

**Regulated Covered Bonds**

## Chapter 3


# Notifications



## 3.1 Application and Purpose


### Application

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3.1.1  This chapter applies to *issuers, asset pool monitors and owners*.

### Purpose

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3.1.2  This chapter sets out the reporting and notifications requirements under Regulations 17A, 18, 20, 24 and 25 of the *RCB Regulations*.

## 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** **D**
- (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 on the anniversary of the first confirmation date.

**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**

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**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.

## 3.3 Asset pool notifications

### Form of notifications

- 3.3.1** **D** The *issuer* must send to the *FCA*, information relating to the *asset pool*, in the form set out in ■ RCB 3 Annex 2D (asset notification form), and information relating to the *regulated covered bonds* issued under the *programme*, in the form set out in ■ RCB 3 Annex 3 D (asset and liability profile form).
- 3.3.2** **D** The *issuer* must send the asset notification form to the *FCA* each *month* following the *registration date*, and the asset and liability profile form to the *FCA* within one *month* of the end of each quarter following the *registration date*.
- 3.3.2A** **D** The *issuer* must send to the *FCA* loan-by-loan level data relating to the *asset pool* in the form set out in ■ RCB 3 Annex 7A D within one *month* of the end of each quarter following any issuance of *regulated covered bonds* after 1 January 2013. Guidance on how to complete this form is set out in ■ RCB 3 Annex 7B G.

### Notifications by the owner

- 3.3.3** **D** If the *issuer* is in insolvency, the *owner* must send to the *FCA* the notifications set out at ■ RCB 3.3.1 D and ■ RCB 3.3.2A D by the same dates as the dates the notifications under those directions are due.

### Due diligence

- 3.3.4** **G** The *issuer* or the *owner*, as the case may be, should carry out, or make arrangements to carry out, appropriate due diligence to check that the analysis in the information provided to the *FCA* is correct.

### Addition or removal of assets from the asset pool

- 3.3.5** **D** If the *issuer* or the *owner* (as the case may be) proposes to add or remove assets to or from the *asset pool* which change the level of *over collateralisation* by 5% or more, it must notify the *FCA* using the form set out in ■ RCB 3 Annex 2 D (asset notification form) at least 5 *business days* prior to the proposed transfer, giving expected details of the size and composition of the transfer.



## 3.4 Covered Bond issuance notifications

- 3.4.1** **D** The *issuer* must inform the *FCA* of the information relating to bond issuances from a *regulated covered bond* in the form set out in ■ RCB 3 Annex 4 D (indicative terms form) at least 3 business days before the date of issuance.
- 3.4.2** **D** On the date of issuance, the issuer must send to the *FCA*:
- (1) the information in the form set out in ■ RCB 3 Annex 5 D (issuance form);
  - (2) the information in the form set out in ■ RCB 3 Annex 3 D (asset and liability profile form); and
  - (3) the final terms of the *regulated covered bonds* or equivalent issuance documents setting out the terms of the *regulated covered bonds* and signed copies of swap documents.

## 3.5 Other notifications

### Notifications of change of owner

- 3.5.1** **G** Regulation 25 of the *RCB Regulations* (change of owner) sets out the procedures which apply where a *regulated covered bond* has been issued and the *owner* of the *relevant asset pool* proposes to transfer ownership to another person.
- 3.5.2** **D** If an *owner* proposes to transfer the *asset pool* to a new *owner* it must provide the *FCA* as a minimum with the following information in writing at least three *months* before the proposed transfer date:
- (1) name, address and contact details of the proposed new *owner*;
  - (2) proposed transfer date and reasons for the transfer;
  - (3) an explanation of how the proposed new *owner* will comply with the requirements imposed on it by the *RCB Regulations* and *RCB*; and
  - (4) confirmation that the existing *owner* and the proposed new *owner* have obtained appropriate advice in relation to the proposed transfer, and details of such advice.

### Notifications of material changes

- 3.5.3** **G** Regulation 20 of the *RCB Regulations* (material changes to the regulated covered bond) sets out the procedures which apply where an *issuer* proposes to make a material change to the contractual terms of the bond.
- 3.5.4** **D** If an *issuer* proposes to make a material change to the contractual terms of a *regulated covered bond*, it must inform the *FCA* of the following information to the *FCA* at least 3 months before the proposed date of the change:
- (1) details of the proposed change including proposed date of change and the reasons for it;
  - (2) an assessment of the impact of the change on the ability of the *issuer* and *owner* to continue to comply with their requirements under the *RCB Regulations* and *RCB*; and
  - (3) confirmation that the *issuer* has obtained appropriate advice in relation to the proposed change and details of such advice.



- 3.5.5 **G** The *FCA* will regard as material any change that may affect the ability of the *issuer* or the *owner* to continue to comply with the requirements made on them under the *RCB Regulations* and *RCB*.

### Notifications to the FCA if asset pool is not capable or not likely to be capable of covering claims and of other matters

- 3.5.6 **D** The *issuer* or the *owner*, as the case may be, must notify the *FCA* immediately, in writing by e-mail or hand-delivered letter, if Regulation 18(2), or 24(1)(c) of the *RCB Regulations* (obligation to inform *FCA* if *asset pool* not capable, or not likely to be capable of covering claims) is triggered.

- 3.5.7 **D** The *issuer* or the *owner*, as the case may be, must notify the *FCA* immediately in writing by e-mail, or hand-delivered letter, if requirements relating to the relevant *regulated covered bond* under the *RCB Regulations* or *RCB* are, or are likely to be, materially breached, or of any other matter which the *FCA* should be made aware of.

