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Decision of 24 May 2022 amending the Decree on Prudential Rules in connection with the implementation of the Directive on the issuance of covered bonds and on government supervision of covered bonds (Implementation Decree on the covered bonds Directive)

We Willem-Alexander, by the grace of God, King of the Netherlands, Prince of Orange-Nassau, etc. etc.

On the recommendation of Our Minister of Finance of 22 March 2022, 2022-0000092023, Financial Markets Directorate;

Having regard to Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issuance of covered bonds and the public supervision of covered bonds and amending Directives 2009/65/EC and 2014/59/EU (OJ 2019 L 328) and Articles 1:79, 1:80, 1:81, second paragraph, 3:33a, fourth and fifth paragraphs, 3:33b, third paragraph and 3:33ba, third paragraph of the Financial Supervision Act;

Having heard the Advisory Division of the Council of State (advice of 11 May 2022, no. W06.22.00035/III);

Having regard to the further report of Our Minister of Finance of 20 May 2022, 2022-00001421, Financial Markets Directorate;

Have approved and understood:

ARTICLE I

The **Decree Prudential Rules Financial Supervision Act (Besluit prudentiële regels Wft)** shall be amended as follows:

A

In Article 1, the definition of "cover assets" is deleted.

B

CHAPTER 6B is replaced by the following

CHAPTER 6B. COVERED BONDS

Provisions for the implementation of Articles 3:33a(4) and (5), 3:33b(3), 3:33ba(3) of the Act

Article 40d

In this chapter and the provisions based thereon, the following definitions apply:

Cover assets shall mean assets as defined in Article 3(4) of the Covered Bonds Directive;

Overcollateralisation: overcollateralisation as referred to in Article 3(14) of the Covered Bonds Directive;

Primary assets shall mean primary assets as referred to in Article 3(12) of the Covered Bonds Directive;

substitution assets' shall mean substitute assets as referred to in Article 3(13) of the Covered Bonds Directive;

Collateral Assets: collateral assets as referred to in Article 3(5) of the Covered Bonds Directive.

Article 40e

1. A bank issuing covered bonds shall ensure that the cover assets of the covered bond programme to which a covered bond belongs are safeguarded by a transfer under general or special title to another legal entity, subject to the following conditions:

a. the legal entity was created for the sole purpose of separating the covering assets of a covered bond programme from the assets of the bank and doing what is necessary or desirable for the relevant covered bond programme; and

b. The bank, as well as legal entities belonging to the same group as the bank, does not hold any shares in the legal entity, does not control its policy and does not have an ownership interest in it in any other way.

2. The bank is at all times able to identify the cover assets of a covered bond programme.

Article 40f

1. A bank issuing covered bonds shall include as primary cover asset at least 80% of the total nominal value of the assets in the cover pool one of the types of cover assets referred to in Article 129(1)(a) to (g) of the Capital Requirements Regulation.

2. The bank may include substitute cover assets consisting of one or more of the other types of assets referred to in Article 129(1)(a) to (g) of the CRD for up to 20% of the total nominal value of the assets in the cover pool.

3. For the purposes of calculating the nominal value of the cover assets referred to in paragraphs 1 and 2, the bank shall, where applicable, comply with the restrictions in Article 129(1) to (3) of the Capital Requirements Regulation.

Article 40g

1. The total nominal value of the payment claims arising from the cover assets belonging to the hedging pool shall at least equal the total nominal value of the liabilities as referred to in Article 3:33b of the Law.

2. The total nominal value of the cover assets referred to in Article 40f(1) and (2) together shall be at least equal to the total nominal value of the outstanding covered bonds and, in addition, shall be subject to an overcollateralisation consisting of 5% of the nominal value of the outstanding covered bonds covered by the nominal value of the cover assets referred to in Article 129(1)(a) to (g) of the Capital Requirements Regulation.

3. Unsecured claims where default is deemed to have occurred, as referred to in Article 178 of the CRD, cannot contribute to coverage in the cover pool.

4. For the calculation of the expected costs, as referred to in Article 3:33b(3) of the Act, and notwithstanding the first paragraph, instead of the nominal value a fixed amount can be used consisting of at least four basis points of the total nominal value of the outstanding covered bonds, or a fixed amount of EUR 400,000 if that amount is higher.

5. The calculation of the interest due on the outstanding covered bonds and the interest receivable on the cover assets is based on the nominal value.

6. For the purposes of calculating the nominal value of the cover assets referred to in paragraph 2, the bank shall comply, where applicable, with the restrictions in Article 129(1) to (3) of the Capital Requirements Regulation. Assets that contribute to the 5% overcollateralisation referred to in paragraph 2 shall not be subject to the exposure limits laid down in Article 129(1a) of the Capital Requirements Regulation and shall not be counted towards those limits.

Article 40h

1. A bank that issues covered bonds and uses physical collateral assets to secure the cover assets referred to in Article 129(1)(d) to (g) of the Capital Requirements Regulation shall comply with the requirements of Article 208 of that Regulation.

2. The physical collateral assets shall be valued at or below the market value or the mortgage lending value, as referred to in Article 4(1)(76) and (74), respectively, of the Capital Requirements Regulation.

3. The valuation of the physical collateral assets shall be performed by a valuer fulfilling the requirements referred to in Article 6(5)(b) and (c) of the Covered Bonds Directive.

Article 40i

1. A bank issuing covered bonds shall ensure that the debtor of the cover assets is domiciled, or has its registered office, within the borders of the Member States of the European Union, or in another State party to the Agreement on the European Economic Area.

2. A bank shall ensure that, where applicable, the physical collateral asset is located within the borders of the Member States of the European Union, or in another State party to the Agreement on the European Economic Area.

Article 40j

1. A bank issuing covered bonds shall ensure that a derivative contract is only included in the cover pool if it contributes to managing risks for covered bond holders. A derivative contract is removed from the cover pool if the risk to covered bondholders ceases to exist.

2. The volume of a derivative contract is adjusted if there is a reduction in the risk to which the derivative contract relates. A derivative contract is removed from the cover pool if the risk to covered bond holders ceases to exist.

3. A derivative contract can only be included in the cover pool if the contract:

- a. is sufficiently documented;
- b. cannot be terminated if the bank which issued the covered bonds has been declared bankrupt or if the bank has been subject to a resolution measure under Part 3A of the Act;
- c. has been concluded with a financial company subject to supervision; and
- d. in case of loss of sufficient creditworthiness of the other party, the other party shall be obliged to provide adequate collateral or to replace itself by another party.

Article 40k

1. A bank issuing covered bonds shall ensure that the cover pool at all times contains a liquidity buffer consisting of liquid assets available to cover the net liquidity outflow of the covered bond programme, as referred to in Article 3(16) of the Covered Bonds Directive.

2. The liquidity buffer referred to in paragraph 1 shall cover the maximum cumulative net liquidity outflow during the next 180 days.

3. If the maturity of a covered bond can be extended on the basis of Article 40m, the calculation of the net liquidity outflow referred to in the second paragraph shall be based on the principal amount on the maturity date.

4. The liquidity buffer referred to in the first paragraph shall include the assets referred to in Article 16(3)(a) and (b) of the Covered Bonds Directive.

5. Unsecured claims where default is deemed to have occurred, as referred to in Article 178 of the Capital Requirements Regulation, cannot contribute to the liquidity buffer of the cover pool.

Article 40l

1. A bank issuing covered bonds shall identify the cover assets referred to in Article 40f(1) and (2) and document how its lending policy complies with the requirements of Article 40h.

2. The bank shall record all transactions related to the covered bond programme and shall have adequate and appropriate documentation systems and processes in place for that purpose.

Article 40m

1. A bank issuing covered bonds may issue covered bonds with an extendable maturity if, before the first issuance of the covered bond programme, the contractual terms of that programme provide that the maturity cannot be extended at the bank's discretion and only take place if:

a. there is a breach of contract or default of payment by the bank or any act to that effect, there is a liquidation, dissolution or restructuring of debts of the bank or an arrangement with creditors, or a resolution measure as referred to in Article 3A:1 of the Act has been applied to the bank or the bank has been declared bankrupt; and

b. the legal entity to which the cover assets have been transferred has insufficient funds on the maturity date of the covered bonds to repay the principal amount of that covered bond, that legal entity cannot meet any of the coverage requirements referred to in Article 40g(1) and (2), or that legal entity cannot meet any other contractually agreed requirement with respect to securing the coverage.

2. A bank that issues a covered bond with a maturity that can be extended shall, when issuing the covered bond, provide information with respect to:

a. the conditions for extending the maturity;

b. the impact of the bankruptcy or resolution of the bank that issues the covered bond on the extension of the maturity; and

c. the role of the Dutch Central Bank with regard to the extension of the maturity.

3. A bank issuing a covered bond shall ensure that the final maturity date of that covered bond can be determined at any time.

4. If the bank has been subject to a resolution measure as referred to in Section 3A:1 of the Act or the bank has been declared bankrupt, a maturity extension shall not affect the order in which covered bond holders can recover their claims and shall not reverse the order of the original maturity schedule of the covered bond programme.

5. The maturity extension shall not affect the right of a covered bondholder to recover its claim from both the bank and the legal entity to which the covering assets have been transferred pursuant to Article 40e or the exercise of creditors' rights as referred to in Article 212re of the Bankruptcy Act.

Article 40n

1. A bank that issues covered bonds shall ensure that, prior to the first issue of a covered bond programme, a cover pool monitor is appointed who is unrelated to and independent of the bank and the bank's external auditor and who shall audit at least annually whether the bank complies with sections 3:33b and 3:33ba of the Act and sections 40e through 40m, whereby the audit of sections 40g and 40k shall in any event be conducted by an auditor.

