Decision (EU) 2020/187 of the European Central Bank of 3 February 2020 on the implementation of the third covered bond purchase programme (ECB/2020/8) (recast)

DECISION (EU) 2020/187 OF THE EUROPEAN CENTRAL BANK

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on the implementation of the third covered bond purchase programme (ECB/2020/8)

(recast)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first indent of Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank and, in particular to the second subparagraph of Article 12.1 in conjunction with the first indent of Article 3.1, and Article 18.1 thereof,

Whereas:

(1) Decision ECB/2014/40[(1)] has been substantially amended several times[(2)]. Since further amendments are to be made, that Decision should be recast in the interests of legal clarity.

(2) Decision ECB/2014/40 established the third covered bond purchase programme (CBPP3). Alongside the asset-backed securities purchase programme, the secondary markets public sector asset purchase programme and the corporate sector purchase programme, the CBPP3 is part of the expanded asset purchase programme (APP) of the European Central Bank (ECB). The APP aims to enhance the transmission of monetary policy, facilitate the provision of credit to the euro area economy, ease borrowing conditions for households and firms, and support the sustained convergence of inflation rates to levels below, but close to 2 %, over the medium term, consistent with the ECB's primary objective of maintaining price stability.

(3) Decision (EU) 2017/2199 of the European Central Bank (ECB/2017/37)[(3)] refined the rules applicable to the eligibility for purchase under the CBPP3 of covered bonds that are commonly referred to as conditional pass-through covered bonds. From 1 January 2019, conditional pass-through covered bonds should no longer be eligible for purchase under the CBPP3, in view of their more complex structure whereby pre-defined events lead to an extension of the bond's maturity and a switch in the bond's payment structure.

(4) On 13 December 2018, the Governing Council decided that certain parameters of the APP should be adjusted as from 1 January 2019 in order to achieve the APP's objectives. More specifically, the Governing Council decided to halt net asset purchases under the APP on 31 December 2018. The Governing Council confirmed its intention that principal payments from maturing securities purchased under the APP should continue to be reinvested in full for an extended period of time past the date when

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the Governing Council starts raising the key ECB interest rates, and in any case for as long as necessary to maintain favourable liquidity conditions and an ample degree of monetary accommodation.

(5) On 12 September 2019, the Governing Council decided to restart net purchases under the APP as from 1 November 2019 and expects them to be carried out for as long as necessary to reinforce the accommodative impact of policy rates and to end shortly before the Governing Council starts raising the key ECB interest rates. The Governing Council also decided to continue reinvesting in full, the principal payments from maturing securities purchased under the APP for an extended period of time past the date when the Governing Council starts raising the key ECB interest rates, and in any case for as long as necessary to maintain favourable liquidity conditions and an ample degree of monetary accommodation. In light of a protracted slowdown in the euro area economy, persistent downside risks to the growth outlook and an inflation outlook that continued to fall short of its medium-term inflation aim, the Governing Council concluded that a comprehensive policy response was warranted to support the return of inflation to a sustained convergence path towards the Governing Council's medium-term inflation aim. Resuming net asset purchases is a proportionate measure as it has a greater impact on longer-term rates than interest rate policy and eases the relevant funding costs of firms and households.

(6) The CBPP3, as part of the asset purchase programmes constituting the APP, is a proportionate measure for mitigating the risks to the outlook on price developments, as these programmes further ease monetary and financial conditions, including those relevant to the borrowing conditions of euro area non-financial corporations and households, thereby supporting aggregate consumption and investment spending in the euro area and ultimately contributing to a return of inflation rates to levels below, but close to, 2 % over the medium term. In an environment where key ECB interest rates are close to their lower bound, it is necessary to include in the Eurosystem's monetary policy measures asset purchase programmes as instruments that feature a high transmission potential to the real economy.

(7) The CBPP3 contains a number of safeguards to ensure that the envisaged purchases are proportionate to its aims, and that the related financial risks have been duly taken into account in its design and will be contained through risk management.

(8) The CBPP3 complies fully with the obligations of the Eurosystem central banks under the Treaties, and does not impair the operation of the Eurosystem in accordance with the principle of an open market economy with free competition.

(9) As part of the single monetary policy, the outright purchases of eligible covered bonds by Eurosystem central banks under the CBPP3 should be implemented in a uniform and decentralised manner, in accordance with this Decision,

HAS ADOPTED THIS DECISION:

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Article 1

Establishment and scope of the outright purchase of covered bonds

The Eurosystem hereby establishes the third covered bond purchase programme (CBPP3) under which the Eurosystem central banks shall purchase eligible covered bonds within the meaning of Article 3. Under the CBPP3, eligible covered bonds may be purchased outright by the Eurosystem central banks from eligible counterparties in the primary and secondary markets according to the counterparty eligibility criteria laid down in Article 4.

