TERMS AND CONDITIONS
OF THE OESTERREICHISCHE NATIONALBANK
GOVERNING MONETARY POLICY OPERATIONS
AND PROCEDURES

Effective from August 20, 2014
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Preamble

These Terms and Conditions regulate how the Oesterreichische Nationalbank (OeNB) as an integral part of the European System of Central Banks (ESCB) and the Eurosystem conducts its monetary policy operations with counterparties headquartered or established in Austria.

As used herein, the term Eurosystem refers to the European Central Bank (ECB) and the national central banks (NCBs) of the Member States which have adopted the single currency.

To qualify for access to monetary policy transactions with the OeNB, counterparties are required to sign these Terms and Conditions and obligated to comply with the rules specified here. Counterparties shall provide their signature on the attached form.
I. General Provisions

Article 1
Legal Framework

(1) The legal relations of the OeNB are governed by the Treaty on the Functioning of the European Union (TFEU), the Statute of the ESCB/ECB and the Federal Act on the Oesterreichische Nationalbank (Nationalbank Act).

(2) These Terms and Conditions serve to implement the provisions of the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended, in particular the specifications in Annex I to the Guideline,\(^1\) entitled The implementation of monetary policy in the euro area – General documentation on Eurosystem monetary policy instruments and procedures.

Article 2
Business Day

Under these Terms and Conditions, every day except Saturday and Sunday and except January 1, Good Friday, Easter Monday, May 1, December 25 and December 26 shall be a business day.

II. Scope of Application

Article 3

The monetary policy operations between the OeNB and its counterparties shall be governed exclusively by these Terms and Conditions.

Article 4

(1) The Terms and Conditions shall not entitle counterparties to transact particular operations with the OeNB. Much rather, the OeNB reserves the right to select a limited number of counterparties to participate in certain operations, to restrict the scope of these operations, or not to execute certain operations at all.

(2) Fine-tuning operations of the OeNB are restricted to a range of counterparties selected on the basis of substantive eligibility criteria which are uniform throughout the Eurosystem.

(3) When quick tenders or bilateral operations are not opened to the entire pool of counterparties eligible for fine-tuning operations, specific counterparties will be selected for a given transaction in line with the criteria specified in Appendix 3 of Annex I to the *ECB Guideline on monetary policy instruments and procedures of the Eurosystem* as amended.¹

Article 5

The Terms and Conditions shall continue to apply beyond the termination of a business relationship or of specific deals thereunder until the outstanding operations have been settled.

III. Counterparties

Article 6
General Eligibility Criteria

Counterparties must fulfill the criteria specified in Annex I to the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended.¹ In particular, the following criteria apply:


– The range of eligible counterparties is limited to institutions headquartered in Austria or to Austrian establishments of institutions headquartered abroad.

– Counterparties must be financially sound.

– Counterparties must be subject to harmonized supervision in line with Directive 2006/48/EC of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) or to nonharmonized national supervision of a comparable standard.

– Counterparties must fulfill the operational criteria specified in Annex 1 for the individual types of operations.

– Counterparties shall be deemed to be aware of, and shall comply with, all obligations imposed on them by anti-money laundering and counter-terrorist financing legislation.

Article 7
Minimum Reserves

Only institutions subject to the Eurosystem’s minimum reserve system according to Article 19.1 of the Statute of the ESCB/ECB are eligible to be counterparties.

Article 8
Prohibition of Assignment

Counterparties are prohibited from assigning, restricting or transferring in any other way the powers and duties arising from monetary policy operations.

Article 9
Extract from the Company Register

At the OeNB’s request, counterparties must submit a current extract from the company register.

Article 10
List of Signing Officers

(1) Counterparties shall supply the signatures of their signing officers in a manner
– that enables the OeNB to adequately verify the authenticity of the signatures (OeNB sample signature sheet, list of signing officers);
– that clearly specifies the nature and scope of the signing officers’ powers.

(2) The authenticity of the sample signatures must be verified through a court or notary certification unless the signatures have been submitted to the OeNB before or unless the signing officers designated in the company register sign the
sample signature sheet at the OeNB in the presence of the competent official.

**Article 11**
**Duration of Signing Authority**

The OeNB shall accept authorized signatures of the counterparty’s designated signing officers until notified in writing of a revocation or alteration, even if the designated signing officers are registered in a public record and alterations are publicly notified. This is without prejudice to the right of the OeNB to take into account changes noted in public registers and published.

**Article 12**
**Fines and Suspension Measures**

(1) Fines:
As detailed in the following provisions, the OeNB may impose fines on counterparties for infringing the rules governing tender procedures and bilateral transactions, the use of underlying assets, end-of-day procedures and access conditions for the marginal lending facility.  

   a) Tender procedures, bilateral transactions, use of underlying assets:

2 The following sanctions shall also apply if a counterparty is using assets that it may not or may no longer use because close links have been established between the counterparty and the issuer/guarantor or because the counterparty has become identical with the issuer/guarantor (see Article 19).

2a Changed temporarily in line with Guideline ECB/2014/31: Failure of a counterparty to settle, in full or in part, the outstanding amount of certain longer-term refinancing operations (LTROS) by the due date when it had opted for early repayment in line with the provisions of footnote 9a may result in the imposition of financial penalties for malcompliance with the tender procedure as outlined below.
For infringements of the rules related to tender operations, bilateral transactions and the use of underlying assets, separate fines shall be imposed for the first and second infringements that occur within a 12-month period.

– For infringements of rules related to tender operations and bilateral transactions, the financial penalties shall be computed at the marginal lending rate plus 2.5 percentage points, on the basis of the amount of collateral or cash which the counterparty could not settle, multiplied by the coefficient $X/360$, where $X$ equals the number of days (7 at the most) during which the counterparty was unable to collaterize or supply the allotted amount during the maturity of an operation. The minimum financial penalty is EUR 500,–.

– For infringements of rules related to the use of underlying assets, the fines shall be calculated at the marginal lending rate plus 2.5 percentage points. This rate shall be applied to the amount of assets that the counterparty may not or may no longer use, multiplied by the coefficient $X/360$, where $X$ equals the number of days (7 at the most) during which the counterparty was in breach of the rules related to the use of underlying assets. The minimum financial penalty is EUR 500,–. The rules governing the use of underlying assets shall also be deemed to have been infringed when the assets provided as collateral become ineligible while a transaction is outstanding and when the counterparty fails to substitute eligible assets by the beginning of the eighth consecutive calendar day at the latest. The minimum financial penalty is EUR 500,–.
b) End-of-day procedures, access conditions for the marginal lending facility:
The first time the rules for end-of-day procedures or for access to the marginal lending facility are infringed, a fine of 5 percentage points will be imposed. The fine shall be increased by a further 2.5 percentage points for each additional infringement within a 12-month period, calculated on the basis of the amount of unauthorized access to the marginal lending facility. The minimum financial penalty is EUR 500,–.

(2) Suspension:
If a third infringement of the same type of the rules governing tender operations and bilateral operations and of the rules for underlying assets occurs within a 12-month period, the OeNB shall suspend counterparties from subsequent monetary policy operations as specified in subparagraphs (a) and (b) below in addition to imposing a fine as outlined in paragraph (1) above. In the event that counterparties infringe the rules for tender procedures or bilateral transactions, counterparties shall be suspended only from operations of the same type.

a) Tender operations and bilateral transactions:
   – If the amount of nondelivered collateral or cash is up to 40% of the total collateral or cash to be delivered, a suspension of one month shall be imposed.
   – If the amount of nondelivered collateral or cash is between 40% and 80% of the total collateral or cash to be delivered, a suspension of two months shall be imposed.
Counterparties

If the amount of non-delivered collateral or cash is between 80% and 100% of the total collateral or cash to be delivered, a suspension of three months shall be imposed.

b) Use of underlying assets:
The counterparty shall be suspended from the subsequent open market operation.

(3) Without prejudice to paragraph (4) below, the indicated sanctions (fines and suspension measures) shall also apply to any successive infringement within a 12-month period.

(4) Temporary suspension from access to all monetary policy operations for especially serious infringements:
When infringements are especially serious, above all because the amounts involved are large or because the infringement is frequent or of long duration, in addition to a fine calculated in accordance with paragraphs (1) to (3), a counterparty may be suspended from access to all monetary policy operations for a period of three months.

(5) Branches located in other Members States:
The OeNB may decide to also suspend from its monetary policy operations those branches of the counterparty concerned which are located in other Member States.

(6) Suspension or exclusion in the event of default:
In the event of default as defined in Article 52, counterparties may be suspended or excluded from monetary policy operations.
IV. Terms and Conditions for Monetary Policy Operations

General Provisions

Article 13

Types of Operations

(1) The OeNB conducts monetary policy operations in the form of open market operations and through standing facilities.

(2) Within the category of open market transactions, the OeNB executes reverse transactions as collateralized loans, i.e. conducts credit operations against assets pledged or assigned as collateral for a loan. It shall be up to the OeNB to decide which form of collateralization to use. The OeNB may decide to execute open market transactions also in the form of repurchase agreements. In addition to collateralized loans, the OeNB conducts foreign exchange swaps and outright transactions, collects fixed-term deposits and carries out operations relating to the issuance of ECB debt securities.

(3) Within the category of standing facilities, counterparties can access the marginal lending facility to obtain overnight liquidity and the deposit facility to make overnight deposits. The OeNB provides liquidity under the marginal lending facility as collateralized loans, but may decide to execute such transactions also in the form of repurchase agreements.

(4) In the process of settling open market operations, the OeNB nets out due claims and liabilities vis-à-vis a given counterparty arising from one and the same type of open market operations.
Article 14
Currency, Interest Rate Convention

(1) All payments due under monetary policy operations are to be settled in euro. This provision shall be without prejudice to foreign currency payments under foreign exchange swap operations.

(2) The interest rate applied shall be a simple interest rate with the day-count convention “actual/360.”

Article 15
Collateralization

(1) Pursuant to Article 18 of the Statute of the ESCB/ECB, all liquidity-providing operations must be based on adequate collateral. During the life of an operation, the value of the underlying assets must not fall below the outstanding loan amount as adjusted according to the risk control measures specified in Article 25.

