

CENTRAL BANK OF CYPRUS

UNOFFICIAL TRANSLATION OF THE LAW ON THE ISSUE OF COVERED BONDS BY APPROVED INSTITUTIONS AND THE CONDUCT OF COVERED BONDS BUSINESS BY INSTITUTIONS WITH COVERED BONDS OBLIGATIONS

N.B. This translation of the Law is unofficial. It has been prepared by the Central Bank of Cyprus for information purposes. The Central Bank of Cyprus shall not be responsible for its content. The official text is in the Greek language.

In the official text the term “kalimmena axiografa” is used to indicate the covered bonds issued under this Law. The term “kalimmena axiografa” is protected under section 67.

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PART I

PRELIMINARY

Short title. 1. This Law may be cited as the Covered Bonds Law of 2010.

Interpretation. 2. – (1) In this Law, unless the context otherwise requires-

“approved institution” means a credit institution registered in the register of approved institutions in accordance with the provisions of Part II;

E.E.L 177
30.06.2010
p 1.

“asset” means an asset which is an eligible security for covered bonds for the purposes of paragraph 68 of Annex VI of the Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions;

“breaking-up” means the corporate restructuring as defined in paragraph (c) of subsection (a) of section 201A of the Companies Law, including corporate restructuring that would fall under that provision if the dissolved company were a public company within the meaning of section 2 of that Law;

“charge” means mortgage, floating charge, fixed charge, pledge, lien, assignment or any security interest under the laws of any jurisdiction;

“commercial loan” means any kind of credit facility, as defined by the competent authority, secured on immovable property used or intended for commercial purposes;

“Commissioner of CSSDA” has the meaning attached to this term by the Cooperative Societies Laws of 1985 to 2010;

138(l) of 2002
166(l) of 2003
34(l) of 2007.

“competent authority” means the Central Bank of Cyprus as defined in the Central Bank of Cyprus Laws of 2002 to 2009, or the Cooperative Societies’ Supervision and Development Authority as defined in the Cooperative Societies Laws of 1985 to 2010, each in relation to credit institutions that are subject to its supervision, by analogy;

22 of 1985
68 of 1987
190 of 1989
8 of 1992
22(l) of 1992
140(l) of 1999
140(l) of 2000
171(l) of 2000
8(l) of 2001
123(l) of 2003
124(l) of 2003
144(l) of 2003
5(l) of 2004
170(l) of 2004
230(l) of 2004
23(l) of 2005
49(l) of 2005
76(l) of 2005
29(l) of 2007
37(l) of 2007
104(l) of 2009

124(l) of 2009
85(l) of 2010.

“complementary assets” means assets, other than primary assets, as determined by the competent authority;

“Cooperative Societies’ Supervision and Development Authority” or by synonym “CSSDA” means -

- (a) the Committee of the Cooperative Societies’ Supervision and Development Authority as regards the function of issuing directives under this Law; and
- (b) the Commissioner of the Cooperative Societies’ Supervision and Development Authority in respect of any functions under this Law other than the one referred to in point (a) above;

“cover assets” means assets included in a cover pool maintained by an institution with covered bond obligations;

“cover pool” means the sum of assets and hedging contracts that secure, under Part III, covered bonds, subject to section 40;

“cover pool creditor” in relation to an institution with covered bond obligations means -

- (a) the holder of the covered bonds issued by the institution with covered bond obligations;
- (b) a person other than the covered bond holder that has rights in relation to the covered bonds under any legal or contractual relationship with the covered bond holder;
- (c) a party to a hedging contract with the institution with covered bond obligations, included in the cover pool, insofar as the party has not violated any terms of that contract;
- (d) a person, other than the institution with covered bond obligations, which finances the payment of legal claims of cover pool creditors;
- (e) the covered bond monitor;
- (f) the covered bond business administrator; or
- (g) a person other than the persons referred to in paragraphs (a) to (f) which is stated as cover pool creditor under the terms of issue of the covered bonds;

“cover pool register” means the register which an institution with covered bond obligations maintains in accordance with section 23 of this Law;

“covered bond business administrator” means a person appointed in accordance with the provisions of Part IX;

«covered bond monitor» means a person appointed in accordance with the provisions of Part VIII;

“covered bonds” means bonds issued by an approved institution in accordance with the provisions of Part III, secured by a cover pool maintained by the credit institution;

“covered bonds register” means the register maintained by the competent authority in accordance with the provisions of Part III;

“credit institution” means-

- (a) bank, as this term is defined in section 2 of the Banking Laws of 1997 to (No. 2) of 2009;
- (b) cooperative credit institution, as this term is defined in section 2 of the Cooperative Societies Laws of 1985 to 2010; and
- (c) the Housing Finance Corporation established under the Housing Finance Corporation Laws of 1980 to 2005;

“cross-border merger” has the meaning attributed to the term ‘cross border merger of limited liability companies’ in section 201I of the Companies’ Law;

“determined or defined” or any grammatical variation thereof, means determined or defined in terms of a Directive issued by the Central Bank of Cyprus or the CSSDA, as the case maybe, published in the official Gazette of the Republic;

“dissolution proceedings” means-

- (a) in relation to an institution with covered bond obligations that is a bank --

Cap. 113.
9 of 1968
76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
46(I) of 1992
96(I) of 1992
41(I) of 1994
15(I) of 1995
21(I) of 1997
82(I) of 1999
149(I) of 1999
2(I) of 2000
135(I) of 2000
51(I) of 2000
76(I) of 2001
70(I) of 2003
167(I) of 2003
92(I) of 2004

- (i) winding up in accordance with Part V of the Companies Law, including the appointment of a provisional liquidator under section 227 of that Law;

24(l) of 2005
29(l) of 2005
130(l) of 2005
98(l) of 2006
124(l) of 2006
70(l) of 2007
71(l) of 2007
131(l) of 2007
186(l) of 2007
87(l) of 2008
41(l) of 2009
49(l) of 2009
99(l) of 2009
42(l) of 2010
60(l) of 2010
88(l) of 2010.

- (ii) appointment of a receiver or manager within the meaning of Part VI of the Companies Law;
- (iii) each of the cases referred to in subsections (2), (4), (6), (9), (11) and (13) of section 34; or
- (iv) voting in favour of an arrangement or compromise between the bank and its creditors or any class of its creditors pursuant to subsection (2) of section 198 of the Companies Law, excluding reorganisation measures under section 33 of the Banking Laws of 1997 to (No. 2) of 2009; or

66(l) of 1997
74(l) of 1999
94(l) of 2000
119(l) of 2003
4(l) of 2004
151(l) of 2004
231(l) of 2004
235(l) of 2004
20(l) of 2005
80(l) of 2008
100(l) of 2009
123(l) of 2009.

- (v) other proceedings relating to the bank's inability to pay its debts or processes relevant to any dissolution or potential dissolution of the bank;

(b) in relation to an institution with covered bond obligations that is a cooperative credit institution, procedure under sections 44-49 of the Cooperative Societies Laws of 1985 to 2010;

(c) if the institution with covered bond obligations is the Housing Finance Corporation established under the Housing Finance Corporation Laws of 1980 to 2005 -

43 of 1980
18 of 1982
34 of 1991
36(l) of 1996
17(l) of 1998
26(l) of 2000
132(l) of 2000
81(l) of 2003
164(l) of 2004
42(l) of 2005.

