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Table of Contents

1.	Motivation for CRE reporting	3
1.1	Introduction	3
1.2	Background	3
1.3	Legal basis	3
1.4	Delineation of commercial real estate	3
2.	Reporting agents and observed agents	5
2.1	General concepts	5
2.1.1	The concept of a credit institution	5
2.1.2	The concept of an institutional unit	5
2.1.3	Institutional units of credit institutions	6
2.1.3.1	The domestic part of credit institutions	6
2.1.3.2	Foreign branches of credit institutions	6
2.1.4	Subsidiaries of credit institutions	8
2.2	Reporting and observed agents in CRE reporting	9
2.2.1	The distinction between the reporting population and the reference population	9
2.2.2	Reporting agents	9
2.2.3	Observed agents	10
2.3	Use of thresholds to determine CRE reference population	11
2.4	Reporting obligations of reporting agents	11
2.4.1	Changes in the population of reporting agents	11
2.4.2	Reporting standard to be applied by reporting agents	11
2.4.3	Relevant accounting standards	11
2.4.4	Counterparty identifiers related to reporting and observed agents	11
2.4.5	Overview of total CRE exposures	11
3.	Counterparties in CRE reporting	12
3.1	Identification of counterparties relevant in CRE reporting	12
3.2	Counterparties involved in instruments	13
3.2.1	Debtor	13
3.2.1.1	Type of debtor in CRE reporting	14
3.2.2	Creditor	14
3.2.2.1	Observed agent acting as creditor	15
3.2.3	Servicer	15
3.2.4	Originator	16
3.2.5	Protection provider	16
4.	Instruments covered in CRE reporting	18
4.1	Identification of instruments in the context of CRE reporting	18
4.2	The notion of contract and instrument	19
4.2.1	Contract	19
4.2.2	Instrument	19
4.1.2.1	Credit limits and outstanding balances	20
4.2.3	Type of instrument	20
4.3	Acting as creditor or servicer	21
4.4	Activities of an observed agent	23
4.4.1	The activity of the observed agent as creditor	23
4.4.2	The activity of the observed agent as servicer	24
4.5	Instruments relevant for the activity as creditor	24
4.5.1	Instruments that are assets of the observed agent	24
4.5.2	Instruments not recognised under the relevant accounting standard	24
4.6	Instruments relevant for the activity as servicer but not as creditor	24
4.6.1	Not reporting serviced instruments to avoid double reporting	25
4.6.2	Securitised or otherwise transferred instruments except synthetic securitisations	25
4.7	Other instrument-related aspects for consideration	25
4.7.1	Instruments recorded on the liabilities side of the balance sheet	25
4.7.2	Instruments that are not eligible	26

4.7.3	Instruments comprising off-balance sheet amounts	26
4.6.3.1	The off-balance sheet amount in relation to credit limits	26
4.6.3.2	Criteria for reporting instruments in the case of a credit cross-limit structure	27
4.6.3.3	The off-balance sheet amount in relation to building deposits	28
4.7.4	The commencement of the reporting of an instrument	28
5.	Criteria triggering the reporting obligation	28
5.1	Criteria triggering reporting as of a reporting reference date	28
5.2	Eligible instruments for CRE reporting	29
5.2.1	Written-off loans and other instruments that are not recognised	31
6.	Other general aspects	32
6.1	Collection strategy and relation with AnaCredit and RRE	32
6.2	Planning for CRE reporting	32
6.3	Currency conversion	32

1. Motivation for CRE reporting

1.1 Introduction

This Manual presents detailed information and guidance concerning the commercial real estate (CRE) reporting requirements set out by De Nederlandsche Bank (DNB). The Manual explains the methodology underpinning data collection and the data model, and includes guidance on the preferred approach that may be taken by reporting institutions in cases where there is room for different interpretations.

1.2 Background

Over the last years, commercial real estate (CRE) financing has been identified as an activity that can create risks for the financial sector at large and for individual institutions. De Nederlandsche Bank (DNB) has highlighted and analyzed the risks of the commercial real estate market on various occasions, including the commercial real estate Asset Quality Review (AQR) in 2013 and the OFS reports (e.g. autumn 2015).

Until April 2018 there was no structural report that specifically focuses on CRE financing by Dutch banks. Therefore, DNB lacked valuable insights into the market and the risks for these kinds of loans. In 2016, DNB started an ad-hoc CRE loan level data (LLD) survey to fill these data gaps. This CRE-LLD survey, which has taken place every six months, has delivered valuable information on the commercial real estate portfolios held by Dutch banks and has enabled DNB to monitor the developments in this market more closely.

Moreover, the European Systemic Risk Board (ESRB) has issued a Recommendation on closing real estate data gaps in 2016, henceforth referred to as the ESRB Recommendation¹. The ESRB recommends national macro prudential authorities to monitor risks in both the residential and the commercial real estate sector through a set of indicators. To construct these indicators, new data need to be collected². DNB is the macro prudential authority in the Netherlands.

3

To make data on the commercial real estate portfolios held by Dutch banks structurally available in a comparable manner, the CRE reporting was introduced in 2019. The methodology used by DNB for the CRE reporting is based on a logical data model (LDM) and a data delivery agreement (DDA). This same approach has also been followed for the Dutch implementation of AnaCredit and the residential real estate (RRE) reporting.

1.3 Legal basis

The legal basis for CRE reporting lies in the Bankwet 1998 (Article 9d) and Uitvoeringsbesluit Bankwet 1998 (Article 1 and 2). These pieces of legislation ensure that DNB is empowered to collect data from financial institutions to further the stability of the financial system; an official task of DNB as a central bank. DNB is also allowed to share these data with other parts of its organization, notably those tasked with the supervision of banks.

1.4 Delineation of commercial real estate³

Commercial real estate for the sake of CRE reporting is largely delineated as in the ESRB Recommendation, with a few exceptions. According to the recommendation, commercial real estate is defined as (bold emphasis indicates important identifying characteristics)

“**any** income-producing **real estate**, either **existing** or **under development**, and excludes:

- (a) **social** housing;
- (b) property **owned by end-users**;

¹ Recommendation of the European Systemic Risk Board of 31 October 2016 on closing real estate data gaps (ESRB/2016/14).

² The related Residential Real Estate (RRE) reporting to DNB aims to make data available for monitoring residential real estate risks.

³ In 2019 a new version of the CRE definition has been released by the ESRB (ESRB/2019/3). DNB will adopt this broader definition in a future CRE model release. Reporting banks will be consulted about the implementation of this definition in due course.

(c) **buy-to-let housing**⁴

If a property has a **mixed CRE and RRE use**, it should be considered as **different properties** (based for example on the surface areas dedicated to each use) whenever it is feasible to make such breakdown; otherwise, the property can be classified according to its **dominant use**.⁵

DNB follows this definition as close as possible for CRE reporting, with the following adjustment:

- The exact treatment of real estate under construction (or development) is unclear in the definition above. DNB considers any real estate under construction (and to be sold later) to be in scope for CRE reporting, except when it is a dwelling that is to be sold to an end-user (e.g. a household).

Chart 1 below shows which real estate properties should be regarded as commercial for the sake of CRE reporting. In the chart all boxes shaded in blue correspond to the definition of commercial real estate used by DNB. However, in order to simplify the implementation of the new real estate DNB reporting frameworks, properties shaded in light blue are to be included in RRE reporting instead of CRE reporting. Note that Section 4 of this manual delineates which instruments related to CRE should be reported.

Chart 1. Delineation of commercial real estate (CRE) for the sake of CRE reporting

Activities \ Assets	Residential properties		Non-residential properties	
Selling and renting of real estate	Rental housing Residential properties rented at market rents	<i>of which:</i> Owned by households (buy-to-let)	Investment properties Non-residential properties sold at market values of rented at market rents	<i>of which:</i> Owned by households
Construction of buildings	Residential buildings under construction on own account for sale or on a fee or contract basis	<i>of which:</i> For use by owner-occupiers	Non-residential buildings under construction on own account for sale or on a fee or contract basis	<i>of which:</i> Owned by households
Own use	Owner-occupied housing Residential properties used as residences (dwellings)		Corporate properties Non-residential properties used in the production of goods and services (other than real estate) sold at market prices	
Non-market	Social housing Residential properties rented below market rents		Other non-residential properties Non-residential properties used in the production of goods and services sold below market prices or provided for free	

4

Several clarifications regarding the identification of CRE:

- Real estate is income producing when it is either meant to be sold or rented out and thus generating an income.
- Real estate property under construction is also in scope. Real estate is under construction when building activities are taking place or meant to take place on the property.
- Residential⁶ construction projects are often financed by the prospective owner-occupier, in which case the loan collateralized by the (future) property is made to a household. Such loans are excluded from CRE reporting.
- Non-residential properties owned by households are regarded as CRE. However, to keep as a clear a distinction as possible between the real estate reports all real estate

⁴ Buy-to-let housing means any residential real estate directly owned by households with the primary aim to be rented out to tenants. Instruments related to buy-to-let activities are to be reported in RRE reporting. More information about the reporting requirements for these loans can be found in the DNB RRE Reporting Manuals.

⁵ For more background on this definition, see also Mehrhoff (2017), [What is 'commercial property'?](#), IFC Bulletin no 46, December, Bank for International Settlements and Eurostat (2017), [Commercial property price indicators: sources, methods and issues](#).

⁶ A dwelling or residential real estate is generally defined as a self-contained unit of accommodation used by one or more households as a home. As defined in ESA 2010, dwellings are "buildings that are used entirely or primarily as residences, including any associated structures, such as garages, and all permanent fixtures customarily installed in residences."

- collateral (residential and non-residential) owned by households is in scope of RRE reporting, instead of CRE reporting.
- Real estate collateral that is owner-occupied is not in scope of CRE reporting.
 - Loans collateralized by owner-occupied residential real estate are in scope of RRE reporting.
 - Real estate collateral other than housing (e.g. offices, industrial, retail real estate), but owner-occupied, is considered as corporate real estate and is also not in scope of CRE reporting. Generally, loans collateralized by such real estate are in scope of AnaCredit.

2. Reporting agents and observed agents

The first section of this chapter discusses the scope of reporting in terms of entities subject to reporting, which form the reporting population. The second section addresses the scope of reporting in terms of the reference population and provides a detailed description of institutional units and observed agents. Finally, the third section describes the reporting obligations of reporting agents, where the meaning of reporting on an individual basis and the use of special reporting values are explained.

2.1 General concepts

2.1.1 The concept of a credit institution

A credit institution has the same meaning as defined in Article 4(1)(1) of Regulation (EU) No 575/2013 (hereinafter referred to as "the CRR"). Article 4(1)(1) of the CRR defines a credit institution as "an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account". Subsidiaries of credit institutions which meet the above-mentioned definition of a credit institution are credit institutions in their own right.

