

# Chapter 3

## Notifications



3.2 Annual confirmations of compliance and asset pool monitor

Form of confirmation and use of third party advisers and asset pool monitor's report

- 3.2.1

D

The *issuer* must send to the *FCA* annual written confirmation of compliance with Regulations 16 (sums derived from the issue of *regulated covered bonds*) and 17 (general requirements on the *issuer* in relation to the *asset pool*) of the *RCB Regulations* in the form set out in ■ RCB 3 Annex 1D (annual confirmation of compliance).
- 3.2.2

D

Before providing the confirmation required by this section, the *issuer* must obtain and consider written advice or reports from suitable independent third parties such as the *asset pool monitor* and, where appropriate, lawyers.
- 3.2.3

G

The *FCA* expects the *issuer* to be able to justify any reliance it places on advice or reports which are not reasonably contemporaneous with the confirmation.
- 3.2.4

G

The *FCA* expects the *asset pool monitor's* report to address at least the matters to be checked and due diligence procedures set out in ■ RCB 2.3.18 G. The *FCA* may also specify additional matters that the *asset pool monitor's* report should address in relation to a particular *issuer*.
- 3.2.4A

G

The *FCA's* use of its power under Regulation 18 of the *RCB Regulations* may include requiring the *issuer* to provide to the *FCA* copies of the advice or reports referred to in ■ RCB 3.2.2 D.
- 3.2.4B

D

The *issuer* must provide a copy of the *asset pool monitor's* report to the *FCA* when it sends the confirmation required by this section to the *FCA*.

Timing of confirmation date

- 3.2.5

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(1) The first confirmation date in relation to the annual confirmation must be the earlier of any date the *issuer* selects, or the date 12 months from the *registration date*.

(2) Subsequent confirmations must be made:

(a) on the anniversary of the first confirmation date, or

(b) on a later date, where agreed by the *FCA* before that date.
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- 3.2.6** D The *issuer* must send each confirmation to the *FCA* within one *month* after the relevant confirmation date.
- Period covered by confirmation**
- 3.2.7** D The first confirmation must cover compliance during the period from the *registration date* up to the confirmation date referred to in ■ RCB 3.2.5 D (1).
- 3.2.8** D Subsequent confirmations must cover compliance for the period from the last confirmation date to the date of the current confirmation.
- Verification of confirmation**
- 3.2.9** D The *issuer* must ensure that a *director* or a *senior manager* signs the annual confirmation and confirms on the *FCA's* form that the *issuer* has obtained the appropriate third party advice or reports required by this section.
- 3.2.9A** G Where possible, the *director* or *senior manager* who signs the annual confirmation should be the same *director* or *senior manager* who has verified the application for registration under ■ RCB 2.2.6 D. If the *director* or *senior manager* is different to the *director* or *senior manager* who verified the application for registration, the *issuer* should notify the *FCA* at least one *month* before sending the confirmation to the *FCA*.
- Notifications by the owner**
- 3.2.10** D If the *issuer* is in insolvency, the *owner* must send the *FCA* under ■ RCB 3.2.1 D:
- (1) a confirmation of compliance within one *month* of the date of insolvency; and
  - (2) annual confirmations by the same dates as the date the confirmations under ■ RCB 3.2.5 D are due.
- 3.2.11** D
- (1) The *owner* must ensure that a duly authorised representative signs the confirmation and confirms on the *FCA's* form that the *owner* has obtained the appropriate third party advice or reports required by this section.
  - (2) The *owner* must obtain appropriate advice in the same manner as set out in ■ RCB 3.2.2 D and must provide a copy of the *asset pool monitor's* report to the *FCA* as set out in ■ RCB 3.2.4B D.
- Review by asset pool monitor**
- 3.2.12** G In addition to requiring the *asset pool monitor* to prepare an annual report, Regulation 17A of the *RCB Regulations* requires that the *asset pool monitor* must inspect the compliance of the *issuer* or *owner* (as the case may be) with the requirements in Regulations 16, 17 or 24 of the *RCB Regulations* once every 12 months.

3.2.13 G The *FCA* expects the inspection by the *asset pool monitor* of the compliance of the *issuer* or *owner* (as the case may be) with the relevant requirements in the *RCB Regulations* to address at least the matters to be checked and due diligence procedures set out in ■ RCB 2.3.18 G. The *FCA* expects that the inspection will be conducted on an agreed-upon-procedures basis.

3.2.14 G As required under Regulation 17A of the *RCB Regulations*, if it appears to the *asset pool monitor* that the *issuer* or *owner* (as the case may be) has failed to comply with the requirements set out in Regulations 17 or 24 of the *RCB Regulations*, or has not provided all relevant information or explanations, the *asset pool monitor* must report that to the *FCA* in writing as soon as possible.

**Change of asset pool monitor**.....

3.2.15 G If the *asset pool monitor* is changed, the *issuer* (or *owner*, as the case may be) should notify the *FCA* when the new *asset pool monitor* is appointed, giving the name of the new *asset pool monitor* and details of the reason for the change.