(2) The debt instruments supplied as collateral must be readily realizable, free and clear of encumbrances as well as of senior claims of third parties. Collateral may also be submitted by third parties, provided they have close administrative or organizational links with the counterparty, fulfill the criteria outlined in Articles 6 and 7 of these Terms and Conditions and provided they have committed to comply with the criteria specified in Annex 2 to these Terms and Conditions by signing the form the OeNB has drawn up for this purpose. The only operational criterion to be fulfilled is acceptance of these Terms and Conditions.
Article 16
Delivery of Underlying Assets to the OeNB

Unless the underlying assets that the counterparties must submit for monetary policy operations are held in safe custody by the OeNB, they shall be transferred to the OeNB in a timely manner. This implies that underlying assets either need to have been predeposited with the OeNB or need to be transferred on a delivery-versus-payment basis.

Article 17
Cross-Border Use of Eligible Assets

(1) The Correspondent Central Banking Model (CCBM) specified in Chapter 6.6 of Annex I to the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended ¹ ensures that all counterparties will be able to use all assets eligible as collateral for Eurosystem monetary policy operations, regardless of where in the euro area the assets are held/were issued and regardless of where in the euro area the debtors reside.

(2) The law of the Member State whose central bank acts as the correspondent central bank (CCB) within the CCBM mentioned in paragraph (1) shall apply to transactions involving the cross-border use of collateral unless overruled by private international law provisions. Under certain conditions, the law of the Member State whose national central bank acts as the home central bank (HCB) may apply. The CCB is the national central bank of the country in whose national security settlement system (SSS) the assets were issued or deposited or,

in the case of nonmarketable assets/credit claims, whose law
governs the credit claim agreement.

(3) If the OeNB accepts credit claims as collateral when
acting as an HCB within the CCBM framework mentioned in
paragraph (1), the respective CCB’s Additional Terms and
Conditions govern the delivery, legal validity and realization of
such credit claims. These Additional Terms and Conditions are
available on the website of the respective CCB.

(4) As a CCB within the CCBM framework mentioned
in paragraph (1), the OeNB may accept eligible assets on
the respective HCB’s behalf as collateral for monetary policy
operations of other Eurosystem NCBs. If the OeNB accepts
credit claims as collateral on behalf of the HCB, the OeNB’s
Additional Terms and Conditions are applicable to the delivery,
legal validity and realization of such credit claims in addition
to the Terms and Conditions of the HCB.

(5) In addition to the CCBM, counterparties may use
eligible links between securities settlement systems (SSSs) for
the cross-border transfer of marketable assets with their local
SSS. Counterparties may also use these eligible links between
SSSs in combination with the CCBM (CCBM with links).
Furthermore, the CCBM (including the CCBM with links) is
used as a basis for the cross-border use of triparty collateral
management services.

(6) Chapter 6.6 of Annex I to the ECB Guideline on
monetary policy instruments and procedures of the Eurosystem as
amended\(^1\) applies.

(7) If the debtor, guarantor or third-party creditor is established in a country other than that in which the refinancing central bank is located and whose law governs the credit claim agreement or the collateralization, special provisions of the NCB located in the country of the debtor, guarantor or third-party creditor may apply. These special provisions are available on the website of the respective NCB (“assisting NCB”).

**Article 18**

**Eligible Assets**

Article 18.1 of the Statute of the ESCB requires all ESCB credit operations (i.e. liquidity-providing monetary policy and intraday credit operations) to be based on adequate collateral. The Eurosystem accepts a broad range of assets for its operations and has established a uniform framework for eligible assets. Moreover, the Eurosystem has introduced a single list of marketable assets eligible for Eurosystem credit operations (hereinafter referred to as the “single list”). This list is updated daily and is published on the ECB’s website (www.ecb.europa.eu).³

Counterparties shall not be entitled to the inclusion of specific assets in the list even if the instruments meet the eligibility criteria.⁴ Furthermore, the OeNB may reject eligible assets if their maturities or expected incoming payments (e.g. coupon payments) are in the near future.

The following marketable and nonmarketable assets are eligible to collateralize Eurosystem monetary policy operations:

³ In the case of nonmarketable assets, the ECB publishes neither a list of eligible assets nor a list of eligible debtors/guarantors.

⁴ The time span to which this footnote applied has expired.
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— marketable assets:
  ECB debt certificates, debt certificates issued by the NCBs of the Eurosystem, other marketable debt certificates, asset-backed securities;
— nonmarketable assets:
  credit claims of the counterparty or of the third-party creditor on the credit borrower, nonmarketable retail mortgage-backed debt instruments (RMBDs) and fixed-term deposits from eligible counterparties.

**Article 18a**
**Temporary Measures Relating to Longer-Term Refinancing Operations and Eligibility of Collateral**

To improve the provision of liquidity to counterparties participating in monetary policy operations, Guideline ECB/2014/31 sets out temporary measures and widens the eligibility criteria for certain assets. In these Terms and Conditions, any deviations from the general conditions are flagged with the footnotes 2a, 5a, 5b, 5c, 6a, 6b or 9a and the note “Changed temporarily in line with Guideline ECB/2014/31.”
Eligibility Criteria for Assets

Article 19
General Eligibility Criteria

(1) With the aims of protecting the Eurosystem from incurring losses in its monetary policy operations, ensuring the equal treatment of counterparties and enhancing operational efficiency, underlying assets have to fulfill certain criteria in order to be eligible for Eurosystem monetary policy operations. The distinction between marketable and nonmarketable assets principally has no bearing on the quality of the assets and their eligibility for the various types of Eurosystem monetary policy operations.5

5 Marketable assets can be used for all monetary policy operations which are based on underlying assets, i.e. reverse and outright open market transactions and the marginal lending facility. Nonmarketable assets can be used as underlying assets for reverse open market transactions and the marginal lending facility. They are not used in Eurosystem outright transactions. All marketable and nonmarketable assets can also be used as underlying assets for intraday credit.
The assets must be denominated in euro. In certain situations, the Governing Council of the ECB may decide to accept as eligible collateral marketable debt securities denominated in currencies other than the euro and deposited/registered outside the euro area, provided the securities were issued by a G-10 central government in its domestic currency. Upon such decision, the OeNB shall communicate to its counterparties the rules, procedures and selection criteria to be applied in this case, including risk control measures.\(^5\)

(3) The counterparty is liable to the OeNB for the accuracy and correctness of all information provided about the underlying assets.

\(^5\) Changed temporarily in line with Guideline ECB/2014/31: Admission of certain assets denominated in pounds sterling, yen or U.S. dollars — only Articles 1, 3, 5, 6 and 8 of Guideline ECB/2014/31 shall apply to foreign currency-denominated collateral:

Marketable debt instruments as described in Chapter 6.2.1 of Annex I to Guideline ECB/2011/14, if denominated in pounds sterling, yen or U.S. dollars, shall constitute eligible collateral for Eurosystem monetary policy operations, provided that: (a) they are issued and held/settled in the euro area; (b) the issuer is established in the European Economic Area; and (c) they fulfil all other eligibility criteria included in Chapter 6.2.1 of Annex I to Guideline ECB/2011/14.

The Eurosystem shall apply the following valuation markdowns to such marketable debt instruments: (a) a markdown of 16% on assets denominated in pounds sterling or U.S. dollars; and (b) a markdown of 26% on assets denominated in yen.

Marketable debt instruments as described in this footnote, which have coupons linked to a single money market rate in their currency of denomination, or to an inflation index containing no discrete range, range accrual, ratchet or similar complex structures for the respective country, shall also constitute eligible collateral for the purposes of Eurosystem monetary policy operations.

The ECB may publish a list of other acceptable benchmark foreign currency interest rates, in addition to those referred to above, on its website at www.ecb.europa.eu, following approval by the Governing Council of the ECB.
(4) The special eligibility criteria for marketable assets are specified in Article 20, and the special eligibility criteria for nonmarketable criteria are defined in Article 21.

(5) A counterparty may not submit as collateral any asset issued or guaranteed by itself or by any other entity with which it has “close links” in line with Chapter 6.2.3 of Annex I to the Guideline of the ECB on monetary policy instruments and procedures of the Eurosystem as amended. In the event that a counterparty uses assets that it may not or may no longer use to secure an outstanding credit, because it is identical with or has close links with the issuer/guarantor, it must immediately notify the OeNB thereof and remove the respective asset as soon as possible.

“Close links” means a situation in which the counterparty is linked to an issuer/debtor/guarantor of eligible assets by reason of the fact that:

a) the counterparty owns directly, or indirectly, through one or more undertakings, 20% or more of the capital of the issuer/debtor/guarantor; or

b) the issuer/debtor/guarantor owns directly, or indirectly, through one or more undertakings, 20% or more of the capital of the counterparty; or

c) a third party owns both the majority of the capital of the counterparty and the majority of the capital of the issuer/debtor/guarantor, either directly or indirectly, through one or more undertakings.
The above provision does not apply to:

a) close links between the counterparty and the public authorities of EEA countries or in the case where the debt instrument is guaranteed by a public sector entity which has the right to levy taxes;\(^{5b}\)

b) covered bank bonds issued in accordance with the criteria set out in Annex VI, part 1, lit 68 to 70 Banking Directive (2006/48/EC), as amended); or

c) cases in which debt instruments are protected by specific legal safeguards comparable to those for the instruments given under (b) as outlined in Chapter 6.2.3 of Annex I to the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended.\(^1\)

Moreover, a counterparty may not submit as collateral any asset-backed security if the counterparty (or any third party with which it has close links) provides a currency hedge transaction with the issuer as a hedge counterparty, or provides liquidity support for 20% or more of the outstanding amount of the asset-backed security.

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\(^{5b}\) Changed temporarily in line with Guideline ECB/2014/31: Counterparties may not submit as collateral for Eurosystem monetary policy operations uncovered bank bonds issued by themselves or issued by closely linked entities and guaranteed by a European Economic Area public sector entity with the right to impose taxes in excess of the nominal value of these bonds already submitted as collateral on July 3, 2012.

In exceptional cases, the Governing Council of the ECB may decide on temporary derogations from these requirements for a maximum of three years. A request for a derogation shall be accompanied by a funding plan that indicates how the own use of uncovered government-guaranteed bank bonds by the requesting counterparty will be phased out by no later than three years following the approval of the derogation. Any derogation already granted since July 3, 2012, shall continue to apply until it is due for review.