2.1.2 The concept of an institutional unit

5

In line with the organisation of AnaCredit reporting, the CRE reporting uses the concept of an institutional unit. An institutional unit has the same meaning as defined in paragraphs 2.12 and 2.13 of Annex A to Regulation (EU) No 549/2013 of the European Parliament and of the Council (hereinafter referred to as "ESA 2010").

Box 1 - Paragraph 2.12 of Annex A to Regulation (EU) No 549/2013

Definition: an institutional unit is an economic entity characterised by decision-making autonomy in the exercise of its principal function. A resident unit is regarded as constituting an institutional unit in the economic territory where it has its center of predominant economic interest if it has decision-making autonomy and either keeps a complete set of accounts, or is able to compile a complete set of accounts.

To have autonomy of decision in respect of its principal function, an entity must be:

- (a) entitled to own goods and assets in its own right; it will be able to exchange the ownership of goods and assets in transactions with other institutional units;
- (b) able to take economic decisions and engage in economic activities for which it is responsible and accountable at law;
- (c) able to incur liabilities on its own behalf, to take on other obligations or further commitments and to enter into contracts; and
- (d) able to draw up a complete set of accounts, comprised of accounting records covering all its transactions carried out during the accounting period, as well as a balance sheet of assets and liabilities.

Accordingly, an institutional unit may consist of a single branch office or several branch offices in different locations of the same country. There may only be one institutional unit in any given country. The term institutional unit is a central concept of CRE reporting, all counterparties required to be reported for CRE reporting are defined as institutional units.

2.1.3 Institutional units of credit institutions

A credit institution consists of one or more institutional units. A distinction is made between the domestic part of a credit institution and its foreign branches. A credit institution always comprises the domestic part of a credit institution. If a credit institution also conducts business in countries other than the country in which it is established, the credit institution also comprises foreign branches.

2.1.3.1 The domestic part of credit institutions

The headquarters and all branch offices of a credit institution which are located in the same country in which the credit institution is established are jointly referred to as the domestic part of the credit institution. The domestic part of a credit institution is one institutional unit which consists of the headquarters and the domestic branch offices.

In the context of CRE reporting, the counterparty identifier of the domestic part of a credit institution uniquely identifies the head office undertaking of the credit institution. The domestic part of a credit institution is the only institutional unit of the credit institution in the country where the credit institution is established. Box 2 presents an example in which a credit institution consists only of the domestic part.

Box 2 - Institutional unit – a credit institution consisting only of the domestic part

The concept of the domestic part of a credit institution is illustrated using the example of a credit institution with several branch offices in the Netherlands. The credit institution is established in the Netherlands and has no branch offices outside the Netherlands. A credit institution consists of the headquarters in the Netherlands (i.e. the chief administrative office) and several branch offices in different locations in the Netherlands. The headquarters together with all the branch offices form one institutional unit (i.e. the domestic part), which coincides with the credit institution.

2.1.3.2 Foreign branches of credit institutions

A foreign branch is an institutional unit which is a legally dependent part of a legal entity resident in a different country to that where the legal entity is incorporated. Accordingly, a foreign branch

of a credit institution is an institutional unit of a credit institution which is a legally dependent part of the credit institution and is located in a country other than the country in which the credit institution is established.

Foreign branches of credit institutions are not credit institutions in their own right. A foreign branch of a credit institution is not a legal entity but a legally dependent part of a legal entity. Furthermore, a foreign branch is defined in accordance with the concept of a "single branch" referred to in Article 2(3) of Regulation (EC) No 2533/98. Accordingly, a credit institution can have only one foreign branch in a given country.

Please note that any number of branch offices (i.e. individual places of business as defined under Article 4(1)(17) of the CRR) set up in the same country by a credit institution with its headquarters in another country should be regarded as a single foreign branch.

Box 3 - The concept of a "single branch" foreign branch of a credit institution

The concept of a "single branch" is illustrated using the example of a credit institution with branch offices in Germany. A credit institution with its headquarters in the Netherlands maintains several branch offices in Germany. In the context of CRE, these branch offices together form a single foreign branch.

Irrespective of the number of branch offices, there can only be one foreign branch of a credit institution in the same country.

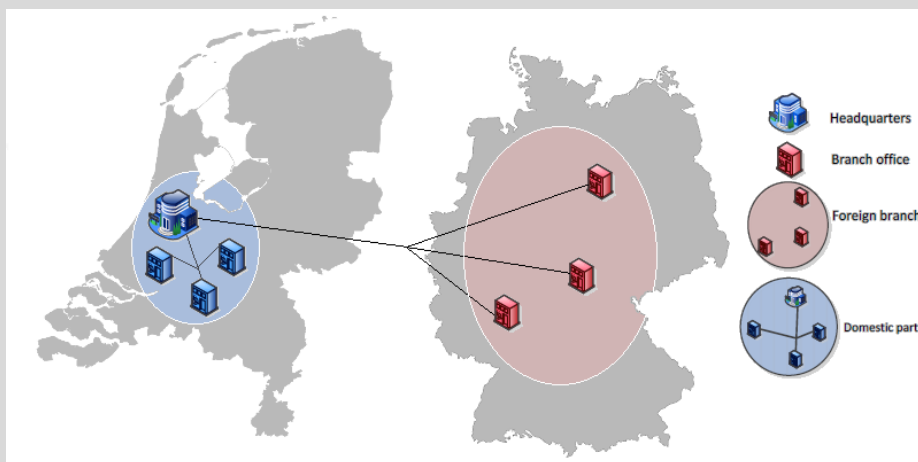
A foreign branch forms only one institutional unit. There can be no more than one foreign branch of a credit institution in a given country.

If a credit institution headquartered outside the Netherlands conducts its business in the Netherlands through both a branch office and a subsidiary, the subsidiary does not belong to the foreign branch of the credit institution. In other words, a foreign branch and a subsidiary of the same credit institution, both conducting banking business in the same country, are two separate entities.

Box 4 presents an example of a credit institution which consists of the domestic part and a foreign branch by means of which the credit institution conducts its business in two different countries.

Box 4 - Institutional unit – a credit institution consisting of the domestic part and a foreign branch

The concept of the domestic part (of a credit institution) versus a foreign branch is illustrated using the example of a credit institution comprising headquarters located in the Netherlands and several branch offices in different locations in the Netherlands and Germany.



In this case, the credit institution consists of two institutional units:

- the headquarters together with all the branch offices in the Netherlands form one institutional unit (the domestic part of the credit institution);
- the branch offices in Germany form another institutional unit (a foreign branch) in Germany.

2.1.4 Subsidiaries of credit institutions

A subsidiary of a (parent) credit institution does not form an institutional unit of the parent credit institution. A subsidiary is a legal entity in its own right with its own institutional units.

As subsidiaries form a legal entity in its own right, the concept of “single branch” cannot be extended to them. Therefore, if a credit institution has two or more subsidiaries in a country, these subsidiaries are separate entities and together do not form an institutional unit.

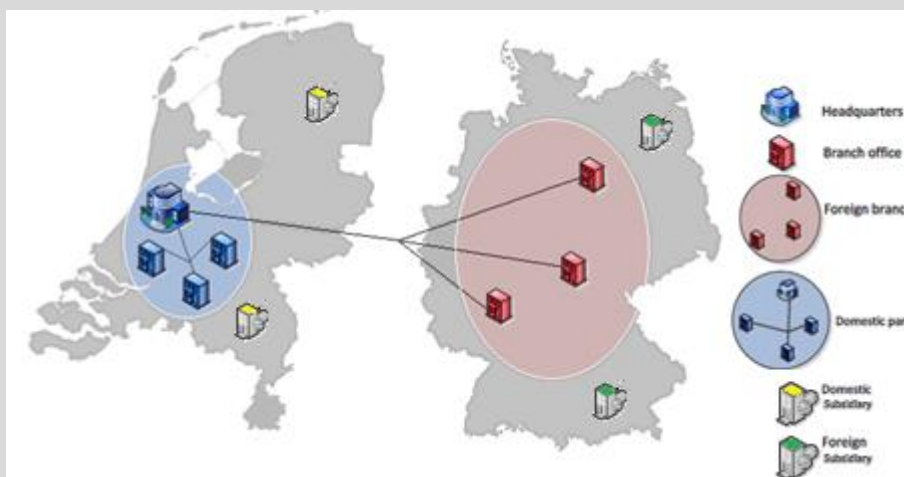
Box 5 below presents an example of a credit institution which consists of the domestic part and a foreign branch. In addition, the credit institution also has two domestic subsidiaries and two foreign subsidiaries.

Box 5 – Domestic and foreign subsidiaries of a credit institution

The concept of local and foreign subsidiaries of a credit institution is illustrated using the example of a credit institution comprising:

- headquarters located in the Netherlands,
- several branch offices in different locations in the Netherlands and Germany.

The credit institutions also has subsidiaries located in the Netherlands and Germany.



In this case, the credit institution consists of two institutional units:

- the headquarters together with all the branch offices in the Netherlands form one institutional unit (the domestic part of the credit institution);
- the branch offices in Germany form another institutional unit (a foreign branch) in Germany.

In addition, the domestic and foreign subsidiaries of the credit institution are independent legal entities.

2.2 Reporting and observed agents in CRE reporting

2.2.1 The distinction between the reporting population and the reference population

The CRE data model distinguishes between the population of reporting agents (the reporting population) and observed agents (the reference population). In theory, the distinction between these two types of agents facilitates the identification of commercial real estate instruments granted by the domestic part of the credit institution, by the foreign branches of the credit institutions in specific countries and by the domestic and foreign subsidiaries of the credit institution.

2.2.2 Reporting agents

The CRE reporting requirements are to be fulfilled by a selected group of reporting agents resident in the Netherlands and overseas⁷. The following entities are subject to the CRE reporting requirements:

⁷ The definite list of reporting agents will be shared with the involved banks.

- a) credit institutions under Article 4(1)(1) of the CRR resident in the Netherlands (i.e. a credit institution which has its legal entity (i.e. headquarters) established in the Netherlands);
- b) domestic subsidiaries of credit institutions resident in the Netherlands under Article 4(1)(1) of the CRR;
- c) foreign subsidiaries of credit institutions resident in the Netherlands under Article 4(1)(1) of the CRR⁸.

Credit institutions that are resident in the Netherlands are referred to as resident credit institutions. Resident credit institutions and their domestic and foreign subsidiaries are obliged to report regardless of whether or not they are supervised under Directive 2013/36/EU of the European Parliament and of the Council (hereinafter referred to as "the CRD IV").

Resident credit institutions and their domestic and foreign subsidiaries that are subject to CRE reporting are jointly referred to as reporting agents. All reporting agents are jointly referred to as the reporting population.

