

Dutch Credit Guarantee Scheme

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Abstract

Following the collapse of Lehman Brothers on September 15, 2008, governments around the world sought to implement stabilization measures in order to calm and protect their domestic markets. While not directly exposed to the subprime mortgage crisis, the Kingdom of the Netherlands announced the creation of the Dutch Credit Guarantee Scheme (the ‘Guarantee Scheme’) on October 13, 2008, in order to boost confidence in interbank lending markets and restore the flow of credit to Dutch households and companies. In establishing this program, the Dutch State Treasury Agency of the Ministry of Finance committed €200 billion to support the issuance of debt to be guaranteed by the government. All Dutch banks meeting liquidity and solvency requirements enforced by De Nederlandsche Bank, including foreign subsidiaries established in the Netherlands with substantial business in the country, were eligible to apply for coverage under the Guarantee Scheme. Initially, only ‘plain vanilla’ commercial paper, certificates of deposit, and fixed- or floating-rate medium term notes with maturities between three months and three years could be guaranteed. Additionally, debt instruments would need to be denominated in euros, US dollars, or pounds sterling. Between October 23, 2008, and December 1, 2009, the Guarantee Scheme was utilized by six Dutch financial institutions for a total utilization of €54.2 billion. No guaranteed debt was issued after December 1, 2009. The issuance window, though originally set to expire December 31, 2009, was extended twice to conclude on December 31, 2010. No institutions defaulted on any guaranteed debt.

Keywords: The Netherlands, short-term debt, medium-term debt, credit institutions, government guarantee

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At a Glance

In light of the global market turmoil caused by the subprime mortgage crisis and the collapse of Lehman Brothers on September 15, 2008, governments around the world sought to implement stabilization measures to both calm and protect their domestic economies. Financial institutions in the Netherlands, while not as exposed to disturbances in the US markets, suffered from liquidity shortages stemming from the sharp decrease in interbank lending. In response, the Dutch State Treasury Agency of the Ministry of Finance (DSTA), in cooperation with De Nederlandsche Bank, announced the creation of the Dutch Credit Guarantee Scheme (the 'Guarantee Scheme') on October 13, 2008, for the purpose of granting government guarantees to banks and financial institutions issuing medium-term debt.

The program was officially implemented on October 23, 2008, at which point the DSTA committed €200 billion to support the issuance of debt to be guaranteed by the government.

Eligibility for the program was extended to all

Dutch banks, including foreign subsidiaries established in the Netherlands with substantial business in the country, that met specific solvency and liquidity requirements described in the Financial Markets Supervision Act of 2006. Eligible debt initially included non-complex unsecured loans limited to 'plain vanilla' commercial paper, certificates of deposit, and fixed- or floating-rate medium-term notes. Debt instruments would need to have maturities between three months and three years and be denominated in euros, US dollars, or pounds sterling. These criteria were later modified on July 7, 2009, to include all senior unsecured debt instruments denominated in euro, USD, or GBP with maturities greater than three months and up to five years. In accordance with ECB recommendations, participation fees were assessed based on a bank's creditworthiness and the maturity of the debt to be guaranteed. Additionally, participating banks would have to adhere to conditions regarding executive compensation, growth in balance sheet volume, and mass marketing of the Guarantee Scheme.

Between October 23, 2008, and December 1, 2009, the Guarantee Scheme was utilized by six Dutch financial institutions for a total utilization of €54.2 billion. Although the issuance window was set to expire December 31, 2009, it was extended twice to close on December 31, 2010. None of the participating institutions defaulted.

Summary Evaluation

There has not been much formal evaluation of the Guarantee Scheme. However, it has been viewed by one source as a successful 'last-resort' facility for Dutch financial institutions looking to bolster their liquidity and interbank lending positions.

Summary of Key Terms

Purpose: To restore liquidity to Dutch banks and, by extension, Dutch households and businesses, through the provision of State guarantees on non-subordinated, medium-term debt

Announcement Date October 13, 2008

Operational Date October 23, 2008

Date of First Guaranteed Loan Issuance October 23, 2008 approx.