- (i) dissolution pursuant to legislation enacted for that purpose;
- (ii) inability to pay its debts within the meaning of sections 209, 210 and 212 of the Companies Law which apply mutatis mutandis; or
- (iii) any incident that if occurred in connection with an institution with covered bond obligations that is a bank, would constitute dissolution proceedings;

'hedge collateral' means any asset provided to an institution with covered bond obligations as a collateral by or on behalf of any other party to a hedging contract insofar as the terms of the security provide for -

- (a) an absolute transfer of the asset to the institution with covered bond obligations; or
- (b)
 - (i) the transfer of the asset by way of security; and
 - (ii) the right of the institution with covered bond obligations to use the asset under that security as if the credit institution were the absolute owner of that asset;

"hedging contract" means a contract concluded with a view to reduce or minimize the risk of financial loss or the financial exposure that may result from -

- (a) interest rate fluctuations;
- (b) exchange rate fluctuations;
- (c) credit risks; or
- (d) other risk factors;

"institution with covered bond obligations" means an approved institution that has issued covered bonds that remain in force or a credit institution removed from the register of approved institutions which, at the time it was an approved institution, had issued covered bonds that remain in force;

"maritime loan" means any kind of credit facility, as defined by the competent authority, secured on ships;

"member state" means a member-state of the European Union or other state which is party to the Agreement for the European Economic Area, which was signed in Oporto on 2 May 1992, and adapted by the Protocol signed in Brussels on 17 May 1993;

"merger by acquisition" means -

- (a) in relation to an institution with covered bond obligations that

is a company established in accordance with the Companies Law, the corporate restructurings as defined in paragraph (a) of subsection (1) of section 201A of the Companies Law, including corporate restructurings that would fall under that provision if all companies involved were public companies within the meaning of section 2 of that Law;

- (b) in relation to an institution with covered bond obligations that is a cooperative credit institution, the restructuring in accordance with Part X of the Cooperative Societies Laws of 1985 to 2010;

“merger by establishment of a new company” means the corporate restructurings as defined in paragraph (b) of subsection (1) of section 201A of the Companies Law, including corporate restructuring that would fall under that provision if all companies involved were public companies within the meaning of section 2 of that Law;

“person” means natural person, company, partnership, association, society, institution or body of persons, corporate or unincorporated;

“primary asset” means residential loan, commercial loan, maritime loan, public claim or any other asset the competent authority may determine as a primary asset;

“programme” means issues, or series of issues, of covered bonds which have similar terms and are subject to a framework contract or contracts;

“Public claim” means an exposure to or guaranteed by the Government of the Republic or government or regional government of an other country, Central Bank of Cyprus or central bank of an other country, public sector entities or local authorities of the Republic or of an other country, international or supranational organisations, including multilateral development banks, as defined by the competent authority;

“register of approved institutions” means the register maintained by the competent authority in accordance with section 5;

“residential loan” means any kind of credit facility, as determined by the competent authority, secured on immovable property used or intended for residential purposes;

“responsible person” means a liquidator or receiver or manager or any other person that takes over the assets and liabilities of an institution with covered bond obligations which is subject to dissolution proceedings.

Scope of application of this Law.

3. This Law sets out the framework for the approval of credit institutions to issue covered bonds and the framework for the conduct of covered bond business.

PART II

REGISTRATION OF APPROVED INSTITUTIONS

Functions of the competent authority.

4. The Central Bank of Cyprus and the CSSDA have the following functions in relation to the approval of credit institutions:

- (a) Each shall register as approved institutions the credit institutions that are subject to its supervision;
- (b) each shall establish and administer the system of regulation and supervision of approved institutions as provided for in this Law; and
- (c) each shall perform the functions assigned to it as provided for in this Law.

Register of approved institutions.

5. (1) The competent authority shall establish and maintain a register of approved institutions in the form, location and content it determines.

(2) Any person may inspect the register of approved institutions at a reasonable fee determined by the competent authority.

Application for registration as an approved institution.

6. (1) Only credit institutions established in the Republic and supervised by the Central Bank of Cyprus or CSSDA, as the case may be, may apply to the competent authority for registration as an approved institution as provided for in this Law.

(2) The application for registration as an approved institution -

- (a) shall conform with the application form determined by the competent authority;
- (b) shall include the information and be accompanied by the documents determined by the competent authority.

(3) The competent authority may, at any time prior to reaching a decision on the application, require from the applicant for registration as an approved institution to submit information and documents in addition to those referred to in subsection (2) of this section.

Approval and rejection of applications.

7. (1) The competent authority shall not register an applicant as an approved institution if it is not satisfied that the applicant -

- (a) is able to carry out the obligations of an approved institution as determined by this Law; and
- (b) fulfils the criteria and conditions determined by the competent authority.

(2) The competent authority may register an applicant as an approved institution subject to terms it considers appropriate to impose.

(3) The decision to approve or reject an application shall be communicated to the applicant, giving reasons in case of rejection, within one (1) month from the date the application was received or if the application is not complete or the competent authority requires additional information or documents, within one (1) month from the date the applicant submits the required information or documents.

(4) Registration of a credit institution as an approved institution remains in force until the date the credit institution is removed from the register of approved institutions in accordance with the provisions of this Law.

Effect of registration in the register of approved institutions.

8. Without prejudice to the provisions of section 11, a credit institution, which is registered and remains registered as an approved institution, may issue covered bonds in accordance with the provisions of Part III.

Amendment of registration terms.

9. The competent authority may, where it deems necessary, amend any registration term of an approved institution or to impose a new term.

Removal from the register of approved institutions.

10. The competent authority may remove a credit institution from the register of approved institutions in any of the following occasions:

- (a) The credit institution applies for its removal from the register of approved institutions;
- (b) on the initiation of dissolution proceedings of the credit institution;
- (c) the credit institution ceases to exist as a legal entity in the Republic;
- (d) the credit institution does not issue covered bonds within eighteen (18) months from the date of its registration as an approved institution;
- (e) the credit institution does not carry out covered bond business for eighteen (18) consecutive months;
- (f) the registration of the credit institution has been achieved on the basis of misleading or false representations;
- (g) the credit institution no longer complies with any of the registration conditions as provided for in paragraph (b) of subsection (1) of section 7;
- (h) there are reasons to appoint a covered bond business administrator in accordance with the provisions of Part IX;
- (i) the credit institution has violated or violates or has failed or fails to comply with any provision of this Law or of any Directive issued thereunder;

- (j) the credit institution has violated or violates or has failed or fails to comply with any provision of the Banking Laws of 1997 to (No. 2) of 2009 or of the Cooperative Societies Laws of 1985 to 2010, as the case maybe, and of any Directive, Regulation or Administrative Order or circular of the Central Bank of Cyprus or the CSSDA respectively.

Prohibition of issuance of covered bonds by an approved institution.

11. In case where there are reasons for removal from the register of approved institutions, the competent authority may -

- (a) instead of removing from the register of approved institutions, prohibit an approved institution from issuing covered bonds; and
- (b) give time to comply under penalty of removal from the register in case of failure to comply.

PART III

ISSUANCE OF COVERED BONDS

Covered bonds register.

12. (1) The competent authority shall establish and maintain a covered bonds register in the form, location and content it determines.

(2) Any person may inspect the covered bonds register, at a reasonable fee determined by the competent authority.

Application for registration in the covered bonds register.

13. (1) For the registration in the covered bonds register, the approved institution must submit an application to the competent authority:

Provided that, subsection (1) also applies in cases where the issuance is part of a programme.

(2) The application for registration in the covered bonds register -

- (a) shall conform with the application form determined by the competent authority; and
- (b) shall include the information and be accompanied by the documents determined by the competent authority.

(4) The competent authority may require information and documents in addition to those required under subsection (2), which reasonably considers necessary for the registration of bonds in the covered bonds register.

Provided that, if such requirement is not met within the period specified by the competent authority, the competent authority may reject the application.

Approval and rejection of applications for registration in the covered bonds register.

14. (1) The competent authority shall approve the application for registration in the covered bonds register if satisfied that -

- (a) the approved institution is capable of adequately carrying out the covered bonds business as provided for in Part IV;
- (b) the approved institution complies with the requirements regarding the covered bonds business determined by the competent authority;
- (c) no reasons exist that could potentially lead to the removal of the credit institution from the register of approved institutions;
- (d) the approved institution establishes a cover pool in accordance with the provisions of section 18 with primary assets of one of the following categories :
 - (i) Public claims;
 - (ii) residential loans;
 - (iii) commercial loans;
 - (iv) maritime loans; or
 - (v) other asset that the competent authority may determine as primary asset;
- (e) the approved institution establishes a cover pool register in accordance with the provisions of section 23;
- (f) a covered bond monitor has been appointed, who confirms compliance with the requirements of section 51; and
- (g) all cover assets, which the approved institution includes in the cover pools maintained by it, shall not exceed the limit or limits determined by the competent authority.

(2) For the purposes of subparagraph (iii) of paragraph (d) of subsection (1), the cover pool may include residential loans up to a maximum limit determined by the competent authority.

(3) In case where an approved institution makes further issue of covered bonds as part of a programme, the competent authority may approve, instead of the establishment of a new cover pool, the inclusion in an existing cover pool that is maintained for the programme, of additional assets:

Provided that, subject to the provisions of subsection (2), the approved institution includes primary assets from one of the categories listed in paragraph (d) of subsection (1).

(4) In the case of a cross-border merger of a company incorporated under the laws of a member state other than the Republic is dissolved without going into liquidation and, on its dissolution, transfers all of its

assets and liabilities to an approved institution, the competent authority may register bonds issued by the acquired company in the covered bonds register if -

- (a) the bonds issued by the acquired company meet the provisions of this Law and of the Directives issued there under;
- (b) any additional conditions and requirements set by the competent authority are fulfilled; and
- (c) there is prior consent of the covered bond holders; as provided in the terms of issue of the bond.