In comparison to the current scope of AnaCredit and the Residential Real Estate reporting (RRE), foreign subsidiaries of resident credit institutions are CRE reporting agents and report data on their own activity as creditor or servicer.

Moreover, the scope of the new CRE reporting **is not only limited** to subsidiaries which are themselves credit institutions, but it also includes other financial corporations.

In order to reduce the burden on reporting agents, DNB has decided to introduce a threshold to determine whether or not subsidiaries and branches of resident credit institutions are subject to CRE reporting. Reporting agents have been informed about the value of the threshold and how this has been applied.

10

2.2.3 Observed agents

An observed agent is an institutional unit whose activity as creditor or servicer is reported by the reporting agent. The observed agent is:

- a) the domestic part of the reporting agent, i.e. the institutional unit resident in the same country as the reporting agent of which it forms part; or
- b) a reporting agent's foreign branch, resident in an AnaCredit reporting Member State; or
- c) a reporting agent's foreign branch, non-resident in an AnaCredit reporting Member State⁹.

In comparison to the current scope of the implementation of AnaCredit in the Netherlands, reporting agent's foreign branches, non-resident in an AnaCredit reporting Member State are also considered observed agents for CRE reporting. In order to reduce the burden on reporting agents, DNB has decided to introduce a threshold to determine whether or not data on a reporting agent's foreign branch, non-resident in an AnaCredit reporting Member State has to be submitted for CRE reporting. Reporting agents have been informed about the value of the threshold and how this has been applied.

Each reporting agent must report granular data relating to commercial real estate instruments granted or serviced by the reporting agent's observed agents. All observed agents combined are referred to as the reference population.

⁸ Up to and including reporting period Q3 2019 foreign subsidiaries are exempt from CRE reporting obligations. More information on the planning of the CRE reporting is provided in Section 6.2.

⁹ Up to and including reporting period Q3 2019 reporting agents are exempt from reporting data on the activities of their foreign branches which are not resident in an AnaCredit reporting Member State. More information on the planning of the CRE reporting is provided in Section 6.2.

An observed agent is always related to a reporting agent. Depending on the reporting agent itself, there may be just one or several observed agent(s) affiliated with the reporting agent. The number of observed agents that a reporting agent has, is exactly the same as the number of institutional units of the reporting agent falling in the perimeter of the reports.

2.3 Use of thresholds to determine CRE reference population

Taking into consideration the reporting burden associated with the implementation of the new CRE reporting, DNB has decided to introduce thresholds to determine the CRE reference population (i.e. reporting agents and observed agents together). Data reported for reference period Q2 2018 has been used to apply the thresholds. Reporting agents have been informed about the CRE reference population after the application of the reporting thresholds. No changes to the thresholds, nor to the reference population have been made ever since,

Any future changes in the methodology to determine the CRE reference population will be communicated to the reporting agents due course.

2.4 Reporting obligations of reporting agents

2.4.1 Changes in the population of reporting agents

A change in the population of reporting agents occurs whenever a credit institution is established or ceases to exist (i.e. as the result of a merger or takeover, the split of an existing credit institution, the establishment of a brand new credit institution, a change in status from a deposit-taking corporation to a credit institution, or the liquidation of a credit institution or foreign branch).

2.4.2 Reporting standard to be applied by reporting agents

When fulfilling the reporting obligations, reporting agents should comply with certain reporting standards regarding e.g. deadlines, data quality, special values to be reported and technical specifications. These standards will be made available in a separate document, the Data Delivery Agreement.

11

2.4.3 Relevant accounting standards

In case the observed agent's legal entity is subject to Regulation (EU) 2015/534 on reporting of supervisory financial information (ECB/2015/13), the data are reported in accordance with either International Financial Reporting Standards (IFRS) or national generally accepted accounting principles (GAAP) – depending on which standards are applied by the legal entity to report its individual FINREP templates to the supervisor. The same accounting standards should be applied to CRE reporting.

2.4.4 Counterparty identifiers related to reporting and observed agents

CRE reporting requires that the reporting agent which reports the data as well as the observed agent whose activity as creditor or servicer is reported, be uniquely identifiable. For this reason, all the data reported include the identifier of the reporting agent and the observed agent.

2.4.5 Overview of total CRE exposures

The ultimate parent of CRE reporting agents is required to submit to DNB a complete overview of total CRE exposures at each quarter-end. This overview should have a full breakdown by type of entity presenting the individual exposures of branches and subsidiaries, both domestic and foreign.

The overview is to be submitted as an accompanying document via the CRE mailbox cre@dnb.nl. The deadline for submitting the file is the same as the deadline of the CRE report.

3. Counterparties in CRE reporting

This section describes counterparties in the context of CRE reporting and provides definitions of both counterparties directly involved in instruments and counterparties acting as protection providers.

3.1 Identification of counterparties relevant in CRE reporting

In the context of CRE reporting, 'counterparty' means an institutional unit that has a relation to an instrument and/or to a protection received. In the CRE reporting, an institutional unit can be either a legal entity or a quasi-corporation¹⁰. All counterparties which take one or several of the following roles are relevant counterparties and should be registered in the CRE report:

- the debtor of the instrument;
- the creditor of the instrument;
- the servicer of the instrument;
- the originator of the instrument on the condition that the instrument is subject to securitization;
- the protection provider of the instrument (on the condition that a protection has been received related to the instrument);
- the immediate parent undertaking of any debtor of the instrument, or of any protection provider that provides protection to the instrument;
- the ultimate parent undertaking of any debtor of the instrument, or of any protection provider that provides protection to the instrument.

While a counterparty may take one or more of these roles in relation to one or more instruments as at a given reporting reference date, each counterparty and its reference data should only be registered in the CRE report once as at the reporting reference date. See Box 6 below for an illustration of multiple counterparty roles.

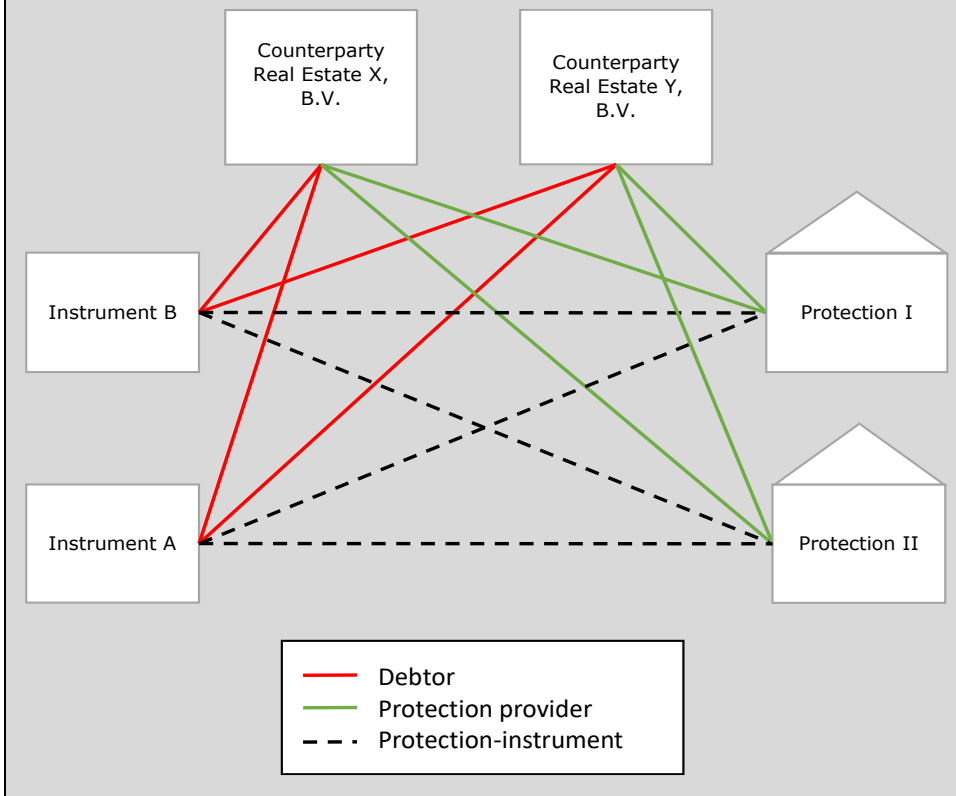
12

¹⁰ According to ESA 2010 quasi-corporations "are entities which keep a complete set of accounts and have no legal status. They have an economic and financial behaviour that is different from that of their owners and similar to that of corporations. They are deemed to have autonomy of decision and are considered as distinct institutional units."

Box 6 – Illustration of multiple counterparty roles

A counterparty can act as debtor or protection provider for multiple instruments. Moreover, an instrument can also have multiple counterparties. This can lead to multiple debtor-instrument-protection relationships. The example below shows the relatively simple case of two debtors, two protection providers and two protections. We can see that the counterparties take both the role of the debtor and the role of protection provider.

This example also contains joint liability: the counterparties are jointly liable for both instruments, and the protections, which are jointly owned by the counterparties, are also pledged as collateral for both instruments. For an illustration and distinction of debtor and protection provider, see Box 8 below.



3.2 Counterparties involved in instruments

3.2.1 Debtor

The debtor is defined as the counterparty which has the unconditional obligation to make repayments arising under the instrument. Consequently, the debtor is the counterparty that generated the credit risk of an instrument for the creditor.

Accordingly, any counterparty which is unconditionally obliged to make payments under an instrument qualifies as a debtor.

In general, the (original) creditor has provided funds to the debtor or has confirmed to the debtor in legally binding terms that it will make funds available to the debtor under the assumption (enforced by contract) that the debtor will return equivalent funds (and interest payments).

An instrument may have one or more debtors from which the creditor has the right to receive a payment or a series of payments.

If there are several debtors of the same instrument, a plurality of debtors occurs. More specifically, a plurality of debtors occurs when two or more counterparties have the unconditional obligation to make repayments arising under the same instrument, irrespective

of whether each debtor is (a) fully or (b) partially liable for the instrument. In the context of CRE reporting, debtors are fully or partially liable debtors when they unite, by contract, in making repayment arising under the same contract. Whether a case of fully or partially liable debtors is present depends on the terms in the contract regulating the obligation. In the case of a plurality of debtors, all the debtors should be identified.

3.2.1.1 Type of debtor in CRE reporting

Whether or not an instrument held or serviced by the observed agent is subject to CRE reporting partly depends on the type of debtor of the instrument¹¹. Instruments in which debtors are not classified as households according to the definition of ESA sector 'households' (S.14) are subject to CRE reporting. The households sector (S.14) consists of individuals or group of individuals as consumers and as entrepreneurs producing market goods and non-financial and financial services (market producers), provided that this production of goods and services is not by separate entities treated as quasi-corporations. It also includes individuals or groups of individuals as producers of goods and non-financial services for exclusively own final use¹².