Issuance Window Expiration Date Originally December 31, 2009; later extended to December 31, 2010

Program Size €200 billion

Usage €54.2 billion by six Dutch financial institutions in total

Outcomes No defaults

Notable Features Up to one year after default for the guarantee to be realized upon

Contents

I. Overview	1
II. Key Design Decisions	4
1. The Guarantee Scheme was implemented by the Dutch government as one of many stabilization measures announced in response to the Global Financial Crisis.....	4
2. The program drew its legal basis from the Dutch Financial Markets Supervision Act of 2006.....	4
3. In accordance with State aid rules, European Commission approval was required for the implementation of the Guarantee Scheme.....	4
4. The Dutch program was jointly administered by the Dutch State Treasury Agency (DSTA) of the Ministry of Finance and De Nederlandsche Bank	4
5. Up to €200 billion could be guaranteed under the program.	4
6. Eligibility for the Guarantee Scheme was restricted to Dutch banks that met liquidity and solvency requirements.....	4
7. Initially, new non-complex senior unsecured loans limited to ‘plain vanilla’ commercial paper, certificates of deposits, and fixed- or floating-rate bullet medium term notes were eligible for coverage under the Guarantee Scheme.....	5
8. Initially, debt ranging in maturity from three months to three years could be issued under the Guarantee Scheme.	5
9. Eligibility was further restricted to debt denominated in euros, US dollars, or pounds sterling.	5
10. The Ministry of Finance imposed individual caps according to the amount of debt already issued by each participating bank.	5
11. The fee for issuing debt pursuant to the Guarantee Scheme varied based on the soundness of the issuing institution and the maturity of the debt guaranteed.....	5
12. A bank that failed to issue the debt to be covered under the Guarantee Scheme was subject to a termination fee	6
13. The Ministry of Finance imposed broad conditions for participation, including restrictions on growth in balance sheet volume, executive compensation, and severance packages and the mass marketing of the Guarantee Scheme.	7
14. As of June 29, 2009, certain participating banks would be required to undergo a comprehensive review of their activities under the Guarantee Scheme.	7
15. The Dutch State Treasury Authority would be required to fulfill its guarantee obligations to a participating bank within three months upon the first event of default.....	7
16. The Guarantee Scheme issuance window was prolonged three times to conclude on December 31, 2010. 8	
III. Evaluation.....	8
IV. References	8
V. Key Program Documents	9

I. Overview

Background

Following the collapse of Lehman Brothers on September 15, 2008, and the ensuing international credit crunch, governments worldwide acted swiftly to calm and protect their domestic markets. The Netherlands sought to address the liquidity problems that its “fundamentally sound and viable financial institutions” faced under the extraordinary circumstances (“Garantieregeling ten behoeve van banken in Nederland”). In implementing the Dutch Credit Guarantee Scheme (the ‘Guarantee Scheme’), the government hoped to bolster the flow of credit to households and businesses at a time when interbank lending had become severely restricted. To support specific institutions in need of further assistance, Dutch authorities later enacted individual recapitalization and restructuring measures for banks between late 2008 and 2013. It was expected that the implementation of the Guarantee Scheme would not only encourage interbank lending at a time when the market for medium-term, non-guaranteed loans had “dried up,” but that the measure itself would help to stabilize the Dutch economy in the midst of the Global Financial Crisis (Ibid.).

Program Description

The Dutch government authorized plans for the creation of the Guarantee Scheme – whose design was modeled after the United Kingdom’s Credit Guarantee Scheme – on October 13, 2008. The following week, on October 21, 2008, the Dutch Ministry of Finance notified the European Commission of its plans to implement the Guarantee Scheme in response to recent disruptions in the global credit markets. The program was officially implemented on October 23, 2008. Having found its features to be in accordance with State aid rules, the European Commission granted approval for the Guarantee Scheme on October 30, 2008.