2. In derogation from subsection 1, a cover pool monitor may be appointed who has ties to the bank, including the bank's external auditor, if the annual audit if the

bank complies with Articles 40g and 40k is performed by that external auditor.

3. The cover pool monitor organised in accordance with the second paragraph shall be independent from the bank's credit acceptance process, may not be relieved of the function of cover pool monitor without the prior consent of the bank's supervisory board or the body that has a similar task, referred to in Article 3:19(2) of the Act, and shall have direct access to the bank's supervisory board or the body that has a similar task, referred to in Article 3:19(2) of the Act.

4. The bank shall ensure that the monitoring of articles 40g and 40k continues to take place if and after a resolution measure as referred to in article 3A:1 of the Act has been applied to the bank or if and after the bank has been declared bankrupt.

5. The bank shall report annually to the Dutch Central Bank on the outcome of the audit with regard to articles 40g and 40k.

6. The bank shall ensure that the cover pool monitor has all the information necessary to perform its tasks.

Article 40o

The label "European covered bonds (premium)" shall only be used for covered bonds meeting the requirements under Articles 3:33a, 3:33b and 3:33ba of the Act.

Article 40p

1. A bank making an application as referred to in section 3:33a(2) of the Act shall provide the following information to the Dutch Central Bank regarding the covered bond programme:

a. a legal opinion from a legal expert who is independent from the bank, on the basis of which the Dutch Central Bank can assess whether article 40e, first paragraph, is complied with;

b. the contracts of the legal entity entitled to the cover assets with its director;

c. the agreement with the coverage pool monitor or the auditor referred to in Article 40n;

d. a written statement from the managing board of the bank which shows that the provisions pursuant to the articles 3:33a, third and fourth paragraphs, 3:33b and 3:33ba are met; and

e. other information required by the Dutch Central Bank for the assessment referred to in Article 3:33a(2) of the Act.

2. A bank which has been granted permission pursuant to section 3:33a, second paragraph, of the Act shall notify the Dutch Central Bank forthwith of any changes in respect of the data referred to in the first paragraph, subsections b and c. It shall provide the statement referred to in the first paragraph, subsection d, annually.

3. The data referred to in Article 3:33ba(2) of the Act are:

a. data on the basis of which the Dutch Central Bank can assess whether the coverage requirements in articles 40f and 40g are met;

b. data on the basis of which the Dutch Central Bank can assess whether the valuation, insurance and localisation requirements in articles 40h and 40i are met;

c. data on the basis of which the Dutch Central Bank can assess whether the requirements with regard to derivative contracts included in the cover pool in article 40j are met;

d. data on the basis of which the Dutch Central Bank can assess whether the requirements regarding the liquidity buffer in article 40k are met;

e. data on the basis of which the Dutch Central Bank can assess whether the requirements regarding the extendable maturity in article 40m are met; and

f. other information required by the Dutch Central Bank for the assessment of whether the bank complies with the provisions pursuant to articles 3:33a, third and fourth paragraphs, 3:33b and 3:33ba, first paragraph.

4. The data referred to in the third paragraph, parts a and d, shall be provided at the start of the programme and on a quarterly basis thereafter. The data referred to in the third paragraph, subsections b, c, e, and f, shall be provided at the start of the programme and only again if they have changed or at the request of the Dutch Central Bank.

5. A bank issuing a covered bond, which during the maturity of the covered bond intends to make significant changes to the terms and conditions applicable to that covered bond, shall notify the Dutch Central Bank prior to such change.

Article 40q

A ministerial regulation may provide that the assets referred to in Article 6(1)(b) and (c) of the Covered Bonds Directive may be included as primary or substitute assets in the cover pool, as referred to in Article 40g(1) and (2), subject to conditions to be specified therein.

ARTICLE II

Article 10 of the Decree on Administrative Fines in the Financial Sector

is amended as follows:

1. In the enumeration of articles from the Part of Prudential Supervision of Financial Undertakings, articles with corresponding penalty category numbers are inserted in numerical order:

3:33a(1)	3
3:33b, first and third paragraphs	3
3:33ba, first paragraph to third paragraph	3

2. In the enumeration of articles in the Decree Prudential Rules Financial Supervision Act "40d, first and second paragraphs", "40e, first to fifth paragraphs" "40f(1) to (4)" and "40i(1)", with the corresponding penalty categories, are deleted.

3. In the enumeration of articles from the Decree Prudential Rules Financial Supervision Act, the following articles and corresponding penalty categories are inserted in numerical order:

40e	3
40f	3
40g	3
40h	3
40i	3
40j	3
40k	3
40l	2
40m	3
40n	3
40o	2
40p	2

ARTICLE III

Registered covered bonds as referred to in Article III, paragraphs 1 and 3, of the Implementation Act for the Directive on Covered Bonds:

- a. sections 40e to 40o of the Decree Prudential Rules Financial Supervision Act (Besluit prudentiële regels Wft) shall not apply;
- b. the provisions under sections 40d-40h and 40j, subsection a, of the Decree Prudential Rules Financial Supervision Act (Besluit prudentiële regels Wft), as it applied prior to this Decree entering into force; and
- c. Section 40p(3) of the Decree Prudential Rules Financial Supervision Act (Besluit prudentiële regels Wft) shall apply, with the provision that the data referred to in subsections (a) to (f) of that section shall be replaced by the provisions under section 40j(b) of the Decree Prudential Rules Financial Supervision Act (Besluit prudentiële regels Wft), as applicable prior to the entry into force of this Decree.

ARTICLE IV

This Decree shall enter into force at a time to be determined by Royal Decree, which may be determined differently for the various articles or parts thereof.

ARTICLE V

This decree shall be cited as: Implementing Decision on the Covered Bonds Directive.

We order and command that this Decree and the accompanying Explanatory Memorandum be published in the Bulletin of Acts, Orders and Decrees.

The Hague, 24 May 2022

Willem-Alexander

The Minister of Finance,
S.A.M. Kaag

Issued on the *thirteenth* of June

2022 The Minister of Justice and

Security,
D. V. Tilgöz-Zegerius

EXPLANATORY MEMORANDUM

General

§ Introduction

This decision, together with the proposal for the Implementing Act for the Covered Bonds Directive (hereinafter: the Implementing Act)¹ and the Implementation Regulation for the Covered Bonds Directive², implements Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and the government supervision of covered bonds and amending Directives 2009/65/EC and 2014/59/EU (OJEU 2019, L 328) (hereinafter: the Directive). As a result of the implementation of the Directive, this Decree provides for amendments to the Decree Prudential Rules Financial Supervision Act (Besluit prudentiële regels Wft) and the Decree in Administrative Penalties in the Financial Sector (Besluit bestuurlijke boetes financiële sector). The implementation period for the Directive expired on 8 July 2021. The provisions implementing the Directive must be applied no later than 8 July 2022.³ The corresponding Regulation (EU) No 2019/2160 of the European Parliament and of the Council of 27 November 2019 amending Regulation (EU) No 575/2013 as regards exposures in the form of covered bonds (OJ 2019 L 328) (hereinafter: the Regulation) will also apply on 8 July 2022.

The directive establishes a European harmonised framework for covered bonds. Covered bonds are debt instruments issued by banks, with the issuing bank pledging collateral as an additional security for bondholders. Bondholders of a covered bond have a double recourse. In addition to the "regular" claim of the bondholder, the bondholder also has a preferential claim on the collateral that has been set aside. The Directive regulates the conditions for covered bond issuance by banks and their supervision. At the same time as the directive, the accompanying regulation adapts the Capital Requirements Regulation in respect of covered bonds. The covered bonds regulation amends the existing Article 129 of the Capital Requirements Regulation, which lays down requirements for the preferential treatment of exposures in the form of covered bonds. If a bank invests in covered bonds that meet the requirements set out in the Capital Requirements Regulation, it may apply a lower risk weighting to these exposures. The Covered Bond Regulation adds to the existing conditions for the application of this lower risk weighting, among other things, the additional condition that the cover pool of assets that serves as collateral for the covered bonds has a minimum value of 105% of the value of the outstanding bonds. This so-called overcollateralisation is an additional protection for investors in the covered bonds.

This Decree elaborates on various provisions of the Implementation Act. The Implementation Act includes a prohibition on banks with their registered office in the Netherlands issuing covered bonds within the meaning of the Directive without the consent of De Nederlandsche Bank (DNB) for the programme of which the covered bonds form a part. The Implementation Act provides that DNB gives its consent for the covered bond programme if the conditions set for it are met. The conditions include the

¹ Stb. 2022, 22.

² Stcrt. 2022, 1232.

³ Article 32, first paragraph, second subparagraph, of the Directive.

programme of operations, the management of the covered bond programme and the administrative structure and composition of the cover pool. These conditions are elaborated in this Decree, including the requirements for the cover assets and the calculation of the cover requirement. In addition, this Decree sets out the information that banks must provide in their application for permission to issue covered bonds and the information that banks must provide to DNB in the exercise of DNB's ongoing supervision of the issue of covered bonds.

Section 2 explains the method of implementation. Paragraph 3 considers the most important changes to this decree. Paragraph 4 discusses the regulatory burden on the business community and the financial consequences of this decree. Paragraph 5 discusses the enforceability of this decree. Finally, paragraph 6 discusses the comments made by market parties and others during the consultation. In the article-by-article section, the amendments to the Decree Prudential Rules Financial Supervision Act and the the Decree on Administrative Penalties in the Financial Sector are explained at article level. The annex to these explanatory notes contains a transposition table for the implementation of the Directive.

