insolvency of the issuer.

Pursuant to article 21 of the Covered Bond Law, in case of insolvency or reorganisation of the issuer, a special administrator shall be appointed by the bondholders' agent, subject to a positive opinion of the Bank of Greece. The Bank of Greece shall appoint the special administrator, if the bondholders' agent does not do so.

Access to liquidity in case of insolvency

Article 21 of the Covered Bond Law provides that the special administrator may sell and transfer the cover assets, and use the net proceeds of such sale in order to discharge the obligations under the covered bonds and the other obligations which are secured by the legal pledge, according to the terms of the covered bond programme.

Exercise of the claims of covered bondholders against the remaining assets of the credit institution

According to article 4 of the Covered Bond Law, holders of covered bonds have dual recourse both to the cover pool as secured creditors and to the remaining assets of the credit institution ranking as unsecured and unsubordinated creditors.

Protection of depositors

The purpose of protecting depositors from an excessive encumbrance of assets is provided indirectly by Article 45 of Directive 2014/59/EU (the "Banking Recovery and Resolution Directive" or "BRRD")[1], which provides for a minimum requirement of own funds and eligible liabilities, as covered bonds and other secured liabilities are not eligible according to this provision. In addition to this EU law provision, the Secondary Legislation (Chapter IV) aims to protect depositors by providing that cover assets must not in principle exceed 20% of available assets of the credit institution issuing covered bonds. Available assets are defined as all assets of the credit institution on an unconsolidated basis, excluding claims assigned to securitization vehicles, assets subject to reverse repo transactions and assets pledged to third parties.

IX. RISK-WEIGHTING & COMPLIANCE WITH EUROPEAN LEGISLATION

The risk-weighting of covered bonds (both Greek and foreign) is regulated by Article 129 of the CRR. According to this, as currently in force, bonds falling within the provisions of Article 52(4) of the UCITS Directive, as amended and in force, are eligible for preferential treatment, provided that the cover pool consists of the assets enumerated in paragraph 1 of Article 129 of the CRR and the provisions of paragraph 7 of the same article regarding the information provided to holders of covered bonds are met.

Greek covered bonds issued both under law 4261/2014 and under the Covered Bond Law comply with both the UCITS Directive, as amended and in force, and the CRR and, therefore, have the reduced risk-weighting mentioned above in Greece and should also have it in other EU member states.

After 28 June 2023 article 129 of the CRR covered bonds as defined in point (1) of Article 3 of the Covered Bond Directive shall be eligible for the preferential treatment provided they are collateralised by assets deemed eligible pursuant to that article and meet certain requirements set out in that Article. Since, the Covered Bond Law faithfully transposes the Covered Bond Directive, covered bonds issued pursuant to it shall have the preferential treatment of article 129 CRR provided they also meet the remaining conditions set by that article.

Issuers: There are four issuers in Greece: Alpha Bank; National Bank of Greece; Eurobank and Piraeus Bank.

COVERED BOND LABEL: Alpha Bank S.A. (1 pool).

For the most up-to-date information, please consult the new ECBC Covered Bond Comparative Database webpage on the Covered Bond Label website www.coveredbondlabel.com or via the following QR code:

1 Greece transposed the BRRD through law 4335/2015, as amended.