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Addendum

To

Re

Stichting Waarborgfonds Eigen Woningen

Eligibility of the National Mortgage Guarantee as credit protection under the CRR – C&N 2024

1 INTRODUCTION

- 1.1 In 2020, the Stichting Waarborgfonds Eigen Woningen (the "**WEW**") asked us to analyse whether the National Mortgage Guarantee (*Nationale Hypotheek Garantie*, "**NHG**") meets the conditions set out in the Capital Requirements Regulation ("**CRR**")¹ to be classified as unfunded credit protection by a bank or other institution within the meaning of the CRR. In our memorandum dated 31 March 2020 (the "**Original Memo**"), we confirm, based on the analysis contained therein, that the NHG product meets the relevant eligibility requirements for guarantees set out in Articles 213 - 215 CRR.
- 1.2 From 1 January 2024, amended Conditions & Norms (*Voorwaarden & Normen*, "**C&N**") will apply, which have been rewritten by the WEW in clear and understandable language and whose layout has been adjusted ("**C&N 2024**"). Due to the C&N 2024, the WEW has asked us to analyse in this addendum to the Original Memo whether the C&N 2024 have any consequences for the analysis and conclusions in the Original Memo.
- 1.3 Like the Original Memo, this addendum is addressed to the WEW. The WEW may publish this addendum on its website so that lenders, regulators and other stakeholders can also take note of it. However, they cannot derive any rights from this addendum.

2 RELEVANT CHANGES TO C&N 2024

- 2.1 The Original Memo is based on the C&N version 2020-2 ("**C&N 2020**"). The most important amendments to the C&N 2024 compared to the C&N

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¹ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

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2020 are listed below, insofar as they are relevant to the analysis and conclusions in the Original Memo.

Layout, article numbering and terminology

2.2 The structure of the C&N 2024 has changed compared to the structure of the C&N 2020. This means that the article numbers have also changed. Certain terminology has also been replaced (for example, the term 'borrower' is no longer used; instead, the term 'consumer' is used). For the sake of brevity, we refer to the transposition table drawn up by the WEW and published on its website.² In this transposition table, you can find the original location of the articles discussed in the Original Memo and where they reappear in the C&N 2024.³

Clauses within the control of the lender

2.3 It follows from Article 213(1)(c) CRR that, in short, no condition may apply to the NHG product that is beyond the control of the lender and that could undermine the protection under the NHG product. Below, we assess a number of changes in the C&N 2024 compared to the C&N 2020 against this requirement.

Consent requirements

2.4 Unlike the C&N 2020, the C&N 2024 no longer requires the prior consent of the WEW for certain actions by the lender. See in particular Articles B9 to B10 C&N 2020, which concerned the private or enforced sale of the property. According to the C&N 2020, there were also a few other actions for which consent had to be obtained, such as a release from liability or the release of collateral. In the Original Memo (see pages 11 and 12, in the context of Article 213(1)(c) CRR), we already took the position that these are actions that should be considered to fall within the control of the lender. In the C&N 2024, the WEW's prior consent for these actions has been dropped.

Future changes

2.5 According to the 'general information' section, the C&N 2024 allow certain changes to be made by the WEW, which are therefore also apply to existing loans to which the NHG product applies. However, Article B.1.6. of the C&N 2024 confirms that changes do not lead to a reduction in:

- *"The scope or term of the guarantee for existing loans with NHG*

² <https://www.nhg.nl/media/huwbo3au/transponeringstabel-nhg-v-n-2023-1-naar-2024-1.pdf>

³ Although the transposition table is based on the C&N version 2023-1, it applies equally to the C&N 2020 with regard to the provisions relevant to the Original Memorandum and this addendum.

- *The rights to payment of the loss under the guarantee for existing loans with NHG*
- *The rights to payment on the basis of Payment of expected loss for existing loans with NHG"*

As a result of this confirmation, we believe that the WEW's right to make changes will not qualify as a condition beyond the control of the lender.

Exceptions to C&N 2024

2.6 According to the 'general information' section, the C&N 2024 also allow the WEW to deviate from the rules in the C&N 2024 in exceptional instances. However, this is limited to the three instances listed therein. These instances are always dependent on an action (request) initiated by the lender. In our opinion, any deviation from the C&N 2024 should therefore be considered to fall within the control of the lender.

3 ANALYSIS AND CONCLUSION

3.1 Based on the above analysis, we believe that the C&N 2024 has no impact on the analysis and conclusions in the Original Memo. On the contrary, the C&N 2024 reinforces certain parts of that analysis and those conclusions. Taking into account the Original Memo and this addendum, we therefore believe that the NHG product based on the C&N 2024 meets the relevant eligibility requirements for guarantees set out in Articles 213 - 215 CRR.