



EUROPEAN COMMISSION

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Dear Chair,

The Commission would like to thank the Assembleia da República for its Opinions on the proposal for a Regulation of the European Parliament and of the Council on amending Regulation (EU) No 575/2013 as regards exposures in the form of covered bonds {COM(2018) 93 final} and 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 {COM(2018) 94 final}.

The Commission welcomes the support of the Assembleia da República for an action at the level of the European Union on the covered bonds legislative structure in the framework of the objectives of the Capital Markets Union.

The proposed legislative measures on covered bonds are based on Article 114 of the Treaty on the Functioning of the European Union, which enables the European institutions to lay down appropriate provisions that have as their objective the establishment and functioning of the internal market. The proposed legislation suggests dealing with the functioning of covered bond markets as part of the general legislation on the functioning of financial markets.

The two proposed instruments – a Directive and a Regulation – constitute a framework and should be assessed as a package.

The proposed Directive provides a common definition and specifies the core elements of covered bonds. It therefore serves as a consistent and detailed reference for the prudential treatment of covered bonds, applicable across financial sectors. The proposed Directive defines the technical features of the instrument, a public supervision regime specific to covered bond, rules for the use of the 'European Covered Bonds' label and competent authorities' publication obligations in the field of covered bonds.

*Ms Regina BASTOS
Chair of the European Affairs Committee of
the Assembleia da República
Palácio de S. Bento
P - 1249-068 LISBOA*

*cc. Mr Eduardo FERRO RODRIGUES
President of the
Assembleia da República
Palácio de S. Bento
P - 1249-068 LISBOA*

The proposed Regulation would mainly amend Article 129 of Regulation (EU) No 575/2013 (Capital Requirements Regulation). The proposed amendments build on the current prudential treatment of covered bonds but add requirements on minimum over collateralisation and substitution assets. They would strengthen the requirements for covered bonds to be granted preferential capital treatment.

Because the technical features of covered bonds are currently determined mainly at national level, the preferential treatment under Union law is effectively granted to different types of products. Action at the level of the European Union is needed to establish a common framework for covered bonds across the Union, thereby ensuring that their structural characteristics are aligned with the risk features justifying Union preferential treatment. It is equally necessary to develop covered bond markets across the Union and support cross-border investments in the light of the objectives of the Capital Markets Union.

Furthermore, minimum harmonisation based on national regime should allow achieving most of the objectives of this initiative at a reasonable cost. This strikes a balance between the need for flexibility to accommodate Member States' specificities, and the goal of keeping the necessary coherence at Union level. It will be effective in achieving these objectives, while at the same time minimising disruption and transition costs. A fundamental aim of the Commission's approach with this package is to avoid disrupting well-functioning and mature national markets while incentivising a wider use of covered bonds.

When designing the measures envisaged by the proposed legislative acts, the Commission included provisions on grandfathering existing covered bonds in order to reduce costs for issuers and for markets. As the impact assessment accompanying the proposals shows, the expected costs can be deemed proportionate in relation to the expected benefits.

Harmonised rules on covered bonds would enhance financial stability in the Union and provide investors with a wider and safer range of investment opportunities. Member States would have to transpose the Directive, ensuring that national covered bond frameworks comply with the principles-based requirements set out in the proposal. All covered bonds across Europe would therefore have to respect the minimum harmonisation requirements. Furthermore, an enabling framework for covered bonds at the level of the European Union would enhance their use as a stable and cost-effective source of funding for credit institutions, especially where markets are less developed, in order to help finance the real economy in line with the objectives of the Capital Markets Union.

The proposals are now in the legislative process involving the European Parliament and the Council. The European Parliament called for a European legislative framework on covered bonds in its Resolution of 4 July 2017 on the report 'Towards a pan-European covered bonds framework' (2017/2005(INI)).

The Commission looks forward to continuing the political dialogue with the Assembleia da República in the future.

Yours faithfully,

*Elżbieta Bieńkowska
Member of the Commission*