Regarding partnerships, an exception has to be made for large independently operating corporations without an independent legal status (i.e. quasi-corporations), for example large shipping companies. This kind of partnerships should be included in the scope of CRE reporting because they have an economic and financial behavior that is different from that of their owners and similar to that of corporations. A typical characteristic of such partnerships is that one or all of their partners are not natural persons but legal persons themselves (e.g. a BV or NV). Therefore, in CRE reporting instruments where the only debtor, or at least one of the debtors, is 1) a legal entity or part of legal entity and/or 2) a quasi-corporation are subject to reporting^{13,14}.

Over time, the debtor of an instrument might change. For example, when the original debtor of the instrument defaults on the instrument, the guarantor of the instrument (protection provider) must step in and take over the obligations related to the instrument. In that case, the claim of the creditor changes to a different counterparty: the former protection provider now becomes the debtor of the instrument. Box 8 below illustrates this situation.

Furthermore, a change in the debtor of an instrument also occurs when a debtor ceases to exist (e.g. takeover, merger, bankruptcy), and the instrument is taken over by another counterparty. In these cases, the reporting agent should reassess whether the instrument is eligible for reporting under the CRE framework. The purpose of the loan, the type of debtor, but also other criteria (see Section 4) should be taken into account in this process.

3.2.2 Creditor

A creditor in CRE reporting is the counterparty bearing the credit risk of an instrument other than a protection provider, i.e. the creditor is the counterparty that has the right to receive a payment - irrespective of whether the creditor collects the repayments directly or collection is carried out by a third party - which the debtor is unconditionally obliged to make under the instrument, and irrespective of whether or not the lack of payment is mitigated by any protection.

Generally, creditors lend funds to debtors that lead to the creation of the instrument, irrespective of whether the creditor originated the instrument or acquired its economic ownership. Counterparties that acquire the economic ownership of an instrument from a third party become the creditor of the instrument from acquisition even though they have not directly lent funds to the debtor.

For each instrument reported in the CRE reports, a creditor should be explicitly identified and reported. The role of the creditor is illustrated in Box 6, which describes the basic mechanics of traditional securitisations and the consequences for reporting on the creditor.

¹¹ The reporting obligation also depends on whether or not the instrument is linked to income-producing real estate as defined in Section 1.4.

¹² The abovementioned definition is in line with the definition of the sector 2251 (private households) in the BSI reporting (F9001). This means that besides natural persons, also sole proprietors and partnerships are to be excluded from CRE reporting.

¹³ This delineation of reporting obligations corresponds with the sectoral scope used for AnaCredit.

¹⁴ This implies that when an instrument has multiple debtors and one or more of the debtors, but not all, are natural persons and/or partnerships, this instrument is in scope of CRE reporting.

For each instrument reported in the CRE reports, a creditor should be explicitly identified and reported. The role of the creditor is illustrated in Box 7, which describes the basic mechanics of traditional securitisations and the consequences for reporting on the creditor.

Box 7 – Creditors vis-à-vis traditional securitisation transactions

A traditional securitisation is a transfer of an instrument (or pool of instruments, or part thereof) to a financial vehicle corporation (FVC) or special purpose vehicle (SPV), either by:

- 1) the transfer of legal title or beneficial interest of the instruments from the originator or
- 2) sub-participation where one or more sub-participants agree to fund an instrument in return for the right to receive the principal and interest repayments for the instrument.

These are securitisations where the transferee acquires the economic ownership of the instrument, in other words the legal title or the risk and rewards of the transferred instruments.

In these securitisations, from the moment of the onward transfer, the transferor (i.e. the original creditor) ceases to be the creditor of the instrument and the transferee (i.e. the counterparty that acquires the instrument) becomes the new creditor.

When the original creditor only transfers part of the economic ownership of an instrument, this counterparty remains the creditor to that part of the instrument that it retains. In addition, because this transaction implies a true sale of the part of the instrument that has been transferred, the transferee holds a new instrument in the amount of the transferred part of the original instrument, where the transferee is the creditor to this new instrument (i.e. the transferee acquires its economic ownership).

15

3.2.2.1 Observed agent acting as creditor

Instruments that are held by the observed agent are all those instruments of which the observed agent is the creditor. All such instruments are considered to give rise to credit risk for the observed agent. In other words, the following three expressions are deemed to have the same meaning and are used interchangeably:

- instruments held by the observed agent;
- instruments in which the observed agent is the creditor;
- instruments that give rise to credit risk for the observed agent.

Please note that holding an instrument does not imply that the instrument held is an asset of the holder of the instrument (see Section 4 for more information).

3.2.3 Servicer

A servicer is defined as the counterparty responsible for the administrative and financial management of an instrument. Please note that the role of servicer is defined more broadly than within the meaning of Regulation (EU) No 1071/2013 (ECB/2013/33), (hereinafter referred to as the "BSI Regulation"), where it is restricted to managing instruments underlying a securitisation or instruments that have otherwise been transferred in terms of the collection of principal and interest from the debtor. In other words, the term servicer in the sense of the BSI Regulation is subsumed in the CRE definition. The CRE requirements stipulate that the servicer should be identified for each instrument registered in CRE reporting.

Most commonly, the roles of creditor and servicer are assumed by the same counterparty, i.e. the creditor that holds an instrument is also responsible for its administrative and financial

management. However, there are specific cases where the counterparties taking on these two roles need not coincide. For instance, by selling or otherwise transferring the economic ownership of an instrument rather than holding it, the previous owner of the instrument generally ceases to be the creditor of the instruments but retains servicing rights. In this case the servicer and the creditor are different counterparties and should both be registered in the RRE reports from the moment of transfer onwards.

Also companies to which the administrative and financial management of an instrument has been outsourced, should be regarded as servicers.

3.2.4 Originator

In the case of instruments reported in the CRE reports which are subject to securitisation within the meaning of the Regulation (EU) No 1075/2013 (hereinafter referred to as "the FVC Regulation"), the CRE reporting stipulates that the counterparty acting as the originator of such a securitisation transaction should be identified. Pursuant to the FVC Regulation, the originator is the transferor of an instrument or pool of instruments, and/or the credit risk of the instrument or pool of instruments to the securitisation structure.

Furthermore, in accordance with the FVC Regulation, a securitisation is a transaction in which an FVC issues financing instruments to investors, and one or more of the following takes place:

- a) an instrument or pool of instruments, or part thereof, is transferred to the FVC either by the transfer of legal title or beneficial interest of those instruments from the originator or through sub-participation;
- b) the credit risk of an instrument or pool of instruments, or part thereof, is transferred through the use of credit derivatives, guarantees or any similar mechanism to the investors.

Whether or not an instrument is subject to securitization should be indicated accordingly in the data attribute "securitised instrument indicator" in the financial dataset.

16

Consequently, for such instruments which are subject to securitisation, the counterparty which is the originator in the securitisation transaction should be identified. Conversely, if an instrument is not subject to securitisation, no originator needs to be identified, even when the economic ownership of the instrument has been otherwise transferred to a third party which becomes a new creditor and the transferor remains the servicer.

Please note that securitised instruments are typically still serviced by the originator. If this is the case, the originator is also the servicer and the same counterparty thus needs to be registered as both as originator and servicer.

3.2.5 Protection provider

The term protection provider is defined as the counterparty that grants protection against a contractually agreed negative credit event and that bears the credit risk of the negative credit event.

In the context of CRE reporting, every protection received is granted by a protection provider. For example, if commercial real estate serves as protection, the owner of the commercial real estate is the protection provider. In the case a guarantee is given by e.g. the parent company of the debtor to secure an instrument (a loan), the parent company is the protection provider.

Please note that the protection provider can differ from the counterparty that issues the protection. For example, in the case securities are used as protection, the protection provider is not the issuer of the securities but the counterparty which uses the securities as protection (usually the holder of the securities). Although sometimes the issuer and protection provider coincide: in the case of guarantees the issuer of the guarantee is also regarded as the protection provider.

A protection provider is distinguished from a debtor, in case the debtor does not pledge any protection (e.g. real estate) herself. The distinction between the debtor and the protection provider vis-à-vis an instrument is based on who bears the unconditional obligation to make

payments under the instrument. In particular, the debtor is the counterparty that is unconditionally obliged to pay. Any counterparty that is conditionally obliged to make payments or to otherwise cede (pledged) protection to the creditor (i.e. upon the occurrence of a certain negative credit event) is the protection provider. Note that debtors can also be protection providers in the case of real estate lending. For instance, in the case of a commercial real estate instrument the debtor is the counterparty to which the instrument is granted and which is unconditionally obliged to pay it back. If this counterparty has also pledged commercial real estate as protection, it is also the protection provider (see Box 6).

The distinction between a debtor and a protection provider is further illustrated in Box 8 below.

Box 8 – Debtor or protection provider

For the purpose of CRE, the distinction between the debtor of the instrument and the protection provider that provides a protection item securing the instrument is generally based on who bears the unconditional obligation to make payments under the instrument.

In particular, the debtor is the counterparty that is unconditionally obliged to make payments, whereas any counterparty that is obliged only upon the occurrence of a certain negative credit event is the protection provider.

In particular, for an instrument secured by a guarantee whereby a guarantor agrees to pay to the creditor if the debtor defaults, the guarantor is considered to be a protection provider as it is only obliged to provide payment upon the default of the debtor, which is not an unconditional obligation.

However, the credit relationship is recorded between the creditor and the debtor until such time as the guarantee is called. After the guarantee is called the guarantor has an unconditional obligation to the creditor and therefore assumes the role of debtor.

17

A protection provider is clearly distinguished from a creditor. More specifically, the distinction between a creditor and a protection provider is that under a credit contract a creditor has the right to receive a payment (or series of payments) from a debtor, while a protection provider promises to fulfil the obligations of the debtor in case the debtor fails to do so. The protection provider either makes payments or otherwise transfers (pledged) assets to the creditor subsequent to a contractually agreed negative credit event taking place. While the protection provider may often have the right to recover those funds from the debtor and is entitled to assignment of the creditor's right against the debtor, the creditor exercises this right in the first place. The distinction between the role of creditor and protection provider is illustrated by comparing the basic mechanisms of traditional and synthetic securitisation in Box 9 below.

Box 9 – Creditor and protection providers in securitisation transactions

With regard to instruments that are subject to securitisation, a broad distinction is made between:

(a) Traditional securitisations

In the case of traditional securitisations that are true sales, the transferee becomes the new creditor of the part of the instruments over which it has acquired economic ownership.

