

ASCB - Association of Swedish Covered Bond issuers

The Mortgage Certificate System

In Sweden a security interest over a property is granted by the owner pledging one or more Mortgage Certificates (Pantbrev). A Mortgage Certificate indicates the maximum nominal amount in Swedish Kronor that upon a forced sale of the property can be paid to the creditor holding that Certificate as security. The nominal amount and priority of each Mortgage Certificate and any other registered encumbrance is recorded by the Land Registration Office (Inskrivningsmyndigheten), which is part of Lantmäteriet (the Swedish mapping, cadastral and land registration authority). The same property often provides security for more than one loan and each loan is often secured by the pledge of one or more Mortgage Certificate.

In the event of a forced sale or other official disposition, the proceeds are first distributed to certain creditors, if any, whose rights are preferred by law in relation to the same property, and then to the secured creditors in the order in which their Mortgage Certificate rank. Each secured creditor is entitled to an amount of such proceeds up to the nominal amount of his Certificate plus an additional amount of 15 per cent thereof. However, a secondary security interest in a Mortgage Certificate does not benefit from such additional amount. Furthermore, the creditor will be entitled to an amount equal to interest accrued over a prescribed period (which in general is the period between the date of an enforcement order and the date on which the proceeds of the sale of the property are distributable) on the nominal amount plus such an additional amount as described above, calculated at an annual rate equal to 4 per cent over a fixed interest rate set from time to time by the National Debt Office.

In summary, the nominal amount of the Mortgage Certificate together with the additional amount of 15 per cent thereof and the interest compensation for the enforcement period can be applied by the secured creditor to cover his claim under the loan agreement, including accrued interest and costs. If his claim exceeds that amount, the excess of the claim is not secured. To the extent a Mortgage Certificate is not subject to any security interest, unsecured creditors filing claims will be entitled to a distribution up to the nominal amount of the Mortgage Certificate at the level of ranking of such Certificate.

A Mortgage Certificate can either be a bearer document in physical form or, where held by an authorised credit institution, be in a dematerialised form, a computerised Mortgage Certificate (Datapantbrev) represented by registration in the Mortgage Certificate System, for which Lantmäteriet carries the legal responsibility. The security interest is created by (i) a pledge agreement, specifying the debt secured and the Mortgage Certificate used as security and (ii) in the case of Mortgage Certificates in physical form, delivery of the Certificate to the secured party or, in the case of a computerised Mortgage Certificate, registration of the holder of the security interest, or, if registered to a third party, notification to such third party of the security interest.