§ Methods of implementation

Until this Decree entered into force, the rules relating to covered bonds were laid down by both an Order in Council and a Ministerial Regulation. This Decree, which is intended to further implement the Directive, replaces the existing articles relating to registered bonds, currently contained in Articles 40d to 40k (Chapter 6B) of the Decree Prudential Rules Financial Supervision Act and Articles 20a to 20i (Chapter 9a) in the Implementation Regulation Financial Supervision Act, with a new Chapter 6B of the Decree Prudential Rules Financial Supervision Act. For the sake of clarity, it was decided to reinstate Chapter 6B of the Decree Prudential Rules Financial Supervision Act, which concerns regulated covered bonds. This makes the legislation and regulations for the implementation of the Directive independently readable. It has been decided that the requirements set for covered bonds on the basis of the Directive and in elaboration of Articles 3:33a up to and including 3:33ba of the Act, will only be elaborated on the level of an Order in Council.

As explained in paragraph 3 of the explanatory memorandum to the Implementation Act, the requirements of the Directive largely correspond to the requirements based on the current legal framework for registered covered bonds. The decree maintains much of the essence of the current regulations as currently contained in the Decree Prudential Rules Financial Supervision Act and the Implementation Regulations of the Financial Supervision Act, although the further implementation of the Directive has been carried out by means of newly drafted articles. A number of provisions previously contained in the Decree Prudential Rules Financial Supervision Act and the Implementation Regulations Financial Supervision Act have been included in this Decree for the further implementation of the Directive. This concerns, among others, the articles relating to the requirements regarding the jurisdiction of the collateral assets and the segregation of the collateral assets between the issuing bank and the legal entity entitled to the collateral assets.

§ Main changes

a. Decree Prudential Rules Financial Supervision Act

One of the main features of covered bonds is that covered bond investors have a claim not only on the bank issuing the covered bonds, but also on the assets included in the cover pool. The cover pool includes assets to which payment claims are attached (cover assets) that cover the obligations of the covered bonds. The Directive lists the types of assets that are eligible to serve as eligible cover assets (Article 6.1 of the Directive). It is up to each EU Member State to decide which types of assets from those described in Article 6(1) of the Directive are eligible as hedging assets. The fact that Article 6(1) offers a choice between the different types of assets listed in subparagraphs (a) to (c) of that paragraph can be inferred both from the alternative enumeration of the assets ('or' at the end of subparagraph (b)) and from the wording of the second sentence in recital 16 of the Directive.

In the Netherlands, it has been decided that only the cover assets mentioned in Article 6(1)(a) of the Directive shall be included in this Decree. These are the assets that satisfy Article 129(1) of the Capital Requirement Regulation. Therefore, the Member State option to allow other types of assets as eligible cover assets on the basis of Article 6(1)(b) and (c), including assets in the form of loans to or guaranteed by public corporations (item c), has not been taken up. As a result, only assets complying with Article 129(1) of the CRD are eligible as underlying cover assets. This ensures that all covered bond programmes issued by banks domiciled in the Netherlands, with the approval of the supervisor, comply with Article 129 of the CRR. This not only enhances investment protection (the assets in Article 129 of the CRR are high quality assets), but also ensures that covered bonds issued in the Netherlands meet the requirements for preferential treatment of capital by banks by default. In practice, this means that all covered bond programmes issued by banks domiciled in the Netherlands will be labelled "European covered bond (premium)" may be used (Article 27 of the Directive).

This choice to only allow the cover assets mentioned in Article 6(1)(a) of the Directive is in line with current Dutch practice, where in particular mortgage loans to consumers, which fall under and comply with the requirements of Article 129(1) of the CRD, are used as cover assets in the cover pool.

The directive also provides the Member State option (Article 13) to require the bank issuing covered bonds to appoint a cover pool monitor to monitor on an ongoing basis whether the cover pool meets the cover requirements. This Member State option has been used. In the current practice, similar tasks and responsibilities assigned to the cover pool monitor under the Directive are performed by the internal audit department and an external auditor of the bank issuing the covered bond programme. The obligation to appoint a cover pool monitor contributes to investor protection and provides additional assurance to bondholders that the cover assets meet the quality requirements resulting from the directive and that the hedging requirements are met.

The creation of a cover pool monitor does not affect DNB's supervision of covered bond issuance. The choice has been made to prescribe that both an external cover pool monitor (without links to the bank) and an internal cover pool monitor (with links to the bank) can be appointed. The tasks and responsibilities of the cover pool monitor are further elaborated in this decision.

Another Member State option (Article 17) is to allow the issuance of covered bonds with extendable maturity structures. In the current Dutch practice, extendable maturity structures are widely used, but no rules are set on the conditions under which they are allowed. The Directive sets out a number of conditions to ensure that banks cannot extend the maturity of a covered bond at their own discretion, which contributes to both investor protection in those covered bonds and confidence that default (e.g. due to liquidity shortage, market failure or disruption) can be avoided. The implementation of this Member State option therefore contributes to investment protection. The conditions for the issuance of covered bonds with extendable maturity structures are elaborated in this decision.

b. Decree on administrative fines in the financial sector

The Decree on administrative fines in the financial sector contains rules on the administrative fines that may be imposed by the supervisor, in this case DNB. Article 10 of the Decree determines which penalty category applies in the event of a violation of an article of the Dutch Financial Supervision Act or one of the general administrative measures based on the Dutch Financial Supervision Act. Since the Annex with the articles of the Financial Supervision Act that can be fined has been amended by the Implementation Act, the list in Article 10 of the Decree on administrative fines in the financial sector, in so far as it relates to the Financial Supervision Act, should also be amended. In addition, an adjustment of Article 10 of the Decree is necessary in connection with the amendments to the Decree Prudential Rules Financial Supervision Act. Most of the adjustments result from the lapsing of articles of the Act or the insertion of new articles into the Act. These amendments ensure that DNB, as prescribed by the Directive, has the possibility to impose administrative fines in the event of a breach of a statutory provision relating to the issuance of (a programme of) covered bonds.

§ Regulatory pressure

This section discusses the regulatory costs resulting from the implementation of the Covered Bonds Directive. These are determined on the basis of the Handbook on Measurement of Regulatory Pressure Costs (further: Handbook).⁴ Regulatory pressure costs are formed by the investments and efforts that businesses, citizens or professionals must make to comply with legislation and regulations issued by the central government, such as information obligations. Regulatory pressure costs may consist of structural and/or one-off costs. Incidental costs include the cost of familiarisation with the new rules and the one-off adjustment of systems, procedures or policy, in response to the new rules.

⁴ The Handbook on Measurement of Regulatory Pressure Costs was adopted on 1 January 2018 by the Ministry of Economic Affairs in consultation with the other ministries and the Advisory Board on Regulatory Pressure, available at www.atr-regeldruk.nl/wp-content/uploads/2018/02/Handboek-Meting-Regulatory-Pressure-Costs-1-1.pdf.

Structural costs are those that recur annually, such as the structural updating of systems with information based on new requirements.

The existing situation is formed by the current legal framework consisting of sections 3:33a and 3:33b of the Act, paragraph 6B of the Decree Prudential Rules Financial Supervision Act and chapter 9A of the Implementation Regulation Financial Supervision Act. As explained in paragraph 3 of the Explanatory Memorandum to the Implementation of the Covered Bonds Directive (Implementation Act)⁵, the requirements of the Directive largely correspond to the requirements imposed on registered covered bonds under the current legal framework. The existing practice whereby DNB is in charge of supervising the issuance of covered bonds is perpetuated by the implementation of the Directive, as DNB has to authorise a covered bond programme and DNB exercises supervision during the life of a covered bond programme. The provisions such as those on the segregation of the cover assets from the bank issuing the covered bonds, the requirements on the assets that can be included in the cover pool, the valuation of the cover assets and the availability of a liquidity buffer are largely the same as the current framework, so that they do not lead to changes in the regulatory burden.

The information that a bank must provide to DNB in order to obtain approval has not changed significantly either. This is with the exception of the obligation to draw up a plan for the adequate management of the cover assets for the situation in which the bank finds itself in a situation in which it can no longer manage the cover assets itself (Section 20a, subsection c, of the Implementation Regulation Financial Supervision Act), which has been dropped, causing a reduction in the one-off regulatory costs. On the other hand, the obligation to provide a written statement from the director of the bank demonstrating compliance with the statutory framework must from now on not only be provided to DNB upon application for permission, but annually. In current practice, this declaration is already submitted to DNB annually, as a result of which this obligation does not increase the material regulatory costs. New are the provisions in the Directive on extendable term, which have been implemented in Article 40m of this Decree, whereby the second paragraph contains a new information obligation. At the time of the issue of the covered bond, the bank must provide information on the conditions for extending the maturity, the consequences of bankruptcy or resolution for extending the maturity and the role of DNB with regard to the extension of the maturity. In current practice, these conditions are already laid down in contractual agreements and are thus already made known to the bondholder.

Also new are the provisions from the Directive regarding the cover pool monitor, which have been implemented in Section 40n of this Decree. However, these replace the provisions on the external auditor in current law (Section 20f of the Implementation Regulation Financial Supervision Act) so that, on balance, no structural regulatory costs are expected. This is because the cover pool monitor can now also be organised internally at the bank, or because banks are given the opportunity to continue their current practice.

⁵ Parliamentary Papers II 2020/21, 35 907, no. 3.

All in all, it can be concluded that the implementation of the covered bonds directive will not, on balance, result in additional regulatory costs, either in terms of one-off or structural costs.

§ 5. Enforceability and enforceability

This Decree contains the details of matters already included in the Implementation Act. DNB has performed an implementation test on the implementation of the tasks ensuing from the Implementation Act. This Decree has been prepared in consultation with the administrator and DNB, the supervisory authority. DNB is currently responsible for the registration of covered bonds and will, after the implementation of this Directive, also be the supervisor required to authorise a covered bond programme. The present decree therefore influences the supervisory tasks of DNB, which is why a feasibility and enforceability test has been requested.