(b) Synthetic securitisations, i.e. transfer of the credit risk of an instrument (or pool of instruments, or part thereof), through the use of credit derivatives, guarantees or any similar mechanism to the investors in the financing instruments issued by an FVC. FVCs in this category may not fund the instruments whose credit risk is being transferred.

In the case of synthetic securitisations, the counterparty that assumes the credit risk of an instrument through the use of credit derivatives, guarantees or any similar mechanism is not a creditor but a protection provider. Consequently, if the creditor transfers the instrument to a third party through the use of a guarantee, the transferor is the originator of the instrument and remains the creditor, while the third party becomes a protection provider of the instrument.

4. Instruments covered in CRE reporting

The purpose of this section is to provide a general notion of what an instrument is. In addition general reporting guidelines are discussed concerning identification of instruments subject to CRE reporting.

18

Instruments held by observed agents and instruments that are serviced by observed agents are considered in the context of CRE reporting, provided that they fulfil the criteria triggering the reporting obligations which will be discussed in detail in Section 5.

With a view to identifying the instruments subject to CRE reporting, this section focuses only on the counterparty roles creditor, servicer and debtor. These counterparty roles are indispensable for determining the reporting obligation vis-à-vis an instrument. It does not refer to other roles that are generally relevant for CRE reporting. For a complete list of the roles of counterparties please refer to Section 3.1.

4.1 Identification of instruments in the context of CRE reporting

In general, for CRE reporting the main criterion to assess whether an instrument is to be reported is the purpose of the instrument as defined in Section 1.4. However, the nature of the collateral used as protection for an instrument also indicates if the instrument must be reported.

Regarding the purpose of the instrument¹⁵ a distinction is being made between:

- a) Instruments used for the purpose of investing¹⁶ in income-producing¹⁷ commercial real estate.
- b) Instruments used for all other purposes, not included in a.

¹⁵ Note that this includes both instruments with and without protection received (so-called unsecured instruments). Although in the ESRB Recommendation on closing real estate data gaps (ESRB/2016/14) the protection received relating to the instrument is the overriding principle, unsecured loans relating to the investment in commercial real estate should also be reported.

¹⁶ Investing means purchasing, building or refurbishing commercial real estate.

¹⁷ Income-producing real estate means all immovable properties with income generated by their rents or profits from their sale

Amongst the instruments classified in b, a distinction can be made based on the presence of collateral linked to the instrument:

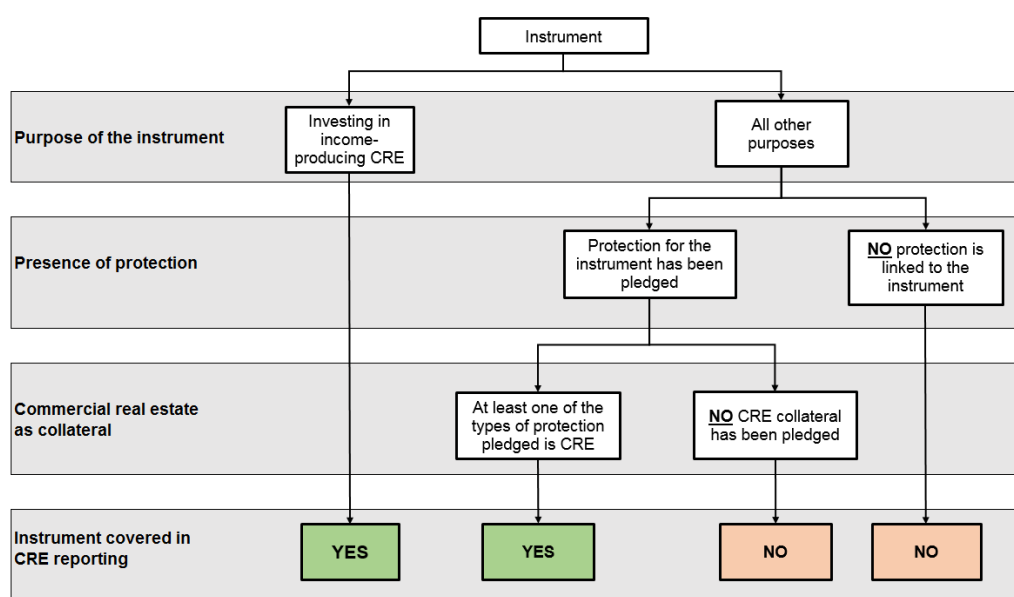
- I. Instruments without protection received (so called unsecured instruments).
- II. Instruments with protection received.

Further, a new distinction can be drawn between the secured instruments classified in II on the basis of the type of collateral used as protection for the instrument:

- i. Instruments for which commercial real estate has been pledged as a protection item.
- ii. Instruments for which all other types of collateral have been pledged as protection items except for commercial real estate.

All in all, following the distinctions of instruments made above, the instruments that qualify for CRE reporting are those that classify in a, I and i. Chart 2 below illustrates the identification of instruments in the context of CRE reporting.

Chart 2. Instruments in the context of CRE reporting



19

4.2 The notion of contract and instrument

4.2.1 Contract

A contract is a legally binding agreement between two or more parties under which one or more instruments are created. In the context of CRE reporting, a contract is a credit agreement between two or more counterparties, with one or more counterparties acting as debtors and one or more counterparties acting as creditors, under which the creditors provide the debtors with funds and the debtors commit to pay them back.

In general, one credit contract can give rise to multiple instruments. Moreover, one credit contract can consist of multiple credit facilities, and each credit facility can consist of multiple instruments. Please note that the concept ‘credit facility’ is not a separate concept in the CRE data model. Each contract can give rise to one or more instruments, and an instrument can only be related to one contract.

4.2.2 Instrument

In CRE reporting, credit is understood as any form of financial accommodation supplied by one or more creditors to one or more debtors under a credit contract. In this connection, an instrument is a specific instance of credit arising under a contract, with specified characteristics, enabling the debtor(s) to receive from the creditor(s) funds to an amount or value regulated in

the contract. Ergo, the relation between the concept instrument and the concept creditor can be characterized as a many-to-many relationship, i.e. one instrument can have multiple creditors and one creditor can have multiple instruments. The same is true for the relationship between the instrument and the debtor, i.e. one instrument can have multiple debtors and one debtor can have multiple instruments.

CRE reporting considers instruments in the way they are typically managed by credit institutions, i.e. banking products with outstanding balances and credit limits. A credit contract may be managed as a whole, but may have different characteristics for each instrument.

From the perspective of a credit institution, instruments may have a credit balance where the credit institution owes funds to the counterparty; or a debit balance where the counterparty (debtor) owes funds to the credit institution.

4.1.2.1 Credit limits and outstanding balances

A credit limit, in respect of a specific moment in time, is the maximum debit balance allowed on an account at any given moment under the terms of the credit agreement.

Credit limits are established during the origination process (approval process) and are intended to restrict the amount of debt that the creditor extends to a debtor for the respective credit limit. When a debtor exceeds the credit limits, excesses occur.

Outstanding balances with regard to a specific reporting reference date are the total payments made by or to the debtor on the instrument's account, i.e. the balance of the instrument's account at any point in time is the outstanding balance of the instrument. In other words, outstanding balances are the amount of credit owed by the debtor at a certain point in time. For most instruments, the outstanding balance is the total amount of drawings and other amounts that are open under the instrument. In the context of RRE reporting, all instruments' outstanding balances are measured and reported without netting of protection, even in the case of 100% cash-backed instruments.

Please note, that credit limits and outstanding balances may be measured at different levels under the so-called credit cross-limit structures. Depending on the type of business, credit limits only are granted at certain levels of the credit cross-limit structure, whereas outstanding balances are measured at all levels of the structure. Multi-product credit facilities are typical examples of credit cross-limits, in such case the amounts of credit available under two or more related products might not only be restricted by the individual credit limits set for the products but also by the credit cross-limit.

20

For a given instrument reported in the CRE reports, the individual outstanding balances under the instrument are reported in the data attribute "outstanding nominal amount", whereas the maximum amount by which the outstanding balance can still be increased within the credit limit associated with the instrument (and/or within the cross-limit following the credit cross-limit structure of which the instrument is a part) is reported in the data attribute "off-balance sheet amount".

Whether or not there is any undrawn amount (off-balance sheet amount) for an instrument depends on the credit limit associated with the instrument (and if relevant on the cross-limit of which the instrument is a part) and the drawing possibilities agreed on in relation to the instrument. In this respect, the following distinction is made:

- a) a revolving credit is an instrument under a credit contract whereby the debtor's outstanding balances are permitted to fluctuate (i.e. increase and decrease) such that, taking into account payments made by or to the credit of the debtor, the credit limit is not exceeded;
- b) a non-revolving credit is an instrument under a credit contract whereby the debtor is enabled to receive funds (whether in one amount or in instalments) and which does not replenish after payments are made by the debtor (or to the credit of the debtor).

4.2.3 Type of instrument

Regarding the type of instruments, the following instruments should be in scope of CRE reporting.

- Reverse repurchase agreements
- Deposits other than reverse repurchase agreements
- Overdraft
- Credit card debt
- Revolving credit other than overdrafts and credit card debt
- Credit lines other than revolving credit
- Trade receivables
- Financial leases
- Other loans

This classification of instruments coincides with the scope and classification within AnaCredit reporting. Any instrument which does not fall under any of the instrument types listed above, are not considered in CRE reporting. As regards the distinction between the different instrument types, more detailed guidance will be provided in another part of the Manual dealing specifically with the definition of separate attributes (including the “Type of instrument” attribute).

4.3 Acting as creditor or servicer

This paragraph considers the activity of observed agents as creditors or servicers and provides a description of how to identify the instruments subject to CRE reporting. The activity of an observed agent as creditor or servicer is reported by the reporting agent. While the creditor is the counterparty bearing the credit risk of an instrument, the servicer is the counterparty responsible for the administrative and financial management of an instrument. Although for many instruments the same counterparty typically acts as both the creditor and the servicer, there are instruments for which the two roles are assumed by different counterparties. For CRE reporting, every instrument for which a debtor and a creditor are expressly distinguished as different counterparties (including different institutional units) is subject to credit risk, which means that the creditor may not receive (in full) a payment which it has the right to receive under the instrument. In other words, such an instrument gives rise to credit risk for the creditor. Finally, for every instrument where there is a debtor and a creditor, there is a counterparty - the servicer - that is responsible for the administrative and financial management of the instrument.

21

Instruments should be reported to CRE where:

- a) the observed agent acts as the creditor, or
- b) the observed agent acts as the servicer, in case the creditor is a third party which is not classified as a credit institution. The creditor should – in this regard – not be a credit institution in order to avoid double counting. After all, the credit institution being the creditor reports the instrument on its own. So instruments otherwise transferred by the originator to a credit institution which becomes the creditor are out of scope of CRE reporting, even when the originator (i.e. the observed agent) still services the instrument. However, instruments securitised by the originator (i.e. the observed agent) to a FVC which becomes the creditor should still be reported by the originator (i.e. observed agent) in case it still services the instrument.