(5) The decision to approve or reject the application for registration in the cover pool register shall be communicated to the approved institution, together with the reasons in case of rejection, within ten (10) days from the date of application or if the application is not complete or the competent authority requires additional information or other documents, within ten (10) days from the date the approved institution submits the required information or other documents.

Registration of a bond issue in the covered bonds register.

15. Bond issues are registered in the covered bonds register or removed from the covered bonds register at the time the defined particulars are recorded in the register.

Effect of registration of a bond issue in the covered bonds register.

16. With the registration of a bond issue in the covered bonds register -

- (a) the bond becomes a covered bond and is subject to the provisions of this Law;
- (b) the cover pool secures the claims of the cover pool creditors in accordance with the provisions of this Law and constitutes form of charge for the benefit of the cover pool creditors;
- (c) the approved institution becomes an institution with covered bond obligations and -
 - (i) carries out covered bonds business in accordance with Part IV to satisfy the obligations towards the covered bond holders emanating from the terms of the issue and the provisions of this Law;
 - (ii) is subject to the supervision of the competent authority as regards its compliance with the provisions of this Law.

Removal of a covered bond issue from the covered bonds register.

17. Removal of an issue of covered bonds from the covered bonds register is possible only when the competent authority is satisfied that all legal claims from and liabilities to the cover pool creditors have been satisfied, in accordance with the provisions of this Law.

PART IV

COVERED BONDS BUSINESS

Obligation to maintain a cover pool.

18. (1) An institution with covered bond obligations shall maintain a cover pool until the covered bonds are settled.

(2) The institution with covered bond obligations shall include in the cover pool primary assets and complementary assets.

(3) The competent authority may, at any time, define conditions and criteria and set limits in relation to the cover pool.

(4) Without prejudice to the generality of subsection (3), the competent authority shall set limitations in relation to -

- (a) the legislation governing the primary assets;
- (b) the State in the territory of which the immovable property securing residential loans and commercial loans is situated;
- (c) the type of immovable property securing commercial loans or residential loans;
- (d) the composition of the cover pool; and
- (e) the extent to which an asset is subject to set-off.

(5) An institution with cover bond obligations may not insert in the cover pool an asset in case where -

- (a) the asset -
 - (i) is encumbered in favour of a person other than the cover pool creditor;
 - (ii) is itself, or its underlying security, the subject of foreclosure or realisation;
 - (iii) is secured by tangible security and one or more principal or interest payment instalments are in arrears for a period of one month or more;
 - (iv) is an asset other than the one referred to in subparagraph (iii) and one or more payments of principal or interest payment instalments on that asset are in arrears;
- (b) the institution with cover bond obligations is subject to dissolution proceedings or there are grounds for the appointment of a covered bond business administrator arising from the provisions of paragraphs (a) to (h) of subsection (2) of section 59.

(6) The competent authority determines cover pool adequacy criteria so as to minimise the probability of default towards the cover pool creditors in case dissolution proceedings for the credit institution are initiated.

(7) Subject to the provisions of this section, the insertion in the cover pool of an asset owned by a credit institution other than the institution with covered bond obligations, is possible, if the following conditions are fulfilled:

- (a) the institution with covered bond obligations is responsible, by law, for pooling and managing excess liquidity of the credit institution which owns the asset;
- (b) the credit institution which owns the asset has irrevocably committed to have the asset inserted in the cover pool and, upon demand by the institution with covered bond obligations, to provide additional assets to meet the cover pool adequacy criteria as determined under subsection (6); and
- (c) the credit institution that owns the asset fulfils the conditions laid down for the purposes of this subsection, by the competent authority.

Inclusion of a hedging contract in the cover pool.

19. (1) The inclusion of a hedging contract in a cover pool maintained by an institution with covered bond obligations is possible only, after confirmation by the covered bond monitor that the contract -

- (a) relates to hedging risks that may adversely affect the value of cover assets; and
- (b) fulfils the criteria determined by the competent authority.

Obligation to maintain a set-off reserve.

20. The institution with covered bond obligations shall keep a reserve in connection with cover assets that are subject to set-off, as determined by the competent authority.

Prohibition on creating charges on cover assets and hedging contracts included in a cover pool.

21. (1) For as long as there are outstanding covered bond obligations or a hedging contract included in a cover pool remains in force, the institution with cover bond obligations shall not create any charge on any cover assets or hedging contract included in the cover pool.

Provided that, in case such a charge is created, this shall be void.

(2) The provisions of subsection (1) do not preclude an institution with covered bond obligations from creating a charge on covered assets or a hedging contract included in a cover pool, where such a charge is for the benefit of the cover pool creditors.

Measures to be taken by an institution with covered bond obligations if in breach of cover

22. (1) In case where an approved institution is in breach of the cover pool adequacy criteria as determined under subsection (6) of section 18, it shall take all necessary measures to rectify the breach within a period that the competent authority may, either determine in terms of a Directive, or, in exceptional and urgent cases, set with a decision, which

pool adequacy criteria.

the competent authority communicates to the approved institution.

(2) Without prejudice to the power of the competent authority to appoint a covered bond business administrator under paragraph (j) of subsection (2) of section 59, the approved institution shall not issue covered bonds until the necessary rectification measures are taken.

(3) In case where a credit institution which has been removed from the register of approved institutions is in breach of the cover pool adequacy criteria as determined under subsection (6) of section 18, it shall take all necessary measures to rectify the breach within a period that the competent authority may, either determine in terms of a Directive, or, in exceptional and urgent cases, set with a decision, which the competent authority communicates to the credit institution:

Provided that, in case where the institution is removed from the register of approved institutions and a covered bond business administrator has not been appointed, the competent authority may appoint an administrator under paragraph (j) of subsection (2) of section 59 in case where the credit institution fails to take the necessary rectification measures within the period determined by the competent authority in accordance with the provisions of this subsection.

Obligation to maintain a cover pool register.

23. (1) The institution with covered bond obligations shall maintain a cover pool register for each cover bond issue or programme.

(2) The cover pool register shall be maintained in the form, location and content determined by the competent authority.

Effect of registration of an asset and a hedging contract in the cover pool register.

24. (1) With the registration of an asset in the cover pool register, the asset becomes a cover asset.

(2) With the registration of a hedging contract in the cover pool register, the contract becomes part of the cover pool.

Insertion of an asset in and removal from the cover pool.

25. (1) An asset is inserted in or removed from the cover pool when the appropriate particulars are registered in the cover pool register.

(2) An institution with covered bond obligations may remove a cover asset from the cover pool where, at the time of the removal, the asset is not required for the fulfilment of the cover pool adequacy criteria set out in subsection (6) of section 18:

Provided that, removal from the cover pool register without the conditions of this subsection does not constitute removal of the asset from the cover pool.

Insertion of a hedging contract in and removal from the cover pool.

26. (1) A hedging contract is included in or removed from the cover pool when the appropriate particulars are registered in the cover pool register.

(2) Removal of a hedging contract from the cover pool shall be possible only where -

- (a) the obligations of the parties under the contract have been fulfilled;
- (b) the counterparty of the institution with covered bond obligations consents to such a removal; or
- (c) the counterparty of the institution with covered bond obligations fails to meet its financial obligations under the contract:

Provided that, removal from the cover pool register without the conditions of this subsection being satisfied does not constitute removal of the hedging contract from the cover pool.

Register of hedge collateral.

27. An institution with covered bond obligations shall maintain, separately from the cover pool register, a register of hedge collateral with regard to collateral it has obtained in relation to a hedging contract, included in a cover pool, in accordance with criteria determined by the competent authority.

Use of cash inflows from cover assets.

28. (1) An institution with covered bond obligations shall use the cash inflows arising from the servicing or disposal of the cover assets or otherwise from the cover assets for -

- (a) servicing the claims of the cover pool creditors;
- (b) creating or acquiring cover assets to be inserted in the cover pool for the fulfilment of the cover pool adequacy criteria as determined by virtue of subsection (6) of section 18.

(2) Cash inflows, until they have been used in accordance with subsection (1), constitute part of the corresponding cover pool.

(3) Any sum of cash inflows remaining after the compliance of the institution with covered bond obligations with the provisions of subsection (1), shall cease to be part of the cover pool.

(4) The competent authority may determine the manner in which cash inflows shall be managed and monitored for the purposes of subsection (2).

Servicing of the cover pool creditors' claims.