- 3.5.8 **G** The *issuer* or the *owner*, as the case may be, should include details of proposals to rectify the breach at the time they notify, or as soon as practicable after that time.

### Notification of cancellation

- 3.5.9 **D** The *issuer* must notify the *FCA* if it proposes to cancel in full or in part a *regulated covered bond* or *programme* at least 3 *business days* before the cancellation will take effect.

- 3.5.10 **D** The *issuer* must send to the *FCA* the information in the form set out in **RCB 3 Annex 6 D** and an updated asset and liability profile form (**RCB 3 Annex 3 D**) on the date of cancellation of the *regulated covered bond* or *programme*.

### Publication of asset pool information and transaction documents

- 3.5.11 **D** The *issuer* must publish the asset notification form sent to the *FCA* under **RCB 3.3.1 D**.

- 3.5.12 **D** The *issuer* must publish the information relating to the individual loan assets in the *asset pool* in the form set out in **RCB 3 Annex 7A D** (loan level disclosure) within one *month* of the end of each quarter following any issuance of *regulated covered bonds* after 1 January 2013.

- 3.5.13 **D** The *issuer* must publish the transaction documents (excluding legal opinions) relating to the *regulated covered bond* or *programme*.

- 3.5.14 **G** The publication of the information and documents required under **RCB 3.5.11 D**, **RCB 3.5.12 D** and **RCB 3.5.13 D** should be made on a subscription-only, secure, password-protected website. This website should

also contain a link to the latest published *prospectus* relating to the relevant *regulated covered bond* or *programme*.

## 3.5.15

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- (1) The transaction documents published under ■ RCB 3.5.13 D should include the asset sale agreement, the servicing agreements, the administration and cash management agreements, the trust deed, the security deed, the agency agreements, the account bank agreement, the guaranteed investment contract, the master definitions agreement, intercompany loan agreements, the LLP deed, the asset monitor agreement, the swap documentation, the final terms of the *regulated covered bonds* or equivalent issuance documents setting out the terms of the *regulated covered bonds* and, if applicable, liquidity facility agreements.
- (2) Where the transaction documents contain sensitive commercial terms (such as the up-front costs associated with a swap), the *issuer* may redact these terms for the purposes of publication, provided the relevant transaction documents are non-public and the relevant redacted terms refer to sunk costs which do not impact the transaction cash flows.

## 3.5.16

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If the *issuer* is in insolvency, the *owner* must publish the information set out at ■ RCB 3.5.11 D and ■ RCB 3.5.12 D in accordance with those directions.

## 3.6 Fees and other matters

### Administrative fee

- 3.6.1 **R** If an *issuer* or *owner* does not provide the notifications to the *FCA* required by directions made under this chapter by the date specified, then that *issuer* or *owner* must pay to the *FCA* an administrative fee of £250.

### Further information and direction

- 3.6.2 **G** The *FCA's* exercise of its powers under Part 1 paragraph 3 of the Schedule to the *RCB Regulations* (power to require information) may include requesting information on the reviews undertaken or advice given by accountants and where appropriate lawyers.

- 3.6.3 **G** The form and content of the notifications in this chapter are a matter for direction by the *FCA* which will determine any additional information and documentation required on a case-by-case basis.

### Review of legal advice

- 3.6.4 **G** The *issuer* or the *owner*, as the case may be, should review legal advice as necessary. For example, advice should be reviewed if a relevant statutory provision is amended or where a new decision or judgment of a court might have a bearing on the conclusions reached which is material to the *issuer's* or *owner's* compliance with the requirements of the *RCB Regulations* or the *RCB*.

### Method of sending forms and information to FCA

- 3.6.5 **D** Unless otherwise stated, the *issuer* or the *owner*, as the case may be, must send the relevant forms and information to the *FCA's* address marked for the attention of the "Covered Bonds Team, Capital Markets Sector" by any of the following methods:
- (1) post; or
  - (2) leaving it at the *FCA's* address and obtaining a time-stamped receipt; or
  - (3) email to [rcb@fca.org.uk](mailto:rcb@fca.org.uk).



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## Annual confirmation of compliance with the RCB Regulations and the RCB Sourcebook

This annex consists only of one or more forms. Forms are to be found through the following address:

*Annual confirmation of compliance with the RCB Regulations and the RCB Sourcebook - rcb\_chapter3\_annex1d\_20130401.pdf*



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## Asset pool notification form

This annex consists only of one or more forms. Forms are to be found through the following address:

*Asset pool notification form - RCB\_03\_ann\_02\_20161104.xlsx*





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## Asset and liability profile form

This annex consists only of one or more forms. Forms are to be found through the following address:

*Asset and liability profile form-* [rcb\\_chapter3\\_annex3d](#)



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## Indicative terms form

This annex consists only of one or more forms. Forms are to be found through the following address:

*Indicative terms form-* RCB\_03\_ann\_04\_20161104.xls



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## Issuance form

This annex consists only of one or more forms. Forms are to be found through the following address:

*Issuance form-* RCB\_03\_ann\_05\_20161104.xls



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## Cancellation form

This annex consists only of one or more forms. Forms are to be found through the following address:

*Cancellation form-* RCB\_03\_ann\_06\_20161104.xls





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## Loan level disclosure form

This annex consists only of one or more forms. Forms are to be found through the following address:

*Loan level disclosure form-* RCB\_03\_ann\_07A\_20161104.xls



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## Guidance on loan level disclosure form

This annex consists only of one or more forms. Forms are to be found through the following address:

*Guidance on loan level disclosure form- rcb\_chapter3\_annex7bg\_20130101.xls*