To establish whether an instrument is subject to CRE reporting, it's necessary to consider which roles the observed agent assumes. As a general rule, the observed agent may assume the roles of both creditor and servicer, or just take one of the two roles (either creditor or servicer), in relation to the same instrument. From the perspective of an observed agent, a distinction is made between:

- a) instruments in which the observed agent acts as creditor;
- b) instruments in which the observed agent does not act as creditor but does act as servicer;
- c) instruments in which the observed agent acts neither as creditor nor as servicer.

Box 10 below presents an overview of the roles that an observed agent can have in relation to an instrument, by concentrating on the relationship between the creditor’s role and the servicer’s role.

Box 10 – The observed agent’s roles

	Observed agent acts as creditor	Observed agent does not act as creditor
Observed agent acts as servicer	Observed agent acts as both creditor and servicer (Case I)	Observed agent acts as servicer, but <u>not</u> as creditor (Case III)
Observed agent acts not as servicer	Observed agent acts as creditor, but <u>not</u> as servicer (Case II)	Observed agent acts as neither creditor nor servicer (Case IV)

From the observed agent’s perspective:

- Instruments in relation to which the observed agent acts as creditor trigger the reporting obligation to CRE (cases I and II indicated in green).
- Instruments in relation to which the observed agent acts as servicer but does not act as creditor are subject to CRE reporting only if certain conditions apply (case III indicated in orange). See below for more information.
- Instruments in relation to which the observed agent acts neither as creditor nor as servicer are not required to be reported to CRE (case IV indicated in red).

Case I - Observed agent is the creditor and the servicer

This case comprises all instruments in which the observed agent acts as both creditor and servicer, i.e. the credit institution has granted the loan and is also responsible for the administrative and financial management. Other examples include synthetic securitisations where the credit risk of (a portfolio of) the instruments is transferred by means of a credit protection agreement, without transferring the ownership of the securitised instruments, i.e. leaving the underlying instrument in the ownership of the observing agent and on its balance sheet. More specifically, although the credit risk of the observed agent is mitigated by a credit derivative or a financial guarantee, the observed agent retains the right to receive the payment from the debtor of the instrument and therefore meets the definition of a creditor. Consequently, the observed agent acts as creditor and servicer of instruments subject to synthetic securitisations. Instruments included in Case I have to be included for CRE reporting.

Case II - Observed agent acts as creditor but does not act as servicer

This case comprises all instruments in which the observed agent acts as creditor, but where the responsibility for the administrative and financial management of the instrument remains with a counterparty other than the observed agent. Examples of such instruments include instruments granted by the credit institution but for which the administrative and financial management of the instrument is outsourced to a third party. Instruments in this class have to be included for CRE reporting.

Case III - Observed agent acts as servicer but does not act as creditor

The third case covers instruments where the observed agent does not act as creditor, but does act as servicer of such instruments. Examples of such instruments include traditional securitisations that are a "true sale", where the observed agent transfers an instrument to a FVC, but retains servicing rights. In such securitisation transactions the observed agent is responsible for the administrative and financial management of the instrument but does not act as creditor of the instrument. The creditor of such instruments is the FVC.

Instruments in this class have to be included for CRE reporting as they may be relevant. However, whether instruments are actually required to be reported depends on whether or not they are assets of the observed agent (i.e. when the observed agent should report these instruments as assets in accordance with the applicable accounting standard) or whether or not the third party that acts as creditor of those instruments is a credit institution (please refer to paragraph 3.3 for details).

Case IV - Observed agent acts as neither creditor nor servicer

Instruments in which the observed agent acts as neither creditor nor servicer are not considered for CRE reporting. Case IV above comprises no cases relevant for CRE reporting and is not considered further.

4.4 Activities of an observed agent

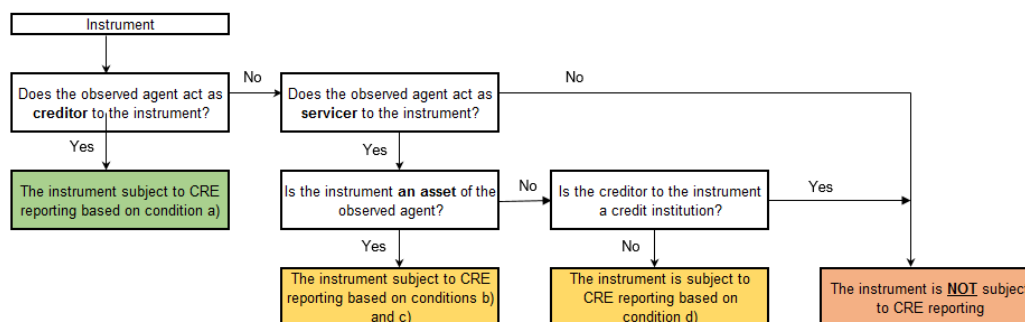
CRE reporting requires that instruments in which an observed agent acts as creditor or servicer are reported. From the perspective of an observed agent, a distinction is made between the activity of the observed agent as creditor and the activity of the observed agent as servicer.

In general, for an instrument one of the following conditions should hold before considering the instrument for CRE reporting. The instrument:

- Condition a)** gives rise to credit risk for the observed agent, or
- Condition b)** is an asset of the observed agent, or
- Condition c)** is recognised under the relevant accounting standard used by the observed agent and gave rise to credit risk for the observed agent in the past, or
- Condition d)** is serviced by the observed agent; and is held by a legal entity which is not a credit institution.

This information and the information provided in Box 10 can be rewritten in the decision tree depicted in Chart 3 below. The parts of the decision tree are further discussed in the following paragraphs.

Chart 3. Observed agent’s roles and CRE reporting



4.4.1 The activity of the observed agent as creditor

The activity of the observed agent as creditor vis-à-vis an instrument implies that the instrument gives rise to credit risk for the observed agent. In this case, the instrument is subject to CRE reporting (irrespective of whether or not the observed agent is the servicer of such instrument), because it fulfils the condition that the instrument gives rise to credit risk for the observed agent.

The activity of the observed agent as creditor is covered in cases I and II, as referred to in Box 9. Please note that although instruments to which the observed agent acts as creditor generally constitute assets of the observed agent, for the condition that the instrument gives rise to credit risk to be fulfilled, it’s irrelevant whether or not an instrument is an asset of the observed agent (i.e. condition b) and condition c)), as long as the observed agent acts as creditor of such instruments.

4.4.2 The activity of the observed agent as servicer

If the reporting obligation in respect of an instrument is not triggered by an observed agent acting as creditor of the instrument, it may still be triggered by an observed agent acting as servicer. A servicer is the counterparty responsible for the administrative and financial management of an instrument, and case III, as referred to in Box 9, may arise under any of the conditions b), c) and d) mentioned above. Please note that condition c) is considered to be superseded by condition b) and is not analysed separately.

Instruments which are subject to a traditional securitisation in which an FVC acquiring the instruments acts as creditor and the observed agent that retains servicing rights acts as servicer fulfil the condition d).

Please note that instruments that are assets of the observed agent to which the observed agent acts as servicer (but not as creditor) are considered for CRE reporting.

4.5 Instruments relevant for the activity as creditor

This section considers in more detail instruments in which the observed agent acts as creditor. Cases I and II referred to in Box 9 above cover all instruments held by the observed agent. It is irrelevant whether or not such instruments are actually serviced by the observed agent. Depending on the relevant accounting standard, an instrument to which the observed agent acts as creditor may be an asset of the observed agent or an off-balance sheet item.

4.5.1 Instruments that are assets of the observed agent

The accounting standard relevant for CRE reporting is the accounting standard used by the observed agent. In this connection, Condition b) is deemed to refer to economic assets recorded on the balance sheet of the observed agent.

Furthermore, condition c) is regarded to have the same meaning as condition b). Consequently, condition c)) is considered to be superseded by condition b) and is not further considered separately. In general, a counterparty may be the legal and/or economic owner of an asset. The economic owner bears the risks and is entitled to claim the benefits associated with the asset. The economic owner thus treats the instrument as an asset. Therefore, the economic owner has to report to CRE according to condition a) and condition b). If the legal owner is not the economic owner of the instrument, however, the legal owner does not assume the benefits and risks associated with the instrument.

24

4.5.2 Instruments not recognised under the relevant accounting standard

Instruments in which the observed agent acts as creditor, but which are not recognised under the relevant accounting standard are not assets of the observed agent. The general principle is that the category of instruments in which the observed agent acts as creditor is broader than the category of instruments that are assets of the observed agent.

Such instruments include instruments that are written off, in which the observed agent still has a claim on a third party (debtor), but the instruments are no longer recognised under the relevant accounting standard. Such instruments are subject to CRE reporting. More details will follow in subsequent chapters.

4.6 Instruments relevant for the activity as servicer but not as creditor

This paragraph considers instruments in which the observed agent acts only as servicer where the instrument is not subject to reporting by the creditor of the instrument. Instruments in which the observed agent is also the creditor are considered in paragraph 3.4.

In the case of an instrument held by a third party (in which a third party acts as creditor), the activity of an observed agent as servicer to the instrument is subject to CRE reporting if the activity of the third party as creditor of the instrument is not already subject to CRE reporting. In this connection, the CRE reporting requirements stipulate that the instrument serviced by the observed agent (which does not act as creditor) is subject to reporting if the instrument is not held by a credit institution.

For instance, instruments that are subject to a traditional securitisation where the observed agent transfers the instrument to an FVC while retaining servicing rights are in principle considered to fulfil the condition d). Upon the transfer of the instrument, the observed agent acts as servicer (and originator) of the instrument, whereas the FVC, upon acquiring the right to receive the principal and interest payments for the instrument, acts as creditor of the instrument. As the FVC is not a credit institution, the instrument, which is serviced by the observed agent, is subject to reporting (in relation to the activity of the observed agent as servicer but not creditor). The country of residence of the FVC is irrelevant with regard to the reporting obligation of the observed agent.

The decision tree above (page 19) summarises the reporting obligations from the observed agent's perspective, where the boxes in orange focus on instruments that are serviced but not held by the observed agent. Please note that – broadly speaking – securitised or otherwise transferred instruments in relation to which the observed agent acts as servicer constitute the main category of instruments relevant for the activity as servicer but not as creditor. The category also includes fiduciary instruments, but as these instruments are deemed less or not relevant in the context of CRE reporting, these instruments are not further considered.

