

# Updated Dutch covered bond law: the ins and outs

Following the transposition of the EU Covered Bond Directive, Dutch-covered bonds issued per 8 July 2022 will be CRR compliant and able to use the label European Covered Bond (premium). Old covered bonds from programmes not adapted to the new law may still be CRR compliant if they meet the old rules



On 8 July 2022, the Dutch national measures transposing the EU Covered Bond Directive entered into force. In this report, we discuss the updated Dutch-covered bond legislation in detail.

While some revisions are more noteworthy than others, particularly the extendable maturity and cover pool monitor provisions stand out for their new specifics. For instance, on extendable maturity structures, the Dutch law no longer makes a distinction between regular covered bonds with a hard bullet or a soft bullet structure with an extension period up to 24 months, versus (conditional) pass-through covered bonds where the maturity extension period stretches beyond 24 months.

Instead, the covered bond legislation now ensures that maturity extension can never take place at the bank's discretion, but only in the case of an issuer event of default and a

subsequent failure by the CBC to meet the obligations listed by the law. For the purpose of the 180 days liquidity buffer requirement the final maturity date of the bond (ie, the extended due for payment date in the case of soft bullet or conditional pass-through covered bonds) remains the reference.

When it comes to the cover pool monitoring provisions, the new Dutch law builds further on the existing asset monitoring practice in the Netherlands. Dutch covered bond issuers should either appoint an external or an internal cover pool monitor. While an external cover pool monitor should not have any links with the issuing bank or its external accountant, the internal cover pool monitor can still have ties with the bank, including with the general accountant of the bank.

Meanwhile, the Dutch overcollateralisation requirements have become stricter, not only via the 100% coverage requirement for all liabilities but also with loan parts above the LTV restriction no longer eligible to meet the 5% nominal overcollateralisation requirement. The 20% cap on substitution assets, now expressed versus the assets in the cover pool, has become a bit more lenient than before when it was applied versus the covered bonds. Other typical Dutch provisions, such as the healthy ratio requirements and related stress tests, were removed.

### Author

#### Maureen Schuller

Head of Financials Sector Strategy

[Maureen.Schuller@ing.com](mailto:Maureen.Schuller@ing.com)

### Disclaimer

This publication has been prepared by the Economic and Financial Analysis Division of ING Bank N.V. ("ING") solely for information purposes without regard to any particular user's investment objectives, financial situation, or means. *ING forms part of ING Group (being for this purpose ING Group N.V. and its subsidiary and affiliated companies)*. The information in the publication is not an investment recommendation and it is not investment, legal or tax advice or an offer or solicitation to purchase or sell any financial instrument. Reasonable care has been taken to ensure that this publication is not untrue or misleading when published, but ING does not represent that it is accurate or complete. ING does not accept any liability for any direct, indirect or consequential loss arising from any use of this publication. Unless otherwise stated, any views, forecasts, or estimates are solely those of the author(s), as of the date of the publication and are subject to change without notice.

The distribution of this publication may be restricted by law or regulation in different jurisdictions and persons into whose possession this publication comes should inform themselves about, and observe, such restrictions.

Copyright and database rights protection exists in this report and it may not be reproduced, distributed or published by any person for any purpose without the prior express consent of ING. All rights are reserved. ING Bank N.V. is authorised by the Dutch Central Bank and supervised by the European Central Bank (ECB), the Dutch Central Bank (DNB) and the Dutch Authority for the Financial Markets (AFM). ING Bank N.V. is incorporated in the Netherlands (Trade Register no. 33031431 Amsterdam). In the United Kingdom this information is approved and/or communicated by ING Bank N.V., London Branch. ING Bank N.V., London Branch is authorised by the Prudential Regulation Authority and is subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. ING Bank N.V., London branch is registered in England (Registration number BR000341) at 8-10 Moorgate, London EC2 6DA. For US Investors: Any person wishing to discuss this

## **THINK economic and financial analysis**

report or effect transactions in any security discussed herein should contact ING Financial Markets LLC, which is a member of the NYSE, FINRA and SIPC and part of ING, and which has accepted responsibility for the distribution of this report in the United States under applicable requirements.

Additional information is available on request. For more information about ING Group, please visit [www.ing.com](http://www.ing.com).