(6) The counterparty is obligated to assess and verify the financial soundness of the debtor (the party whose asset is pledged or assigned as collateral to the OeNB; third-party debtor) and shall on request inform the OeNB at any time about the current and prospective financial condition and profitability of the debtor. The OeNB is not obligated to inform a counterparty about insolvency proceedings initiated against the debtor of an asset assigned as collateral or pledged to the OeNB.

(7) The OeNB is empowered to check compliance with the eligibility criteria on the basis of the prudential reports submitted by the counterparty or the third-party creditor pursuant to the Austrian Banking Act.

(8) The counterparty is liable for the legal validity of the assets transferred or pledged to the OeNB as collateral.

(9) The OeNB may decide not to accept instruments offered as collateral, or may at any time demand that collateral be exchanged if it considers assets to be inadequate or no longer adequate, or may limit the use of assets submitted as collateral or apply additional haircuts to ensure adequate risk protection.

(10) The OeNB will accept the collateral assignment or pledge of assets only if and when the title and method of conveyance meet the legal conditions which render the collateral assignment or pledge valid in Austrian law.

(11) The OeNB shall provide counterparties with advice regarding collateral eligibility only on assets already accepted by the Eurosystem as eligible collateral. It will not provide any pre-issuance advice.
Article 20
Eligibility Criteria for Marketable Assets

The eligibility criteria for marketable assets are listed in Chapter 6.6 of Annex I to the *ECB Guideline on monetary policy instruments and procedures of the Eurosystem* as amended. In particular, the following criteria apply:

(1) Debt instruments
Debt certificates issued by the ECB and debt instruments issued by Eurosystem NCBs in their respective Member State prior to the adoption of the euro shall be eligible.

(2) Other marketable assets
The following criteria apply to other marketable assets: They must be assets having:

a) a fixed, unconditional principal amount; and
b) a coupon that cannot result in a negative cash flow.

Furthermore, inflation-indexed bonds are also eligible. These features must be maintained until the redemption of the obligation. Debt instruments may not afford rights to the principal and/or the interest that are subordinated to the rights of holders of other debt instruments of the same issuer.

Requirement (a) shall not apply to asset-backed securities.

(3) Asset-backed securities
Asset-backed securities other than covered bank bonds must meet above all the following eligibility criteria:

The cashflow-generating assets which serve to cover asset-backed securities must be legally acquired in accordance with the laws of a Member State from the originator or an intermediary by the special purpose vehicle in a manner which

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the Eurosystem considers to be a “true sale” that is enforceable against any third party. They must be beyond the reach of the originator or the intermediary and the originator’s or intermediary’s creditors, also in the event that the originator or the intermediary should become insolvent.

Reporting on asset-backed securities must comply with the provisions laid down in Appendix 8 of Annex I of the Guideline of the ECB on monetary policy instruments and procedures of the Eurosystem as amended.¹

The OeNB reserves the right to request from any relevant third party (such as the issuer, the originator or the arranger) any clarification and/or legal confirmation that it considers necessary to assess the eligibility of asset-backed securities.

(4) Covered bank bonds

As from March 31, 2013, covered bonds are subject to additional eligibility criteria in line with Chapter 6.2.1.1.3 of Annex I of the Guideline of the ECB on monetary policy instruments and procedures of the Eurosystem as amended.

(5) Place of issue
The assets must as a rule – unless the Governing Council of the ECB decides otherwise in certain situations – be issued in the EEA with a central bank, or with a central bank, or with a central securities depository (CSD) that has been positively assessed by the Eurosystem pursuant to the standards and assessment procedures described in the “Framework for the assessment of securities settlement systems and links to determine their eligibility for use in Eurosystem credit operations”\(^{5c}\) (“Eurosystem User Assessment Framework”).

(6) Settlement procedure
The assets must be transferable in book-entry form. They must be held and settled in the euro area through an account with the Eurosystem or with an SSS that has been positively assessed by the Eurosystem pursuant to the standards and assessment procedures described in the Eurosystem User Assessment Framework, so that perfection and realization are subject to the law of a euro area country. If the CSD where the asset is issued and the CSD where it is held are not identical, then the two CSDs must be connected by a link approved by the ECB.

(7) Acceptable markets


(8) Type of issuer/guarantor
The debt instruments may be issued or guaranteed by central banks, public sector entities, private sector entities, or international or supranational institutions.5d

(9) Place of establishment of the issuer/guarantor
The issuer must be established in the EEA or in one of the non-EEA G-10 countries (currently the U.S.A., Canada, Japan and Switzerland).6 In the latter case, the debt instruments can only be considered eligible if the Eurosystem ascertains that its rights would be protected in an appropriate manner, as determined by the Eurosystem, under the laws of the respective non-EEA G-10 country. For this purpose, a legal opinion in a form and with substance acceptable to the Eurosystem will have to be submitted before the assets can be considered eligible. In the case of asset-backed securities, the issuer must be established in the EEA.

The guarantor must be established in the EEA.

5d Changed temporarily in line with Guideline ECB/2014/31: Under Article 6 of this Guideline, the OeNB will refuse to accept as collateral bank bonds which (a) do not fulfill the Eurosystem’s high credit assessment requirements, (b) were issued by the counterparty using them or by entities closely linked to the counterparty, and (c) are fully guaranteed by a Member State (i) whose credit assessment does not meet the Eurosystem’s high credit standards for issuers and guarantors of marketable assets as specified in Chapters 6.3.1 and 6.3.2 of Annex I to Guideline ECB/2011/14 and (ii) which the Governing Council of the ECB considers as complying with an EU/IMF program.

6 The time span to which this footnote applied has expired.
International or supranational institutions are eligible issuers/guarantors irrespective of their place of establishment. In case a marketable debt instrument is issued by a nonfinancial corporation (as defined in the European System of Accounts 1995 – ESA 95) that is not rated by an external credit rating institution (ECAI), the issuer/guarantor must be established in the euro area.

(10) Collateral requirements
Collateral assets must meet the credit standards defined by the ECAF rules specified in Chapter 6.3 of Annex I to the ECB Guideline on monetary policy instruments and procedures for the Eurosystem as amended.¹

(11) The assets must be enforceable exclusively under the law of a euro area country.

Article 21
Eligibility Criteria for Nonmarketable Assets/Credit Claims

The eligibility criteria for nonmarketable assets are listed in Chapter 6.6 of Annex I to the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended.¹

To be eligible, a credit claim must fulfill the following eligibility criteria, which must be applicable until the obligation has been fully redeemed:

(1) The credit claim in question must be a debt obligation of a debtor to a Eurosystem counterparty. Credit claims that have a “reducing balance” (i.e. where the principal and interest are paid off according to a preagreed schedule) shall also be

eligible. Undrawn credit lines (i.e. undrawn facilities of revolving credit claims), current account overdrafts and letters of credit shall not be eligible. The share of a syndicate member institution in a syndicated loan is considered an eligible type of credit claim. Furthermore, credit claims with interest rate linked to the inflation rate are also eligible.

Credit claims may not afford rights to the principal and/or the interest that are subordinated to the rights of holders of other credit claims (or other tranches or subtranches in the same syndicated loan) or instruments of the same issuer.

(2) The credit claim must have
   a) a fixed, unconditional principal amount; and
   b) an interest rate that cannot result in a negative cash flow.

(3) Type of debtor/guarantor
Eligible debtors or guarantors are nonfinancial corporations (as defined in ESA 95), public sector entities and international or supranational institutions.

(4) Place of establishment of the debtor/guarantor
The debtor/guarantor must be established in the euro area. This requirement does not apply to international or supranational institutions.

(5) Credit standards
The quality of credit claims is assessed through the underlying creditworthiness of the debtor/guarantor. Credit claims must meet the high credit standards specified in the ECAF (Eurosystem credit assessment framework) rules for nonmarketable assets, as set out in Chapter 6.3.3 of Annex I to the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended.¹

(6) Minimum size
At the time of submission for use as collateral (mobilization) by the counterparty, the domestic credit claim must meet a minimum size threshold of EUR 5,000,–. For cross-border use of credit claims, a minimum threshold of EUR 500,000,– is applicable.

(7) Governing laws
The credit claim agreement and the agreement between the counterparty and the OeNB (“mobilization agreement”) must both be governed by the law of a Member State belonging to the euro area. Furthermore, the total number of different governing laws that are applicable to (1) the counterparty, (2) the creditor, (3) the debtor, (4) the guarantor (if relevant), (5) the credit claim agreement and (6) the mobilization agreement must not exceed two.

(8) Credit claims taken in by the OeNB must have a minimum residual maturity of 10 days.

(9) With effect from the sixth business day prior to their maturity at the latest, credit claims shall no longer be included in the calculation of the value of the underlying assets according to Article 15 paragraph (1) second sentence; counterparties shall therefore deduct such credit claims in their status reports of the amounts receivable. This noninclusion shall be without prejudice to the validity of the collateral assignment or pledge.

Article 22
Handling of Nonmarketable Assets/Credit Claims

(1) Within the framework for handling nonmarketable assets/credit claims, the requirements of Appendix 7 of Annex I to the ECB Guideline on monetary policy instruments and pro-
cedures of the Eurosystem as amended¹ (entitled The implementation of monetary policy in the euro area – General documentation on Eurosystem monetary policy instruments and procedures) shall be fulfilled.

(2) Counterparties shall provide electronically via the interfaces implemented by the OeNB any instructions for collateral transactions (delivery, adjustment, information and removal) in the form of status reports, which they must update at least at weekly intervals. The OeNB will issue an electronic notification confirming the receipt of such status reports.

Instructions for collateral transactions shall enter into force at the earliest on the business day following the day on which the instructions were submitted, provided they are received before 1:00 p.m. If the reports are received after 1:00 p.m., the changes will not enter into force until the second-next business day.

