

An aerial photograph showing a city skyline in the background, partially obscured by a hazy atmosphere. In the foreground, there are large, flat agricultural fields with a central canal or road running through them. The overall scene is captured from a high angle, looking down on the landscape.

Procedures for mobilisation of domestic Credit Claims at DNB April 2020

DeNederlandscheBank

EUROSYSTEEM

Procedures for mobilisation of Credit Claims

Guide for the reader

The purpose of the presentation is to provide counterparties who intend to, for the first time, mobilise domestic credit claims to DNB as collateral, with information on the required steps and the necessary documents (as established in the DNB credit claim mobilisation framework since October 2011)

The following topics are clarified:

1. The Eurosystem framework (slides #3 – 7)
2. Operational framework - Preparation phase (slides #8 – 10)
3. Mobilisation process (slide #11)*
4. Ex-post checks (slide #12)
5. Background information (slides #14 - 16)

(*): see also slide 16 for a brief summary of the daily mobilisation activities

Rules governing eligibility and mobilisation of Credit Claims

Eurosystem rules & requirements

➤ General Documentation

(Guideline (EU) 2015/510 of the ECB of 19 December 2014 on the implementation of the Eurosystem monetary policy framework (ECB/2014/60))

See link:

<https://www.ecb.europa.eu/ecb/legal/1002/1014/html/index-tabs.en.html>; item 1h – Guideline ECB/2014/60)

Implementation and elaboration in national contracts

National rules & requirements in NL

➤ Monetary Policy Transactions Conditions

See link: <https://www.dnb.nl/en/interest-rates-and-inflation/monetary-policy/nederlandse-kredietinstellingen/index.jsp>

Eurosystem legal framework

Highlights General Documentation (GenDoc)

- Eligibility criteria for Credit Claims (CCs) – GenDoc articles 89-105
- Credit quality requirements for CCs – GenDoc articles 108-111

- GenDoc refers to national rules applicable for certain eligibility criteria, e.g.:
 - Minimum size threshold (art. 93)
 - Handling procedures (art. 98)
 - Validity of the agreement for the mobilisation of CCs (art. 102)
 - Full effect of the mobilisation vis-à-vis third parties (art. 103)
- ✓ The Monetary Policy Transactions Conditions (MPTC) contain the Dutch national rules

Dutch legal framework

Highlights Dutch legal framework

(implementation and elaboration of GenDoc art. 98, art. 99, art. 102-105)

- Transfer of title to DNB via Undisclosed assignment of CCs
- Perfection of the (re)assignment by registration of the CCs at the Dutch Tax Authority for subsequent transfer of title

(Legal) Documentation Requirements in NL/at DNB

Documentation related to the legal framework (elaboration of GenDoC art.99, art. 102 - art. 105):

- Master Deed of Assignment (*notarial deed to be signed by Counterparty (CP), DNB and the civil law notary*) before first mobilisation (MPTC, annex VII)
- Supplementary Deed of Assignment for subsequent mobilisation of CCs (MPTC, annex VIII)
- Deed of Reassignment for demobilisation of CCs (MPTC, annex IX)
 - Registration of Supplementary Deed and Deed of Reassignment at the Tax Authority

Documentation (2)–Requirements in NL/at DNB

Documentation related to the CCs

(elaboration of GenDoc art. 98, art. 100, art. 101, art. 108-111)

- Loan documentation (digital delivery*) ([see article 20\(5\) in MPTC](#))
- ECAF Application forms (depending on credit assessment source) ([MPTC, annex XI](#))
- One-off verification of the appropriateness of the procedures used by the CP to submit information on CCs to the Eurosystem (initial self-certification) ([MPTC, annex XII.1](#))

*) Preferably a searchable PDF

Operational Framework (1a) – preparation steps

Required operational steps before first mobilisation of CCs

(elaboration of GenDoc art.100, art. 103, art. 108 - art. 111 and MPTC art.21(3))

1. An explorative meeting with CP (physical or teleconference)
2. Delivery of several documents:
 - ECAF Application form(s) (MPTC, annex XI)
 - The initial verification form (initial self-certification on procedures) (MPTC, annex XII.1)
 - The Master Deed of Assignment
 - Loan documentation (MPTC, art. 20(5), needed in the mobilisation process)
3. Follow-up meeting before first mobilisation can take place
 - Goal of this meeting is to have a bilateral check on full understanding of the process and on the correctness of the delivered documents