Article 2

Definitions

For the purposes of this Decision, the following definitions shall apply:

(1) 'credit institution' has the same meaning as credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council[(4)]; and

(2) '*multi cédulas*' has the same meaning as *multi cédulas* as defined in point (62) of Article 2 of Guideline (EU) 2015/510 of the European Central Bank (ECB/2014/60)[(5)].

Article 3

Eligibility criteria for covered bonds

1 Covered bonds shall be eligible for outright purchase under the CBPP3 if they comply with the eligibility criteria for marketable assets for Eurosystem credit operations pursuant to Part Four of Guideline (EU) 2015/510 (ECB/2014/60), fulfil the conditions for their acceptance as own-used collateral as laid out in Article 138(3)(b) of Guideline (EU) 2015/510 (ECB/2014/60), are issued by credit institutions incorporated in the euro area and satisfy the requirements laid down in paragraph 3.

2 *Multi cédulas* shall be eligible for outright purchase under the CBPP3 provided that they are eligible for monetary policy operations in line with Part Four of Guideline (EU) 2015/510 (ECB/2014/60), are issued by special purpose vehicles incorporated in the euro area, and satisfy the requirements laid down in paragraph 3.

3 The covered bonds and *multi cédulas* referred to in paragraphs 1 and 2 shall be eligible for outright purchases under the CBPP3 provided that they satisfy the following requirements:

a A minimum first-best credit quality assessment of Credit Quality Step 3 in the Eurosystem's harmonised rating scale, expressed in the form of at least one public credit rating provided by an external credit assessment institution (ECAI) accepted within the Eurosystem credit assessment framework, shall apply.

b A 70 % issue share limit per international securities identification number to the joint holdings under the first[(6)] (CBPP1) and second[(7)] (CBPP2) covered bond purchase programmes and the CBPP3 and to the other holdings of Eurosystem central banks shall apply.

c They shall be denominated in euro, held and settled in the euro area.

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[[F1]d Covered bonds issued by credit institutions whose access to Eurosystem monetary policy operations has been limited, suspended or excluded pursuant to Guideline (EU) 2015/510 (ECB/2014/60) shall be automatically excluded from purchases under the CBPP3 for the duration of the limitation, suspension or exclusion. By derogation from the first sentence of this point (d), the Governing Council shall retain its power, following a case-by-case assessment, to reassess the exclusion of covered bonds issued by a credit institution whose access to Eurosystem monetary policy operations has been limited, suspended or excluded pursuant to Guideline (EU) 2015/510 (ECB/2014/60) and to revoke the exclusion, if deemed appropriate.**]**

e For covered bonds which currently do not achieve the Credit Quality Step 3 rating in Cyprus and Greece, a minimum asset rating at the level of the maximum achievable covered bond rating defined by the respective ECAI for the jurisdiction shall be required. This shall be required for as long as the Eurosystem's minimum credit quality threshold is not applied in the collateral eligibility requirements for marketable debt instruments issued or guaranteed by the Greek or Cypriot governments (pursuant to Article 8(2) of Guideline ECB/2014/31[(8)]), and a 30 % issue share limit per international securities identification number is applicable to the joint holdings of the CBPP1, CBPP2, CBPP3 and the other holdings of Eurosystem central banks, and provided that the covered bonds include all of the following elements in order to achieve risk equivalence:

(i) monthly reporting of the cover pool characteristics, including loan-level data, as well as structural features of the covered bond programme and issuer information, to the national central bank (NCB) where the issuer is established; the reporting template shall be made available to the counterparties by the respective NCB;

(ii) minimum committed over-collateralisation of 25 %; the provisions for calculating the committed over-collateralisation shall be made available to the counterparties by the respective NCB;

(iii) currency hedges with counterparties rated BBB- or higher for non-euro denominated claims in the cover pool of the programme or, alternatively, at least 95 % of the assets are denominated in euro;

(iv) the credit claims in the cover pool are against debtors located in the euro area.

f Covered bonds retained by their issuer shall be eligible for purchases under the CBPP3, provided that they fulfil the eligibility criteria specified above.

g Purchases of nominal covered bonds at a negative yield to maturity (or yield to worst) equal to or above the deposit facility rate shall be permitted. Purchases of nominal covered bonds at a negative yield to maturity (or yield to worst) below the deposit facility rate shall be permitted to the extent necessary.

h The issuer of the covered bonds is not an entity, whether publicly or privately owned, that:

(i) has as its main purpose the gradual divestment of its assets and the cessation of its business; or

(ii) is an asset management or divestment entity established to support financial sector restructuring and/or resolution, including asset management vehicles resulting from a resolution action in the form of the application of an asset separation tool pursuant to Article 26 of Regulation (EU) No 806/2014 of the European Parliament and of the Council[(9)] or national legislation