

Statutory Order on the Form and Content of the Cover Registers pursuant to the Pfandbrief Act and on the Recording of the Entries*

(Cover Register Statutory Order)

(Deckungsregisterverordnung - DeckRegV)

of August 25, 2006

On the basis of § 5 par. 3 Pfandbrief Act (PfandBG) of May 22, 2005 (Federal Law Gazette I p. 1373) in conjunction with § 1 no. 4 Statutory Order on the Transfer of Authorizations to Issue Statutory Orders to the Federal Financial Supervisory Authority of December 13, 2002 (Federal Law Gazette 2003 I p. 3), § 1 no. 4, last amended by Article 7 no. 1 of the Act of June 22, 2005 (Federal Law Gazette I p.1698), the Federal Financial Supervisory Authority orders in agreement with the Federal Ministry of Justice after hearing the central associations of the banking industry:

PART 1

Scope of application; general provisions

§ 1 Scope of application; definitions

(1) This statutory order regulates the requirements in terms of the form and content of the cover registers pursuant to § 5 par. 1 sentence 1 Pfandbrief Act, the form of the records and confirmations pursuant to § 5 par. 2 Pfandbrief Act, the type and manner of the transmission of the records as well as the safekeeping of the records by the Federal Financial Supervisory Authority (supervisory authority).

(2) Deletion notes shall also be deemed to be entries within the meaning of this statutory order.

§ 2 Form of the cover registers; entries

(1) Cover registers may, as provided for in Part 3, be kept in paper form or as electronic registers.

(2) Entries may be made only by persons specifically authorized by the Pfandbrief Bank; the authorization and any changes must be documented. The documentation shall be held in safekeeping for each person for at least five years after the authorization is revoked.

§ 3 Protection of the cover registers

Cover registers are to be afforded special protection against unauthorized access and against damage or destruction by external forces such as fire or water

§ 4 Principal and subsidiary register

(1) A separate cover register shall be kept for each Pfandbrief category as defined by § 1 par. 1 sentence 2 nos. 1 to 3 Pfandbrief Act. If the Pfandbrief Bank makes use of the possibility provided for in § 51 Pfandbrief Act, the cover register hitherto kept for the Pfandbrief category in question shall be kept in addition to the cover register to be kept in accordance with sentence 1. Each cover register must bear the name of the Pfandbrief Bank and the heading “Cover register” (“Deckungsregister”) together with the Pfandbrief category.

(2) Besides the respective principal register, a subsidiary register shall be kept in accordance with § 13 for claims under derivative transactions as defined by § 19 par. 1 no. 4 Pfandbrief Act. Further subsidiary registers may be kept for cover assets as defined by § 18 par. 1 second case (foreign security interests), by § 19 par. 1 nos. 1 to 3 and by § 20 par. 2 nos. 1 and 2 Pfandbrief Act. Further subsidiary registers may be kept for cover assets as defined by § 18 par. 1 second case (foreign security interests), by § 19 par. 1 nos. 1 to 3 and by § 20 par. 2 nos. 1 and 2 Pfandbrief Act. The fact that the subsidiary registers belong to the respective cover register is to be indicated by the heading “Subsidiary register to the cover register” (“Unterregister zum Deckungsregister”), stating also the Pfandbrief category. The principal register must state which sub-sidiary registers are being kept as parts of the cover register.

(3) Where subsidiary registers are created pursuant to § 5 par. 1 sentence 4 Pfandbrief Act, an entry shall be made in the cover register referring to the subsidiary register. Such reference must describe the type of cover assets entered in the subsidiary register. The cover assets entered in the subsidiary register shall be numbered consecutively within the subsidiary register. The entries must contain the information stipulated in §§ 9 to 14 and reproduce in a clear manner the contents of the forms DR 1, DR 2 and DR 3 as provided for in the Annexes 1 to 3.

* Working translation submitted by the Association of German Pfandbrief Banks (vdp), not officially licenced by the Federal Ministry of Finance.