DNB notes in its implementation test that it does not expect any significant impact on the implementation of DNB's supervision of covered bonds, because the requirements of the directive largely correspond to the current legal framework. DNB has indicated in its implementation test that the transition to the new regime requires a one-off more intensive supervisory effort that can be absorbed within the existing frameworks. The passing on of the supervisory costs to the sector is therefore not expected to change compared to the current situation.

§ Consultation

A preliminary draft of this decision was publicly consulted on www.internetconsultatie.nl from 29 October to 26 November 2021.⁶ Two public responses were received. The responses received were from the Dutch Association of Covered Bond Issuers (DACB) and from Rutgers & Posch. These reactions are discussed below. As a result of the consultation responses, a number of changes have been made to the Decree and the explanatory notes.

The reactions received focus on the article in which the coverage requirements are included (article 40g). The DACB observed that this article lacks a description of the way in which the scope of the obligation to pay interest is determined. Article 15(6)(3) of the Directive stipulates that Member States shall establish rules for the calculation of any interest payable on outstanding covered bonds and of any interest receivable on hedging assets that are consistent with sound prudential principles in accordance with applicable accounting standards. In response to this comment by the DACB, and in accordance with Article 15(6)(3) of the Directive, a paragraph has been added to the article (Article 40g) dealing with hedging requirements, requiring that interest due on outstanding covered bonds and interest receivable in respect of hedging assets be valued at nominal value.

In addition, with respect to the article concerning the coverage requirements, it has been noted that the minimum requirement, laid down in the second paragraph of article 40g, should only refer to the coverage assets and not to the outstanding covered bonds. This is endorsed: Article 15 (6) of the Directive stipulates that the total principal amount of all

⁶ www.internetconsultatie.nl/implementatiebesluitrichtlijngedekteobligaties

cover assets is equal to or greater than the total principal amount of the outstanding covered bonds (nominal principle). The text of the second paragraph of article 40g has been adjusted accordingly. Finally, the DACB states that it is not clear what is meant by the reference to

"a distortion in the calculation of coverage" when valuing derivative contracts at nominal value. Now that the choice has been made to use a notional value valuation for all components in Article 40g (as opposed to valuing a derivative contract at the net present value, for example), there is no possibility of a distortion in the calculation. In line with the DACB's suggestion, this reference has therefore been deleted.

Furthermore, the DACB made a number of comments on the valuation of physical security assets in article 40h of the draft decree. These comments primarily concern the second paragraph, which stipulates that the valuation shall be performed by an expert valuer. According to the consultation response, the DACB is concerned about whether - in short - its members can continue to use the valuation and discounting methods commonly used in current practice. This is the case, as long as these methods are in line with the Capital Requirements Regulation. This has been expressed in the article by referring directly to the Capital Requirements Regulation. In this respect, the Covered Bonds Directive should be understood in the light of the requirements that the Capital Requirements Regulation imposes on the valuation and discounting of physical collateral assets. For example, the CRD requires banks to check the value of physical collateral assets periodically (depending on the type of collateral asset, annually or once every three years). Banks carry out more frequent checks when market conditions change significantly.⁷ In this light, the provision for an expert valuer (Article 6(5)(b) of the Covered Bonds Directive) should also be understood in the context of the CRD.⁸ Banks should therefore observe the requirements that the CRR imposes on the valuer and valuations.

The DACB made two comments on the article that deals with derivative contracts in the cover pool. Firstly, the DACB considers that the requirement that a derivative contract should be removed from the cover pool if the risk to covered bondholders ceases to exist (Article 40j(1)) should be deleted. The reason for this is the overlap with the requirement that the volume of a derivative contract must be adjusted if there is a reduction in the risk to which the derivative contract relates (Article 40j(2)). This would also be more in line with existing practice. However, Article 11, first paragraph, under a, of the Directive stipulates that both requirements must be met. Now that the Directive explicitly requires this, there is no room to deviate from this when implementing the Directive. Secondly, in accordance with the DACB's comment to this effect, the reference to the *ISDA Master Agreement* (ISDA) in the context of the documentation requirement has been deleted (Article 40j(3)). This leaves room for possible changes in the standards used by the market. The explanatory notes state that ISDA is currently the market standard for the documentation of derivative contracts and that, by way of example, a derivative contract that meets this standard may be regarded as sufficiently documented. This does not exclude the possibility that other standards may be applied.

⁷ Article 208(3) of the Capital Requirements Regulation.

⁸ Article 229, first paragraph, of the Capital Requirements Regulation.

This will ensure the future-proofing of the new covered bond issuance regulations.

Both the DACB and Rutgers & Posch commented on the coverage pool monitor in the proposed article 40n of the draft decision. The DACB advocates for not making use of the Member State option to establish a cover pool monitor. The concept of a cover pool monitor would not fit in with the Dutch situation and, moreover, there would already be sufficient safeguards to guarantee shareholder protection. Rutgers & Posch indicated that a continuous monitoring by the cover pool monitor is not feasible and that in practice periodic monitoring takes place. For the DACB, the main concern seems to be the increased administrative burden that follows from the implementation of the Member State option in the consultation version of this Decree. The concerns expressed by the DACB about a possible increase in the administrative burden have been taken into account in the development of this draft decision, which has led to the structure of the cover pool monitor being as much in line as possible with current practice and the current regulatory framework. To this end, the article that implements the coverage pool monitor has been modified in such a way that banks can continue the existing practice of ensuring internally through processes and controls that the legal requirements (as laid down in the so-called Administration Organisation and Internal Control (AO/IC)) are met and that the bank's external auditor (the internal auditor) also performs audits. Finally, the DACB made a number of textual comments on Article 40n of the draft Decree. These comments have been addressed.

Both the DACB and Rutgers & Posch commented on the article that provides for the possibility for banks to issue covered bonds with an extendable maturity. Both the DACB and Rutgers & Posch indicate that the enumeration of events that trigger maturity extensions is not in line with existing practice and would lead to a significant difference. Article 17 of the Directive requires Member States to lay down objective triggers in national law to extend the maturity of covered bonds. In order to make these triggers as consistent as possible with the current practice, and taking into account the comments of the DACB, a number of so-called "triggers" have been added to the article. "Issuer Events of Default" situations were added. In the consultation version of the Decree, failure to comply with the conditions for extending the term led to nullity. Following the comments of the DACB and Rutgers & Posch that this could lead to major legal uncertainty and that the Directive does not require this consequence of nullity either, this has been removed from the article. The article-by-article explanation has also clarified the role of DNB if a bank decides to extend the term. Finally, in article 40m and the corresponding article-by-article explanation it has been made clear that the maturity date of a covered bond refers to the contractual maturity date and that, as was noted in the responses during the consultations, it does not concern a legally determined maturity date. The final maturity date is not determined by law in the Netherlands but by contract.

Finally, the DACB noted that the Decision lacks a transitional regime for covered bonds issued before 8 July 2022 (the date by which the provisions of the Directive become applicable in the Member States). The DACB indicates that it is desirable that old covered bonds can continue to be subject to the old regime. In Article III of the bill Implementation Act Directive covered bonds (Stb. 2022, 22) is provided for the

implementation of the transitional law as included in Article 30 of the Directive. Regulated covered bonds within the meaning of Section 1:1 of the Financial Supervision Act, as this applied prior to the Implementation Act coming into force, which have been issued up to and including 7 July 2022, will thus be exempted from part of the new requirements of the Directive. For an explanation of the transitional regime, please refer to the Explanatory Memorandum of the Implementation Act.⁹ Article III of this Decree includes additional transitional rules for registered covered bonds issued up to and including 7 July 2022. Banks are free, as the DACB also points out, to voluntarily make covered bond programmes issued before 8 July 2022, to which the transitional law applies, comply with the new regime.

Article-by-article

Article I (Prudential Rules Act)

A (Article 1)

In Article 1, the definition of hedging assets is deleted. This definition will, in compliance with the Directive, be newly included in Article 40d (see section B).

B (Chapter 6B)

Chapter 6B will be replaced. The articles of this new chapter are explained below.

Article 40d

This article defines some of the terms that appear in Chapter 6B. It concerns the definitions of "covering assets", "overcollateralisation", "primary assets", "substitute assets" and "collateral assets". The definitions are in line with the Directive. Collateral assets are assets that are included in the collateral pool and that are segregated from the bank's other assets by transferring them to a legal entity created for this purpose. Primary assets are hedging assets that predominate in the nature of the hedging pool. Replacement assets are assets that contribute to the cover requirement other than primary assets. For the types of collateral assets that qualify as primary or substitute assets, reference is made to the notes to Article 40f. Collateral assets are physical assets and assets in the form of exposures that secure the collateral assets. They secure the payment claim associated with the cover assets.

Article 40e

Article 40e, paragraph 1, implements Article 12, paragraph 1 (b) of the Directive. Article 12(1)(b) of the Directive requires the segregation of the covering assets. The first paragraph of Article 40e prescribes that the method of segregation customary in practice shall be followed. The transfer ensures that the hedging assets fall into the assets of the special legal entity, so that in the event of the bankruptcy or resolution of the issuing bank, these hedging assets can be used to pay redemption and interest on the covered bonds to the bondholder. The hedging assets are in this way legally excluded from the reach of creditors other than the bondholders of the covered bonds, which

⁹ Parliamentary paper II, 2020/2021, 35 907, no. 3.

enhances investor protection.