(3) The following provisions apply to status reports:

a) the initial listing of credit claims shall be considered an offer for collateral assignment or pledge;

b) the repeated listing of credit claims acknowledged previously by the OeNB only serves to indicate the balance of outstanding claims and any changes in residual maturity; the repeated listing shall be without prejudice to the acceptance date of the collateral assignment or pledge;

c) the omission of credit claims reported earlier from a new status report shall be deemed a counterparty’s request for reassignment or return of pledged assets, provided the underlying debt has not been repaid in the meantime;

(4) By means of the status report, the counterparty guarantees that the listed credit claims actually exist. The OeNB is entitled to review the procedures the counterparty uses to submit information on the existence of credit claims and to demand that these procedures be adjusted;

(5) Following the processing (verification) of the status report, the counterparty will be notified electronically (or, in exceptional cases, in writing) that
a) any credit claims in respect of which a new application has been made and which appear in the OeNB’s notification of receipt have been accepted as collateral assignment or pledge;
b) any credit claims that have been listed again continue to serve as collateral. Any changes with respect to the balance of outstanding claims or the residual maturity shall be deemed to have been noted;
c) any credit claims newly dropped from a status report, including any loan collateral transferred according to paragraph (6), shall be deemed to have been reassigned or retransferred with effect from the business day after the next business day, provided that collateral coverage continues to be adequate according to Article 15 paragraph (1). With reference to credit claims that no longer appear in the status report because they have since been fully repaid, the counterparty shall be released from its trusteeship obligations under paragraphs (6) and (10) with effect from the next business day, provided that collateral coverage continues to be adequate. The same shall apply to partial redemptions according to subparagraph (b). The OeNB is entitled to examine the quality and legality of the written confirmations according to paragraph (13) at any time.
(6) The counterparty shall hold in trust any assets received from third-party debtors as loan collateral for the OeNB and is obligated to transfer such collateral to the OeNB if the latter wishes to collect those credit claims; as long as the collateral has not been transferred to the OeNB, the latter is under no obligation to coadminister the loan collateral. When transferring bank claims, the counterparty at the same time surrenders, in accordance with the applicable insurance regulations, any entitlement to loan insurance taken out for claims assigned as collateral or pledged.

(7) The counterparty is obligated to identify in its books, immediately upon receipt of the OeNB’s notification, every single credit claim it has assigned as collateral or pledged, or to arrange for the third-party creditor to record the relevant collateral transactions in its books. The records must clearly indicate which claims have been assigned or pledged to the OeNB at what time. Moreover, these entries must be taken into account in any analysis of the counterparties’ accounts, in particular regarding receivables. The OeNB may at all times undertake any checks deemed adequate, with a view to verifying in particular that the accounting practice of the counterparty is sound and that all collateral assignments and pledges have been duly recorded. The OeNB has the right to inform third-party debtors as well as counterparties and third-party creditors about collateral assignments or pledges effected at any time.

(8) In the status reports, counterparties shall deduct scheduled full or partial repayments which fall due within the next six business days.

(9) As long as the OeNB itself does not wish to realize or collect the claims assigned as collateral or pledged, the coun-
terparty shall continue to collect the interest and redemption payments as they fall due.

(10) Any payments made to the counterparty with respect to the claims assigned as collateral or pledged shall be held in trust for the OeNB until further notice. Furthermore, counterparties shall ensure timely provision of adequate collateral in line with Article 15 paragraph (1) or sufficient collateral coverage in line with Articles 26 and 27. In case this is not possible on the same value date, counterparties shall pay the equivalent of the collateral deficiency into an account named by the OeNB.

(11) The OeNB has the right to take any measures and conclude any arrangements with the third-party debtor that it considers necessary to collect the claim.

(12) The counterparty is obligated to fully assist the OeNB in realizing the claims assigned as collateral or pledged, to intervene in support of the OeNB in case of litigation upon the latter’s request, and to supply any evidence that the OeNB may need to assert its rights against the third-party debtor.

(13) At least once every quarter, the counterparty must provide assurance in writing that the credit claims fulfill the Eurosystem’s eligibility criteria (see Articles 19 and 21). There must be no restrictions related to banking secrecy and confidentiality. Furthermore, this assurance shall contain the confirmation that the credit claims are fully transferable, that they can be used as collateral for the Eurosystem without restriction, and that none of the credit claims put forward as collateral are being used, or will be used, as collateral for third parties. The credit claim agreement and other contractual arrangements between the counterparty and the debtor must not contain any restrictions regarding the realization of the
credit claim used as collateral, including any form, time or other requirement with regard to the realization. The counterparty shall immediately, or during the following business day at the latest, inform the OeNB of any event that materially affects the contractual relation between the counterparty and the OeNB. This applies in particular to any scheduled or early partial or full repayments, changes in maturity, downgradings, any deterioration of creditworthiness of the third-party debtor or any important changes in the terms and conditions of the credit claim. Changes subject to reporting requirements shall be communicated in the status reports. The OeNB will verify, on a test basis, the quality and accuracy of the binding assurance.

(14) The counterparty expressly waives the right to lodge a plea against the OeNB or to sue it for damages, particularly in cases in which the OeNB grants the third-party debtor deferment of payment, brings a writ of execution or forgoes bringing a writ of execution, or if the claims have become unrealizable due to an oversight on the part of the OeNB. This waiver shall also apply in the event that the OeNB has not asserted its rights, for whatever reason, to claims assigned as collateral or pledged in insolvency proceedings on the assets of the third-party debtor. Moreover, the counterparty may not sue the OeNB for damages in connection with collateral held in trust for the OeNB pursuant to paragraph (6).
Asset Valuation and Risk Control

Article 23
Credit Standards/Credit Assessment

(1) To be eligible, assets must meet certain minimum credit standards in addition to the general requirements specified in Articles 18 through 22. The relevant provisions in Chapter 6.3 of Annex I to the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended1 apply.6a

(2) The Eurosystem credit assessment framework (ECAF) defines the procedures, rules and techniques which ensure that the Eurosystem requirement of high credit standards for all eligible assets is met. Within the general framework, in the establishment of high credit standards, the Eurosystem differentiates between marketable and nonmarketable assets (see Chapters 6.3.2 and 6.3.3 of Annex I to the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended1) in order to take account of the different legal nature of these assets and for operational efficiency reasons.6aa

6a Changed temporarily in line with Guideline ECB/2014/31: Asset-backed securities which do not fulfill the credit assessment requirements under Chapter 6.3 (ECAF) of Annex I to Guideline ECB/2011/14 shall nonetheless be eligible as collateral if they comply with all the requirements laid down in Article 3 of Guideline ECB/2014/31.
6aa Moreover, the minimum requirements of the Eurosystem for the credit quality threshold pursuant to the provisions of the Eurosystem Credit Assessment Framework for marketable assets in Chapter 6.3.2 of Annex I to the above-mentioned Guideline is to be suspended in line with the paragraph below. The credit quality threshold of the Eurosystem does not apply to marketable debt instruments issued or fully guaranteed by the central governments of euro area member countries for which an EU/IMF program is in place, unless the Governing Council of the ECB considers the respective member country to have failed to comply with the conditions underlying the financial assistance and/or the macroeconomic adjustment program. Marketable debt instruments issued or guaranteed by the Hellenic Republic are subject to the specific haircuts in Annex I of the Guideline ECB/2014/31.
(3) In the assessment of the credit standard of eligible assets, the Eurosystem takes into account credit assessment information for credit assessment systems belonging to one of four sources:

a) external credit assessment institutions (ECAIs),
b) NCBs’ in-house credit assessment systems (ICASs),
c) counterparties’ internal ratings-based (IRB) systems, or
d) third-party providers’ rating tools (RTs).

Additionally, in the assessment of the credit standard, the Eurosystem takes into account institutional criteria and features guaranteeing similar protection for the instrument holder, such as guarantees.

(4) The OeNB offers an in-house credit assessment system for debtors/guarantors from the nonfinancial corporation sector pursuant to paragraph (3) subparagraph (b). Counterparties who wish to use this in-house credit assessment system as their main rating source pursuant to paragraph (7) subparagraph (a) are provided with a list of eligible debtors/guarantors from the nonfinancial corporation sector over the Internet. The provisions of paragraph (7) subparagraph (f) (ii) and (iii) shall apply to determine the eligibility of public-sector debtors/guarantors not covered by the OeNB’s in-house credit assessment system.

(5) In order to ensure the consistency, accuracy and comparability of the four sets of credit assessment sources in paragraph (3), the Eurosystem has devised eligibility criteria for each of the four sources (see paragraph (8) and Chapter 6.3.4 of Annex I to the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended¹) and will regularly

monitor their credit assessment performance against the credit quality threshold (see paragraph (9) and Chapter 6.3.5 of Annex I to the above-mentioned Guideline).

(6) The credit quality thresholds\(^6\) that constitute the minimum requirements that are to be met are laid down in Chapter 6.3.5 of Annex I to the *ECB Guideline on monetary policy instruments and procedures of the Eurosystem* as amended\(^1\). A harmonized rating scale is published on the ECB’s website (www.ecb.europa.eu).\(^7\) The ECAF framework follows the definition of a default event given in the EU Capital Requirements Directive (CRD).\(^8\)

(7) The detailed requirements of the Eurosystem credit assessment framework are laid down in Chapter 6.3.3 of Annex I to the *ECB Guideline on monetary policy instruments and procedures of the Eurosystem* as amended.\(^1\) The following shall apply in particular:

a) In order to establish the requirement for high credit standards for the debtors or guarantors of credit claims, the counterparty shall select one main credit assessment source from among those that are available and accepted by the Eurosystem. The counterparty shall select one system from

\(^{6} \text{Changed temporarily in line with Guideline ECB/2014/31: The credit quality threshold for eligible credit claims of nonfinancial corporations has been lowered from a 0.4% probability of default over a one-year horizon to a 1% probability of default. These adjustments do not apply to the cross-border use of credit claims that are not governed by Austrian law.}\)

\(^{1} \text{Current version: Guideline ECB/2011/14 as amended by Guideline ECB/2014/10.}\)

\(^{7} \text{The Eurosystem maps the credit assessment categories used by accepted external credit assessment institutions (ECAIs) with a harmonized rating scale, which is subject to a regular review.}\)

\(^{8} \text{“Single A” means a minimum long-term rating of “A–” by Fitch or Standard & Poor’s, or “A3” by Moody’s or “AL” by DBRS.}\)
an available credit assessment source, except in the case of ECAIs, where all accepted ECAI systems may be used.

b) The counterparty shall keep the selected source for a minimum period of one year. A counterparty that wishes to change credit assessment sources after the minimum period of one year shall submit a reasoned request to the OeNB.

c) The OeNB may allow the counterparty to use more than one system or source upon submission of a reasoned request. The use of more than one credit assessment source or system should be supported by the existence of an adequate business case.

d) The counterparty has to inform the OeNB promptly of any credit event, including a delay of payments by the submitted debtors, that is known to the counterparty, and if necessary, withdraw or replace the assets. The counterparty is responsible for ensuring that it uses the most recent credit assessment updates available from its selected credit assessment system or source for the debtors or guarantors of submitted assets.

e) Nonfinancial corporate debtors or guarantors are eligible if the source selected by the counterparty provides a credit assessment equal to or exceeding the credit quality threshold pursuant to paragraph (6).

f) The following rules apply to public sector debtors or guarantors in a sequential order:

(i) A credit assessment from the system or source selected by the counterparty exists and is used to establish whether the public sector debtor or guarantor meets the credit quality threshold.