§ 5 Completeness of the cover register

- (1) Entries may not be subsequently changed except in the case of clerical errors, miscalculations or similar obvious misrepresentations.
- (2) Entries are to be made in a permanent manner in such a way that any changes that are made subsequently may be recognized as such at any time. It shall be ensured by technical and organizational measures that the original content remains ascertainable.

PART 2

Additional requirements concerning registers kept in electronic form

§ 6 General requirements

- (1) The content of a cover register that is kept electronically must be permanently capable of reproduction without change in a legible form and must be permanently archived in a way that ensures auditing is permanently possible.
- (2) It must be possible to reproduce the content of a cover register that is kept electronically in a legible form on a display screen and in printouts in such a way that the form and content of the entries are represented in their entirety. The content of the electronic cover register must be capable of printout in its entirety at any time.

§ 7 Technical and organizational measures to ensure data protection and data security

- (1) The data processing systems employed must comply with the level of technology and the requirements set down in the Annex to § 9 sentence 1 Federal Data Protection Act (Bundesdatenschutzgesetz - BDSG). In particular, they must ensure that
 1. their functions can only be used when the user proves his identity towards the system in a secure manner (identification and authentication),
 2. the delegated rights of use are administered in the system (administration of authorizations),
 3. the delegated rights of use are checked by the system (authorization check),
 4. an audit-proof recording of all accesses (input, read, copy, modify, delete, block) takes place (auditing acceptability),
 5. systems employed can be recovered without security risks (recovery),
 6. any falsifications of the stored data can be immediately detected by technical checking mechanisms (falsification-proof data) and
 7. occurring malfunctions are reported immediately (dependability).

- (2) The Pfandbrief Bank shall hold in safekeeping at least one complete backup copy of each electronic cover register. The backup copy shall be stored on a different data carrier than the cover register and updated at least at the end of each working day to the status of the cover register at that point in time.

PART 3

Content of the entries

§ 8 General requirements

- (1) It must be ensured that cover assets are not entered until all requirements concerning the inclusion of the assets in cover have been met. Backdated entries shall be inadmissible.
- (2) Each cover asset shall be entered with a consecutive number within the cover register. The number may not be reassigned after the cover asset is deleted.
- (3) One column in the principal and subsidiary registers shall in each case be provided for remarks that are necessary for the unequivocal legal allocation of the cover asset in addition to the other details or that may substantially facilitate such allocation.

§ 9 Entry of mortgages and land charges located in Germany

Entries of mortgages and land charges located in Germany are to be made as follows in keeping with form DR 1 shown in Annex 1:

1. The columns 1 to 4 are to be given the heading “Description of the cover asset (“Bezeichnung des Deckungswerts”). In column 1, the consecutive number within the cover register is to be stated under letter a, the file reference number allocated by the Pfandbrief Bank under letter b and the date of the entry under letter c.
2. The encumbered property or right equivalent to real property is to be entered in column 2a. Either the description from the inventory of the land register may be entered or reference may be made to the land register folio. In the latter case, the address of the property must also be stated. In column 2b, the mortgage lending value assumed at the time of the inclusion in cover is to be entered.
3. The real estate lien is to be entered in column 3. The consecutive number under which the real estate lien was entered in the land register, the currency and the nominal amount entered in the land register are to be stated.
4. Except in the case of a mortgage (Hypothek), the secured personal claim is also to be

entered in column 4. The debtor, the currency, the nominal amount and, if it deviates from the file reference number in column 1 letter b, the loan number are to be stated.