29. (1) An institution with covered bond obligations shall ensure that the servicing of the claims of the cover pool creditors is effected by the cash inflows arising from the servicing or disposal of cover assets or otherwise from the cover assets.

(2) Where the cash inflows generated from the cover assets do not cover the immediate obligations of the institution with covered bond obligations in relation to the cover bond, the institution shall use other assets to cover its immediate obligations towards the cover pool creditors.

Right of access to and inspection of the cover pool register.

30. The competent authority and the covered bond monitor may, at any time-

- (a) have access to the cover pool register; and

- (b) take copies of the cover pool register or any entry in it at the expense of the institution with covered bond obligations.

Disclosure of information by an institution with covered bond obligations.

31. An institution with covered bond obligations shall disclose in its annual and interim financial statements and publish at regular intervals determined by the competent authority information on the covered bonds issued by it and the cover assets registered in the cover pool register, as determined by the competent authority.

Surveillance of the covered bonds business.

32. (1) The institution with covered bond obligations shall be set under the surveillance of the covered bond monitor and shall carry out covered bond business only with the written consent of the covered bond monitor -

- (a) when there are reasons that could potentially lead to its removal from the register of approved institutions and the competent authority deems necessary the surveillance of its covered bonds business; or
- (b) where it is removed from the register of approved institutions and a covered bond business administrator has not been appointed.

(2) The duties of the covered bond monitor under subsection (1) shall be taken over by the competent authority where -

- (a) during the relevant period there is no an appointed covered bond monitor; or
- (b) the competent authority considers that the conduct of the covered bond monitor's functions by the competent authority itself would better serve the interests of the covered bond holders.

Consequences from the removal of a credit institution from the register of approved institutions.

33. (1) Where an institution with cover bond obligations is removed from the register of approved institutions without the appointment of a covered bond business administrator, the institution, shall, within a period from the date of its removal specified by the competent authority, provide to the competent authority and, to the extent possible, to every covered bond holder, a scheme specifying the measures it takes or it intends to take in order to service the covered bonds in accordance with the terms governing their issue.

(2) The competent authority may appoint a covered bond business administrator under paragraph (j) of subsection (2) of section 59 to take over the covered bond business in case where -

- (a) the institution with covered bond obligations fails to provide to the competent authority a scheme in accordance with subsection (1) within the period specified by the competent authority;

- (b) the competent authority reasonably believes that the institution with covered bond obligations has failed to take steps to communicate the scheme, to the extent possible, to all of the covered bond holders; or
- (c) the competent authority considers that the measures stated in the scheme are inadequate.

PART V

REORGANISATION OF AN INSTITUTION WITH COVERED BOND OBLIGATIONS

Reorganisation of an institution with covered bond obligations.

34. (1) In the case of a merger by acquisition of an institution with covered bond obligations by an approved institution, the assumption by the acquiring approved institution of the cover pool and the obligations towards the cover pool creditors shall be possible only with the prior consent of the cover bond holders as provided in the terms of the covered bond issue and with the consent of the competent authority.

(2) In the case of a merger by acquisition of an institution with covered bond obligations by -

- (a) a company that is not an approved institution; or
- (b) an approved institution without the requirements of the subsection (1) being met,

the provisions of Part VII shall apply.

(3) In the case where a new approved institution is established through a merger of an institution with covered bond obligations with one or more companies, the assumption by the new approved institution of the cover pool and the obligations towards the cover pool creditors shall be possible only with the prior consent of the cover bond holders as provided in the terms of the covered bond issue and with the consent of the competent authority.

(4) In the case where an institution with covered bond obligations merges with one or more companies by -

- (a) the establishment of a new company which is not an approved institution; or
- (b) the establishment of a new approved institution, without the requirements of subsection (3) being met,

the provisions of Part VII shall apply.

(5) In the case of a breaking up of an institution with covered bond obligations into two or more companies where one or more of these companies is an approved institution, the assumption by the said approved institution of the cover pool and the obligations towards the cover pool creditors shall be possible only with the prior consent of the

cover bond holders as provided in the terms of the covered bond issue and with the consent of the competent authority.

(6) In the case of a breaking up of an institution with covered bond obligations into two or more companies where -

- (a) none of these companies is an approved institution; or
- (b) one or more of these companies are approved institutions but the requirements of subsection (5) are not met,

the provisions of Part VII shall apply.

(7) The acquisition of one or more companies or part of a company by an institution with covered bond obligations does not affect its covered bonds business.

(8) In the case of a cross-border merger whereby an institution with covered bond obligations is dissolved without going into liquidation and, on its dissolution, transfers all of its assets and liabilities to an existing company that is an approved institution, the assumption by the acquiring approved institution of the cover pool and the obligations towards the cover pool creditors shall be possible only with the prior consent of the cover bond holders as provided in the terms of the covered bond issue and with the consent of the competent authority.

(9) In the case of a cross-border merger whereby an institution with covered bond obligations is dissolved without going into liquidation and, on its dissolution, transfers all of its assets and liabilities to an existing company that -

- (a) is not an approved institution;
- (b) is an approved institution but the requirements of subsection (8) are not met; or
- (c) has been incorporated under the Laws of a State other than the Republic,

the provisions of Part VII shall apply.

(10) In the case of a cross-border merger whereby an institution with covered bond obligations is dissolved without going into liquidation and, during the dissolution, transfers all of its assets and liabilities to a new company that is an approved institution, the assumption by the new approved institution of the cover pool and the obligations towards the cover pool creditors shall be possible only with the prior consent of the cover bond holders as provided in the terms of the covered bond issue and with the consent of the competent authority.

(11) In the case of a cross-border merger whereby an institution with covered bond obligations is dissolved without going into liquidation and, on its dissolution, transfers all of its assets and liabilities to -

- (a) a new company that is not an approved institution;

- (b) an approved institution but the requirements of subsection (10) are not met; or
- (c) a new company that has been incorporated under the Laws of a State other than the Republic,

the provisions of Part VII shall apply.

(12) In the case of a cross-border merger whereby the institution with covered bond obligations is dissolved without going into liquidation and, on its dissolution, transfers all of its assets and liabilities to the company holding all its securities or shares representing its capital that is an approved institution, the assumption by this company of the cover pool and the obligations towards the cover pool creditors shall be possible only with the prior consent of the cover bond holders as provided in the terms of the covered bond issue and with the consent of the competent authority.

(13) In the case of a cross-border merger whereby an institution with covered bond obligations is dissolved without going into liquidation and, on its dissolution, transfers all its assets and liabilities to the company holding all of its securities or shares representing its capital, that -

- (a) is not an approved institution;
- (b) is an approved institution but the requirements of subsection (12) being met; or
- (c) has been incorporated under the Laws of a State other than the Republic,

the provisions of Part VII shall apply.

PART VI

ASSUMPTION OF THE COVERED BOND OBLIGATIONS AND THE COVER POOL BY ANOTHER APPROVED INSTITUTION

Capacity of another approved institution to assume the cover pool and the covered bond obligations.

35. The assumption by an approved institution of the cover pool and the obligations toward cover pool creditors of an institution with covered bond obligations shall be possible -

- (a) in the cases referred to in subsections (1), (3), (5), (8), (10) and (12) of section 34;
- (b) By agreement between the two credit institutions provided that there is a prior consent of the covered bond holders as provided in the terms of the covered bond issue and the competent authority consents; or
- (c) Where the covered bond business administrator exercises the power vested upon him under paragraph (b) of subsection (1) of section 62.

Assumption procedure.

36. (1) The transferor credit institution and the acquiring credit institution shall jointly submit to the competent authority for approval a scheme on the proposed assumption of the cover pool and the obligations towards the cover pool creditors.

(2) The scheme shall -

- (a) specify the date or the dates of the assumption; and
- (b) contain such information relating to the obligations of the parties involved in the proposed assumption that the competent authority may require for-
 - (i) safeguarding the interests of the transferor credit institution and of the acquiring credit institution, as well as of the cover pool creditors and the persons against whom the cover asset constitutes an exposure of the credit institution;
 - (ii) ensuring the orderly assumption of the covered bonds business.

(3) The competent authority, after having been satisfied that the scheme submitted meets the purposes referred to in subsection (1) and any conditions that it may impose shall -

- (a) approve the assumption of the cover pool and the obligations toward cover pool creditors; and
- (b) publish the particulars of the assumption in the Official Gazette of the Republic and in any other manner it may decide.

(4) The assumption of the covered bonds business in accordance with this section shall take effect on the date specified in the scheme provided that any conditions imposed by the competent authority are complied with.