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9 In the case of marketable assets issued by nonfinancial corporations but not rated by an accepted ECAI, this requirement shall apply to the credit assessment of issuers.
(ii) In the absence of a credit assessment under (i), an ECAI credit assessment of the debtor or guarantor shall be used. (iii) If no credit assessment is available under either (i) or (ii), the same procedure as for marketable assets shall apply:

– The debtor or guarantor is allocated to one of three classes in accordance with the CRD as explained in the table below.

**Implicit Credit Assessments for Euro Area Regional Government, Local Authority and Public Sector Entity Issuers, Debtors or Guarantors without an ECAI Credit Assessment**

<table>
<thead>
<tr>
<th>Class</th>
<th>Allocation of issuers, debtors or guarantors following the CRD</th>
<th>ECAF derivation of the implicit credit assessment of the issuer, debtor or guarantor belonging to the corresponding class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 1</td>
<td>Regional governments, local authorities and public sector entities (PSEs) that, according to competent supervisory authorities, can be treated equally to the central government for capital requirements purposes</td>
<td>Allocated the ECAI credit assessment of the central government of the country in which it is established</td>
</tr>
<tr>
<td>Class 2</td>
<td>Regional governments, local authorities and PSEs that, according to competent supervisory authorities, can be treated equally to the central government for capital requirements purposes</td>
<td>Allocated a credit assessment one credit quality step (<a href="http://www.ecb.europa.eu">www.ecb.europa.eu</a>) below the ECAI assessment of the central government of the country in which it is established</td>
</tr>
<tr>
<td>Class 3</td>
<td>Other PSEs</td>
<td>Treated like private sector issuers or debtors</td>
</tr>
</tbody>
</table>
An implicit credit assessment for debtors or guarantors belonging to classes 1 and 2 is derived from the ECAI credit assessment of the central government of the country where the debtor or guarantor is established. This implicit assessment has to meet the Eurosystem credit quality threshold.

If a credit assessment from the system or source selected by the counterparty or from an ECAI exists for public sector debtors or guarantors but is below the credit quality threshold, the debtor or guarantor is ineligible.

g) A guarantee shall meet the following requirements:

(i) A guarantee is deemed acceptable if the guarantor has unconditionally and irrevocably guaranteed the obligations of the issuer in relation to the payment of principal, interest and any other amounts due under the debt instruments to the holders thereof until they are discharged in full. In this regard, a guarantee deemed acceptable does not need to be specific to the credit claim but might apply to the debtor only, provided that it also covers the credit claim in question.

(ii) The guarantee shall be payable on first demand (independently from the underlying debt obligation). Guarantees given by public entities entitled to levy taxes should either be payable on first demand or otherwise provide for prompt and punctual payment following default. The obligations of the guarantor under the guarantee shall rank at least equally and ratably (pari passu) with all other unsecured obligations of the guarantor.
(iii) The guarantee shall be governed by the law of an EU Member State and be legally valid, binding and enforceable against the guarantor.

(iv) A legal confirmation concerning the legal validity, binding effect and enforceability of the guarantee shall be submitted in a form and with substance acceptable to the OeNB before the asset supported by the guarantee can be considered eligible. The legal confirmation should also state that the guarantee is not a personal one, enforceable only by the creditor of the credit claim. If the guarantor is established in a jurisdiction other than the one of the law governing the guarantee, the legal confirmation shall also confirm that the guarantee is valid and enforceable under the law governing the establishment of the guarantor. The legal confirmation shall be submitted for review to the national central bank in the jurisdiction of the law governing the credit claim. The need for a legal confirmation does not apply to guarantees given by public entities entitled to levy taxes. The requirement of enforceability is subject to any insolvency or bankruptcy laws, general principles of equity and other similar laws and principles applicable to the guarantor and generally affecting creditors’ rights against the guarantor.

(8) The detailed quality requirements of the Eurosystem Credit Assessment Framework for ratings provided for asset-backed securities are laid down in Chapters 6.3.1
and 6.3.2 of Annex I to the *ECB Guideline on monetary policy instruments and procedures of the Eurosystem* as amended.¹

(9) The eligibility criteria for each of the four sources pursuant to paragraph (3) are governed by Chapter 6.3.4 of Annex I to the *ECB Guideline on monetary policy instruments and procedures of the Eurosystem* as amended.¹ The following provisions shall in particular apply to counterparties’ internal ratings-based (IRB) systems:

a) A counterparty intending to use an IRB system to assess the credit quality of the debtors, issuers or guarantors of eligible debt instruments has to obtain the permission of the OeNB. For that purpose, it shall file a request, together with the documents specified in the Guideline Chapter referred to above (together with a German translation of the listed documents if requested).

b) Counterparties using an IRB system as described above are also subject to the Eurosystem performance monitoring process (see paragraph (9) and Chapter 6.3.5 of Annex I to the *ECB Guideline on monetary policy instruments and procedures of the Eurosystem* as amended.¹ In addition to the information requirements for this process, the counterparty is under an obligation to communicate the information specified in Chapter 6.3.4 of Annex I to the *ECB Guideline on monetary policy instruments and procedures of the Eurosystem* as amended¹ on an annual basis (or as and when required by the relevant national central bank).

¹ *Current version: Guideline ECB/2011/14 as amended by Guideline ECB/2014/10.*
unless such information is transmitted directly by the relevant supervisory authority to the OeNB.

(10) The ECAF performance monitoring process consists of an annual ex post comparison of the observed default rate for the set of all eligible debtors (the static pool) and the credit quality threshold of the Eurosystem given by the benchmark PD. It aims to ensure that the results from credit assessments are comparable across systems and sources. The monitoring process takes place one year after the date on which the static pool was defined.

a) The first element of the process is the annual compilation by the credit assessment system provider of a static pool of eligible debtors. This is a pool consisting of all corporate and public debtors receiving a credit assessment from the system that satisfies the provisions specified in Article 23 paragraph (6) of these Terms and Conditions.

b) All debtors fulfilling this condition at the beginning of period t constitute the static pool for t. At the end of the foreseen 12-month period, the realized default rate for the static pool of debtors at time t is computed. Further information requirements and requirements for rating providers are specified in Chapter 6.3.5 of Annex I to the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended.¹

c) The realized default rate of the static pool of a credit assessment system recorded over a one-year horizon serves as input to the ECAF performance monitoring process, which comprises an annual rule and a multi-period assess-

ment. In case of a significant deviation between the observed default rate of the static pool and the credit quality threshold over an annual and/or a multi-annual period, the Eurosystem consults the rating system provider to analyze the reasons for that deviation.

d) This procedure may result in a correction of the credit quality threshold applicable to the system in question. The Eurosystem may decide to suspend or exclude the credit assessment system in cases where no improvement in performance is observed over a number of years. In addition, in the event of an infringement of the rules governing the ECAF, the credit assessment system will be excluded from the ECAF.

Article 24
Valuation Principles for Underlying Assets

(1) marketable assets

– For each eligible marketable asset, the Eurosystem defines the most representative price to be used for the calculation of the market value.

– The value of a marketable asset is calculated on the basis of the most representative price on the business day preceding the valuation date. In the absence of a representative price for a particular asset on the business day preceding the valuation date, the last trading price is used.

– The market or theoretical value of a debt instrument is calculated including accrued interest.
(2) nonmarketable assets

Nonmarketable assets are assigned a value corresponding either to the theoretical price or to the outstanding amount.

Article 25
Risk Control Measures for Underlying Assets

(1) The OeNB applies specific risk control measures according to the types of underlying assets offered by the counterparty. Additional haircuts apply for the use of assets that are subject to close links between the issuer and the counterparty as defined in Article 19 paragraph (5). The haircuts differ according to the residual maturity, coupon structure and liquidity features of the debt instruments. The levels of valuation haircuts shall be determined by the ECB.

(2) Chapters 6.4 and 6.5 of Annex I to the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended¹ contain more details.

Article 26
Pooling System

(1) As a rule, the OeNB requires counterparties to make a pool of underlying assets available by assigning as collateral or pledging debt instruments to the OeNB to cover the related current and future credits extended to them. Up to the required value of collateral coverage, as established on the basis of the valuation principles specified in Articles 23 and 24 as well as

the risk control measures specified in Article 25, the counter-party shall have no control over the debt instruments which form its pool of collateral during the life of the operations with the exception of paragraph (2) below.

(2) In pooling systems, a counterparty may at any time assign assets to the pool or withdraw assets from the pool, provided sufficient collateral coverage of all monetary policy operations is ensured taking into account the valuation rules pursuant to Articles 23 and 24 and the risk control measures pursuant to Article 25.

(3) In pooling systems, assets are subject to daily revaluation.

(4) In pooling systems, a counterparty shall supply additional assets or cash if the value of the pool as a whole drops below the total value of the outstanding refinancing transactions as adjusted for risk control measures (variation margin). Collateral deficiencies may arise as the pool of underlying assets shrinks (e.g. if a third-party debtor redeems its debt, or if the OeNB retroactively rejects an asset in line with Article 19 paragraph (9) etc.) or may be triggered by revaluations.

**Article 27**

**Earmarking System**

(1) Repurchase agreements require the use of an earmarking system instead of the pooling system, in which each credit operation is linked to specific identifiable assets. If, after valuation, the underlying assets do not match the requirements calculated on that day, symmetric margin calls shall be performed. In order to reduce the frequency of margin calls, trigger points may be applied. This implies that if the market value of the
underlying assets, adjusted for risk control measures, falls below the trigger point, counterparties shall supply additional collateral. Similarly, if market value exceeds the trigger point, the OeNB will return excess assets upon the counterparty’s express demand.

(2) In earmarking systems, assets are subject to daily revaluation.

(3) During the life of an operation, collateral deficiencies may arise as the pool of underlying assets shrinks (e.g. if a third-party debtor redeems its debt, or if the OeNB retroactively rejects an asset in line with Article 19 paragraph (9) etc.) or may be triggered by revaluations, taking into account the required risk control measures and the lower trigger point. In such case, counterparties shall be required to restore sufficient collateral coverage by substituting or adding collateral on the same day.

