AUTORITÉ
DES MARCHÉS FINANCIERS

AMF

AMF Accepted Market Practice 2012-04
Liquidity contract for bonds

Background regulation: Article 612-1 of the AMF General Regulation

By a decision of 10 May 2012, the AMF admitted the practice described below as an accepted market practice.

1. Description of the market practice

Any issuer whose debt securities that do not give access to capital are admitted to trading on a regulated market or on an organised multilateral trading facility within the meaning of article 524-1 of the General Regulation, may enter into a liquidity contract with an investment services provider (the "Liquidity Provider").

The debt securities covered by this decision are any bonds issued by an issuer; they do not include negotiable debt securities or government bonds.

The liquidity contract defines the conditions under which the investment services provider purchases or sells bonds on behalf of the issuer, with the aim of fostering the liquidity of trades and allowing regular quotations, or avoiding price swings that do not correspond to market trends. The liquidity contract must comply with the principles set forth in the Code of Conduct enclosed in the appendix of the present decision.

The issuer may appoint several investment services providers to handle its bond issues. However, each bond issue may only be handled by a single services provider and must thus be covered by a single liquidity contract.

In this respect, the liquidity contract stipulates the terms for centralising all the trades carried out by the liquidity provider on behalf of the issuer on a specific bond issue.

The liquidity provider is paid a lump-sum fee. This compensation may however include a variable part, which cannot exceed 15% of the total compensation under the liquidity contract.

2. Criteria for accepting the practice

a) Degree of transparency of the practice to the market as a whole:

Prior to the implementation of the Liquidity contract, the issuer must publish a news release specifying the identity of the investment services provider, the resources assigned to the contract, and the characteristics of the bond issue(s) covered by the contract.

Additionally, every six months and when the liquidity contract is terminated, the issuer must publish a news release reporting on the implementation of such contract, specifying the cash and bonds available at the date of the news release and at the execution of the contract.

These news releases are disseminated in accordance with the arrangements set out in article 221-3 of the AMF General Regulation, and are submitted to the AMF pursuant to article 221-5.

Each month, the issuer must also inform the AMF of the number of securities exchanged per bond issue under the contract, as well as the prices at which these transactions were made, using a form available on the AMF's website.

These measures aim to guarantee the transparency of the practice.

b) The need to safeguard the operation of market forces and the interaction between supply and demand:

Under a liquidity contract, the investment services provider trades in a market on which there may occasionally be an imbalance between supply and demand. The transactions performed by the investment services provider are intended to maintain the regularity of quotations or to avoid price swings that are not justified by market trends, and aim precisely to foster proper interaction between supply and demand and are a crucial factor in safeguarding market forces.

In order to prevent the occurrence on the debt securities market of multiple trades which are contradictory and are likely to hamper fulfilment of the liquidity contract and the proper working of the market, the issuer is prohibited from trading in the securities concerned throughout the term of the contract.

With the same purpose in mind, the issuer may only appoint one Liquidity Provider for one bond issue.

c) The degree to which the market practice affects market liquidity and efficiency:

The purpose of the implementation of a liquidity contract is to improve the liquidity, and hence the efficiency, of the relevant bond market.

d) The degree to which the relevant practice takes account of the trading mechanisms of the market concerned and allows market participants to react properly and rapidly to the new market situation that it has created:

All the trades conducted under the liquidity contract must be performed during trading sessions, in strict compliance with the trading mechanisms available on the relevant market, and in accordance with the organisation and operating rules of this market.

e) The risk inherent in the relevant practice for the integrity of directly or indirectly related markets, whether regulated or not, in the same financial instrument in the European Union:

Any issuer entering into a liquidity contract must notify the AMF beforehand. The issuer must give the AMF a copy of the contract if so requested.

Liquidity contracts must comply with the principles set forth in the Code of conduct established by Paris Europlace concerning liquidity contracts, dated 26 April 2012 and enclosed in the appendix of the present decision. Pursuant to this Code, the investment services provider decides on the timing and volume of its trades independently of, and without being influenced by, the issuer. In this regard, the investment services provider must have the appropriate means and organisation in order to ensure the independence of the person in charge of the liquidity contract. When the Liquidity Provider belongs to the same group of companies as the debt securities issuer, this information must feature in the news release announcing the execution of the liquidity contract.

