



# An Roinn Airgeadais Department of Finance

16 December 2008

## Credit Institutions (Financial Support) Scheme 2008

### - Frequently Asked Questions -

The purpose of this document is to provide answers to a number of frequently asked questions (FAQs) about the Credit Institutions (Financial Support) Scheme 2008 (S.I. No. 411 of 2008) (the **Scheme**).

For the avoidance of doubt, this document does not in any way alter the terms and conditions of the Scheme.

This document is for reference and clarification purposes only, and should not be relied upon as constituting legal advice.

### Nature of the Scheme

#### 1. *What is the Scheme and what does it do?*

The Scheme gives effect to the bank guarantee announced by the Irish Government on 30 September 2008.

The legal basis for the guarantee is provided by:

- the Credit Institution (Financial Support) Act 2008 (No. 18 of 2008),
- the Credit Institutions (Financial Support) Scheme 2008 (S.I. No. 411 of 2008),
- the Credit Institutions (Financial Support) (Specification of Institutions) Order 2008 (S.I. No. 416 of 2008),
- the Credit Institutions (Financial Support) (Specification of Institutions) (No.2) Order 2008 (S.I. No. 425 of 2008),
- and the Credit Institutions (Financial Support) (Specification of Institutions) (No.3) Order 2008 (S.I. No. 515 of 2008)

Under the Scheme, the Minister for Finance guarantees under the laws of Ireland certain types of liabilities (“covered liabilities”) of certain participating named institutions (“covered institutions”) for the period 30 September 2008 to 29 September 2010 inclusive. A list of covered institutions as at the date of these FAQs is set out under Q 11 below.

If a covered institution defaults in respect of a covered liability, the Minister of Finance will pay to the creditor, on demand, an amount equal to the unpaid covered liabilities.

2. ***What is the size of the guarantee – is there a monetary cap?***

There is no monetary cap on the guarantee. It covers all covered liabilities of covered institutions to 29 September 2010 inclusive.

3. ***Who is the actual guarantor?***

The State, in the form of the Minister for Finance of Ireland, is the guarantor.

4. ***How long does the guarantee last?***

The guarantee is valid to 29 September 2010 inclusive. No call can be made on the guarantee after 29 September 2010.

5. ***Does the guarantee affect creditor's other rights?***

The guarantee does not affect any other rights or claims of creditors.

6. ***Is the guarantee unconditional and irrevocable?***

The guarantee is unconditional, irrevocable and ensures timely payment of the covered liabilities of the covered institutions. In the event of any default of a covered institution in respect of a covered liability, the Minister for Finance will pay to the relevant creditor, on demand, an amount equal to the unpaid covered liabilities.

Paragraph 13 of the Scheme provides that an institution can be removed, or can withdraw, from the Scheme in certain circumstances. If that were to occur, all of its fixed term covered liabilities outstanding at that time will continue to have the full benefit of the guarantee to 29 September 2010 or their maturity, whichever is the earlier. Other covered liabilities will remain covered under the guarantee during a notice period of at least 90 days.

7. ***What happens after the period of the guarantee expires?***

Once the guarantee expires on 29 September 2010, it will no longer be effective and no call can be made on the guarantee after that date.

8. ***Has the guarantee been approved by the Irish Parliament?***

Yes. The Scheme was formally approved by both Houses of the Oireachtas (the Irish Parliament) on 17 October 2008. Statutory Instruments 411, 416, 425 and 515 of 2008 respectively, which are available on the Department of Finance website, were then made by the Minister for Finance in order to give effect to the guarantee.

9. ***Has the Scheme received State Aid clearance from the EU Commission?***

Yes. On 13 October 2008, the Scheme was approved by the EU Commission as being compatible with EC Treaty State aid rules.

10. ***Where can I find a copy of the Scheme, a list of covered institutions and other relevant documents?***

Material related to the Scheme, including relevant primary and secondary legislation, and an up-to-date list of covered institutions, is available on the Department of Finance website.

Please go to the following link:

<http://www.finance.gov.ie/viewdoc.asp?DocID=5507>

### **Scope of the Scheme – “covered institutions”**

11. ***Which institutions’ liabilities are covered by the Scheme?***

Those institutions that have executed a guarantee acceptance deed and have then been designated in an order by the Minister for Finance are “covered institutions” and therefore covered by the guarantee.

A definitive list of “covered institutions” is available on the website of the Department of Finance (see link in the answer to Q 10 above).

The list of “covered institutions” as of 16 December 2008 is:

- (a) Allied Irish Banks, p.l.c. and its subsidiaries AIB Mortgage Bank, AIB Bank (CI) Limited, AIB Group (UK) p.l.c. and Allied Irish Banks North America Inc.;
- (b) Anglo Irish Bank Corporation p.l.c. and its subsidiary Anglo Irish Bank Corporation (International) p.l.c.;
- (c) The Governor and Company of the Bank of Ireland and its subsidiaries Bank of Ireland Mortgage Bank, ICS Building Society and Bank of Ireland (I.O.M.) Limited;
- (d) EBS Building Society and its subsidiary EBS Mortgage Finance;
- (e) Irish Life and Permanent p.l.c. and its subsidiary Irish Permanent (IOM) Limited;
- (f) Irish Nationwide Building Society and its subsidiary Irish Nationwide (I.O.M.) Limited; and
- (g) Postbank Ireland Limited.

12. ***Does the guarantee extend to branches of covered institutions?***

Yes, regardless of the location of the branch.