The Dutch program was to be jointly administered by the Dutch State Treasury Agency (DSTA) of the Ministry of Finance and De Nederlandsche Bank, the Netherlands’ central bank. According to the original terms of the program, the DSTA would commit €200 billion to support the issuance of debt guaranteed by the government. Participation in the voluntary, opt-in program would be open to all Dutch banks meeting solvency and liquidity standards according to the Dutch Financial Markets Supervision Act of 2006, including foreign subsidiaries established in the Netherlands with “substantial business in the country” (“Garantieregeling ten behoeve van banken in Nederland”). Additionally, only one bank in a group would be allowed to apply for the Guarantee Scheme. De Nederlandsche Bank would bear responsibility for ensuring that these standards and requirements were met prior to participation in the Guarantee Scheme.

Initially, only debts with maturities of more than three months and less than five years would be eligible for coverage under the Guarantee Scheme. Qualifying debt instruments included new, non-complex senior unsecured loans – limited to ‘plain vanilla’ commercial paper, certificates of deposit, and fixed- or floating-rate medium-terms notes that could be redeemed in a single payment. The terms of the debt instruments could not include any provisions for cross-default, cross-acceleration of default, or call option on the principal

(“Rules of the 2008 Credit Guarantee Scheme of the State of the Netherlands”). Though there were no minimum amounts specified for the issuance of individual guarantees, debt instruments were required to be denominated in euros, US dollars, or pounds sterling.

Interested institutions meeting solvency and liquidity requirements would apply through the DSTA to issue guaranteed debt. Both the government and the participant would then sign a Guarantee Certificate, a contractual agreement specifying each party’s obligations under the Guarantee Scheme. For instance, only one guarantee could be associated with a single debt issuance, and the Dutch government reserved the right to cancel coverage under the Guarantee Scheme if either the terms of the debt were to be amended in any way or if the debt were to be issued after the cut-off date specified in the Guarantee Certificate. Additionally, the participating bank would be required to pay a termination fee to the DSTA if it failed to issue the guaranteed debt by the cut-off date agreed upon with the Dutch government.

Participation fees consisted of a flat fee of 50 basis points on an annual basis and a variable fee determined according to an individual bank’s creditworthiness as well as the maturity of the debt to be guaranteed. The fee schedule was designed in accordance with the European Commission’s “Recommendations on government guarantees on bank debt” of October 20, 2008.

The DSTA imposed restrictions on individual participation by limiting any bank’s usage to the amount of existing debt maturing between October 23, 2008, and December 31, 2009. Participating banks would also have to comply with a series of conditions designed to prevent abuse of the Guarantee Scheme, including limits on mass marketing, executive compensation, and severances packages. There was also a limit placed on growth in balance sheet volume, which was not to exceed the higher percentage of “1) the annual growth of nominal GDP in the Netherlands in the previous year, 2) the average historical growth of the balance sheets in the Netherlands for the period 1987-2007, or 3) the average growth in balance sheet volume of the EU banking sector in the previous six months (“Garantieregeling ten behoeve van banken in Nederland”).

Upon the first event of default, the Dutch government would assume responsibility for 100% of principal and interest and would pay the lender within three months of the date of default. The DSTA would be allowed to extend this payment date up to three times under extraordinary circumstances.

On July 7, 2009, the Ministry of Finance notified the European Commission of modifications to the original terms of the Guarantee Scheme. Under the amended conditions, eligibility was expanded to include all senior unsecured debt instruments with maturities up to five years. Relatedly, the DSTA committed up to €66.6 billion (i.e. one third of the total budget) for debt instruments with maturities greater than three years; individual caps for banks issuing guaranteed debt with maturities greater than three years was further limited to €22.2 billion (i.e. a third of a third of the total budget).

The July 7, 2009, modifications also provided more detailed requirements for participation regarding corporate governance and compensation. Rather than unconditionally restricting executive bonuses and other incentives, participating banks would need to introduce and maintain a sustainable remuneration policy, ensure that severance payments for members

of the Board were limited to one year's fixed salary, and adhere to the provisions of the Dutch Corporate Governance Code when distributing bonus packages.