Investment services providers, who are market members, must also comply with the rules of conduct defined by the relevant market regulations. Lastly, bearing in mind the resources placed at the disposal of the investment services provider to conduct its transactions, it cannot hinder a market trend.

f) The outcome of any inspection or investigation of the relevant market practice by the AMF, or by any other authority or market operator with which the AMF collaborates, under the authority of the AMF, or by the legal authorities acting at the request of the AMF, in particular when the relevant practice has breached rules or provisions designed to prevent market abuse or codes of conduct, whether on the market in question or on directly or indirectly related markets in the European Union:

There are no outcomes of inspections or investigations, either underway or completed, which are likely to call into question this practice.

g) The structural characteristics of the relevant market, in particular whether it is regulated or not, the types of financial instrument traded and the type of market participants, including the relatively large proportion of retail investors participating in the market:

Liquidity contracts concern debt securities that do not give access to capital, admitted to trading on a regulated market or on an organised multilateral trading facility. There may be a strong presence of retail investors or medium-sized institutional investors on these markets. However, liquidity contracts do not represent a risk to the participation of these investors. This practice actually works in their favour as it allows institutional or retail investors to purchase or sell their securities at reasonable market conditions. Furthermore, liquidity contracts are a long-established practice on the French markets.

3. Terms of implementation of the practice

a) Conditions for trading:

The price and volume conditions mentioned in Article 5 of Commission Regulation (EC) n° 2273/2003 of 22 December 2003 and the restrictions mentioned in article 6 of the same regulation (which only cover shares), as well as the provisions of Article 631-6 of the AMF General Regulation, do not apply to the trades conducted by an investment services provider under a liquidity contract which conforms to the practice described in the present decision and to the principles set forth in the Code of Conduct drawn up by Paris Europlace. The transactions conducted by an investment services provider under a liquidity contract must not, however, have the effect of causing an artificial price fluctuation from the market trend, if such trend exists.

Block trades are authorised, but the trades must not lead the issuer or the Liquidity Provider to hold at any time more than 15% of its bonds, in accordance with the provisions of Article L. 213-1 A of the French Monetary and Financial Code on the ceiling on buy-backs of debt securities that do not give access to capital.

The investment services provider must define a trading policy and draw up a document describing the principles forming the basis of the transactions by the natural person or persons in charge of the liquidity contract. These principles must refer to objective, measurable criteria, in particular a reference to the last price for trades conducted at the opening or closing of the session.

The trading policy may be adapted on a case by case basis to the specific characteristics of the issuer and to the secondary bond market. It is given to the issuer when the liquidity contract is signed and to the AMF when so requested.

b) Suspension of the liquidity contract:

The liquidity contract is suspended when the issuer conducts the following operations: a buy-back offer, an exchange offer on securities, or the launch of a fungible bond issue with an existing issue.

The liquidity contract is also suspended during the undertaking of any stabilisation measures within the meaning of Commission Regulation (EC) n° 2273/2003 of 22 December 2003 implementing Directive 2003/6/CE of the European Parliament and the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments.

The liquidity contract is suspended from the admission to trading of the relevant securities by stabilisation measures until the disclosure of the information mentioned in paragraph 3 of Article 9 of the abovementioned regulation.

c) Disclosure and declaration:

By means of a news release, the issuer must provide the market with the following information:

- prior to its implementation, the execution of the liquidity contract, indicating the identity of the investment services provider, any potential shareholding relations with the issuer, the relevant bond issue, the relevant market(s), and the resources assigned to the contract;
- every six months and when the contract is terminated, a report on the implementation of the contract, specifying the cash and bonds available at the date of the report and at the execution of the contract, the number of debt securities purchased and sold over the period and the corresponding amounts, the average price weighted by the volumes, and the number of trading days during which the contract was suspended;
- any modification to the information mentioned in the first paragraph.

The news release is disseminated in accordance with the methods set forth in Article 221-3 of the AMF General Regulation and submitted to the AMF in accordance with Article 221-5.

Additionally, each month the issuer informs the AMF of the number of securities exchanged per bond issue under the contract, as well as of the prices at which theses transactions were made, using a form available on the website of the AMF.

Annex 1: Paris Europlace Code of Conduct of 26 April 2012 for liquidity contracts relating to debt instruments

Annex 2: Declaration form for liquidity contracts for bonds

CODE OF CONDUCT
FOR LIQUIDITY CONTRACTS RELATING TO DEBT INSTRUMENTS

Version of 26 April 2012

Preamble

Directive 2003/6/EC of the European Parliament and the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) provides that competent authorities may accept market practices that consequently benefit from a presumption of legitimacy with regard to the provisions of such Directive. Directive 2003/6/EC has been completed by implementing Directive 2004/72/EC of the Commission of 29 April 2004, which sets the conditions for acceptance of such market practices. These provisions have been implemented in France by Articles 612-1 to 612-4 of the General Regulation of the Autorité des Marchés Financiers.