## **Scope of the Scheme – “covered liabilities”**

### 13. ***What is a “covered liability”?***

Covered liabilities are listed in the Scheme as:

- (a) all retail and corporate deposits (to the extent not covered by existing deposit protection schemes in Ireland or any other jurisdiction);
- (b) interbank deposits;
- (c) senior unsecured debt;
- (d) covered bonds (including asset covered securities); and
- (e) dated subordinated debt (Lower Tier 2).

The Explanatory Memorandum to the Scheme clarifies that any covered liabilities held as collateral by the ECB and other Central Banks and any deposits made by the ECB with covered institutions as part of the ECB’s investment operations fall within the Scheme.

Intra-group borrowing and any debt due to the European Central Bank arising from Eurosystem monetary operations are excluded from the Scheme.

### 14. ***What is a “deposit” for the purposes of the Scheme?***

For the purposes of the Scheme, a deposit includes any credit balance with a covered institution that results from funds left in any account or normal banking transactions and which the credit institution is obliged to repay, and any debt evidenced by a certificate issued by a credit institution, and includes money in share accounts with building societies.

Therefore, cash deposits (fixed rate and tracker) and certificates of deposit are both covered by the guarantee.

The terms “retail deposit”, “corporate deposit” and “interbank deposit” are also described in the Explanatory Memorandum that is attached to the Scheme (see link above).

The legal character and/or geographic location of the depositor does not affect the scope of the guarantee. Therefore, all deposits, including those by unincorporated bodies such as clubs and charities, are covered. Deposits made by governments, sovereigns, supra-nationals and local authorities are also covered.

### 15. ***What does “senior unsecured debt” mean for the purposes of the Scheme?***

The term “senior unsecured debt” is given its normal, finance industry meaning. In this sense, senior unsecured debt will broadly include securities that have priority ahead of all other unsecured or subordinated debt in ranking for payment in the event of default. However, it will also include unsecured debt of the covered institution that

is not in debt security form and which would be senior to subordinated debt in a winding-up of the covered institution.

Therefore, to the extent that a covered institution is the issuer/debtor, the following should fall within the definition of senior unsecured debt: short term paper, medium term notes (fixed or floating), convertible or exchangeable debt instruments, loan facilities, structured unsecured debt products (including interest rate linked notes, inflation linked notes, equity linked notes, commodity linked notes and FX linked notes), and crystallised exposures under derivative contracts (including repos) after taking into account any netting.

16. ***What does “dated subordinated debt (Lower Tier 2)” mean for the purposes of the Scheme?***

This is debt with a specific redemption or maturity date, as opposed to a “perpetual” debt that has no fixed maturity. It is “subordinate” to other debts, meaning that it would be honoured after those debts should a credit institution be wound up. The term “Lower Tier 2” is a classification used for regulatory purposes.

17. ***Does the guarantee apply to covered liabilities that arose before 30 September 2008?***

Yes. The guarantee applies to covered liabilities in existence during the period 30 September 2008 to 29 September 2010, regardless of whether they were created before or after 30 September 2008. However, as explained in Qs 4 and 7 above, the guarantee expires on 29 September 2010 and does not cover any amounts falling due after that date, even if the covered liability continues in existence. See also Q 19 below.

18. ***Does the Scheme have any currency restrictions, e.g. does it only apply to covered liabilities denominated in Euros?***

No. The guarantee does not have any currency restrictions.

19. ***What are the maximum maturities on covered liabilities?***

There are no maximum maturities on covered liabilities. However, the guarantee does not cover any default on any covered liabilities that occur after 29 September 2010.

20. ***Is interest on covered liabilities covered by the guarantee?***

Yes. The guarantee covers interest due and unpaid to the point at which a call under the guarantee is made by a creditor.

21. ***Does the guarantee extend to the payment of additional interest accruing from the date of any default through to the date a payment under the guarantee is made by the Department of Finance?***

Interest will only be paid in these circumstances if it has become due in accordance with the terms of the contract governing the relevant covered liability.

22. ***If a covered institution defaults on an obligation under a covered liability and a call under the guarantee is made, does this have the effect of accelerating other rights and obligations in respect of the covered liability?***

The fact alone that the guarantee has been triggered will not automatically lead to an acceleration of other rights and obligations under a covered liability. Payments will only be made under the guarantee in accordance with the terms of contract governing the relevant covered liability. For example, if an interest payment is missed, the guarantee will only cover an accelerated payment of the principal amount if the contractual effect of a missed interest payment is acceleration of the principal.

23. ***What is the withholding tax position in relation to payments made under the guarantee?***

In the case of bonds issued by covered institutions, there is no obligation on the Minister for Finance to deduct withholding tax in the event of payments being made by the Minister under the guarantee. The Irish Revenue authorities have advised that payments made by the Minister for Finance under the Scheme would not be regarded as interest.

If a covered institution is required to gross-up interest, the guarantee will cover all grossed up amounts.

Where Deposit Interest Retention Tax (DIRT) is payable, interest payments under the guarantee will be net of this tax.

24. ***If I have a question about whether a particular investment is covered by the Scheme, who should I contact?***

In the first instance, you should check the answers above on the scope of the Scheme.

If you still have any queries, you should contact your own bank or building society for guidance and/or clarification.

The Department of Finance will, from time to time, update these FAQs if it becomes aware of additional questions or issues that are relevant to the market as a whole.