The requirements for the legal entity in the second paragraph, parts a and b, serve to ensure that the legal entity is suitable for the intended purpose. For example, the legal person may not carry out any activities other than those that are necessary or desirable for the covered bonds programme (part a). This must be guaranteed by a description of the purpose in the articles of association. In practice, it happens that the purpose statement in the articles of association does not exclude that the legal entity is used for several covered bond programmes. This is only permissible if the aforementioned legal entity has committed itself in the applicable terms and conditions to facilitate only one programme. The activities that a legal person may carry out for the purposes of the covered bond programme include entering into agreements for the administration and management of cover assets or for liquidity and risk management, as well as other agreements for the purposes of the covered bond programme which are consistent with the interests of the bondholders. This implies that the legal person is also authorised to make payments resulting from the aforementioned agreements. The legal person is also authorised to pledge the hedging assets to a third legal person, as long as this is done in the interest of the bondholders. The requirements set out in subsection b are designed to ensure that the governance of the legal entity remains intact irrespective of a failure of the bank issuing covered bonds. The legal entity to which the cover assets are transferred must be distanced not only from the bank issuing the covered bonds but also from the legal entities belonging to the same group as that bank.

Article 40e(1) and (2) essentially reproduce the old Article 40e of the Decree Prudential Rules Financial Supervision Act, as it applied prior to this Decree entering into force. It has been decided not to retain part b of Article 40e(1) of the Decree Prudential Rules Financial Supervision Act as it applied prior to this Decree entering into force, which offers the possibility to regulate other methods of segregation by ministerial regulation; in practice, no other method of segregating cover assets is applied.

The third paragraph implements Article 12(1)(a) of the Directive. Article 12(1)(a) of the Directive stipulates that all covering assets must be identifiable at all times by the bank issuing the covered bonds. This ensures that the bank can identify at any time which hedging assets have been transferred to the special legal entity so that in the event of the failure of the covered bond issuing bank, the then available hedging assets can be identified.

Article 40f

Article 40f, first and second paragraphs, implements Article 6, first paragraph, part a, in conjunction with Article 10 of the Directive. The Member States have a great deal of freedom in choosing which cover assets are allowed. In the Netherlands, following the existing law, it has been decided to only permit the cover assets mentioned in Article 6(1)(a). These are the cover assets referred to in Article 129(1)(a) to (g) of the Capital Requirements Regulation. These hedging assets offer the most security. It is stipulated that at least 80% of the cover pool must be formed by one of the aforementioned cover assets, which is therefore the "primary cover asset" of the cover pool.

The remaining 20% may consist of one or more of the other types of hedging assets referred to in Article 129(1)(a) to (g) of the CRD. These are the "replacement assets". The value of the hedging assets is calculated at nominal value (thus complying with Article 15(8) of the Directive and using the same methodology for both values). The third paragraph stipulates that for the calculation of the nominal value of the cover assets mentioned in the first and second paragraph, where applicable, the limits for the size of the exposure in Article 129, first paragraph to third paragraph of the Capital Requirements Regulation are observed.

Article 40g

Article 40g(1) implements the cover requirement from Article 15(2) of the Directive. That cover requirement provides that all obligations of the covered bonds are covered by payment claims linked to the cover assets from the cover pool. The obligations of the covered bonds include the obligations listed in Article 3:33b(2) of the Act. Both the obligations and the payment claims associated with the hedging assets are calculated at nominal value (thus complying with Article 15(8) of the Directive and using the same methodology for the obligations and payment claims). The following paragraphs regulate some exceptions and additions to this.

The second paragraph implements the cover requirement from Article 15(6) of the Directive, referred to as the "nominal principle". The calculation of the coverage requirement ensures that the total principal amount of all hedging assets is equal to or greater than the total principal amount of the outstanding covered bonds, whereby both the total value of the outstanding covered bonds and the total value of the hedging assets are calculated at nominal value. It is also provided that the total nominal value of outstanding covered bonds is subject to an overcollateralisation of 5%. This means that, in addition to the coverage requirement of the nominal principle, 5% of the total value of the outstanding covered bonds must be covered by hedging assets, as referred to in Article 129, first paragraph, parts a to g, of the Capital Requirements Regulation.

Paragraph 3 states that unsecured exposures, where default as referred to in Article 178 of the CRD is deemed to have occurred, cannot contribute to coverage. This implements Article 15(4)(2) of the Directive.

Paragraph 4 elaborates on how the payment obligation referred to in Article 3:33b(2)(d) of the Act should be calculated. It concerns the expected costs with regard to the maintenance and management for the phasing out of the covered bonds programme. For the calculation of the expected costs, instead of the nominal value, a lump sum can be used, consisting of at least four basis points of the total nominal value of the outstanding covered bonds, or a fixed amount of EUR 400,000, whichever is higher. This makes use of the Member State option in the last paragraph of Article 15(3) of the Directive.

The fifth paragraph stipulates that any interest payable on outstanding covered bonds and any interest receivable in respect of cover assets shall be calculated on the basis of the nominal value of such interest.

Paragraph 6 stipulates that assets that contribute to the 5% over-collateralisation referred to in paragraph 2 are not subject to the exposure limits laid down in Article 129(1a) of the Capital Requirements Regulation and are not counted towards those limits.

Article 40h

Article 40h describes the requirements for physical collateral assets, in implementation of Article 6(5) of the Directive. This concerns the physical collateral assets referred to in Article 129, first paragraph, d through g, of the Capital Requirements Regulation.

The second paragraph of Article 40h stipulates that for each physical collateral asset, in accordance with part a of Article 6(5) of the Directive, there must be a valuation at or below market value or mortgage lending value. For the purposes of establishing this valuation, the most recent valuation (for example, the initial valuation of the physical collateral asset as established at the time the mortgage loan was granted or, if applicable, a valuation from a later date or a revaluation arising from the monitoring of the physical collateral asset) can be used as a starting point.

Article 6(1)(a) of the Directive stipulates that a bank using these collateral assets must comply, inter alia, with Article 129(3) of the Capital Requirements Regulation. Article 129(3) requires that real estate and ships used as collateral must meet the requirements of Article 208 of the Capital Requirements Regulation. This is implemented in the first paragraph of Article 40h. This ensures that for all real estate and ships the asset values must be checked regularly and at least annually in accordance with Article 208(3)(a) of the Capital Requirements Regulation and that more frequent checks are made if market conditions change significantly.

Article 40h, third paragraph, implements Article 6, fifth paragraph, parts b and c of the Directive. Article 6(5)(b) and (c) prescribe that the valuer performing the valuation must have the necessary qualifications, skills and experience and must be independent from the credit approval process. These requirements, read in conjunction with the foregoing explanation of Article 40h(2), ensure that the (initial) valuation of the physical collateral asset must have involved a valuer who at that time meets the requirements of Article 6(5)(b) and (c). The valuer must not take into account speculative elements in the (initial) valuation of the physical collateral asset. Also, the valuer should document the value of the physical collateral asset in a transparent and clear manner. Statistical methods may then be used to monitor and update the initial valuation of the physical collateral asset, as prescribed in Article 208(3) of the CRD and explained above.

Article 40i

Article 7 of the Directive provides the Member State option to permit the inclusion in the cover pool of cover assets secured by collateral assets located outside the European Union. This option is not being used. Article 40i therefore stipulates that the debtor of the collateral assets must be domiciled (or have its registered office or principal place of business) within the borders of the European Union, or another state that is a party to the EEA (first paragraph). The same applies to the collateral assets (second paragraph). The purpose of this is to ensure that the sale or realisation of the collateral assets and the associated collateral is legally enforceable. In practice, until now all collateral assets have been located in the Netherlands.

Article 40i is essentially the same as the old Section 20c of the Implementation Regulation Financial Supervision Act, as it applied prior to this Decree entering into force.

Article 40j

Article 40j implements Article 11 of the Directive which imposes requirements on derivative contracts in the cover pool. The inclusion of derivative contracts in the cover pool is only allowed if these requirements are met.

Article 40j(1) and (2) stipulate that a derivative contract is only included in the cover pool for hedging purposes and that the volume of derivative contracts is adjusted if the hedged risk decreases. If the hedged risk ceases to exist, the derivative contract is removed from the cover pool.

The third paragraph sets requirements for the derivative contract. A derivative contract must meet the requirements of parts a to d in order to be included in the cover pool. These requirements correspond to the requirements of Article 11 b, d and e of the Directive and include the requirement that the derivative contract must be sufficiently documented (section a). A contract that is drawn up according to an (internationally) accepted market standard is considered to be sufficiently documented. An example of this are the standards set out in the applicable *ISDA Master Agreement*. The ISDA Master Agreement is a standardised agreement drawn up by the International Swaps and Derivates Association (ISDA), an organisation for traders in over-the-counter derivatives worldwide.¹⁰

A derivatives contract must be concluded with a financial undertaking that is subject to supervision (section c), such as banks and investment firms (to implement Article 11, second paragraph, section a of the Directive).

Under Article 11, paragraph 1, section c, of the Directive, derivative contracts must be segregated in accordance with Article 12 of the Directive. Article 12 of the Directive is worded in such a way that it applies to all hedging assets. It is therefore not necessary to stipulate this again specifically for derivative contracts; the requirement to separate derivative contracts already follows from Article 3:33b of the Act and Article 40e, first paragraph, of this Decree.

¹⁰ The ISDA can be consulted on the website www.isda.org.

Article 40k

Article 40k introduces the obligation for a liquidity buffer for the cover pool, implementing Article 16 of the Directive. Banks issuing a covered bond programme must ensure that sufficient liquidity is available to ensure that the obligations associated with the covered bonds are repaid on time. This will provide additional certainty that, should the bank default, sufficient liquid assets will nevertheless be available to continue to meet obligations in a timely manner.

Article 40k, first and second paragraphs, implements Article 16, first and second paragraphs, of the Directive. Article 16(1) and (2) of the Directive requires the liquidity buffer of the cover pool to cover the maximum cumulative net liquidity outflow during the next 180 days (i.e. six months). In accordance with Article 3(16) of the Directive, 'net liquidity outflow' means all outgoing payment flows due on a single day, including principal and interest repayments and payments under derivative contracts of the covered bond programme, net of all incoming payment flows due on the same day for claims relating to the cover assets.