5. Deletion notes are to be entered in column 5. The column number and, if applicable, the amount of the entry to be deleted as well as the date of the entry are to be stated. Inasmuch as the deletion is noted at a separate place in the register, in addition to the deletion note in column 5 at least also the details concerning the cover asset to be deleted in columns 1 and 2a are to be repeated. The signature of the cover pool monitor pursuant to § 8 par.4 sentence 2 half-sentence 2 Pfandbrief Act must be unequivocally allocated to the respective deletion note of the Pfandbrief Bank. Where the description of the cover asset to be deleted is unequivocal, the cover pool monitor's approval may also be given on a separate sheet which is not part of the cover register.
6. Where the cover asset is entered in a Funding Register pursuant to Section 22a or Section 22b German Banking Act (Kreditwesengesetz - KWG), this must be noted in column 6. The enterprise keeping the register as well as the date of the entry in the Funding Register are to be stated.
7. Where registered assets pursuant to § 5 par. 1a sentence 1 Pfandbrief Act are only partially intended as cover for Pfandbriefe, precise details concerning the scope of the part to serve as cover and its rank vis-à-vis the part which is not to serve as cover shall be entered in column 6.
8. Where registered assets pursuant to § 5 par. 1a sentence 4 Pfandbrief Act are to be managed in their entirety or in part by the Pfandbrief bank as a fiduciary, precise details concerning the creditor of the right of transfer shall be entered in column 6; in the case of partial management in a fiduciary capacity, no. 7 shall apply *mutatis mutandis*.

§ 10 Entry of foreign security interests

- (1) Entries of foreign security interests are to be made analogously to the entries of mortgages and land charges located in Germany pursuant to § 9.
- (2) Where the descriptions of the properties or rights equivalent to real property or the descriptions of the foreign security interests in the respective public registers deviate from the descriptions in accordance with the German Land Registration Code (Grundbuchordnung - GBO), the descriptions actually used in the public registers are to be used. The columns 2a and 3 of form DR 1 are to be modified accordingly. Where the columns 2a and 3 do not suffice for the entries required thereunder due to the local peculiarities when making entries in public registers, supplementary sheets may be added which shall become part of the cover register. The supplementary sheets are to be marked using the consecutive number from column 1 letter a.
- (3) Insofar as properties located abroad are not included in public registers, the address, size and details that are customary under the respective legal system and make an unequivocal identification of the property possible are to be entered.

§ 11 Entry of cover assets pursuant to § 20 par. 1 Pfandbrief Act

Entries of cover assets pursuant to § 20 par. 1 Pfandbrief Act are to be made as follows in keeping with form DR 2 in Annex 2:

1. The columns 1 to 3 are to bear the heading "Description of the cover asset" ("Bezeichnung des Deckungswerts"). In column 1, the consecutive number of the entry in the cover register is to be stated under letter a, the institution's internal file reference number under letter b and the date of the entry under letter c.
2. In column 2, the debtor is to be entered stating the loan number, and in the case of securities, stating the securities identification number.
3. In column 3, the currency and the nominal amount of the claim are to be stated as well as, in cases in which a full guarantee has been assumed, the body that issued the consent or guarantee.
4. Deletion notes are to be entered in column 4 stating the date. Inasmuch as the deletion is noted at a separate place in the register, in addition to the deletion note in column 4 at least also the details concerning the asset to be deleted in columns 1 and 2 are to be repeated. § 9 no. 5 sentences 4 and 5 shall apply *mutatis mutandis*.

§ 12 Entry of cover assets pursuant to § 21 and § 26 par. 1 no. 1 Pfandbrief Act

- (1) Entries of cover assets pursuant to § 21 and § 26 par. 1 no. 1 Pfandbrief Act are to be made, subject to par. 2, in accordance with § 9.
- (2) In column 2a, the description of the encumbered real property is replaced by the description in the public register of the ship or ship under construction serving as incumbrance as well as by the name of the register and of the registration office. In the case of rights in rem pursuant to § 22 par. 5 Pfandbrief Act that do not serve to secure a personal claim, and in the case of abstract promises of payment or debt acknowledgements that are secured by ship mortgages, the underlying loan claims are to be entered in column 4. § 9 no. 4 sentence 2 shall apply *mutatis mutandis*.