(5) Notwithstanding the provisions of any other law -

- (a) the acquiring credit institution shall succeed the transferor credit institution on all rights and obligations in relation to the cover pool and cover pool creditors; and
- (b) the transferor credit institution ceases to have any obligations or rights in relation to the cover pool and the cover pool creditors.

(6) Where, at the time of the assumption, any legal proceeding is pending, including lawsuit, arbitration, petition, application, execution process, this proceeding shall not be terminated or interrupted or, in any way, affected.

(7) With the assumption of the cover pool and the obligations toward

cover pool creditors, the acquiring credit institution -

- (a) shall succeed the transferor credit institution as a party to the applicable proceedings; and
- (b) shall assume all rights and obligations in relation to the proceedings as the transferor credit institution had immediately before the assumption time.

(8) For the purposes of this section -

- (a) “acquiring credit institution” means an approved institution that assumes the cover pool and the obligations toward cover pool creditors of a transferor credit institution;
- (b) “transferor credit institution” means an institution with covered bond obligations that transfers the cover pool to the acquiring credit institution and, as a result, is released from the covered bond obligations.

PART VII

EFFECT OF DISSOLUTION PROCEEDINGS ON AN INSTITUTION WITH COVERED BOND OBLIGATIONS

Definitions for the purposes of Part VII.

37. (1) For the purposes of this Part, the reference to “cover assets” shall include any security, guarantee, indemnity and insurance held by the institution with covered bond obligations in connection with such assets.

(2) For the purposes of this Part, the reference to “hedging contract” that forms part of the cover pool shall include-

- (a) any security, guarantee, indemnity or insurance held by the institution with covered bond obligations in connection with such hedging contract and a hedge collateral provided to the credit institution under such contract;
- (b) any rights, obligations or title of the institution with covered bond obligations arising from hedge collateral or security provided to the credit institution under or in connection with such contract.

(3) This Part does not apply to any hedging contract, which has been removed from the cover pool in accordance with the provisions of this Law.

Rights not affected by dissolution proceedings.

38. The fact that an institution with covered bond obligations is subject to dissolution proceedings does not affect -

- (a) the claims and rights of holders of covered bonds issued by the credit institution;

- (b) the claims and rights of persons referred to in paragraph (b) of the definition of “cover pool creditor” in section 2;
- (c) the claims and rights that a counterparty has under any hedging contract entered into by the credit institution as long as these contracts are included in the cover pool;
- (d) the appointment of a covered bond monitor under Part VIII and the claims and rights of the monitor to the extent that those claims or rights relate to his appointment or arise under this Law;
- (e) the appointment of a covered bond business administrator under Part IX and the claims and rights of the administrator in so far as those claims or rights relate to his appointment or arise under this Law;
- (f) the claims and rights of any other person falling within the meaning of the term “cover pool creditor” under section 2.

Obligations of a credit institution which is subject to dissolution proceedings in relation to covered bonds business.

39. (1) Subject to paragraph (e) of subsection (7) of section 40, the obligations of an institution with covered bond obligations towards the cover pool creditors continue to be in effect and are enforceable as provided for in this Part irrespective of the fact that the credit institution is subject to dissolution proceedings.

(2) Where an institution with covered bond obligations is subject to dissolution proceedings, the powers of the competent authority to appoint a covered bond business administrator and a covered bond monitor continue to be in force until the claims of all cover pool creditors are satisfied.

Effect of dissolution proceedings on covered bonds business.

40. (1) Where, an institution with covered bond obligations is subject to dissolution proceedings -

- (a) all covered bonds issued by the institution remain in force, subject to the terms and conditions under which they have been issued;
- (b) every hedging contract included in the cover pool continues to have effect, subject to the terms and conditions of the contract;
- (c) the appointment of the covered bond monitor continues to have effect in accordance with the terms and conditions of the appointment;
- (d) the obligations of the institution under the covered bonds, or any contract or appointment concerning the covered bonds, continue to be enforceable as provided for in this Part;
- (e) the covered bond business administrator shall take the necessary measures to assume the control and the management of the cover pool and shall carry out the covered bond business in accordance with criteria determined by the competent authority.

(2) On the initiation of the dissolution proceedings, the covered bond business administrator evaluates the adequacy of the cover pool and:

- (a) if the cover pool adequacy criteria as determined under subsection (6) of section 18 are fulfilled, removes from the cover pool and the cover pool register any cover assets that are not counted for the purposes of these criteria; or
- (b) if the cover pool adequacy criteria as determined under subsection (6) of section 18 are not fulfilled, re-evaluates the adequacy of the cover pool based on criteria determined by the competent authority and removes from the cover pool and cover pool register any cover assets that are not counted for the purposes of the criteria determined under this paragraph.

(3) At the request of the covered bond business administrator, the responsible person shall disburse to the cover pool, in priority to the claims of all creditors, members and contributories of the institution with covered bond obligations, an amount equal to the sum of -

- (a) the set-off reserve, in accordance with section 20, to the extent that the cover assets are subject to set-off in accordance with the provisions of subsection (4);
- (b) the cash inflows that form part of the cover pool, in accordance with subsection (2) of section 28, to the extent that the institution should have used them in accordance with subsection (1) of the same section; and
- (c) any other reserve required under the terms of the covered bond issue, to the extent that a loss, which the reserve was set up to cover, has materialised.

(4) Any set-off of a cover asset with a claim of a person, against whom the cover asset constitutes an exposure of the institution with covered bond obligations subject to dissolution proceedings, shall be effected only over the resulting balance of this claim after any set-off with other assets of the institution.

(5) Until the legal claims of cover pool creditors secured under this Part are satisfied in full, the cover assets do not form part of the assets available to satisfy the claims of all other creditors, member and contributories of an institution with covered bond obligations that is subject to dissolution proceedings.

(6) Cover assets shall not be liable to attachment, sequestration or other form of seizure by any person other than the covered bond business administrator for as long as legal claims of cover pool creditors secured under this Part remain unsatisfied.

(7) For the purposes of paragraph (e) of subsection (1), the covered bond business administrator may -

- (a) borrow;

- (b) enter into a hedging contract;
- (c) acquire or create complementary asset or, with the approval of the competent authority, any other asset;
- (d) subject to the provisions of section 41 and section 42, charge, transfer or dispose of a cover asset;
- (e) enter into an agreement with an approved institution whereby the latter assumes the cover pool and the obligations to cover pool creditors, with the consent of covered bond holders, as provided in the terms of the issue of the covered bonds;
- (f) institute or defend any action or other legal proceeding in respect of a cover asset or hedging contract included in the cover pool;
- (g) issue receipt of partial or full repayment of credit facilities constituting cover assets;
- (h) exercise the powers and rights under the security, guarantee, indemnity and insurance held in relation to a cover asset or a hedging contract included in the cover pool, especially in cases of default by the person against whom the cover asset constitutes an exposure of the credit institution and by the counterparty in a hedging contract included in the cover pool;
- (i) inspect the books and records of the institution with covered bond obligations subject to dissolution proceedings, applying, by analogy, the provisions of the Companies Law, the Cooperative Societies Laws of 1985 to 2010 or any other law relating to the inspection of books and records of the institution with covered bond obligations by its creditors.

(8) Without prejudice to the provisions of paragraph (e) of subsection (1), in order to take over the control of cover assets secured on immovable property located in the Republic, the covered bond business administrator shall submit to the Department of Lands and Surveys the details of his appointment by the competent authority, accompanied with a list of the mortgages in order to register a prohibition of their transfer.

(9) The making of an order for staying winding-up in accordance with section 243 of the Companies Law or order declaring the dissolution void in accordance with section 326 of that Law or decision of the CSSDA Commissioner to stay winding-up under section 49A of the Cooperative Societies Laws of 1985 to 2010, does not reverse the results of the initiation of the winding-up on the covered bonds:

Provided that, the court making the order or the CSSDA Commissioner, as the case may be, may order the covered bond business administrator to act from that point onwards as if the dissolution proceedings had not begun.

Rights of cover pool creditors in case of disposal of cover assets.

41. In case where the cover assets are sold or otherwise disposed of, the cover pool creditors may satisfy their claims and rights, in accordance with the terms of the issue, contract or appointment, from the proceeds of the sale or other form of disposal in priority of all other creditors, members, and contributories of the institution with covered bond obligations that is subject to dissolution proceedings.

Provided that, this section applies irrespective of whether the claims of creditors other than cover pool creditors are preferred under any other law and irrespective of whether those claims are secured or unsecured.

Disposal of cover pool.