Paragraph 3 implements Article 16(5) of the Directive. Article 16(5) of the Directive gives the Member State the option of allowing the calculation of the principal amount for extendible maturity structures to be based on the maturity date according to the terms of the covered bond. This Member State option has been used. Liquidity risks can be mitigated by issuing covered bonds with a renewable maturity structure (see also Article 40m). In the case of covered bonds with a renewable maturity structure, the calculation of the net liquidity outflow is to be based on the maturity date of the covered bonds vis-à-vis the legal person to whom the assets have been transferred (the covered bond company).

Paragraph 4 implements Article 16(3) of the Directive. Parts a and b prescribe that the liquidity buffer includes both types of liquid assets as set out in Article 16(3)(a) and (b) of the Directive. In short, these are assets that qualify as Level 1, Level 2A assets under the CRD and that are not issued by the bank itself and assets in the form of short-term exposures or short-term deposits in accordance with Article 129(1)(c) of the CRD.

Article 16(3), introductory wording, of the Directive stipulates that the assets forming part of the liquidity buffer are ring-fenced in accordance with Article 12 of the Directive. Now that the liquidity buffer is part of the cover pool, and it is already stipulated in Article 40e that the cover assets in the cover pool are ring-fenced, it is not necessary to stipulate this again. Even without a repetition of Article 40e(1), the liquidity buffer must be ring-fenced.

Paragraph 5 stipulates that unsecured exposures, where default is deemed to have occurred, pursuant to Article 178 of the CRD, cannot contribute to the liquidity buffer. This implements Article 16(4) of the Directive.

Article 40l

Section 40l(1) implements article 6(7) of the Directive. This means that the bank must indicate in the credit granting policy which collateral assets pursuant to article 40f, first and second paragraph, are used in the issuance of covered bonds. The bank must also indicate how it complies with Article 40h of this Decree, which imposes requirements on the physical security assets that secure the cover assets.

Article 40l(2) implements the requirement of Article 18(4). This article requires covered bond issuers to record all their transactions relating to the covered bond programme and to have adequate and appropriate documentation systems and processes in place.

Article 40m

Article 17 of the Directive provides the Member State option to impose conditions on extendible maturity structures of covered bonds. This Member State option is being used. Indeed, there are situations where it is not appropriate to realise the hedging assets immediately (in a "fire sale") because they are expected to give a higher return later on. For this reason, Article 17 of the Directive allows Member States to provide for maturity extensions.

Article 17 of the Directive includes the condition that Member States may only grant extensions in the case of objective triggers specified in national law, and not at the discretion of the bank issuing the covered bonds. To implement Article 17(1)(a) of the Directive, Article 40m(1) sets out the (cumulative) conditions for being allowed to extend the maturity of the covered bonds issued. Article 40m, paragraph 1, firstly stipulates that the extension cannot take place at the discretion of the bank. Therefore, there must be one or more so-called "Issuer Events of Default". These events include default by the bank, or any action to that end, or the liquidation, dissolution or restructuring of the bank's debts, or an arrangement with creditors, or the application of a resolution measure by DNB, or the declaration of bankruptcy of the bank (part a). A further condition is that the legal entity to which the covering assets have been transferred (the covered bond company or CBC) is not able to meet its payment obligations on the due date with respect to the bank or cannot meet the cover requirements of article 40g or a contractually agreed cover requirement (part b).

It is up to the parties to make the extension contractually, within the framework of Article 17 of the Directive. Thus, it is left to the parties to decide for how long the maturity will be extended, whether the holders of covered bonds will have an influence on the extension, as well as whether a decision by the CBC is necessary for the extension or whether the fact that these two conditions are fulfilled will trigger an extension.

Article 40m(2) implements Article 17(1)(c), which requires investors to obtain sufficient information to assess the risk of a covered bond with an extendible maturity structure. A bank that issues a covered bond with a

extendable maturity structures, should therefore, upon issuance of these covered bonds, provide a more detailed description of, inter alia, the conditions for maturity extension and the impact of the bank's failure or resolution on a maturity extension (if any). Information must also be provided on the role of DNB with regard to maturity extensions (Article 17(1)(c) of the Directive). DNB, when granting permission for the issuance of a programme of covered bonds, tests whether all the conditions of Article 40m are met. If a bank proceeds in practice to extend the maturity of a covered bond, DNB has no role as a supervisor. However, DNB must be informed in good time if the bank intends to extend the maturity of a covered bond.

Article 40m(3) implements Article 17(1)(d) of the Directive which provides that the maturity date of a covered bond with a renewable maturity structure can be determined at any time. The final date is the contractual final date vis-à-vis the legal entity to which the assets have been transferred.

Paragraphs 4 and 5 implement parts e and f of Article 17(1) of the Directive. In the event of the bank's insolvency or liquidation, maturity extensions (if any) shall not affect the order in which covered bond holders can recover their claims. Also, a maturity extension should not affect the double collateral and bankruptcy indemnity associated with a covered bond.

Article 40n

Article 13(1) of the Directive gives Member States the option to require that an external cover pool monitor will be appointed to monitor on an ongoing basis the cover pool in the light of the requirements set out in Articles 6 to 12 and 14 to 17 of the Directive. This Member State option has been used. Under Article 13(3)(2) of the Directive, Member States have the option of to allow an internal cover pool monitor instead of an external cover pool monitor. This option has also been used. The implementation of the two Member State options, which offer banks a choice between an internal and an external cover pool monitor, aims to be in line with current practice as much as possible.

The starting point of article 40n is that a cover pool monitor (which can be either internal or external) has the task of checking whether articles 3:33b and 3:33ba of the Act and articles 40e through 40m of this Decree are being complied with. The monitoring task of the cover pool monitor consists of checking the bank's compliance with the aforementioned articles prior to the first issue and at least annually thereafter. This includes checking the eligible assets and compliance with the hedging requirements. The monitoring task of a cover pool monitor can be structured in various ways, provided that the conditions included in the other paragraphs of article 40n are met. The function of cover pool monitor can therefore in practice be assigned to different bodies or persons. With these conditions the current legal framework is followed as much as possible.

To allow banks to continue their current practice, Article 40n(2) includes the Member State option of the internal cover pool monitor, who - in contrast to the external cover pool monitor in Article 40n(1) (explained below) - may have ties with the bank or be the external auditor. In this regard, the audit of the articles may be set up in different ways, provided that the audit of articles 40g and 40k is carried out by the external auditor. This paragraph offers banks the option of continuing the existing practice whereby it is ensured through internal processes and controls that the statutory requirements (as laid down in the so-called Administration Organisation and Internal Control (AO/IC)) are met and whereby the bank's external auditor (the company auditor) verifies compliance with articles 40f and 40g (as was the case before this Decree entered into force). This implements Article 13(3) of the Directive.

Article 40n, first paragraph, implements Article 13, first paragraph and second paragraph of the Directive. Instead of an internal cover pool monitor, an external cover pool monitor can also be chosen. If an external cover pool monitor is chosen, it must be independent from the bank and from the bank's external auditor. There is also a requirement that the audit of articles 40g and 40k (the articles related to the hedging requirement and the liquidity buffer) must in any case be performed by an auditor who is not the bank's external auditor. The way in which the audit of the other articles should be carried out is left to the bank itself and can be structured differently. If desired, the auditing task can be assigned to several persons or entities.

The third paragraph of Article 40n implements Article 13(3) of the Directive, which stipulates that an internal cover pool monitor must be independent from the bank's credit acceptance process, cannot be removed from the function of cover pool monitor without the consent of the bank's management body, and if necessary has direct access to the bank's management.

Subsections 4 to 6 implement Article 13, paragraph 2, parts c, d and e, of the Directive.

Article 40o

Article 40o implements Article 27(2) of the Directive. Banks that issue covered bonds that comply with the national provisions transposing the directive and Article 129(1) of the Capital Requirements Regulation may use the label "European covered bond (premium)". The purpose of this label is to make it easier for investors to assess the quality of the covered bonds.

Article 27(1) of the Directive requires that the label "European covered bond" is used for covered bonds that comply with the national provisions transposing the Covered Bonds Directive. As covered bonds issued by banks with their seat in the Netherlands not only comply with the Covered Bonds Directive, but also comply by default with Article 129(1) of the Capital Requirement Regulation, the implementation of Article 27(1) of the Directive is not provided for.

Article 40p

The first paragraph of article 40p describes the information that a bank must submit to DNB in order to obtain permission to issue a covered bond programme. This is largely based on the information required to date.

As is also the case under current law, a legal opinion from a legal expert is required (in the first paragraph, subsection a), on the basis of which DNB can conclude that the requirement to safeguard the covering assets has been satisfied. Since this regulation does not make use of the possibility to secure the assets of cover in another manner than by transfer as described in section 40e, first paragraph, of this Decree, securing must take place by transferring the assets of cover to another legal entity as referred to in that paragraph. The opinion must confirm that it has been legally recorded in the relevant documents that the covering assets for the benefit of, inter alia, the bondholders, have been safeguarded in the aforementioned manner. Of course, the opinion only needs to pertain to legal judgement. A legal adviser is understood to mean a person with legal training who is independent from the issuing bank and who, on the basis of his legal or professional duties, can give a legal opinion from which DNB can conclude that, with regard to the bonds, Article 40e(1) of the Decree has been complied with. The independent opinion of the legal adviser must be beyond doubt. This implies that the advisor is not employed by or attached to the issuing bank, which does not exclude the advisor from being involved in the design of the issue, the transfer of the covering assets, or otherwise (more often) advising the issuing bank. For example, lawyers, corporate lawyers, notaries or similar professionals can be considered experts. All documents on which the legal opinion is based must also be provided to DNB. This may include transaction documents, agreements relating to the transfer of the hedging assets and agreements stipulating that the hedging assets serve to cover the issuing bank's obligations under the relevant bonds. Administrative documents relating to the hedging assets may also be considered. Furthermore, pursuant to subsection 1(b), DNB must, as before, be provided with the agreements with the director of the legal entity entitled to the hedging assets. Depending on the chosen structure of the legal relationship between the manager and the legal entity entitled to the hedging assets, the management agreement and the directors' agreement are the first to come to mind. Subsection c of the first paragraph requires that the bank must provide DNB with the agreement with the auditor referred to in section 40n. Subsection d of the first paragraph prescribes, in accordance with current law, that a director of the issuing bank, i.e. the legal person issuing the bonds, must declare that the bonds comply with the provisions pursuant to articles 3:33a, third and fourth paragraphs, 3:33b and 3:33ba, so that the written declaration also relates to the requirements in this resolution. Finally, part e provides that DNB has the possibility to request other information than mentioned if this is necessary for the assessment referred to in Article 3:33a, second paragraph of the Act.