**Article 28**

**Substitution**

(1) Counterparties may substitute underlying assets provided they maintain adequate collateral cover.

(2) In pooling systems, counterparties may substitute on a daily basis any or all assets used to secure outstanding transactions.

(3) In earmarking systems, the daily substitution of any or all assets securing outstanding transactions shall be subject to the OeNB’s approval.
V. Special Provisions for Collateralized Loans

Article 29
Purpose of the Contract

The OeNB shall provide liquidity to counterparties through collateralized loans, i.e. against either the pledge or collateral assignment of debt securities. Counterparties who take out a collateralized loan shall repay the amount of credit extended inclusive of interest accrued at a prespecified date at which they regain control of the underlying assets securing the loan.

Article 30
Realization of Collateral

If, in the event of a default, the OeNB collects collateral to assert its claims in line with Article 53 paragraph (4), the OeNB shall have the right, without consulting the counterparty or involving the courts, to sell any or all of the assets assigned as collateral or pledged, or to buy the assets and to credit any amounts exceeding the credit receivables including penalty interest to the counterparty’s settlement account. The counterparty may not hold the OeNB liable for damages should it consider the realization of collateral unsatisfactory. However, the OeNB shall not be obligated to realize assets pledged or assigned as collateral; if the OeNB does not opt for immediate realization, its claim shall not cease to be enforceable.
The OeNB regularly conducts collateralized loans in the form of standard tenders
– as main refinancing operations with a weekly frequency and normally a maturity of one week;
– as longer-term refinancing operations with a monthly frequency and normally a maturity of three months; and
– possibly structural operations.
In addition, the OeNB may use collateralized loans for fine-tuning operations in the form of quick tenders or in the form of bilateral transactions. The maturity of collateralized loans shall be counted from the settlement day. Interest accrued shall fall due for payment at the end of maturity as specified in the tender. Chapter XII contains more detailed provisions on the procedure.


VI. Special Provisions for Repurchase Agreements

Article 32
Repurchase Agreements

When the OeNB and a counterparty conclude a repurchase agreement, either party may be the seller or the buyer. Repurchase agreements are concluded either on the basis of a tender procedure or bilaterally. Chapter XII contains more detailed provisions on procedures.

Article 33
Purpose of the Contract

(1) The seller sells and transfers specific debt instruments to the buyer against payment of a purchase price. At the same time, the buyer undertakes to sell and transfer to the seller debt instruments of the same type and designation and with the same face value and of the same amount at a date specified in advance against payment of the repurchase price.

(2) Articles 19 through 22 of these Terms and Conditions shall apply mutatis mutandis to the assets underlying repurchase agreements.

Article 34
Transfer of Unrestricted Title

The seller shall be obligated to transfer to the buyer the unrestricted title to and the full control of the debt instruments covered by the repurchase agreement upon full payment of the purchase price.
**Article 35**
**Purchase and Transfer**

(1) The debt instruments shall be transferred to the seller’s safe custody account with the buyer at the latest on the settlement date agreed for the purchase.

(2) The payment shall be made by crediting the purchase price to or debiting it from the counterparty’s settlement account with the OeNB.

**Article 36**
**Repurchase and Retransfer**

The retransfer of the debt instruments under the repurchase agreement and the payment of the repurchase price shall take place on the settlement date agreed for the repurchase.

**Article 37**
**Exclusion of Settlement Risk**

All transfers of debt instruments and payments of purchase prices shall be on a delivery-versus-payment basis.

**Article 38**
**Repurchase Price**

(1) The repurchase price shall be the total of the purchase price and the price differential corresponding to the interest on the extended liquidity over the maturity of the operation (hereinafter referred to as the “price differential”).

(2) The price differential shall be calculated by applying the pricing rate (in percent per annum) agreed for the transaction to the purchase price over the maturity of the operation.
starting with (and including) the purchase date and ending with (but excluding) the day preceding the repurchase date.

**Article 39**

**Acceleration**

In the case of the occurrence of any of the events of default specified in Chapter XI, the OeNB shall have the right to declare all outstanding transactions to be immediately due and payable. The repurchase price for accelerated transactions shall be calculated as the mean market price, or the last quoted market price of the respective debt instruments on the day before the transactions were declared due. If the price cannot be calculated with this method, the OeNB shall determine the most recently valid market price. If no exact market price for a debt instrument can be established, the OeNB shall determine the value of the debt instrument by approximation. If the respective debt instruments have been sold prior to acceleration, the sales proceeds net of all costs and fees, as calculated by the OeNB, shall replace the repurchase price. In the event of acceleration, the repurchase price of a given transaction shall consist of the purchase price and the price differential, which shall be calculated on the basis of the interest rate for the original repurchase agreement and the actual maturity of the transaction. The party for whom the lower claim results after netting all costs and fees for accelerated transactions shall pay the net difference. If non-euro-denominated amounts should be involved in accelerated transactions, these amounts shall be converted into euro at the reference rate applicable on the day the transaction is declared immediately due and payable.
VII. Special Provisions for Foreign Exchange Swaps

Article 40
Foreign Exchange Swaps

(1) The OeNB may conclude foreign exchange swaps with selected counterparties. Either party to a foreign exchange swap between the OeNB and a counterparty may be the buyer or seller of foreign currency.

(2) The terminology used herein is in line with the definitions provided in the Glossary (Appendix 2 of Annex I) of the ECB Guideline on monetary policy instruments and procedures of the Eurosystem as amended.¹

Article 41
Purpose of the Contract

In a foreign exchange swap, the OeNB buys (or sells) euro spot to a counterparty against a foreign currency and at the same time sells (or buys) it back from the counterparty in a forward transaction.

Article 42
Procedures

Foreign exchange swaps may be executed as quick tenders or as bilateral procedures. Chapter XII contains more detailed provisions on procedures.

**Article 43**

**Acceleration**

(1) In the case of the occurrence of any of the events of default specified in Chapter XI, the OeNB shall have the right to declare the repurchase date as becoming due immediately. The OeNB shall calculate the respective replacement figures (euro equivalent and repurchase amount) for every outstanding transaction and shall calculate the respective claims of each counterparty on the other.

(2) The foreign currency/euro amount for the forward leg is converted into euro/foreign currency at the exchange rate applicable on the day the transaction is declared immediately due and payable. The net debtor shall pay in spot cash the difference between the amount remaining after all accelerated transactions have been netted inclusive of all costs and fees and the (original) forward transaction. The foreign exchange rate for the day the transaction is declared immediately due and payable shall be the exchange rate published by the ECB. If no ECB exchange rate should be available, the market rate in effect at 12:00 noon ECB time shall apply. If the OeNB should use the 12:00 noon rate, no claims may be asserted on the basis of any perceived discrimination.
VIII. Other Open Market Operations

Article 44
Outright Transactions

(1) The OeNB may, in accordance with market practices, buy and sell debt instruments on the open market in the form of bilateral transactions.

(2) An outright transaction implies a full transfer of ownership of the debt instrument from the seller to the buyer without a simultaneous agreement on reverse transfer of ownership.

(3) As a rule, outright transactions are not performed with tier two assets.

Article 45
Collection of Fixed-Term Deposits

(1) The OeNB may invite counterparties to place fixed-term deposits with it. The deposits accepted shall be for a fixed term and with a fixed rate of interest. Settlement shall be based on ECB specifications. Interest shall be paid at maturity when the deposit is returned. The OeNB shall not give collateral in exchange for the deposits.

(2) The collection of fixed-term deposits shall normally be executed through quick tenders, although bilateral procedures may be used in exceptional cases.

Article 46
Issuance of ECB Debt Certificates

(1) The OeNB may invite standard tender bids for the subscription of ECB debt certificates subject to the specific issuance conditions of the ECB. The debt certificates shall be
issued and held in a book-entry form in a securities depository at the ECB. The ECB debt certificates shall have a maturity of less than 12 months.

(2) The certificates are issued at a discount and shall be redeemed at maturity at the nominal amount.

IX. Standing Facilities

Article 47
Marginal Lending Facility

(1) The OeNB shall extend overnight credits to counterparties under the marginal lending facility on every business day; the credits shall be advanced against the deposit of underlying eligible assets and shall have a prespecified interest rate, as announced in advance by the ECB and the OeNB. The interest rate may be changed with effect not earlier than the following business day.

(2) The overnight credit extended under the marginal lending facility shall be a collateralized loan under these Terms and Conditions, with the provisions of Chapters IV and V applying mutatis mutandis.

(3) The existence of a net debit position on a counterparty’s settlement account at the closing time of HOAM.AT, the national RTGS system, shall be considered a request of the counterparty for access to the marginal lending facility for an overnight credit of the amount required to cover the net debit position.

(4) Unless paragraph (3) applies, the request for an overnight credit extended under the marginal lending facility shall be submitted by telephone or by other channels accepted by
the OeNB at the latest 15 minutes after the actual closing time of TARGET2. The deadline for requesting access shall be postponed by an additional 15 minutes on the last business day of a reserve maintenance period.

(5) The overnight credit extended under the marginal lending facility plus interest accrued shall be repaid on the next business day. The applicable total shall be debited to the counterparty’s settlement account at the beginning of that business day.

(6) The ECB may adapt the conditions of the marginal lending facility or suspend it at any time.

Article 48
Deposit Facility

(1) Counterparties may use the deposit facility every business day to make overnight deposits with the OeNB at a prespecified rate of interest (overnight deposit), as announced in advance by the ECB and the OeNB. The interest rate may be changed with effect not earlier than the following business day.

(2) Requests for access to the deposit facility shall be sent via HOAM.AT, the national RTGS system, at the latest 15 minutes after the actual closing time of TARGET2. The deadline for requesting access shall be postponed by an additional 15 minutes on the last business day of a reserve maintenance period.

(3) The deposit and interest accrued shall be repaid on the next business day of the national RTGS system and shall be credited to the account from which the deposit was withdrawn.

(4) The ECB may adapt the conditions of the deposit facility or suspend it at any time.
X. Communication

Article 49
Placement of Orders

(1) Orders must clearly indicate the purpose of the contract and must contain all information required for settlement. Any changes, confirmations or duplications must be clearly marked as such.

(2) The OeNB will accept orders only in the form required for the respective type of transaction.