On December 17, 2009, the Ministry of Finance notified the European Commission of further modifications to the Guarantee Scheme. First, the issuance window was extended from December 31, 2009 to June 30, 2010. Second, the flat fee included in the participation fee increased from 50 basis points to 70 basis points for all guaranteed debt instruments. For debt instruments with a maturity of over 12 months, the variable fee also increased as a result of the change in reference period used to calculate CDS spreads according to the ECB's "Recommendations."²

On June 29, 2010, the Ministry of Finance notified the European Commission of two additional modifications to the Guarantee Scheme. First, the fixed participation fee increased for all credit rating categories according to a progressive scale, ranging from 75 basis points for banks with AAA ratings to 110 basis points for banks with ratings lower than A-. Additionally, in accordance with the European Commission's guidelines for the phase-out of guarantee programs, the Ministry of Finance would need to undertake a viability review for each bank whose total outstanding guaranteed debt (as of July 1, 2010) exceeded both a ratio of 5% of total liabilities and a total of €500 million. The Ministry of Finance would then be required to submit such reports to the European Commission within three months of a new debt issuance or rollover by a participating bank ("The Application of State Aid Rules to Government Guarantee Schemes").

Outcomes

Although the Guarantee Scheme issuance window was originally set to expire on December 31, 2009, it was prolonged three times, each time for a period of six months, to close on December 31, 2010.

Between October 23, 2008, and December 1, 2009, the Guarantee Scheme was utilized by six Dutch financial institutions.³ These were not necessarily the largest banks in the Netherlands, but rather the ones facing the greatest liquidity pressures (Leal 2011). Importantly, LeasePlan Corp. N.V. – a fleet management company held mainly by Volkswagen Group – and Achmea Hypotheekbank N.V., – a mortgage company – complied with the conditions set forth in the original terms of the Guarantee Scheme and were thus eligible to issue guaranteed debt despite their non-bank status.

The following table details the usage of the Guarantee Scheme up to December 1, 2009, after which no debt was issued under the program. This slowdown was due in part to the improving conditions in global markets and, consequently, the steady return of non-

² The ECB's "Recommendations" previously referenced the period between January 1, 2007, to August 31, 2008, but updated the scale to reflect CDS spreads calculated for the period between March 1, 2008, to November 1, 2009.

³ Achmea Hypotheekbank N.V., Fortis Bank Ned. (Holding) N.V., ING Bank N.V., LeasePlan Corp. N.V., NIBC Bank N.V., and SNS Bank N.V.

guaranteed debt issuance as well as the “revival of equity issuance aimed at market investors” (Levy and Schich 2010).

Figure 1: Operation of the Guarantee Scheme up to December 1, 2009

	Total assigned (€ billion)	Total issued (€ billion)	Total assigned (%)	Total issued (%)
Achmea Hypotheekbank	2.2	2.2	4.1	4.2
SNS	5.7	5.7	10.6	11.0
NIBC	6.8	6.4	12.6	12.3
LeasePlan	7.6	7.2	14.1	13.9
ING	12.8	12.4	23.7	23.9
Fortis	18.9	18.0	35.0	34.7
Total	54.0	51.9	100.0	100.0

Source: Dutch Ministry of Finance

II. Key Design Decisions

- 1. The Guarantee Scheme was implemented by the Dutch government as one of many stabilization measures announced in response to the Global Financial Crisis.**

Other interventions, implemented independently throughout an extended period spanning from late 2008 through 2013, included individual capitalization, investment, and restructuring measures for major Dutch banks such as ING, Aegon, and SNS REAAL. A majority of the later actions were taken in response to deteriorating conditions exacerbated by the European sovereign debt crisis.

- 2. The program drew its legal basis from the Dutch Financial Markets Supervision Act of 2006.**
- 3. In accordance with State aid rules, European Commission approval was required for the implementation of the Guarantee Scheme.**

The European Commission authorized the Guarantee Scheme on October 30, 2008.