The second paragraph provides for DNB to obtain insight into whether the bank that has been authorised to issue covered bonds continues to meet the conditions for authorisation. The paragraph

provides that the bank must immediately notify DNB if changes occur in the agreements concerning the legal relationship between the executive board member and the legal entity entitled to the hedging assets (first paragraph, subsection b) and concerning the appointment of the hedging pool monitor (first paragraph, subsection b), for example if an internal hedging pool monitor is appointed instead of an external hedging pool monitor. It is also stipulated that the bank must annually provide the statement referred to in the first paragraph, part d (a written statement from the director of the bank that the articles 3:33a, third and fourth paragraphs, 3:33b and 3:33ba are complied with).

The third paragraph contains the reporting obligations of the bank to DNB from the moment the programme starts. These reports allow DNB to check whether the bank continues to comply with the statutory requirements. The reporting requirements are largely the same as the existing reporting requirements pursuant to the Implementation Regulation Financial Supervision Act. DNB has the possibility to request other information than mentioned if this is necessary for the assessment whether the bank meets all requirements with respect to the covered bonds (the provisions pursuant to articles 3:33a, third and fourth paragraph, 3:33b and 3:33ba, first paragraph).

In the fourth paragraph the periodicity of reporting the data from the third paragraph is determined. All data shall be provided at the start of the programme and quarterly thereafter, except for the data referred to in subsection 3(b), (c), (e) and (f), which shall be provided at the start of the programme and shall only be provided again if changed or at the request of the Dutch Central Bank.

The fifth paragraph provides that if a bank issuing covered bonds intends to make significant changes to the conditions applicable to those covered bonds, it must notify DNB of this intention prior to making these changes. Significant changes" are all changes that the issuing bank should reasonably understand are relevant to the exercise of supervision. This could include, for example, the replacement of the director of the legal entity entitled to the hedging assets, or the replacement or addition of a counterparty of that legal entity. An "intention" is in any case deemed to exist once internal decision-making on the significant change has taken place by the competent persons within the issuing bank.

Article 40q

Pursuant to Section 40q, it is possible to designate the assets mentioned in Section 6(1)(b) and (c) as hedging assets by ministerial regulation. In practice, there are no signals that banks currently or in the foreseeable future expect to issue covered bonds with assets based on Section 6(1)(b) and (c) as hedging assets. Therefore, there is currently no reason to allow the aforementioned assets as cover assets, especially since this would mean that covered bonds issued by banks domiciled in the Netherlands would no longer meet the requirements for preferential treatment under Article 129 of the CRD by default. If in the future it should appear that from practice there is a need to also be able to issue covered bonds with the types of assets referred to in Article 6, paragraph 1, subsections b and c, of the Directive, the fourth paragraph offers the legislator the flexibility to permit these assets and to elaborate on them by ministerial regulation, after which the provisions could be introduced at the level of the general measure of government by means of repair legislation.

Article II (Decree on Administrative Fines in the Financial Sector)

Article 10 of the Decree on Administrative Fines in the Financial Sector has been amended in accordance with the amendments to the Financial Supervision Act arising from the Implementation Act and with the amendments to the Decree Prudential Rules Financial Supervision Act pursuant to Section I of this Decree. In addition, in accordance with the provisions of Section 1:81(2) Financial Supervision Act it has been determined which penalty category applies in the event of a violation of the relevant rule. It has been decided to assign penalty category 3 to articles that are related to the conditions for issuing covered bonds, as was already the case for violations of similar provisions, including the registration requirement, prior to the entry into force of these regulations. For the articles that deal with information obligations, previous choices have been followed and penalty category 2 has been allocated.

Article III

Article III provides for the implementation of the transitional law as included in Article 30 of the Directive. Part of the transitional law has been implemented at legislative level (see Article III of the Implementation Act). At legislative level, it is provided that registered covered bonds that have been issued up to and including 7 July 2022 are exempted from the Directive articles referred to in Article 30(1) of the Directive until their maturity date (Article III, first paragraph, of the Implementation Act).

Subsection (a) provides that, in addition to the transitional law at the legislative level, registered covered bonds issued up to and including 7 July 2022 are exempted until their maturity date from the Directive articles referred to in Article 30, paragraph 1, of the Directive and implemented in this Decree. This concerns Articles 40e to 40o.

Registered covered bonds issued up to and including 7 July 2022 must comply with the requirements other than those specified in Article 30(1) of the Directive. This is regulated in part c and is tantamount to the application of article 40p(3). As Article 40p(3) lays down reporting requirements that relate to the articles that have been declared not applicable in the first paragraph, it has been included that the reporting requirements apply as they were prior to this Decree entering into force. Consequently, the registered covered bonds must be reported on as they were prior to the decree coming into force. Registered covered bonds must also comply with Sections 40d through 40h and 40j, subsection a, of the Decree Prudential Rules Financial Supervision Act, as it applied prior to this Decree entering into force. This is the further implementation of Article III, paragraph 2, section b, of the Implementation Act.

Article IV (Entry into force)

This Decree will enter into force at the same time as the Implementing Act for the Covered Bonds Directive, namely on 8 July 2022. This is related to the fact that this Decree serves to implement the Directive Covered Bonds. Article 32 of the Directive stipulates that the provisions transposing the Directive must be applied by 8 July 2022.

The Minister of Finance,
S.A.M. Kaag

Annex. Transposition table

Transposition table accompanying Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issuance of covered bonds and the public supervision of covered bonds and amending Directives 2009/65/EC and 2014/59/EU (OJ 2019 L 328).

Article, - paragraph or - part of the directive	To be implemented in	Definition of policy scope	Note
Articles 1 and 2	Need to look at their nature no implementation	n.a.	
Article 3	Article 1:1 Wft	No	
Article 4, first paragraph, point a	Implementation by through existing legislation	No	Already follows from Article 7:129 BW
Article 4, first paragraph, point b	Implementation by through existing legislation	No	Already follows from Article 57, paragraph 1, Fw and Article 3:279 BW
Article 4, first paragraph, point c	Implementation by through existing legislation	No	Already follows from Article 59 Fw
Article 4, second paragraph member	Does not require implementation	No	Even without expression implementation can be a claim that is attached to a covered bond not include more than the full payment of that.
Article 4, third paragraph member	From this Member State option is not used made	Article 4, third paragraph, offers the Member State option to a different rank in case of insolvency of a specialised mortgage bank	
Article 5	Article 212re FW	No	
Article 6, first paragraph paragraph, point a	Article 40g, first and second paragraph, Bpr		Article 6, first paragraph, gives Member States the space to make a choice make with regard to the assets listed in parts a to with c. Only part a has been implemented in Dutch law.
Article 6, first paragraph paragraph, points b and c	Article 40q Bpr		
Article 6, second paragraph member	Does not require implementation		Article 6, second paragraph is an elaboration of Article 6, first paragraph, part b. Article 6,

first paragraph, part b,
will not (for the time
being) be
implemented.

Article, - paragraph or - part of the directive	To be implemented in	Definition of policy scope	Note
Article 6, third paragraph member	Does not require implementation		Article 6, third paragraph, is an elaboration of Article 6, first paragraph, part b. Article 6, first paragraph, part b, will not (for the time being) be implemented.
Article 6, fourth member	Does not require implementation		Article 6, fourth paragraph, is an elaboration of Article 6, first paragraph, part b. Article 6, first paragraph, part b, is not implemented.
Article 6, fifth paragraph paragraph, point a	Article 40h, first and second paragraph, Bpr		
Article 6, fifth paragraph paragraph, points b and c	Article 40h, third paragraph, PR		
Article 6, sixth paragraph member	Does not require implementation		Already follows from Article 208 of the Regulation capital requirements
Article 6, seventh member	Article 40l, first paragraph, PR		
Article 6, eighth member	Does not require implementation		Article 6, eighth paragraph, obliges member states adopt rules for assets that are not be eligible pursuant to Article 6, first paragraph, part a. In the Netherlands only eligible assets on the basis of Article 6, first paragraph, part a, granted stand.
Article 7, first and second paragraph	Article 40i	Article 7, first and second paragraph, offers the Member State option to allow stand that outside the Union located collateral assets in the coverage pool are included	From this Member State option is not used made. In article 40i Bpr stipulates that the collateral assets within the EU must lie.
Article 8	From this Member State option is not used made	Article 8 provides the Member State option to adopt rules with regard to the use of structure for intra-group pooling of covered bonds	
Article 9, first	Does not require	No	Dutch law

member

implementation

does not contain a prohibition on hedging assets within the meaning of Article 9 of the guideline.