4.6.1 Not reporting serviced instruments to avoid double reporting

Instruments that are serviced (but not held) by one observed agent and held by another observed agent are in principle subject to double reporting. However, the CRE requirements aims to avoid double reporting in such cases by stressing condition d) that serviced instruments are reported only on condition that they are not held by another credit institution.

More specifically, given the fact that instruments held by observed agents are in principle subject to mandatory CRE reporting, double reporting – which essentially arises in the case of instruments that are held by one observed agent but serviced by another observed agent – appears to be avoided by exempting the activity of the servicer from reporting. In this connection, condition d) should be interpreted to mean, in respect of instruments in which a third party acts as creditor, that the activity of an observed agent as servicer to the instrument is subject to reporting to CRE reporting only if the third party acting as creditor to the instrument is not a credit institution.

25

4.6.2 Securitised or otherwise transferred instruments except synthetic securitisations

The primary aim behind including CRE instruments that are serviced by the observed agent but held by a third party is to collect instruments that are securitised by transferring the actual underlying instruments and their (economic) ownership to an FVC. Such a situation typically concerns traditional securitisations and loan transfers other than synthetic securitisations, where by selling or otherwise transferring the instruments rather than holding them the observed agent ceases to be the creditor of the instruments but retains servicing rights.

In the case of traditional securitisations the economic ownership of the instrument is transferred, generally leading to derecognition of the instrument by the originator (the transferor) and recognition by the new owner on their balance sheet. The transferor is no longer to be identified as the creditor but as the originator. The transferee, which is the new owner of the instrument from an economic perspective, is to be recognised as the creditor. If the transferor retains servicing rights in respect of the transferred instruments, the transferor should also be recognised as the servicer. From the perspective of an observed agent who acts as servicer, such instruments therefore should in principle be considered for CRE reporting.

In the case of transfers of instruments according to Part 5 of the BSI Regulation, other than securitisation transactions, where the economic ownership of the instrument has been partly or fully transferred to a third party, the counterparty responsible for its administrative and financial management may differ from the creditor. The counterparty which originally held the instrument is generally registered as the servicer.

4.7 Other instrument-related aspects for consideration

4.7.1 Instruments recorded on the liabilities side of the balance sheet

Instruments that give rise to credit risk to the observed agent are either assets of the observed agent or are not recorded on the balance sheet. Such instruments are never liabilities of the

observed agent, however. Conversely, any instruments that are of any of the specified types, but are a liability of the observed agent are not considered for reporting.

4.7.2 Instruments that are not eligible

Instruments which are held or serviced by the observed agent but which are not one of the types of instrument referred to in paragraph 3.1.3 do not fall within the scope of the collection.

4.7.3 Instruments comprising off-balance sheet amounts

Instruments that are held or serviced by the observed agent are subject to CRE reporting – subject to the fulfilment of other conditions, such as at least one debtor of the instrument is not a natural person or types of instrument are within the scope of paragraph 3.1.3 – could comprise of an off-balance-sheet amount. To this end, this paragraph provides relevant clarification with regard to instruments which comprise off-balance-sheet (undrawn) amounts.

Whether there is any off-balance-sheet amount for an instrument depends on:

- a) the general drawing possibilities vis-à-vis the instrument (for example, some instruments by definition do not have any off-balance-sheet amount) and
- b) whether the instrument is associated with an independent credit limit or it is associated with a sublimit which is linked with a credit cross limit.

Generally, there are three generic types of credit limits and all types of credit limits can be set using these generic types of credit limits:

- i. credit cross-limits, which are given to limit the amount of credit for two or more related instruments; credit cross limits always have credit sublimits;
- ii. credit sublimits, which are individual credit limits under a credit cross-limit that limit the amount of credit that a debtor can have under a given instrument;
- iii. independent credit limits, which are individual credit limits that do not have a superior credit limit (i.e. a credit cross-limit) to restrict the use of credit thereunder.

26

Given the context of CRE reporting, all the abovementioned types of limits will exist, given the relatively complex nature (compared to e.g. RRE) of CRE lending.

4.6.3.1 The off-balance sheet amount in relation to credit limits

Insofar as determining the off-balance-sheet amount for instruments with independent credit limits (type iii.) is generally straightforward, the subsequent paragraphs illustrate the most important parts of credit limit structures and which data elements are essential for determining the off-balance-sheet amounts for instruments in the context of CRE reporting.

Specifically, in the case of an instrument with an independent credit limit, the off-balance-sheet amount is generally determined as the difference between the credit limit and the amount drawn (provided that the drawing possibilities are not restricted by other factors, such as the type of product).

However, for instruments with credit sublimits and a credit cross-limit, the off-balance-sheet amount (for each individual instrument) is linked to the credit cross-limit and generally cannot be determined solely on the basis of the sublimits (as it is for instruments with independent credit limits), without considering the cross-limit and the total amount drawn under the other related instruments of the credit cross limit. This is a direct consequence of the fact that, with regard to credit cross-limit structures, credit limits and outstanding balances are measured at different levels. Specifically, credit cross-limit structures are points where outstanding balances are measured and compared to credit limits. Depending on the type of business, credit limits are granted only at certain levels of the credit cross-limit structure whereas outstanding balances, however, are measured at all levels of the structure.

Multi-product credit facilities are typical examples of credit cross-limits. The amounts of credit available under two or more related products are restricted, in addition to the individual credit sublimits set for the products, by the credit cross-limit.

Please note that in the general case the amount still available to be drawn under one individual instrument of a credit cross-limit structure depends on the outstanding balances of all instruments of the credit cross-limit (as well as drawing possibilities in relation to the instrument as it is with instruments in general - for example, some instruments by definition do not comprise any off-balance sheet amount). As the procedure has to be applied recursively, however, determining the amount available to be drawn for all related instruments at once is generally not possible. Consequently, the off-balance-sheet amount cannot generally be established for all related instruments of a credit cross-limit. Nevertheless, the expectation is that the data essential in relation to the off-balance-sheet amounts vis-à-vis credit cross limit structures should at least include the information about:

- whether a given instrument is associated with a credit cross-limit or a sublimit;
- the contract that gives rise to the credit cross-limit and the individual instruments;
- the amount of the credit cross-limit;
- all the instruments via which the credit available under the credit cross-limit can be drawn by the debtor;
- the link between the cross limit and the instruments – the credit cross-limit structure;
- the individual sublimits of all the instruments under the credit cross-limit;
- all the outstanding balances (amounts drawn) under the individual instruments of the credit cross-limit.

With regard to the off-balance-sheet amounts vis-à-vis the individual instruments, it is necessary to take account of the constraint that the sum of the off-balance-sheet amounts vis-à-vis the related instruments may not exceed the off-balance-sheet amount of the cross-limit itself.

27

4.6.3.2 Criteria for reporting instruments in the case of a credit cross-limit structure

In general, whether or not an instrument is reportable is determined by the criteria triggering reporting, in which the type of instrument as referred to in paragraph 3.1.3 plays an essential role. Therefore, with regard to instruments in the case of a credit cross-limit (e.g. a multi-product credit facility), for each instrument it is necessary to establish the type of instrument in accordance with the CRE reporting requirements.

Generally, two possibilities arise:

1. If at the reporting reference date the type of instrument is determined to be one of the types of instrument referred to in paragraph 3.1.3, the instrument is subject to reporting. If so, then both the drawn amount and the undrawn amount (if any) should be reported to CRE.
2. If at the reporting reference date the overall features of the instrument do not make the instrument compatible with any of the types of instrument referred to paragraph 3.1.3, the instrument is not subject to CRE reporting.

As a general principle, a credit cross-limit itself is not one of the types of instrument referred to in paragraph 3.1.3, since any drawings of the cross-limit take place solely by means of the individual instruments under the cross-limit. This superior credit cross-limit instrument is therefore not subject to CRE reporting.

Furthermore, as in the general case, for an instrument which is subject to reporting, any undrawn amount that is intrinsically linked with the instrument should be reported under the data attribute "off-balance sheet amount" and has to be taken into account when calculating the commitment amount. In the case of instruments under a credit cross-limit, the commitment amount for each such instrument is the credit sublimit amount of the individual instrument.

4.6.3.3 The off-balance sheet amount in relation to building deposits

It could be possible that an instrument relevant for CRE reporting is linked to a so-called building deposit (bouwdepot). Especially in cases where the real estate is being build or refurbished, building deposits could occur.

Generally, in case of a building deposit, the instrument granted to the debtor is paid out in full (i.e. the building deposit and the part of the instrument not characterized as a building deposit) and coincidentally the building deposit part of the instrument is placed on a dedicated deposit account. The deposit account can be used to pay for costs made by for example contracted, mostly subject to the approval of the deposit holder and the credit institution.

Because the instrument is paid out in full, including the building deposit. The building deposit amount is not regarded as an off-balance sheet amount of the instrument (which could be drawn in tranches).

4.7.4 The commencement of the reporting of an instrument

The following guidelines should be considered when establishing the moment at which an instrument becomes relevant for CRE reporting. Generally, an instrument first becomes subject to reporting at the moment the creditor enables the debtor to draw funds after entering into a legally binding agreement with the debtor. Moreover, whether the creditor commits to the debtor in irrevocable or revocable terms is irrelevant for the commencement moment of the reporting of an instrument.

5. Criteria triggering the reporting obligation

This section provides a technical explanation of the criteria triggering the reporting obligation of instruments under CRE reporting.

For any observed agent of a given reporting agent, the instrument is the centerpiece of the reporting obligation in the sense that once an instrument held or serviced by the observed agent is determined to be subject to reporting pursuant to the CRE requirements, the reporting agent is required to report the full set of information as specified in the logical data model and data delivery agreement.

28

5.1 Criteria triggering reporting as of a reporting reference date

Reporting agents are required to report the full set of information as specified in the logical data model and data delivery agreement as of a certain reporting reference date and related to the instruments held or serviced by the observed agents.

The reporting reference date for CRE reporting is always the last day of the quarter of the year (31 March, 30 June, 30 September and 31 December).

In relation to a specific observed agent, the reporting obligation is triggered for a certain reporting reference date if:

- a) the instrument held or serviced by the observed agent is eligible for reporting under the CRE framework on the reporting reference date (last day of the quarter) or;
- b) the instrument held or serviced by the observed agent has ceased to be eligible for reporting under the CRE framework within the quarter that ends on the reporting reference date.

Chart 4 below describes in more detail when a reporting obligation is triggered for a certain reporting reference date (in this example 30 June 2019).