- 4. The Dutch program was jointly administered by the Dutch State Treasury Agency (DSTA) of the Ministry of Finance and De Nederlandsche Bank.**
- 5. Up to €200 billion could be guaranteed under the program.**
- 6. Eligibility for the Guarantee Scheme was restricted to Dutch banks that met liquidity and solvency requirements.**

Banks would have to meet certain liquidity and solvency requirements as specified in the Dutch Financial Markets Supervision Act of 2006. Eligibility was also extended to foreign subsidiaries established in the Netherlands deemed by De Nederlandsche Bank to have “substantial business” in the country (“Garantieregeling ten behoeve van banken in Nederland”).

Applicants to the program would need to receive explicit approval from De Nederlandsche Bank before applying for coverage under the Guarantee Scheme.

- 7. Initially, new non-complex senior unsecured loans limited to ‘plain vanilla’ commercial paper, certificates of deposits, and fixed- or floating-rate bullet medium term notes were eligible for coverage under the Guarantee Scheme.**

On July 7, 2009, the European Commission approved a request by the Dutch Ministry of Finance to expand eligibility to include all senior unsecured debt instruments.

- 8. Initially, debt ranging in maturity from three months to three years could be issued under the Guarantee Scheme.**

The July 7, 2009, modifications expanded eligibility to include debt with maturities up to five years. Relatedly, the Dutch government committed one-third of the total budget (i.e. €66.6 billion) for the granting of guarantees for debt with maturities over three years. An individual limit of one-third of this designated amount (i.e. €22.2 billion) was imposed on banks issuing guaranteed debt with maturities greater than three years.

- 9. Eligibility was further restricted to debt denominated in euros, US dollars, or pounds sterling.**
- 10. The Ministry of Finance imposed individual caps according to the amount of debt already issued by each participating bank.**

Participating banks were not allowed to issue guaranteed debt in excess of the amount of existing debt maturing between October 23, 2008, and December 31, 2009.

- 11. The fee for issuing debt pursuant to the Guarantee Scheme varied based on the soundness of the issuing institution and the maturity of the debt guaranteed.**

The guarantee fee would be determined according to the guidelines presented in the European Central Bank’s “Recommendations on government guarantees on bank debt” of October 20, 2008. Guarantees for debts with any length of maturity would incur a flat fee of 50 basis points. In addition to the flat fee of 50 basis points, variable charges for guaranteed debt with maturities over 12 months would be calculated using the lower of either 1) the median five-year credit default swap (CDS) spread for that institution from January 1, 2007, to August 31, 2008, or 2) the median five-year CDS spread based on a comparison with peer group members with a similar rating over the same period. For banks without representative CDS spreads but with a credit rating, fees would be calculated in accordance with peer group members’ ratings over the same period. All other banks (i.e. those without

either CDS spreads or credit ratings) would incur fees based on De Nederlandsche Bank's regulatory assessment ("Garantieregeling ten behoeve van banken in Nederland").

Participation fees were later increased with the December 17, 2009, modification and prolongation of the Guarantee Scheme. The flat fee for guaranteeing debt of any maturity increased from 50 basis points to 70 basis points. Additionally, the variable fees for guaranteeing debt instruments with maturities over 12 months increased due to a change in the period used to calculate CDS spreads, as referenced in the European Central Bank's "Recommendations on government guarantees on bank debt," from January 1, 2007-August 31, 2008, to March 1, 2008-November 1, 2009 ("Prolongation of the Dutch Guarantee Scheme").

Figure 2: Participation Fees as of December 17, 2009

Rating	Fixed Fee	Variable Fee (CDS spreads)	Total fee
AAA	70 bp	53 bp	123 bp
AA	70 bp	68 bp	138 bp
A	70 bp	73 bp	143 bp
Other	70 bp	93 bp	163 bp

Source: Dutch Ministry of Finance

On June 29, 2010, the Dutch Ministry of Finance once again increased the fixed component of the participation fee for all credit rating categories according to a progressive scale, ranging from 75 basis points for banks with AAA ratings to 110 basis points for banks with ratings lower than A- ("Extension of the Dutch Guarantee Scheme").