42. Disposal of the cover pool of an institution with covered bond obligations that is subject to dissolution proceedings may be effected -

- (a) for the discharge of covered bonds in accordance with the terms of the issue;
- (b) for the immediate discharge of covered bonds upon demand by the covered bond holders pursuant to a decision they have taken under the terms of the issue.

Rights of cover pool creditors in case of disposal of the cover pool.

43. (1) In case where the cover pool is sold or otherwise disposed of, the cover pool creditors may satisfy their claims and rights from the proceeds of the sale or other form of disposal in priority of all other creditors, members, and contributories of the institution with covered bond obligations that is subject to dissolution proceedings.

Provided that, this section applies irrespective of whether the claims of creditors other than cover pool creditors are preferred under any other law and irrespective of whether those claims are secured or unsecured.

(2) Subject to the provisions of subsection (3), in case of disposal of the cover pool the claims of cover pool creditors rank equally among themselves.

Provided that, if those claims cannot be fully satisfied they shall abate in equal proportions.

(3) The claims of the covered bond monitor and covered bond business administrator rank in priority of those of all other cover pool creditors and equally among themselves; if their claims cannot be fully satisfied, they shall abate in equal proportions.

(4) Subject to the provisions of section 45, subsections (2) and (3) of this section apply irrespective of-

- (a) the date of issue of the covered bond, the date of the hedging contract or the date of the appointment of the covered bond monitor and covered bond business administrator; and

- (b) the date, when the events constituting the basis for the claim took place;

and irrespective of the terms of the issue, contract or appointment.

(5) In case where the claims of the cover pool creditors are not satisfied in full from the proceeds of the sale or other form of disposal of the cover pool, those creditors are, with respect to the unsatisfied part of their claims, unsecured creditors of the institution with covered bond obligations that is subject to dissolution proceedings.

Provided that, in the cases of subsections (2), (4), (6), (9), (11) and (13) of section 34, cover pool creditors are, in relation to the unsatisfied part of their claims, unsecured creditors of the company that assumes the obligations, other than the covered bond obligations, of the institution with covered bond obligations.

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49 of 1985
197 of 1986
156(l) of 1999
2(l) of 2008
74(l) of 2008.

(6) The covered bond business administrator shall act in accordance with the provisions of the Companies Law, the Bankruptcy Law, the Banking Laws of 1997 to (No. 2) of 2009 and the Cooperative Societies Laws of 1985 to 2010 governing the dissolution proceedings in order for the subsection (5) being applied and shall be deemed, for the purposes of these provisions, as acting on behalf of all creditors.

Return of any surplus to the credit institution.

44. (1) Any surplus from the disposal of the cover pool after all legal claims of cover pool creditors are satisfied in full shall revert to the estate of the credit institution that is subject to dissolution proceedings:

Provided that, the covered bond business administrator shall return the surplus to the credit institution that is subject to dissolution proceedings:

Provided furthermore that, in the cases of subsections (2), (4), (6), (9), (11) and (13) of section 34, the surplus shall be returned to the company that assumes the obligations, other than the covered bond obligations, of the institution with covered bond obligations that is subject to dissolution proceedings.

(2) Subsection (1) applies, mutatis mutandis, in paragraph (e) of subsection (7) of section 40.

Application of other legislative provisions.

45. The provisions of this Part do not affect the application of the provisions of sections 46, 47 and 48 of the Bankruptcy Law, the provisions of sections 301 and 302 of the Companies Law and any other provision of a law that would render any bond or contract void or voidable on the ground of fraud or misrepresentation on -

- (a) a covered bond issued by an institution with covered bond obligations;
- (b) a hedging contract included in the cover pool; or
- (c) a contract relating to the appointment of a covered bond monitor.

Provisions in relation to credit institutions with more than one issue of covered bonds or programme.

46. In case where there are in force more than one issue of covered bonds or programmes, that are secured by different cover pools, the rights of the cover pool creditors are secured only by the cover assets of the relevant cover pool.

Obligations of the persons involved in dissolution proceedings.

47. (1) Without prejudice to the provisions of any law that imposes obligations to the responsible person, the responsible person shall ensure that the obligations of the credit institution against cover pool creditors are fulfilled in accordance with this Law.

(2) The competent authority may by notice in writing impose additional duties to the responsible person.

Obligation of covered bond business administrator and persons involved in dissolution proceedings to cooperate.

48. The covered bond business administrator and the responsible person shall exchange information that is relevant for the dissolution proceedings of the institution with covered bond obligations or the management of the cover pool.

PART VIII

COVERED BOND MONITOR

Appointment of a covered bond monitor.

49. (1) Each institution with covered bond obligations shall appoint a qualified person to be a covered bond monitor.

(2) The competent authority shall determine the necessary qualifications for the appointment of a person as a covered bond monitor as well as the appointment procedure.

(3) An appointment under this section shall take effect with the approval of the person to be appointed by the competent authority.

(4) An institution with covered bond obligations appointing a covered bond monitor under this section is responsible for paying the remuneration, as well as, any other money payable to him in connection with the performance of the monitor's duties and responsibilities, including any additional responsibilities assigned to the monitor under subsection (4) of section 51.

Power of the competent authority to appoint a covered bond monitor in certain circumstances.

50. (1) If, at any time, and for any reason, an institution with covered bond obligations has no appointed covered bond monitor, the competent authority may appoint a suitably qualified person to be a covered bond monitor for that credit institution.

(2) The appointment as provided for in subsection (1) may be on such terms and subject to such conditions as the competent authority may deem necessary.

(3) Where the competent authority has appointed a covered bond monitor in accordance with subsection (1), the credit institution concerned is responsible for paying the remuneration and any other money payable to him in connection with the performance of the monitor's duties and responsibilities, including any additional duties assigned to the monitor under subsection (4) of section 51.

Duties and obligations of a covered bond monitor.

51. (1) The covered bond monitor shall oversee the compliance of the institution with covered bond obligations as provided for in this Law or with any Directives issued under this Law.

(2) Before an application for the registration of bonds in the covered bonds register is made by an approved institution, the covered bond monitor shall verify that the institution -

- (a) fulfils the conditions for registration as an approved institution;
- (b) complies with the provisions of Part IV in relation to every previous issue of covered bonds that remains in force;
- (c) complies with the provisions of paragraphs (d) and (e) of subsection (1) of section 14, without prejudice to the provisions of subsections (2) and (3) of the section 14.

(3) Where hedging contracts are included in the cover pool, the covered bond monitor shall verify that these contracts fulfil the criteria set out in section 26.

(4) The covered bond monitor is also responsible for performing any such other duties that the competent authority may either determine in terms of a Directive, or, in exceptional and urgent cases, set with a decision, which the competent authority communicates to the covered bond monitor.

(5) The appointment of a covered bond monitor does not absolve the institution with covered bond obligations from its duty to comply with the provisions of this Law.

Obligation of the covered bond monitor to provide information and submit reports

52. (1) A covered bond monitor who becomes aware, or reasonably suspects that the institution with covered bonds obligations has contravened or fails to comply with any provision of this Law falling within the monitor's duties or responsibilities, shall, as soon as practically possible, submit to the competent authority a written report of the matter.

to the competent authority.

(2) Subject to the provisions of subsection (1), the covered bond monitor shall submit to the competent authority such reports, and provide such information, at such time, as the competent authority may either determine in terms of a Directive, or, in exceptional and urgent cases, set with a decision, which the competent authority communicates to the covered bond monitor.

Powers of the covered bond monitor.

53. (1) At any time during ordinary business hours, the covered bond monitor may, upon notice, access any place at which the institution with covered bond obligations carries out its business.

(2) A covered bond monitor who, in accordance with subsection (1), accesses a place where an institution with covered bond obligations carries out its covered bonds business may -

- (a) require explanations or information from any relevant person;
- (b) inspect and examine any record that the monitor reasonably believes to be relevant to the performance of the monitor's duties;
- (c) take copies of all or of any part of such records.

(3) Subject to the provisions of subsections (1) and (2), the competent authority may, with a Directive, determine additional powers of the covered bond monitor over the institution with covered bond obligations.

Obligation of an institution with covered bond obligations to provide information and documents to the covered bond monitor.

54. (1) Without prejudice to the provisions of section 53, the covered bond monitor may, upon notice, require the institution with covered bond obligations to provide, within a reasonable period required by the covered bond monitor, any specified information or record relating to his duties or responsibilities as a monitor of the institution:

Provided that, the institution with covered bond obligations is obliged to provide such information or record within the required period, provided that they are in its possession or under its control.