Article 50
Messages Sent by the OeNB

(1) The counterparties shall examine the accuracy and completeness of notifications about the handling of orders and other messages sent by the OeNB.

(2) Any objections must be raised immediately.

(3) Any objections submitted via telecommunications media shall be confirmed in writing immediately.

(4) If an order is concluded by telephone and divergent opinions result from acoustic misunderstandings, only the message taped by the OeNB shall be enforceable.

Article 50a
Messages Sent to the OeNB

(1) The counterparty shall ensure that the OeNB has all the information required to execute monetary policy operations.

(2) The OeNB shall be authorized to obtain any counterparty-related information that may be relevant for the execution of monetary policy operations from the competent super-
visory authorities, in particular the Financial Market Authority, as well as any other bodies and agencies that are statutorily involved in supervision.

**Article 51**

**Liability**

The OeNB shall not be liable for damage arising from faulty transmission, errors and misunderstandings in telecommunications. In case the fault lies with the OeNB, general liability provisions shall apply.

**XI. Events of Default**

**Article 52**

**Events of Default**

Default under these Terms and Conditions shall consist of the occurrence of one or several of the following conditions:

1. A counterparty is subject to insolvency proceedings under Article 69 et seq. of the Insolvency Act, or the case has been closed as a “no asset case”.
2. Receivership pursuant to §§ 82 through 91 of the Austrian Banking Act has been ordered for a counterparty.
3. The Financial Market Authority has ordered temporary measures to be applied to a counterparty pursuant to § 70 (2) of the Austrian Banking Act.
4. A counterparty has taken measures in anticipation of a decision by a public authority pursuant to paragraphs (1), (2) or (3).
5. A counterparty has submitted a written declaration stating that it is unable to meet all or part of its obligations in
connection with monetary policy operations under these Terms and Conditions.

(6) A counterparty is insolvent or is considered to be insolvent or unable to fulfill its obligations.

(7) An assurance or other guarantee the counterparty has given the OeNB prior to conclusion of a contract within the framework of monetary policy operations proves to be incorrect.

(8) A counterparty’s banking license has been revoked by the Financial Market Authority pursuant to § 6 of the Austrian Banking Act or has expired pursuant to § 7 of the Austrian Banking Act.

(9) The OeNB is informed about irregularities in the counterparty’s compliance with banking supervision regulations by the authority in charge.

(10) The counterparty was suspended or excluded from membership in a payment system or in a securities trading association (the latter does not apply to foreign exchange swaps).

(11) The counterparty cannot supply sufficient collateral for an outstanding liquidity-providing operation or cannot return the assets received under a repurchase agreement on the repurchase date or fulfill its payment obligation under a foreign exchange swap (insufficient collateral).

(12) The counterparty does not fulfill the obligations resulting from the OeNB’s risk control measures.

(13) The counterparty no longer fulfills the eligibility criteria specified under Article 6.

(14) The counterparty infringes another provision in these Terms and Conditions or any other rules applying to the rela-
relationship between the counterparty and any of the central banks of the Eurosystem.

(15) The counterparty becomes subject to the freezing of funds and/or other measures imposed by the European Union under Article 75 TFEU or by a Member State that restrict the counterparty’s ability to use its funds.

(16) All or a substantial part of the counterparty’s assets are subject to a freezing order, attachment, seizure or any other procedure that is intended to protect the public interest or the rights of the counterparty’s creditors.

(17) All or a substantial part of the counterparty’s assets are assigned to another entity.

(18) For Austrian offices of institutions headquartered in another euro area state, paragraphs (1), (2), (3) and (8) shall apply subject to the proviso that the decisions of Austrian public authorities described therein are replaced by the analogous decisions of the competent foreign public authorities.

Article 53
Measures

(1) Upon the occurrence of default events defined under Article 52 or on the grounds of prudence, the OeNB may – without prejudice to the provisions of Article 12 – take one or several of the measures cited below, even if it is not the OeNB but another ESCB central bank that is affected by an event of default as defined under Article 52 caused by a counterparty or its parent company or any of its subsidiaries. Specifically, the OeNB may:

(a) declare all outstanding monetary policy operations due and payable;

(b) suspend, limit or exclude an individual counterparty’s access to monetary policy instruments;
(c) use the debt instruments assigned to the OeNB as collateral or pledged to satisfy its claims;
(d) exercise its unconditional preferential right under Article 77 of the Federal Act on the Oesterreichische Nationalbank.

In this context, the following applies:
In the case of transactions which have not been fully settled, the OeNB’s obligation to reverse the transaction as contracted shall be canceled.

The OeNB shall be entitled to claim damages for all losses incurred as a result of the counterparty’s delay in performance. In exercising its rights under items (a) to (d) the OeNB shall take due consideration of the conditions under which the default occurred.

(2) Upon the occurrence of default events under Article 52 paragraphs (11) and (12), the counterparty shall be obligated to provide additional collateral or to repay the respective credit amount within 24 hours. If the counterparty fails to meet this obligation, the OeNB shall be entitled to demand immediate partial or total repayment of credits.

(3) Upon the occurrence of default events defined under Article 52 paragraphs (1) or (15), all outstanding monetary policy transactions will automatically be deemed to have been declared due and payable with immediate effect. In addition, the OeNB may take further measures in line with the provisions specified in paragraph (1).

(4) With the exception of the cases in which transactions are automatically declared due and payable with immediate effect in line with paragraph (3), any other measures listed
under paragraph (1) may be taken only after the counterparty has been served a formal notice of default.

**XII. Procedures**

**Article 54**

**Tender Procedures and Procedures for Bilateral Operations**

The OeNB shall execute open market operations in the form of tender procedures or on the basis of bilateral procedures. The procedural provisions in Annex I to the *ECB Guideline on monetary policy instruments and procedures of the Eurosystem* as amended¹ shall apply as follows:

1. A distinction is made between fixed rate tenders and variable rate tenders.

2. Tender operations are used to extend collateralized loans, conclude repurchase agreements, collect fixed-term deposits, issue ECB debt certificates and conclude foreign exchange swaps.

3. Standard tender procedures are directed toward all eligible counterparties. Quick tenders and bilateral operations are, as a rule, restricted to the selected set of fine-tuning counterparties, but may also be executed with a broader range of counterparties.

4. The OeNB shall conduct operations executed without a tender in the form of a bilateral procedure, i.e. directly with selected counterparties.

(5) All transactions concluded under these Terms and Conditions shall be confirmed in writing.

(6) Allotment under the tender procedure and the settlement of bilateral operations shall, with an eye to risk control measures, be limited to the degree to which the counterparty has fulfilled its collateral or payment requirements.

Article 55
Fixed Rate Tender Operations

(1) In a fixed rate tender, the ECB specifies the interest rate/priceswap point level in advance. The participating counterparties bid the amount of money they are willing to transact at the given interest rate/price/swap point.

(2) If the aggregate amount bid exceeds the total amount of liquidity to be allotted, the submitted bids will be satisfied pro rata, according to the ratio of the amount to be allotted to the aggregate amount bid. However, the ECB may decide to allot a minimum amount/ratio to each Eurosystem bidder.

(3) Counterparties are expected to always be in a position to cover the amounts allotted to them by sufficient eligible assets.

Article 56
Variable Rate Tender Operations

(1) In a variable rate tender, Eurosystem counterparties bid the amounts of money and the interest rates at which they are willing to enter into transactions.

(2) In a variable rate tender, in line with the announcement of the tender operation, the allotment interest rate applied to all satisfied bids is
Procedures

– either equal to the marginal interest rate (i.e. the interest rate at which the total allotment is exhausted (single-rate auction, “Dutch” auction);
– or is equal to the interest rate offered for each individual bid (multiple-rate auction, “American” auction).

(3) In the allotment of liquidity-providing variable rate tenders, bids are listed in diminishing order of offered interest rates. The bids with the highest interest rate are satisfied with priority. Bids with successively lower interest rates are accepted until the total liquidity to be allotted is exhausted.

In the allotment of liquidity-absorbing variable rate tenders, bids are listed in increasing order of offered interest rates (or diminishing order of offered prices). The bids with the lowest interest rate (highest price) levels are satisfied with priority and bids with successively higher interest rates (lower price bids) are accepted until the total liquidity to be absorbed is exhausted.

(4) In the allotment of liquidity-providing variable rate foreign exchange swap tenders, bids are listed in increasing order of swap point quotations. The bids with the lowest swap point quotations are satisfied with priority and successively higher swap point quotations are accepted until the total amount of the fixed currency to be allotted is exhausted.

In the allotment of liquidity-absorbing variable rate foreign exchange swap tenders, bids are listed in diminishing order of swap point quotations. The bids with the highest swap point quotations are satisfied with priority and successively lower swap point quotations are accepted until the total amount of the fixed currency to be absorbed is exhausted.
In both variable rate tenders and foreign exchange swap tenders, if the aggregate amount bid exceeds the remaining amount to be allotted at the highest/lowest interest rate/priceswap point quotation accepted (i.e. the marginal interest rate/price/swap point quotation), the remaining amount is allocated pro rata among the bids according to the ratio of the remaining amount to be allotted to the total amount bid at the marginal interest rate/price/swap point quotation. The ECB may decide to allot a minimum amount to each bid satisfied.

(5) Several bids with up to ten different interest rates/prices/swap points may be submitted.

(6) Counterparties are expected to always be in a position to cover the amounts allotted to them by a sufficient amount of eligible assets.
Article 57
Types of Tender Procedures – Time Frame

(1) The Eurosystem distinguishes between standard tenders and quick tenders.

(2) For standard tenders, a maximum of 24 hours elapses from the announcement of the tender to certification of the allotment results by the OeNB (with the time between the submission deadline and the announcement of the allotment result by the ECB being approximately two hours).

(3) Quick tenders are normally executed within one hour of the announcement of the tender, with certification by the OeNB taking place immediately after the announcement of the allotment result by the ECB.