Figure 3: Participation Fees as of June 29, 2010

Rating	Fixed Fee	Variable Fee (CDS spreads)	Total fee
AAA	75 bp	53 bp	128 bp
AA	80 bp	63 bp	148 bp
A or A+	85 bp	73 bp	158 bp
A-	90 bp	73 bp	163 bp
Other	110 bp	93 bp	203 bp

Source: Dutch Ministry of Finance

All fees were to be paid on annual basis within forty days of the issuance of guaranteed debt.

12. A bank that failed to issue the debt to be covered under the Guarantee Scheme was subject to a termination fee.

This termination fee would equal the participation fee that would have been charged for each debt issuance.

13. The Ministry of Finance imposed broad conditions for participation, including restrictions on growth in balance sheet volume, executive compensation, and severance packages and the mass marketing of the Guarantee Scheme.

Growth in balance sheet volume while taking part in the Guarantee Scheme was not to exceed the higher of the following:

- 1) The annual growth in nominal GDP in the Netherlands in the previous year;
- 2) The average historical growth in balance sheets in the Dutch banking sector for the period 1987-2007;
- 3) The average percent growth in balance sheet volume of the EU banking sector in the previous six months (“Garantieregeling ten behoeve van banken in Nederland”).

Although executive compensation and severance package increases were initially restricted unconditionally, the July 7, 2009, modifications to the Guarantee Scheme outlined more specific requirements whereby participating banks would be required to:

- 1) Introduce and maintain a sustainable remuneration policy;
- 2) Ensure that the severance payments for members of the Board of Directors would be limited to one year’s fixed salary;
- 3) Adhere to the guidelines set forth by the Dutch Corporate Governance Code when calculating bonuses (Ibid).

14. As of June 29, 2009, certain participating banks would be required to undergo a comprehensive review of their activities under the Guarantee Scheme.

The Dutch authorities instituted a mandatory viability review for each bank whose total outstanding guaranteed debt (as of July 1, 2010) exceeded both a ratio of 5% of total liabilities and a total of €500 million. The Ministry of Finance would then be required to submit such reports to the European Commission within three months of a new debt issuance or rollover by a participating bank (“The Application of State Aid Rules to Government Guarantee Schemes”).

15. The Dutch State Treasury Authority would be required to fulfill its guarantee obligations to a participating bank within three months upon the first event of default.

In the event that a participating bank were to default on its guaranteed debts, the Dutch State Treasury Authority would assume responsibility for paying principal and interest through maturity and pay all obligations within three months of the date of default. The government reserved the right to extend its payment date up to three times under extraordinary circumstances (“Garantieregeling ten behoeve van banken in Nederland”).

Per the original terms of the Guarantee Scheme, the guaranteed debt would have to provide for the repayment of principal in a single amount. The terms of the debt instruments were not permitted to include any allowance for cross-default, cross-acceleration of default, or

any call option on the principal (“Rules of the 2008 Credit Guarantee Scheme of the State of the Netherlands”).

16. The Guarantee Scheme issuance window was prolonged three times to conclude on December 31, 2010.

Although the original terms specified an end date of June 30, 2009, with a possible extension to December 31, 2009, the Guarantee Scheme issuance window was prolonged for periods of six months on July 7, 2009, December 17, 2009, and June 29, 2010. The program’s issuance window expired on December 31, 2010.

III. Evaluation

It has been hypothesized that Dutch banks considered the Guarantee Scheme to be a facility of “last resort,” and that, given peak utilization totaled only a quarter of the €200 billion budget, they were successful in finding alternative sources of emergency funding (Leal 2011). For instance, according to Leal, the diversity of beneficiaries suggests that large, multinational groups may have simultaneously accessed guarantee schemes in several countries via their foreign subsidiaries (2011). The fact that four of the six banks issued less guaranteed debt than that which had been assigned by the DSTA also indicates that institutions may have only applied to the Guarantee Scheme for supplementary aid (Ibid.).

All guaranteed debt was issued prior to November 2009, though it is unclear whether the lack of program utilization had to do with the fee increases specified in the December 2009 term modifications (Leal 2011).

Leal also found evidence for the positive effect of guaranteed debt issuance on the credit spreads of Dutch bonds, particularly for senior unsecured debt issues and subordinated debt issues (2011).

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