(2) Without prejudice to the provisions of subsection (1), an institution with covered bond obligations shall provide to the covered bond monitor, such information and at such intervals as the competent authority may determine.

Powers of the competent authority.

55. (1) The competent authority or any other person authorised by it may, for the purposes of this section at any time -

- (a) enter the premises where the covered bond monitor carries out his business under the provisions of this Law; and
- (b) inspect and take copies of any records kept by the monitor in connection with the monitor's duties and responsibilities, under this Law.

(2) For the purpose of subsection (1), the competent authority co-operates with authorities in the Republic or, as the case may be, in other jurisdictions, which supervise the person appointed as covered bond

monitor.

Termination of the appointment of a covered bond monitor.

56. (1) An institution with covered bond obligations may terminate the appointment of its covered bond monitor only for reasons determined by the competent authority and with its written consent.

(2) The competent authority may, by notice in writing given to the institution with covered bond obligations, require the termination of the appointment of the covered bond monitor.

Resignation of a covered bond monitor.

57. (1) A covered bond monitor may resign by notice in writing given to the competent authority.

(2) The covered bond monitor shall state in his resignation notice, as provided for in subsection (1), the reasons for his resignation.

(3) The resignation of a covered bond monitor, as provided for in subsection (1), takes effect thirty (30) days after the resignation notice is given to the competent authority, or longer period specified in the resignation notice or shorter period, if the competent authority so agrees.

Liability of the covered bond monitor.

58. The covered bond monitor, or any person who is officer, employee or agent of the covered bond monitor shall not be liable in any action, suit or other legal proceedings for damages for anything done or omitted in the discharge of their duties and responsibilities under this Law, unless it is shown that the act or omission was not in good faith or was the result of their gross negligence.

PART IX

COVERED BOND BUSINESS ADMINISTRATOR

Power of the competent authority to appoint a covered bond business administrator.

59. (1) The competent authority shall appoint a suitable person as a covered bond business administrator on the initiation of dissolution proceedings of an institution with covered bond obligations.

(2) The competent authority may appoint a suitable person as a covered bond business administrator of an institution with covered bond obligations in any of the following cases:

- (a) The credit institution is insolvent;
- (b) a petition for winding up the credit institution is filed or a resolution for the voluntary winding-up of the credit institution is passed;
- (c) a petition for the appointment of a liquidator in relation to the credit institution is filed or a resolution for the appointment of a liquidator is passed;
- (d) the credit institution receives a notice for the appointment of

a receiver or manager within the meaning of Part VI of the Companies Law;

- (e) an application for the appointment of an inspector is presented in relation to the credit institution, in accordance with the provisions of the Companies Law;
- (f) the credit institution has failed to pay any amount in relation to covered bonds it has issued within ten (10) days after the amount fell due, unless the failure is attributable to administrative difficulties arising from circumstances that are outside the control of the credit institution;
- (g) the credit institution is deemed to be unable to pay its debts as provided by paragraphs (b) or (c) of section 212 of the Companies Law;
- (h) reorganisation measures are taken in relation to the credit institution in accordance with Part XIII of the Banking Laws of 1997 to (No. 2) 2009 or Part XIA of the Cooperative Societies Laws of 1985 to 2010, as the case may be;
- (i) the credit institution has announced its intention to merge by acquisition, merge by the establishment of a new company, break-up, or enter into a cross-border merger potentially falling under subsections (2), (4), (6), (9), (11) or (13) of section 34;
- (j) the competent authority considers the appointment of a covered bond business administrator necessary in order to safeguard the interests of -
 - (i) the holders of covered bonds issued by the credit institution;
 - (ii) persons who have rights under a hedging contract included in a cover pool maintained by the credit institution; or
 - (iii) other creditors of the credit institution.

(3) The competent authority shall appoint the cover bond business administrator with a decision, communicated in any manner the competent authority may consider appropriate.

(4) Without prejudice to the provisions of sections 61 and 62, where a person or assets or other form of property which are necessary for the fulfilment of the functions of the covered bond business administrator are situated outside the Republic, the covered bond business administrator may, with the prior consent of the competent authority, appoint agents or attorneys with appropriate powers and terms of reference.

Remuneration of the covered bond business administrator.

60. (1) An institution with covered bond obligations in respect of which a covered bond business administrator is appointed, shall pay to the administrator -

- (a) the remuneration set by the competent authority for performing the administrator's functions in relation to the conduct of the covered bonds business on behalf of the institution; and
- (b) the expenses the administrator incurs in carrying out his duties, including the salaries of persons the administrator employs.

(2) The covered bond business administrator may, through a legal action, claim the collection of any amount due and payable under subsection (1).

Effect of appointment of person as a covered bond business administrator.

61. (1) Upon his appointment the person appointed as a covered bond business administrator-

- (a) where no dissolution proceedings for the institution with covered bond obligations have been initiated, shall take over the management of the institution's covered bonds business;
- (b) where the institution with covered bond obligations is subject to dissolution proceedings, shall take over the control of the cover pool, notify the persons against whom the cover assets constitute an exposure of the institution with covered bond obligations and perform the business set out in Part VII.

(2) The covered bond business administrator shall inform within a specified period from the date of appointment and thereafter, depending on the circumstances, the competent authority and to the extent possible each cover pool creditor, of the measures he has taken or proposes to take in order to discharge the obligations of the institution with covered bond obligations towards the cover pool creditors.

(3) The covered bond business administrator shall perform any additional duties that the competent authority may either determine in terms of a Directive, or, in exceptional and urgent cases, set with a decision, which the competent authority communicates to the covered bond business administrator.

(4) The covered bond business administrator is subject to the supervision of the competent authority for all of his functions.

(5) If there is ground for the appointment of a covered bond business administrator arising from the provisions of paragraphs (a) to (h) of subsection (2) of section 59 and the institution with covered bond business is not subject to dissolution proceedings, the covered bond business administrator may insert in the cover pool an asset or a hedging contract only with permission of -

- (a) where the institution with covered bond obligations is a bank, the Court that would have jurisdiction for its winding-up in accordance with sections 209 and 210 of the Companies Law; or
- (b) where the institution with covered bond obligations is a cooperative credit institution, the Commissioner of the

CSSDA:

Provided that the insertion of an asset or hedging contract in the cover pool in accordance with this subsection before the making of a winding-up order remains valid.

Powers of the covered bond business administrator.

62. (1) The covered bond business administrator may, with the approval of the competent authority and of the covered bond holders as provided in the terms of the issue, require -

- (a) the immediate settlement of the covered bonds; or
- (b) The transfer of the covered bond business to another approved institution;

where he reasonably considers that following a potential initiation of dissolution proceedings the cover pool will not be adequate to fully cover the claims of the cover pool creditors.

(2) Subject to the provisions of subsection (1), the competent authority may confer further powers to the covered bond business administrator.

Vacation of office of a covered bond business administrator.

63. (1) The office of the covered bond business administrator becomes vacant when the administrator, if a natural person -

- (a) dies;
- (b) resigns from the office with a written notice to the competent authority;
- (c) is adjudged bankrupt or makes a compromise with his creditors;
- (d) is removed from office by the competent authority in accordance with the provisions of subsection (3);
- (e) is disqualified from being a director under any order issued under section 180 of the Companies Law;
- (f) is convicted for an offense involving fraud, dishonesty or breach of duty; or
- (g) is convicted for an offense punishable by imprisonment.

(2) The office of the covered bond business administrator becomes vacant when the administrator, if a legal person -

- (a) is insolvent;
- (b) resigns from office with a written notice to the competent authority;

- (c) is removed from office by the competent authority in accordance with the provisions of subsection (3); or
- (d) does not remove from office a director or manager who has been convicted for an offense involving fraud, dishonesty, breach of duty or punished by imprisonment.

(3) Notwithstanding subsection (1) and (2), the competent authority may, at any time, remove from office a covered bond business administrator due to breach or misconduct of his duties, with a decision, communicated in any manner the competent authority may consider appropriate.

Appointment of a new covered bond business administrator.

64. Where, by virtue of section 63, the office of the covered bond business administrator becomes vacant, the competent authority shall appoint a new person as covered bond business administrator.

Appointment of a temporary covered bond business administrator.

65. (1) Where the covered bond business administrator is a natural person and is temporarily unable to perform his duties because of absence or illness or other valid reason, the competent authority may appoint another person to act in that office for the period of absence or illness or other valid reason of the covered bond business administrator, with a decision, communicated in any manner the competent authority may consider appropriate.

(2) The competent authority may, at any time, remove from office a person appointed under subsection (1).