Operational Framework (1b) – preparation steps

Required operational steps before first mobilisation of CCs (continued) (elaboration of GenDoc art. 98 – art. 100)

4. Set up secure email connection between CP and DNB
5. Testing of SWIFT messages (MT535, MT540, MT542, MT544, MT546, MT598)
6. Assessment of CP's readiness to mobilise CCs (appropriateness of CP's procedures)
 - One-off ex-ante checks
 - Set-up of CP's procedures and processes
 - Overall insight in CP's IT system(s) for registration of CCs

Operational Framework (1c) – preparation steps

Required operational steps before first mobilisation of CCs (continued) (elaboration of GenDoc art. 98 - art. 100)

7. Confirmation by DNB of CP's readiness to mobilise CCs

- Mobilisation only if:
 - i. Master Deed of assignment has been signed
 - ii. ECAF source has been approved by DNB
 - iii. Testing has been successful

Mobilisation process

Steps to be taken for mobilisation of CC (elaboration of GenDoc art. 89 - art. 111)

A. Registration

- Eligibility check of individual CC (loan documentation checked against GD Articles 89-105 & 108-111 (as applicable) and local NL requirements (e.g. minimum size threshold))
- CP sends Supplementary Deed of Assignment to DNB
- DNB signs and sends Supplementary Deed of Assignment to Tax Authority

B. Mobilisation

- CP sends MT540 (mobilisation request) to DNB
- DNB sends MT544 (confirmation of mobilisation request) to CP
- CP's collateral position increased

Ex-post checks

Quarterly checks (GenDoc art. 101)

Quarterly self-certification = validation of:

- the number of mobilised CCs and
- their most important characteristics

(MPTC, annex XII.3)

- **Checks initiated by DNB (CP has to sign off on the number and characteristics of mobilised CCs)**

Yearly ex-post random checks (GenDoc art. 101)

Ex-post verification of:

- Existence and characteristics of the mobilised CCs (*a random selection*)
- CP's internal control structure and related IT system(s)

(MPTC, annex XII.2)

- **Checks performed by CP's external auditor**

Background information

More information

- For more information, please contact: creditclaim@dnb.nl
- See DNBs website for Monetary Policy Transactions Conditions: <https://www.dnb.nl/en/interest-rates-and-inflation/monetary-policy/nederlandse-kredietinstellingen/index.jsp>
- Forms can be downloaded from the same webpage

Collateral framework

- ▶ General ECAF application form (PDF, 18,6 kB)
- ▶ Initial control statement delivery procedures credit claims - January 2018 (PDF, 54,2 kB)
- ▶ Deed of crossborder transfer of Dutch credit claims (PDF, 1,0 MB)
- ▶ Additional Terms and Conditions for cross-border use of credit claims, October 2011 (PDF, 35,1 kB)

More information (2)

- ECMS SWIFT instructions templates are available via this link:
<https://www.dnb.nl/ecms-swift-templates/>
- The General Documentation (unofficial consolidated text) can be downloaded from the ECB website (see link: <https://www.ecb.europa.eu/ecb/legal/1002/1014/html/index-tabs.en.html>; item 1h – Guideline ECB/2014/60)

Daily mobilisation activities – brief summary

- CP provides DNB, via secure email, with a spreadsheet (certain characteristics of the CC, presence/absence of set-off risk, type of guarantor, if any, etc.) of the CCs foreseen to be mobilised
- CP sends MT598 message (with all characteristics of CCs to be mobilised) to DNB. CP also provides loan documentation to DNB (digital delivery) for ex-ante eligibility check
- Automated checks by DNB's CC registration system (BEA 2), eligibility check with the loan documentation and cross check of the MT598
- CP is informed of the eligibility assessment: positive/negative assessment
- CP is requested to provide a Supplementary Deed of Assignment
- Supplementary Deed of Assignment is sent to the Tax Authority after DNB signature
- Confirmation of receipt from Tax Authority is delivered to DNB
- DNB informs CP that mobilisation of CCs can start and CP sends MT540 (mobilisation request) to DNB