Normal Time Frame for the Operational Steps in Standard Tenders

<table>
<thead>
<tr>
<th>T -1</th>
<th>Trade day (T)</th>
<th>T +1</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4 p.m.</td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>45</td>
<td>15</td>
</tr>
<tr>
<td>1a</td>
<td>1b</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>9 a.m.</td>
<td>10 a.m.</td>
</tr>
<tr>
<td>30</td>
<td>45</td>
<td>15</td>
</tr>
<tr>
<td>3</td>
<td>4a</td>
<td>4b</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>3:30 p.m.</td>
<td>Tender</td>
<td>9:30 a.m.</td>
</tr>
<tr>
<td></td>
<td>announcement</td>
<td>Deadline</td>
</tr>
<tr>
<td></td>
<td></td>
<td>for counterparties’</td>
</tr>
<tr>
<td></td>
<td></td>
<td>submission of bids</td>
</tr>
</tbody>
</table>

Source: General Documentation, 5.1.
### Article 58
#### Normal Trade Days

1. Main refinancing operations are normally conducted on a Tuesday (normal trade day).

2. For longer-term refinancing operations, the normal trade day is the last Wednesday of each calendar month (Owing to the Christmas period, the December operation is normally brought forward by one week, i.e. to the previous Wednesday).

3. An unofficial calendar for main and longer-term refinancing operations shall be published at least three months before the beginning of the year in which it is applicable.
Article 59
Operational Steps

(1) The tender announcement shall serve to prepare and enable the submission of bids by counterparties. The announcement made to counterparties shall include the items specified in Article 60 paragraph (1) subparagraph (b).

(2) Counterparties’ bids must always be submitted to the competent OeNB office via the electronic bidding system by the deadline established in the announcement. For main refinancing, fine-tuning and structural operations, the minimum bid amount shall be EUR 1,000,000,—. Bids exceeding this amount shall be expressed as multiples of EUR 100,000,—. For longer-term refinancing operations, the minimum bid amount shall be EUR 1,000,000,—. Bids exceeding this amount shall be expressed as multiples of EUR 10,000,—. The counterparties must not exceed any maximum bid limit imposed and stated in the tender announcement.

(3) Bids shall be revocable up to the tender submission deadline. Bids submitted after the deadline specified in the tender announcement message shall be invalid. The OeNB shall discard all bids of a counterparty if a bid is incomplete, does not follow the pro forma example or is below any minimum or above any maximum limit.

(4) The ECB will allot the tenders. The OeNB shall provide all counterparties with the respective allotment information stated under Article 60 paragraph (4) subparagraph (b). The tender operation shall be considered concluded with the sending of this message.

(5) The allotted amounts shall be credited on the settlement day stated in the tender.
Article 60
Outline of Operational Steps

(1) In step 1 of the tender procedure, the form and content of the tender announcement are determined:

a) Form of the tender announcement
   The tender shall be announced by the ECB through public wire services. In addition, the OeNB may announce the tender operation through national wire services and directly to individual counterparties. In a quick tender which is not announced in advance by the ECB, the selected counterparties are contacted directly by the OeNB.

b) Content of the tender announcement
   The public tender announcement normally contains the following information:
   - the reference number of the tender operation;
   - the date of the tender operation;
   - the type of operation (provision or absorption of liquidity and the type of monetary policy instrument to be used);
   - the maturity of the operation\(^a\);  
   - the type of auction (fixed rate or variable rate tender);
   - the method of allotment (“Dutch” or “American” auction);
   - the intended operation volume (normally only in the case of the longer-term refinancing operations);

\(^a\) Changed temporarily in line with Guideline ECB/2014/31: The Eurosystem may decide that counterparties may Reduce the amount of, or terminate, certain longer-term refinancing operations before maturity subject to the conditions specified in the Guideline.
the fixed tender interest rate/price/swap point (in the case of fixed rate tenders);
the minimum/maximum accepted interest rate/price/swap point (if applicable);
the starting date and maturity date of the operation (if applicable) or the value date and maturity date of the instrument (in the case of the issuance of debt certificates by the ECB);
the currencies involved and the currency the amount of which is kept fixed (in the case of foreign exchange swaps);
the reference spot exchange rate to be used for the calculation of bids (in the case of foreign exchange swaps);
the maximum bid limit (if any);
the minimum individual allotment amount or allotment ratio (if any);
the time schedule for the submission of bids;
the denomination of the certificates (in the case of the issuance of debt certificates); and
the ISIN code of the issue (in the case of the issuance of debt certificates).

(2) Step 2 of the tender procedure consists in the preparation and submission of bids by counterparties.

(3) Step 3 of the tender procedure consists in the compilation of the bids by the Eurosystem.

(4) Step 4 of the tender procedure consists in
a) the allotment decision of the ECB
and
b) the announcement of the tender results.
The public tender result message normally contains the following information:

- the reference number of the tender operation;
- the date of the tender operation;
- the type of operation;
- the maturity of the operation;
- the total amount bid by Eurosystem counterparties;
- the number of bidders;
- the currencies involved (in the case of foreign exchange swaps);
- the total amount allotted (rounded to the nearest euro);
- the percentage of allotment (in the case of fixed rate tenders);
- the spot exchange rate (in the case of foreign exchange swaps);
- the marginal interest rate/price/swap point accepted and the percentage of allotment at the marginal interest rate/price/swap point (in the case of variable rate tenders);
- the minimum bid rate, maximum bid rate and weighted average allotment rate (in the case of multiple rate auctions);
- the starting date and maturity date of the operation (if applicable) or the value date and maturity date of the instrument (in the case of the issuance of debt certificates by the ECB);
- the minimum individual allotment amount or allotment ratio (if any);
- the denomination of the certificates (in the case of the issuance of debt certificates); and
the ISIN code of the issue (in the case of the issuance of debt certificates).

(5) In step 5 of the tender procedure, the individual allotment amounts are confirmed.

The OeNB shall directly confirm allotments to all counterparties whose bids are satisfied.

(6) Step 6 of the tender procedure consists in the settlement of the transactions.

**Article 61**

**Procedures for Bilateral Operations**

(1) Bilateral operations may be used for fine-tuning open market operations and structural outright operations.

(2) In the case of bilateral operations, the OeNB may either directly contact counterparties, or may have operations executed through stock exchanges and market agents in the case of structural outright operations.

(3) Under exceptional circumstances, the ECB may also directly contact counterparties itself. Such transactions shall nevertheless be settled in a decentralized manner via the OeNB.

**Article 61 a**

In the event that foreign currencies have to be converted into euro for monetary policy operations, the reference rates published by the ECB shall apply; if they are not available, the spot exchange rate for the preceding day announced by the ECB shall apply.
XIII. Miscellaneous

Article 62

(1) These Terms and Conditions entered into force on January 1, 1999.

(2) The OeNB may amend these Terms and Conditions at any time. Any amendments to these Terms and Conditions and a consolidated version of these Terms and Conditions will be published on the OeNB’s website. Unless the promulgation provides otherwise, they shall enter into force the day after they are published. The OeNB will inform the counterparties about amendments and their entry into force by means of a SWIFT free format message or by other appropriate means.

(3) Upon entry into force of these Terms and Conditions, the Terms and Conditions for the Oesterreichische Nationalbank’s Open Market Transactions (Geschäftsbestimmungen der Oesterreichischen Nationalbank für Offenmarktgeschäfte) of May 1994, the Terms and Conditions of the Oesterreichische Nationalbank for Lending Against Securities (Geschäftsbestimmungen der Oesterreichischen Nationalbank für Darlehen gegen Pfand (Wertpapierlombard) of February 1996 and the Terms and Conditions of the Oesterreichische Nationalbank for Bill Discounts (Geschäftsbestimmungen der Oesterreichischen Nationalbank für den Eskont von Wechseln) of February 1992 shall cease to be effective.
Article 63
Applicable Law

Austrian law shall apply exclusively to any legal dispute between the OeNB and counterparties. The place of jurisdiction is Vienna. Handelsgericht Wien (the Vienna Commercial Court) shall have sole jurisdiction to hear any legal action against the OeNB.

Article 64
Limitation of Action

All claims on the OeNB shall expire within a year.
Annex 1

Operational Criteria

The following matrix contains the operational criteria that counterparties must fulfill for the types of operations listed below:

<table>
<thead>
<tr>
<th>Type of Operation</th>
<th>Acceptance of the Terms and Conditions</th>
<th>Euro account with the OeNB</th>
<th>SWIFT Live BIC</th>
<th>Safe custody account with the OeNB</th>
<th>Authorization to access e-tenders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main/longer-term refinancing operations and fine-tuning operations</td>
<td>yes</td>
<td>yes*</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>Deposit facility</td>
<td>yes</td>
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<td>no</td>
</tr>
<tr>
<td>Marginal lending facility</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>ECB debt certificates</td>
<td>yes</td>
<td>yes*</td>
<td>yes</td>
<td>no</td>
<td>yes</td>
</tr>
<tr>
<td>Outright sales/purchases</td>
<td>yes</td>
<td>yes*</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
</tbody>
</table>

* Requires either direct participation in the Single Shared Platform (SSP) through which TARGET2 payments are processed, or indirect participation in SSP via an Austrian direct participant

Annex 2

Conditions for the Provision of Collateral by Third-Party Creditors

Collateral to secure monetary policy operations between the OeNB and counterparties the OeNB has designated as eligible counterparties may also be provided by a credit institution that is administratively or organizationally linked to the
counterparty. Such a credit institution must fulfill all criteria listed in Articles 6 and 7. The only operational criterion to be fulfilled is acceptance of these Terms and Conditions. This is without prejudice to the fact that monetary policy operations as such shall be conducted exclusively with the counterparty. The counterparty shall at all times be in a position to disclose which of the assets they submit are provided by which third party.

The prerequisite for the use of third-party collateral for the benefit of the OeNB’s counterparty is that the third-party creditor authorizes the counterparty to dispose of the respective eligible assets on the counterparty’s behalf without restriction and moreover that the third party undertakes not to dispose of the assets itself. The third-party creditor shall be obligated to immediately inform the counterparty about any changes (full or partial redemptions, changes in maturity) of any debt instruments assigned to the OeNB as collateral or pledged. The respective contract shall be presented to the OeNB.

The following Articles of the Terms and Conditions of the Oesterreichische Nationalbank for Monetary Policy Operations and Procedures shall apply mutatis mutandis to third-party creditors:

Articles 9, 10, 11, 12 paragraph (1), 19, 20, 21, 22 and 30.

By signing the form provided by the OeNB for this purpose, the third-party creditor shall have acknowledged that it is informed about the content of the Terms and Conditions and shall have pledged to comply with the criteria listed above. The OeNB shall reserve the right to exclude a credit institution which does not comply with the above criteria from providing collateral for a counterparty the OeNB has designated as an eligible counterparty.