Liability of the covered bond business administrator.

66. The covered bond business administrator and any person who is officer, employee and agent of the covered bond business administrator shall not be liable in any action, suit or other legal proceedings for damages for anything done or omitted in the discharge of his duties and responsibilities of the covered bond business administrator under this Law, unless it is shown that the act or omission was not in good faith or was the result of gross negligence.

Termination of office of a covered bond business administrator.

67. (1) The competent authority shall terminate the appointment of the covered bond business administrator when -

- (a) all covered bond issues for which the administrator has been appointed are removed from the covered bonds register in accordance with section 17, and, where the institution with covered bond obligations is subject to dissolution proceedings, any surplus from the disposal of the cover pool is returned in accordance with the provisions of section 44; or
- (b) the reasons for an appointment of a covered bond business administrator no longer exist.

(2) The competent authority shall terminate the appointment of a covered bond business with a decision, communicated in any manner the competent authority considers appropriate.

PART X

MISCELLANEOUS

Prohibition of the use of the words "covered bonds".

68. (1) It is prohibited for any person that issues bonds and for any person providing services in connection with the issuance of bonds, to use in any script the words "covered bonds" or any grammatical variation of those words or any references to this Law and Directives issued thereunder, relating to the bonds to be issued or in connection with the services to be provided, other than an approved institution in respect of bonds to be issued under this Law and by any person providing services relating to such bonds with regard to these services.

(2) A person, who contravenes the provisions of subsection (1), is guilty of an offense which, on conviction, is punishable with imprisonment not exceeding two (2) years or a fine not exceeding three hundred fifty thousand euro (€ 350.000) or both these penalties.

(3) In case where, an offense is committed as provided for in subsection (1), by a legal person, any of its board members or directors who authorized or knowingly permitted the commission of the offense, is guilty of the offense.

General powers of the competent authority.

69. Without prejudice to other provisions of this Law conferring powers to the competent authority, the competent authority may -

- (a) where the institution with covered bond obligation fails to comply with any provision of this Law or of any Directive issued thereunder, require from the institution to take immediate remedial measures, as the competent authority may specify;
- (b) issue Directive for regulating any other issue in this Law that needs to be determined or may be determined.

Liability of the competent authority.

70. The competent authority and any person who is director or member of the committee of the CSSDA, or officer, or agent of the competent authority shall not be liable in any action, suit or other legal proceedings for damages for anything done or omitted in the discharge of the duties and responsibilities of the competent authority under this Law, unless it is shown that the act or omission was not in good faith or was the result of gross negligence.

Obligation of competent authorities to cooperate.

71. The Central Bank of Cyprus and the CSSDA shall cooperate and exchange information among themselves to ensure the coherence of the framework established under this Law and its uniform application to all credit institutions.

Fees.

72. The competent authority may, with a Directive, require the payment of fees-

- (a) from credit institutions applying for registration as approved institutions;

- (b) from approved institutions applying for registration of a bond in the covered bonds register; and
- (c) from institutions with covered bond obligations for the supervision and implementation of the provisions of this Law.

Notification of the insertion of an asset in the cover pool.

73. (1) An institution with covered bond obligations is not obliged to notify the insertion of an asset in the cover pool, to the person, against whom that asset constitutes an exposure of the credit institution, unless such a requirement is provided in its contractual obligations.

(2) The asset as provided for in subsection (1) shall constitute a cover asset in accordance with section 24, even if the institution with covered bond obligations fails to comply with the provisions of subsection (1).

Disclosure of information to authorised recipients.

74. (1) A person, as provided for in subsection (2), who discloses to an authorised recipient information relating to the covered bond business or a cover asset, is not liable for a civil or criminal offence to any person under the Banking Laws of 1997 to (No. 2) of 2009 or the Cooperative Societies Laws of 1985 to 2010 or any other law prohibiting disclosure of information, or for breach of contract in relation to such a disclosure, if the information was provided in good faith to enable the recipient to perform the duties imposed on the recipient by or under this Law.

(2) The following persons are authorised recipients for the purposes of subsection (1):

- (a) the competent authority;
- (b) a covered bond monitor appointed in relation to an institution with covered bond obligations under Part VIII;
- (c) a covered bond business administrator appointed in relation to an institution with covered bond obligations under Part IX;
- (d) officers, employees and agents of any person referred to in paragraphs (a) to (c);
- (e) an acquiring credit institution under Part VI;
- (f) a person, to whom information will be disclosed for the purposes of a business assumption or a proposed business assumption under Part VI, provided that that person is bound to a confidentiality duty in relation to information received from the transferor credit institution.

Exception from certain provisions of the Companies Law and the Bankruptcy Law.

75. (1) The provisions of sections 334 and 344 of the Companies Law shall not apply in relation to the covered bond business administrator.

(2) The charge created under paragraph (b) of section 16 is not a floating charge within the meaning given to that term in the Companies Law or any other law.

(3) The provisions of section 56 of the Bankruptcy Law shall not apply to a cover pool and to the powers of the covered bond business

administrator under subsection (7) of section 40.

(4) The provisions of section 62 of the Bankruptcy Law shall not apply on the part of the claims of the cover pool creditors in relation to which they are unsecured creditors of the institution with covered bond obligations under subsection (5) of section 43.

Reorganisation measures. 76. Reorganisations measures, under section 33 of the Banking Laws of 1997 to (No. 2) of 2009 or Part XIIA of the Cooperative Societies Laws of 1985 to 2010, taken in relation to an institution with covered bond obligations do not affect the claims of the cover pool creditors.

Priority of cover assets over underlying security. 77. (1) Notwithstanding the provisions of any other law in force in the Republic, where the security, guarantee, indemnity or insurance, as the case maybe, held by an institution with covered bond obligations or by a covered bond business administrator in connection with a cover asset counted in the cover pool adequacy criteria, as provided for in subsection (6) of section 18, is also held by a credit institution in connection with an asset not included in the cover pool, any amount resulting from the security, guarantee, indemnity or insurance, as the case maybe, shall be applied in priority to discharge the cover asset.

(2) The provisions of subsection (1) apply also in cases where -

- (a) the cover pool is sold to another approved institution, which assumes the obligations towards the cover pool creditors, in accordance with the provisions of this Law;
- (b) the asset not included in the cover pool, as referred to in subsection (1), is sold or transferred or otherwise comes to the possession of a third person.

Servicing of notices. 78. Where, under the provisions of this Law, a notice is required or permitted to be given to a person, the notice may be given -

- (a) where the person is a natural person, by personal delivery against receipt or by sending it by registered mail addressed to the person at the person's last known place of residence or business;
- (b) where the person is a legal person-
 - (i) by delivering it against receipt to a person who represents or appears to represent that person;
 - (ii) by delivering it against receipt at the registered office of that person, to a person employed at that office; or
 - (iii) by sending it by registered mail addressed to the registered office of that person.

Imposition of administrative fines.

79. (1) Where the competent authority, in the course of exercising its powers or responsibilities as provided for in this Law or the Directives issued thereunder, ascertains that any credit institution contravenes or fails to comply with any provision of this Law or the Directives issued thereunder, the competent authority, after calling the institution to state its defence, has the power to impose for each and every contravention an administrative fine not exceeding one hundred thousand euro (€100.000), depending on the seriousness of the contravention, and in the case of a continuing contravention the competent authority is additionally empowered to impose a further administrative fine, depending on the seriousness of the contravention, not exceeding ten thousand euro (€10.000), for each day during which the contravention continues.

(2) Where the competent authority, in the course of exercising its powers or responsibilities as provided for in this Law or the Directives issued thereunder, ascertains that any covered bond Monitor or covered bond business Administrator contravenes or fails to comply with any provision of this Law or of the Directives issued thereunder, the competent authority, after calling the covered bond Monitor or the covered bond business Administrator, as the case maybe, to state its defence, has the power to impose for each and every contravention an administrative fine not exceeding fifty thousand euro (€50.000), depending on the seriousness of the contravention, and in the case of a continuing contravention the competent authority is additionally empowered to impose a further administrative fine, depending on the seriousness of the contravention, not exceeding five thousand euro (€5.000), for each day during which the contravention continues.

Admission of covered bonds to trading in a market.

144(l) of 2007
106(l) of 2009.

80. Covered bonds may be admitted to trading in a regulated market or a multilateral trading facility, as these terms are defined in section 2 of the Investment Services and Activities and Regulated Markets Laws of 2007 and 2009, subject to the provisions of the laws and the rules governing the admission of securities to trading in the respective regulated market or multilateral trading facility.