§ 12a Entry of cover assets pursuant to §§ 26a and 26f par. 1 no. 1 Pfandbrief Act

- (1) The entry of cover assets pursuant to §§ 26a and 26f par. 1 no. 1 Pfandbrief Act is to be made subject to par. 2 in accordance with § 9.
- (2) In column 2a, the description of the encumbered real property is replaced by the description in the public register of the aircraft lent on as well as by the name of the register and the registration office. In the case of rights in rem pursuant to § 26b par. 5 Pfandbrief Act that do not serve to secure a personal claim, and in the case of abstract promises of payment or debt acknowledgements that are secured by registered liens pursuant to § 1 Law on Rights in Aircraft (LuftFzG) or by foreign aircraft mortgages, the underlying loan claims are to be entered in column 4. § 9 no. 4 sentence 2 shall apply *mutatis mutandis*.

§ 13 Entry of claims under derivative transactions

The entry of claims under derivative transactions in the respective subsidiary register is to be made as follows in keeping with form DR 3 shown in Annex 3 by entering the derivatives included in cover:

1. The columns 1 to 8 are to be given the heading “Description of the cover asset” (“Bezeichnung des Deckungswerts”). Column 1 contains under letter a the consecutive number within the cover register and under letter b the date of the entry; column 2 contains the registration number of the Pfandbrief Bank.
2. In column 3, the name and address of the counterparty are to be entered.
3. Column 4 contains the description of the product and product-specific details such as the amounts and currencies of the exchange of capital, the amount of the interest rates and any further details necessary for the unequivocal identification of the contract.
4. In column 5, the registration number of the counterparty is to be entered.
5. Column 6 contains under letter a the date of the individual transaction, under letter b the life and under letter c the maturity.
6. In column 7, the assets are to be entered with which the counterparty has provided the Pfandbrief Bank as collateral for claims under the derivative transaction.
7. In column 8, the cover pool monitor can give his approval as is required pursuant to § 5 par. 1 sentence 2 Pfandbrief Act by affixing his signature. Where the description of the derivative is unequivocal, the cover pool monitor’s approval may also be given on a separate sheet which is not part of the cover register.
8. Deletion notes are to be entered in column 9 stating the date. Inasmuch as the deletion is entered at a separate place in the register, in addition to the deletion note in column 9 at least also the details of the asset to be deleted in columns 1 to 3 and 6 are to be repeated in this respect. § 9 no. 5 sentences 4 and 5 shall apply *mutatis mutandis*.

§ 14 Entry of cover assets in accordance with § 4 par. 1 sentence 2, § 19 par. 1 nos. 1 and 2, § 20 par. 2 no. 2 as well as § 26f par. 1 nos. 2 and 3 Pfandbrief Act

Entries of cover assets pursuant to § 4 par. 2 sentence 2, § 19 par. 1 nos. 1 and 2, § 20 par. 2 no. 2 as well as § 26f par. 1 nos. 2 and 3 Pfandbrief Act are in principle to be made in keeping with § 11 unless the unequivocal identification of the cover assets necessitates other or additional details. In the case of cover assets pursuant to § 4 par. 1 sentence 2 no. 1 Pfandbrief Act, the particular form of the obligation is to be indicated by way of addition. In the case of § 4 par. 1 sentence 2 no. 3 Pfandbrief Act, the account-maintaining bank and the account number are to be stated instead of the debtor.

PART 4

Records and confirmations pursuant to § 5 par. 2 Pfandbrief Act

§ 15 Form of recording and transmission

- (1) The record pursuant to § 5 par. 2 Pfandbrief Act must reproduce in its entirety all the entries that were made in the cover registers during the last half calendar year. The individual pages of the record must be numbered consecutively and be connected firmly with each other in a suitable manner.
- (2) Where the Pfandbrief Bank keeps an electronic cover register, the record may be made in that the entries of the last half calendar year are printed out together. The printout must be marked as such and the date of the data retrieval must be affixed thereto.
- (3) The entries may also be transmitted using suitable data carriers that are not writable more than once. If in this case the cover registers are transmitted in their entirety, the entries of the last half calendar year are to be specially marked.