In the context of the works relating to the creation in France of a secondary market for bonds and assimilated debt instruments under French or foreign law (hereafter the "**Securities**") and of the possibility now provided by law for an issuer to favour the secondary market of its own Securities (Articles L.213-1A and D.213-1A of the French Monetary and Financial Code), it appeared necessary to propose to all players that liquidity contracts pursuant to which investment services providers could intervene for the account of issuers in order to favour the liquidity of their Securities could benefit from a secured legal framework, through the acceptance by the Autorité des marchés financiers (AMF) as market practice of liquidity contracts relating to debt instruments.

In this view, market players, gathered within Paris Europlace, have, in close collaboration with the AMF, drawn up this code of conduct; this code sets forth the principles with which liquidity contracts relating to debt instruments must comply in order to benefit from the above-mentioned market practice.

These principles are as follows:

1 Specialisation

The sole purpose of the liquidity contract is to favour the liquidity of the Securities and the regularity of their price. Under no circumstances may transactions effected under a liquidity contract interfere with orderly market operation or mislead other parties.

2 Independence of the Liquidity provider

The liquidity contract is implemented by an investment services provider (the "Liquidity provider").

Only the liquidity provider decides when to trade in the market, having regard to both the purpose of the liquidity contract and its continuity. The issuer may not instruct the liquidity provider in any way that could influence the liquidity provider's actions.

The liquidity provider must have an appropriate internal organisation structure in place to ensure that the employee responsible for trading in the market will act independently.

The liquidity contract establishes the terms and conditions for the liquidity provider's compensation, which may not compromise the principle of independence nor encourage the liquidity provider to generate artificial prices or volumes through its actions. This principle forbids at all events:

- that the compensation be fully or partly set
  - in accordance with the proportion of transactions made by the liquidity provider at the closing of the trading day or in accordance with the number of transactions made on the market, or
  - in accordance with the evolution of the trading price, unless this reference is used to assess, within a market session, the liquidity provider's efforts to reduce the volatility of the security.
- that the variable part of the compensation exceeds fifteen percent (15%) of the total amount of the compensation agreed with the issuer, it being noted that a significant part of this variable shall be based on non-discretionary criteria set with regard to predetermined objectives.

3 Implementation on a regulated market or on an organised multilateral trading facility within the meaning of Article 524-1 of the General regulation of the AMF

The liquidity contract may be implemented only on regulated markets and/or on organised multilateral trading facilities within the meaning of Article 524-1 of the AMF General Regulation on which the issuer's securities are listed, in accordance with the markets' trading rules. The liquidity provider must operate during the business hours of these markets.

4 Continuity of action

The liquidity contract must be implemented with a view to ensuring continuity of action. The liquidity provider may therefore decide not to trade if it considers that trading might compromise continuity.

5 Identification

Transactions effected under the liquidity contract are recorded on special and separate accounts ("liquidity accounts"). There must be as many accounts opened as bond issues covered by the liquidity contract.

6 Restricted use of securities

Subject to the provisions of the Principle of proportionality, the securities allocated by the issuer for the implementation of the liquidity contract or acquired through transactions effected for that purpose cannot be debited from the liquidity account provided for in the liquidity contract unless they are used in transactions that comply with the objectives of the liquidity contract.

7 Principle of proportionality

The funds and securities held on each liquidity account must be commensurate with the objectives of the liquidity contract. Under no circumstances may a liquidity account be used to park securities. No debit balance is allowed on the liquidity account either on its cash part or on its securities part.
As an exception to the Principle of specialisation, the liquidity contract establishes the conditions under which, to ensure compliance with the proportionality principle, a liquidity provider may, separately or cumulatively:

- buy or sell securities to ensure, in view of likely future requirements, the balance between the cash and securities available to it for each liquidity account;

– transfer cash or securities outside the liquidity account.

8 Procedures for exchanging information

The issuer shall not disclose confidential information about its situation or prospects to the liquidity provider.
The liquidity provider shall provide the issuer with the information required to meet its reporting obligations.

9 Information to the market

Any issuer entering into a liquidity contract shall inform the market through a news release, prior to implementation of a liquidity contract, of the execution of such liquidity contract, indicating the identity of the liquidity provider, the potential shareholding relations with the issuer, the security(ies) concerned, the market(s) on which the provider will intervene and the resources assigned to the liquidity contract.

The market is informed each time a new bond issue is included under the liquidity contract.

The market is also informed on a bi-annual basis of the transactions carried out under the liquidity contract pursuant to terms set forth by the AMF.

10 Communication

To comply with the present code of conduct, a liquidity contract must be reported to the AMF, along with details of the identity of the liquidity provider and of the issuer concerned.