



*Integrity*

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E X P E C T E X C E L L E N C E

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## Financial Regulatory Group Briefing The Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009

The Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009 (the “ELG Scheme”) commenced on 9 November 2009. The ELG Scheme is part of a range of measures taken by the Irish Government since September 2008 to ensure the stability of the financial system in the State, including the earlier Credit Institutions (Financial Support) Scheme 2008 (the “CIFS Scheme”). The ELG Scheme has been made under section 6(4) of the Credit Institutions (Financial Support) Act 2008, the same piece of legislation that was used to introduce the CIFS Scheme. The ELG Scheme updates and amends the CIFS Scheme.

The ELG Scheme provides for an unconditional and irrevocable State guarantee (given by the Minister for Finance) for certain eligible liabilities (including deposits) of up to five (5) years in maturity incurred by participating institutions during the period from the commencement date of the ELG Scheme (9 December 2009) to 29 September 2010 on certain terms and conditions.

A key feature of the ELG Scheme is that it provides that debt securities issued by participating institutions can be guaranteed by the Minister for Finance beyond 29 September 2010, which is the expiry date of the CIFS Scheme.

Participating institutions under the ELG Scheme will pay a fee to the Minister for each liability guaranteed under the ELG Scheme. They will be subject to a range of commercial conduct restrictions consistent with those which currently apply under the CIFS Scheme.

The ELG Scheme is subject to six monthly review by the EU Commission.

The ELG Scheme will be operated on a day-to-day basis by the National Treasury Management Agency (the “NTMA”).

### **Eligible Liabilities**

The ELG Scheme provides for an unconditional and irrevocable State guarantee for certain eligible liabilities of up to five (5) years in maturity incurred by financial

*This document contains a general summary of developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.*

institutions participating in the scheme (“Eligible Liabilities”) during an issuance window from 9 December 2009 to 29 September 2010.

The Eligible Liabilities for the purposes of the ELG Scheme are:

- » all deposits (to the extent not covered by deposit protection schemes in the State (other than the CIFS Scheme) or any other jurisdiction);
- » senior unsecured certificates of deposit;
- » senior unsecured commercial paper;
- » other senior unsecured bonds and notes; and
- » other forms of senior unsecured debt which may be specified by the Minister, consistent with EU State aid rules and the EU Commission’s Banking Communication (2008/C 270/02) and subject to prior consultation with the EU Commission.

A participating institution can also obtain a guarantee for an entire debt issuance programme, following which all Eligible Liabilities issued under the programme will be guaranteed by the Minister for Finance.

The ELG Scheme also permits participating institutions to issue unguaranteed debt securities and to take unguaranteed deposits.

A participating institution must apply to the NTMA (as scheme operator) for a guarantee certificate for each specific debt security or programme that it wishes to be guaranteed. The NTMA will maintain details on its website of all of the stand-alone issues of debt securities and programmes that have been guaranteed under the ELG Scheme.

## Key Contacts

For further information, please speak to your usual Arthur Cox contact or one of the following financial regulatory experts:



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## Interaction with the CIFS Scheme and the Deposit Guarantee Scheme (“DGS”)

All liabilities guaranteed under the CIFS Scheme as at the commencement date of the ELG Scheme will remain unconditionally and irrevocably guaranteed under and in accordance with the terms of the CIFS Scheme until 29 September 2010. However, once a participating institution joins the ELG Scheme, any liabilities incurred or contracted for thereafter by that participating institution can only be guaranteed under the ELG Scheme.

The current statutory DGS remains in place, covering 100% of retail deposits with all credit institutions authorised in Ireland (including credit unions) up to €100,000 per qualifying depositor per authorised credit institution. The DGS applies in precedence to the ELG Scheme, which means that in practice most deposits will be guaranteed under the DGS rather than the ELG Scheme.

## Further Information

Full details of the ELG Scheme, including the rules of the ELG Scheme applicable to participating institutions and a set of FAQs, are available on the Department of Finance website:

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

Details of debt instruments guaranteed under the ELG Scheme and related materials will be available on the website of the NTMA:

<http://www.ntma.ie/ELGScheme/CreditInstitutionsELGScheme.php>.

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