§ 16 Confirmation by the cover pool monitor

- (1) The cover pool monitor has to confirm that the record pursuant to § 5 par. 2 Pfandbrief Act reproduces the entries of the last half calendar year in their entirety and that its content concurs with that of these entries. Also in the event of the transmission of the cover registers in their entirety in accordance with § 15 par. 3 sentence 2, the confirmation shall refer only to these entries.
- (2) The cover pool monitor may also by way of a suitable random sample convince himself of the completeness and the full concurrence in terms of the content. Insofar as he makes use of this possibility, he must indicate this within the scope of his confirmation. The random sample must be documented in a transparent manner and the suitability must be explained.
- (3) Clerical errors, miscalculations and similar obvious misrepresentations may be corrected only by the Pfandbrief Bank.
- (4) The confirmation must be given in writing. §§ 126 and 126a German Civil Code (Bürgerliches Gesetzbuch - BGB) shall apply *mutatis mutandis*. In the case of transmission in accordance with § 15 par. 3, the cover pool monitor must in addition affix his signature to a sticker which must be permanently applied to the data carrier in such a way that it cannot be removed without sustaining recognizable damage.

§ 17 Safekeeping by the Federal Financial Supervisory Authority

The supervisory authority shall hold the records in safekeeping for 50 years. The records shall be afforded special protection against unauthorized access and against damage or destruction by external forces. Authorizations to access the records shall be restricted to certain staff members of the supervisory authority.

PART 5

Closing provisions

§ 18 Transitional provisions

(1) Cover registers which the institutions kept on the basis of legal provisions prior to the entry into effect of this Statutory Order and which make possible an unequivocal allocation of the entered cover assets under the law of property, may be continued in the present form until December 31, 2006. Thereafter, the requirements set down in this Statutory Order shall apply only to cover assets in respect of which new entries are to be made.

(2) It is admissible to keep the electronic cover register only for the cover assets to be added as from the date on which it is introduced. The relevant point in time is to be stated in the part of the cover register kept in paper form and in the part of the cover register kept in electronic form. The uniformity of the cover register is to be created by way of clear references to the parts that are continued to be kept in paper form.

§ 19 Entry into force

This Statutory Order shall enter into force on the day after promulgation.

Bonn, August 25, 2006

President of the Federal Financial Supervisory Authority
Sanio

Annex 1 (to § 9) Form DR 1 Cover register (mortgages)

Description of the cover asset										Deletions			
1	2a	2b	3			4				5			6
a) Consecutive no. b) File ref. no. c) Date	Description of the encumbered property or right equivalent to real property	Mortgage lending value at inclusion in cover	Real security			Secured personal claim(s) (may be dispensed with in case of mortgages) a) Consecutive no. b) File ref. no. c) Date				Column no. of the entry to be deleted	Amount	Date, cover pool monitor's signature	Re-remarks
			Consecutive no. in section III	Currency	Nominal amount	Debtor	Currency	Amount	Loan no, if applicable				

Annex 2 (to § 11) Form DR 2 Cover register (public-sector)

Description of the cover asset					Deletions		
1	2	3			4	5	
a) Consecutive no. b) File ref. no. c) Date	Debtor and loan no. or securities identification no.	Currency and nominal amount of the loan		if applicable, consent or guarantee by	a) Deleted on (date) b) Cover pool monitor's signature	Re-remarks	
		Currency	Amount				

Annex 3 (to § 13) Form DR 3 Subsidiary register to cover register (mortgages)/(public-sector)/(ship mortgages) Subsidiary register for derivatives

Description of the cover asset								Deletions		
1	2	3	4	5	6	7	8	9	10	
a) Consecutive no. b) Date	Registration no. of the Pfandbrief Bank	Name and address of the counterparty	Denomination of the product, product-specific details	Registration no. of the counterparty	a) Individual transaction of b) Life c) Maturity	Collateral	Cover pool monitor's signature	Date, cover pool monitor's signature	Re-remarks	
			*Amounts and currencies of the exchange of capital *Interest rates *Further details, if applicable							