Article, - paragraph or - part of the directive	To be implemented in	Definition of policy scope	Note
Article 9, second member	Implementation by through existing legislation	Article 9, second paragraph, offers the Member State option to make transfers by by means of a financial-security-heath agreement in accordance with Directive 2004/47/EC allow.	Already follows from Article 7:51 ff. of the Civil Code
Article 9, third paragraph member	From this Member State option is not used made	Article 9, third paragraph, offers the Member State option to allow assets which are not originate from a bank, as a hedge assets can be Used	
Article 10	Articles 40f, first and second paragraph, Bpr	No	
Article 11, first paragraph paragraph, first and third part	Article 40j, first paragraph, PR	No	
Article 11, first paragraph paragraph, part a, second part of the sentence	Article 40j, paragraph 2, PR		
Article 11, first paragraph paragraph, point b	Article 40j, paragraph 3, part a, Bpr		
Article 11, first paragraph paragraph, point c	Article 40e		That the derivatives contracts in the cover pole be included one means automatically that they be isolated (because cover pool is isolated). This No need to do it again be determined.
Article 11, first paragraph paragraph, point d	Article 40j, paragraph 3, part b, Bpr		
Article 11, first paragraph paragraph, point e	Article 40j, paragraph 3, PR		
Article 11, second paragraph, part a	Article 40j, paragraph 3, part c, Bpr		
Article 11, second paragraph, part b	Article 40j, paragraph 3, part a, Bpr		
Article 12, first paragraph paragraph, point a	Article 40e second paragraph, PR		
Article 12, first paragraph paragraph, point b	Article 40e, first paragraph, PR		

Article 12, first paragraph paragraph, point c	Article 40e Bpr
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Article 12, first paragraph paragraph, second subparagraph	Article 40e Bpr
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Article, - paragraph or - part of the directive	To be implemented in	Definition of policy scope	Note
Article 12, second paragraph	Article 3:33b Wft	No	
Article 13, first paragraph member	Article 40n, first paragraph, PR	Article 13, first paragraph, offers the option of banks that cover issue bonds, to oblige one of The bank is independent. cover pool- monitor to be appointed which the cover pool Continuously monitors	
Article 13, first paragraph and second paragraph	Article 40n, first paragraph, PR		
Article 13, second paragraph, section c	Article 40n, fourth paragraph, PR		
Article 13, second paragraph, part d	Article 40n, fifth paragraph, PR		
Article 13, third paragraph member	Article 40n, second paragraph, PR		
Article 13, fourth member	Needs by its nature no implementation	n.a.	Information obligation to EBA
Article 14, first paragraph up to third member	Article 3:33ba, first paragraph, Wft	No	
Article 15, first paragraph member	Article 3:33b, first and second paragraph, Wft	No	
Article 15, second paragraph	Article 40g, first paragraph, PR		
Article 15, third paragraph paragraph, first subparagraph	Article 3:33b, Wft jo. Article 40g, fourth paragraph, PR		
Article 15, third paragraph paragraph, second subparagraph	Article 40g, fourth paragraph, PR	Article 15, third paragraph, second paragraph, offers the option to add state that a lump sum is calculated for the expected costs with regard to subordination and management for the phasing out of the programme of covered bonds	
Article 15, fourth member	Article 40g, third paragraph, PR		
Article 15, fifth paragraph member	Article 40g, first paragraph, PR		

Article 15, sixth paragraph member	Article 40g, second paragraph, PR
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Article, - paragraph or - part of the directive	To be implemented in	Description of policy scope	Note
Article 15, sixth paragraph paragraph, second subparagraph and seventh paragraph	From these Member State options is not used made	Article 15, sixth paragraph, second paragraph and Article 15, paragraph 7, offer the option of other calculation principles to stand in place of the nominal principle	
Article 15, eighth paragraph member	Article 40f, first paragraph, PR	No	
Article 16, first paragraph member	Article 40k, first paragraph, PR	No	
Article 16, second paragraph	Article 40k, second paragraph, PR		
Article 16, third paragraph paragraph, first subparagraph, salutation and parts a and b	Article 40k, fourth paragraph, PR		
Article 16, third paragraph paragraph, second subparagraph	From this Member State option is not used made	Article 16, third paragraph, second paragraph offers the option of using the types of liquid funds for the application of article 16, third paragraph, parts a and b may be used.	
Article 16, third paragraph paragraph, third subparagraph	Article 40k, fifth paragraph, PR	No	
Article 16, fourth member	Transitional law	Article 16, fourth paragraph, offers the option of Article 16, first, second and third paragraphs for a particular period not to fit if in Other rights lations of the EU established liquidity requirements funds through which overlap with the liquidity buffer of the cover pool is created	
Article 16, fifth paragraph member	Article 40k, third paragraph, PR	Article 16, fifth paragraph, offers the option of adding state that the calculation of the principal sum for extendable-maturity structures is based on the legal end date	

Article, - paragraph or - part of the directive	To be implemented in	Definition of policy scope	Note
Article 16, sixth paragraph member	From this Member State option is not used made	Article 16, sixth paragraph, offers the option of an exception to Regulate on Article 16, first paragraph, for covered bonds for which matching-funding requirements funds	
Article 17, first paragraph member	Article 40m, first paragraph to paragraph 5	Article 17, first paragraph, offers the option of using the issuance of covered bonds with extendable-maturity structures stand	
Article 17, second paragraph	Needs by its nature no implementation	n.a.	
Article 18, first paragraph member	Article 3:33a, first paragraph, Wft	No	
Article 18, second paragraph	Article 3:33a, first paragraph, Wft	No	
Article 18, third paragraph member	Does not require implementation	No	
Article 18, fourth member	Article 40l, second paragraph, PR	No	
Article 18, fifth paragraph member	Implementation by through existing legislation	No	Articles 1:72, 1:74, 1:75, 1:79, 1:80 Wft jo. Articles 5:11, 5:16 and 5:17 Awb
Article 18, sixth paragraph member	Does not require implementation	No	
Article 19, first member	Article 3:33a, first paragraph, Wft	No	
Article 19, second paragraph	Article 3:33a, second paragraph, Wft	No	
Article 20, first paragraph member	Does not require implementation	No	Article 1:69 Wft; Scheme for the performance of tasks border crossing cooperative financial supervision holders
Article 20, second and third member	From this Member State option is not used made	Article 20, second and third paragraph, offer the option to provide in the appointment of a special administrator in the case of insolvency or settlement	
Article 20, fourth paragraph member	Does not require implementation	No	Article 1:69 Wft; Scheme for the performance of tasks border crossing

Article, - paragraph or - part of the directive	To be implemented in	Definition of policy scope	Note
Article 21, first up to third member	Article 3:33ba, second and third paragraph, Wft	No	
Article 22, first paragraph member	Implementation by through existing legislation	No	Articles 1:72, 1:74, 1:75, 1:79, 1:80 Wft jo. Chapter 5 Awb
Article 22, second paragraph, part a	Article 3:33a, first paragraph, Wft	No	
Article 22, second paragraph, parts b to and with e	Implementation by through existing legislation	No	Articles 1:74, 1:75, 1:79 and 1:105 jo. 1:104 Wft and articles 5:15 and 4:81 jo. 1:13, fourth paragraph, Awb.
Article 23, first paragraph member	Implementation by through existing legislation	No	Articles 1:79 and 1:80 and related annexes Wft jo. article 1:105 Wft
Article 23, second paragraph, part a	Implementation by through existing legislation	No	Article 1:105 Wft
Article 23, second paragraph, part b	Article 1:94, first paragraph, section c, Wft	No	
Article 23, second paragraph, section c	Implementation by through existing legislation	No	Article 1:75 Wft
Article 23, second paragraph, part d	Implementation by through existing legislation	No	Article 1:80 and article 1:97 Wft and associated Annexes
Article 23, third paragraph member	Does not require implementation	No	
Article 23, fourth paragraph member	Implementation by through existing legislation	No	Article 3:4 Awb, article 1b Decision on administrative fines
Article 23, fifth paragraph member	Implementation by through existing legislation	No	Article 5:1, third paragraph, Awb
Article 23, sixth paragraph member	Implementation by through existing legislation	No	Chapter 5 Awb
Article 23, seventh paragraph	Implementation by through existing legislation	No	Chapter 5 Awb
Article 24, first paragraph up to eighth member	Implementation by through existing legislation	No	Article 1:94, 1:97, first, third, fourth and fifth paragraph, 1:98, 1:99a Wft

Article 24, ninth member	Implementation by through existing legislation	No	Scheme for the performance of tasks border crossing tive cooperation financial supervision holders
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Article, - paragraph or - part of the directive	To be implemented in	Definition of policy scope	Note
Article 24, tenth member	Needs by its nature no implementation	N/A	Subject to an obligation for EBA to provide a database to be kept up to date with administrative sanctions and measures who are her reported.
Article 25, first paragraph up to third member	Does not require implementation	No	Article 1:69 Wft; Scheme for the performance of tasks cross border tive cooperation financial supervision holders
Article 25, fourth paragraph member	Implementation by through existing legislation	No	Article 1:69 Wft; Scheme for the performance of tasks border crossing tive cooperation financial supervision holders
Article 25, fifth paragraph member	Implementation by through existing legislation	No	Article 1:69 Wft; Scheme for the performance of tasks border crossing tive cooperation financial supervision holders
Article 26, first paragraph and second paragraph	Article 1:109, first paragraph, Wft	No	
Article 26, third paragraph member	Implementation by through existing legislation	No	Scheme for the performance of tasks border crossing tive cooperation financial supervision holders
Article 27	Article 40o	No	
Article 28	Does not require implementation	n.a.	
Article 29	Does not require implementation	n.a.	
Article 30	Article III of the bill From the Member State option in the second paragraph is used.	Article 30, second paragraph, offers the Member State option to take transitional measures make arrangements for covered bonds Of which the ISIN for 8 July 2022 has been opened.	
Article 31 to with 34	Need to look at their nature no implementation	n.a.	These articles concern the final provisions of the directive