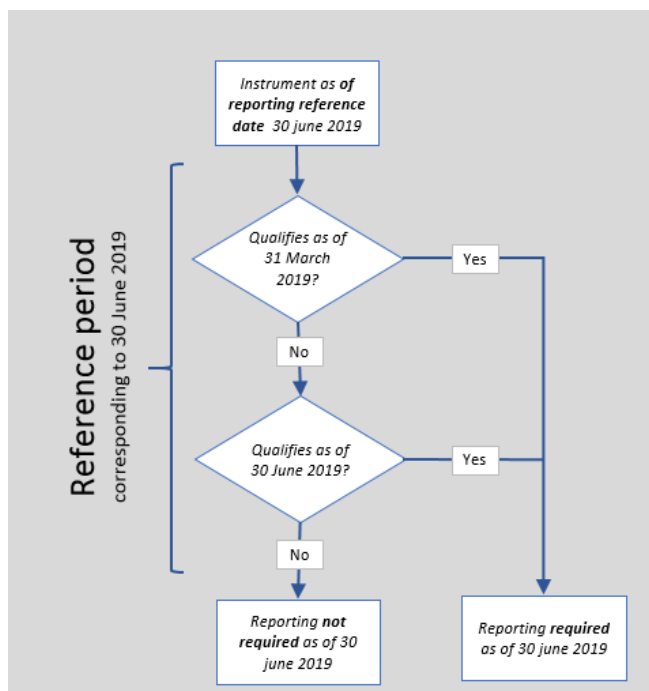
To establish whether an instrument is required to be reported as of the reporting reference date 30 June 2019, the following steps should be followed:

- a) The reporting agent should check whether the instrument fulfills the conditions mentioned in Section 4 of the manual for the first and last month-end dates within the corresponding reference period. In this example Q2 2019. The reference period

relating to 30 June 2019 comprises two month-end dates: 31 March 2019 and 30 June 2019.

- b) If the instrument fulfils the respective conditions on any of these dates (called a qualifying instrument), then the instrument is required to be reported as of the reporting reference date.
- c) If, on the contrary, the instrument does not meet the conditions on any of these dates, then the instrument is not required to be reported as of the reporting reference date.

Chart 4: Establishing whether an instrument is required to be reported as of 30 June 2019



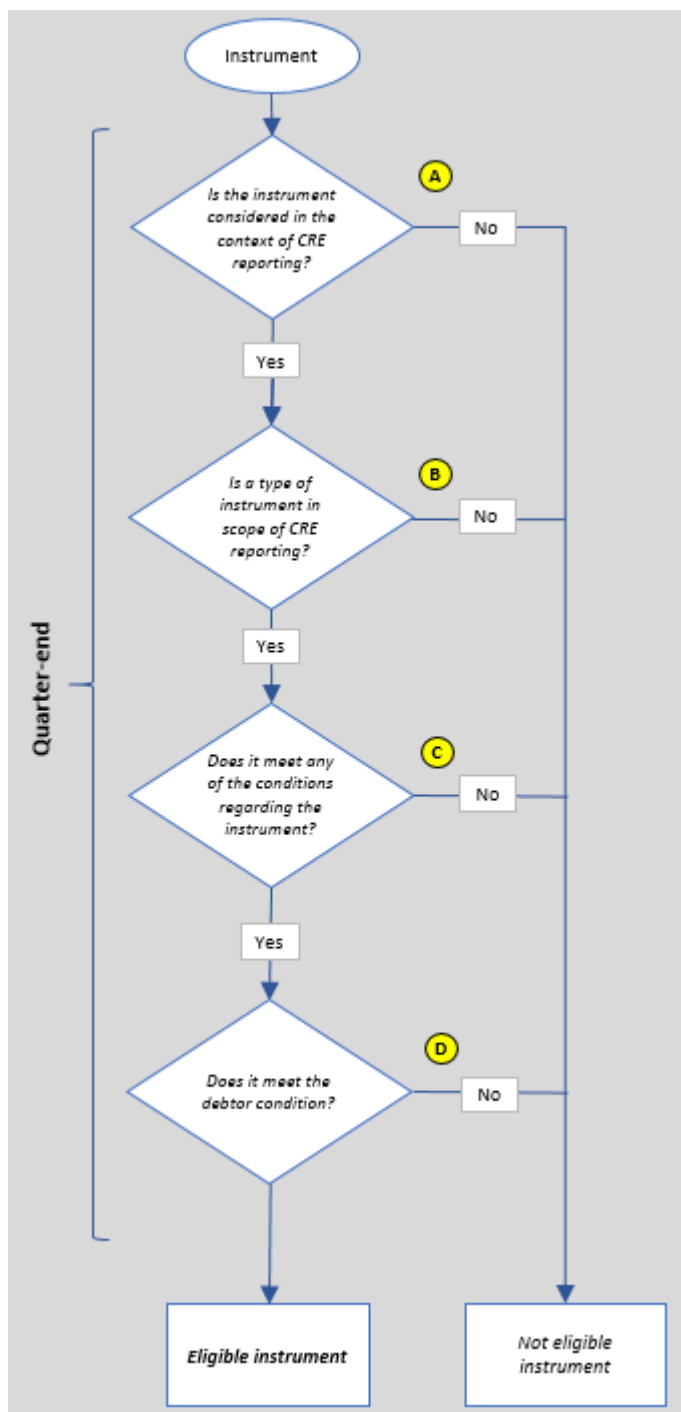
As mentioned earlier, the reporting reference period always consists of two month-end dates, i.e. the end-date of the last month of the previous quarter and the end-date of the last month of the current quarter. This means that instruments created and redeemed/written-off within one quarter (not passing the end-date of the last month of the quarter) are not in scope and should not be reported (e.g. instruments created on 15 April and redeemed on 15 May).

The use of the reporting reference period should avoid that instruments will disappear unnoticed from the CRE report. In case the instrument ceases to be eligible in the reference period, e.g. in case of written-off and forgiven loans or redeemed loans, then the instrument is reported on the reporting reference date once more, including the reason why this occurred in the attribute “Exit status” in the Financial data entity. For more information on the attribute “Exit status” please refer to the CRE Manual Part II.

5.2 Eligible instruments for CRE reporting

Besides the fact that an instrument should fall within the reporting reference period in order to be reported on a certain reporting reference date, the instrument should also be eligible for CRE reporting. More information about the delineation of CRE and the eligibility of instruments for CRE reporting can be found in Section 1.4 and Section 4, respectively. Chart 5 below summarizes the criteria used to assess the eligibility of an instrument.

Chart 5: Eligibility check – is the instrument eligible as of a quarter-end



Condition A: An instrument held or serviced by the observed agent is considered in the context of CRE reporting if it can be classified as discussed in Section 4.1 above. Commercial real estate has been defined in Section 1.4 above.

Condition B: As specified in Section 4.1.3 the following instruments are in scope of CRE reporting.

- Reverse repurchase agreements
- Deposits other than reverse repurchase agreements
- Overdraft

- Credit card debt
- Revolving credit other than overdrafts and credit card debt
- Credit lines other than revolving credit
- Trade receivables
- Financial leases
- Other loans

This classification of type of instruments coincides with the scope and classification in AnaCredit. Any instrument that does not fall under any of the instrument types listed above, is not considered in CRE reporting. Further information on the types of instrument is discussed in more detail in Part II of the Manual, which deals specifically with the instruments covered in CRE reporting.

Condition C: An instrument held or serviced by the observed agent that is one of the types of instrument listed above is considered in the context of CRE reporting provided that it fulfils any of the following four conditions. The conditions are that the instrument:

- a) gives rise to credit risk for the observed agent, or
- b) is an asset of the observed agent, or
- c) is recognised under the relevant accounting standard used by the observed agent and gave rise to credit risk for the observed agent in the past, or
- d) is serviced by the observed agent; and is held by a legal entity which is not a credit institution.

Condition D: An instrument held or serviced by the observed agent is only considered if at least one debtor of the instrument is a legal entity or part of a legal entity, or a quasi-corporation.

31

This condition means that an instrument held or serviced by the observed agent is eligible if at least one debtor of the instrument is not a natural person. Otherwise, i.e. if the only debtor (or all debtors if there are more than one) of the instrument is a natural person or a partnership, the instrument is not eligible in the context of CRE reporting.

5.2.1 Written-off loans and other instruments that are not recognised

A write-off is the full or partial write-down of the carrying amount of an instrument. In the case of a full write-off, the operation leads to the removal of the instrument from the balance sheet. Instruments are often written off when no future economic benefit is expected from them, for example when an instrument is considered to be uncollectible, even though the observed agent may retain the claim against the debtor.

In the context of CRE reporting, an eligible instrument that is written-off should be included in the CRE reports until the moment the instrument is forgiven and no claims exist against the debtor in relation to the instrument. The reason for written-off instruments to be subject to CRE reporting is that the observed agent is a creditor of the instrument and bears the credit risk of the instrument as long as the write-off does not release the debtor from the obligation to pay.

6. Other general aspects

6.1 Collection strategy and relation with AnaCredit and RRE

The way in which the CRE information will be collected from the reporting agents is fully in line with the collection strategy which DNB uses for other highly granular reports like AnaCredit, residential real estate (RRE), and the national deposit guarantee scheme. In short, the collection strategy comprises - alongside the manual - the development of a highly detailed and non-ambiguous logical data model and an elaborate data delivery agreement. Many non-methodological details of the CRE reports will be included in the logical data model and data delivery agreement. Thorough knowledge of the both the logical data model and the data delivery agreement is an absolute necessity for the reporting agents. The logical data model and data delivery agreement are published on the DNB website.

Content-wise the logical data model, the data delivery agreement as well as the general methodology and the definitions of entities and attributes will be - to the maximum extent possible - in line with the AnaCredit and RRE reports. In addition, also granular requirements originating from the supervisory tasks from DNB are taken into account as much as possible. The re-use of existing AnaCredit methodology and the inclusion of as much requirements as possible into one logical data model should facilitate the interconnectedness between separate reports, with the aim of enhancing the added value of the reports. In addition, this strategy should also facilitate a (more) efficient reporting process for reporting agents and a more efficient collection and processing process at DNB.

6.2 Planning for CRE reporting

CRE reports will be submitted on a quarterly basis with a deadline of 40 calendar days after quarter-end date. In case the 40th calendar day falls on a Dutch non-working day, the deadline for the CRE report becomes the next working day.

6.3 Currency conversion

All monetary values should be reported in euros (see the data delivery agreement for exact details on decimals, etcetera). In case instruments are being granted in another currency than the euro, the non-euro value should be converted into euros.

For most data attributes the relevant mid-market exchange rate prevailing at the end of the reference period is to be used. However, for some data attributes the currency conversion should be done in a different way. For example, for attributes referring to situations at inception of the instrument and which are therefore of a static nature, the exchange rate that should be used is the exchange rate at inception. If this exchange rate is not applied the prerequisite of the attribute being static is violated. The same holds for attributes referring to the valuation of protection at fair value. Please refer to Manual Part II for more details.

