Issue of covered bonds and covered bond public supervision

2018/0043(COD) - 26/11/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Bernd LUCKE (ECR, DE) on the proposal for a directive of the European Parliament and of the Council on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows.

Purpose: this proposal responds to the need to further develop covered bond markets across the Union and support cross-border investments. It lays down the following investor protection rules concerning:

- requirements for issuing covered bonds;
- the structural features of covered bonds;
- covered bond public supervision;
- publication requirements in relation to covered bonds.

In its resolution of 4 July 2017 entitled 'Towards a pan-European covered bonds framework', Parliament stressed the need to remove barriers to market access for issuers in emerging covered bond markets outside the European Economic Area by providing equitable treatment to covered bonds issued in third countries, provided that their legal, institutional and supervisory environment is subject to a rigorous equivalence assessment by a competent European institution.

Definitions: Members clarified the definition of a 'covered bond' to mean a debt obligation issued under public supervision by a credit institution or by a specialised mortgage credit institution and which is a dual recourse instrument, which is bankruptcy remote, for which the assets in the cover pool are segregated, and which is collateralised by eligible assets.

'Cover pool' means a clearly defined set of identifiable assets securing the payment obligations of the covered bond issuer until maturity of the covered bond and subject to legal arrangements ensuring that those assets will be segregated from other assets held by the credit institution issuing covered bonds at the latest when resolution or insolvency proceedings have been opened in respect of the covered bond issuer.

Cover assets for ordinary covered bonds: the amending Directive shall allow the issuance of covered bonds secured by high quality cover assets to use a special label European Covered Bonds when selling covered bonds to EU or third country investors, provided that these covered bonds comply with the requirements set out in the directive.

The amended text specifies that if covered bonds also comply with the requirements set out in Article 129 of Regulation (EU) No 575/2013 (Capital Requirements Regulation or CRR), credit institutions shall be allowed to use the label European Covered Bonds (Premium). That label, indicating a particularly high and well-understood quality, might be attractive even in Member States with well-established national labels. The two European Covered Bonds labels make it easier for those investors to assess the quality of the covered bonds and hence make them more attractive as an investment vehicle both inside and outside the Union.

The use of those labels should however be facultative and Member States should be able to keep their own national denominations and labelling framework in place in parallel to the 'European Covered Bonds' labels.

Member States shall establish rules to ensure that the right to claim for payment and collateral assets comply with a series of legal requirements listed in the amended Directive. The conditions imposed by Member States to mitigate risks are also specified.

The European Banking Authority (EBA) shall develop draft regulatory technical standards further specifying for each class of primary assets of a cover pool: (i) the minimum number of distinct cover pool assets that ensures sufficient granularity; (ii) the absence of material concentration, as a percentage of aggregate exposure not to be exceeded by any exposure to a single obligor.

Under the amended Directive, Member States:

- allow the joint funding of covered bonds by several credit institutions provided the jointly funded covered bond is issued by a single credit institution (the lead institute);
- lay down rules providing for a sufficient level of homogeneity of the assets in the cover pool so that they shall be of a similar nature in terms of the type of collateral backing the claims in the cover pool;
- ensure that derivative contracts can be included in the cover pool, where derivatives are part of the cover pool at least certain requirements should be met;
- lay down rules regulating the segregation of assets in the cover pool;
- ensure investor protection by requiring that the cover pool includes at all times a liquidity buffer composed of liquid assets available to cover the net liquidity outflow of the covered bond programme.

Member States shall ensure that the label European Covered Bond and its translation in all official languages of the Union is only used for covered bonds which meet the requirements laid down in the provisions transposing this Directive and that comply with the criteria set out in Article 129 of Regulation (EU) No 575/2013.