



**ING Bank N.V.**

*(incorporated with limited liability under the laws of The Netherlands with its corporate seat in Amsterdam)*

**€30,000,000,000**

**Covered Bonds Programme**

guaranteed as to payments of interest and principal by

**ING Covered Bond Company B.V.**

*(incorporated with limited liability in The Netherlands with its statutory seat in Amsterdam)*

**Tenth Supplement to the Base Prospectus dated 15 February 2012**

This Supplement (the "Supplement") is supplemental to, forms part of and must be read and construed in conjunction with, the base prospectus dated 15 February 2012 (the "Base Prospectus") as supplemented by the first supplement dated 6 March 2012, the second supplement dated 11 May 2012, the third supplement dated 16 May 2012, the fourth supplement dated 18 June 2012, the fifth supplement dated 10 August 2012, the sixth supplement dated 4 September 2012, the seventh supplement dated 11 October 2012, the eighth supplement dated 13 November 2012 and the ninth supplement dated 22 November 2012 (the Base Prospectus as so supplemented the "Prospectus"). The Base Prospectus has been issued by ING Bank N.V. (the "Issuer") in respect of a €30,000,000,000 Covered Bonds Programme (the "Programme"). This Supplement, together with the Prospectus, constitutes a base prospectus for the purposes of Article 5.4 of Directive 2003/71/EC of the European Parliament and of the Council, as amended from time to time (the "Prospectus Directive"). Terms given a defined meaning in the Prospectus shall, unless the context otherwise requires, have the same meaning when used in this Supplement. To the extent that there is any inconsistency between (a) any statement in this Supplement or any statement incorporated by reference into the Prospectus by this Supplement and (b) any other statement in or incorporated by reference into the Prospectus, the statements referred to in (a) above will prevail. The Issuer accepts responsibility for the information contained in this Supplement. To the best of the knowledge of the Issuer (which has taken all reasonable care to ensure that such is the case) the information contained in this Supplement is in accordance with the facts and does not omit anything likely to affect the import of such information.

**Arranger**

**BARCLAYS**

**Co-Arranger**

**ING BANK N.V.**

**Dated 15 January 2013**

No person has been authorised to give any information or to make any representation not contained in or not consistent with the Prospectus and this Supplement, or any other information supplied in connection with the Programme, and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, the CBC, the Trustee or any of the Dealers appointed by the Issuer.

The delivery of neither this Supplement nor the Prospectus shall in any circumstances imply that the information contained in the Prospectus and herein concerning the Issuer and the CBC is correct at any time subsequent to the date hereof, or that there has not been any adverse change, or any event reasonably likely to involve any adverse change, in the prospects or financial or trading position of the Issuer or the CBC since the date thereof and hereof or that any other information supplied in connection with the Programme is correct as of any time subsequent to the date indicated in the document containing the same.

So long as the Prospectus and this Supplement are valid as described in Article 9 of the Prospectus Directive, copies of this Supplement and the Prospectus, together with the other documents listed in the "General Information" section of the Prospectus and the information incorporated by reference in the Prospectus by this Supplement, will be available free of charge from the Issuer and from the specified office of the Paying Agents. Written or oral requests for such documents should be directed to ING Bank N.V. at Foppingadreef 7, 1102 BD Amsterdam, The Netherlands (Tel +31 (0)20 563 8007).

The distribution of the Prospectus and this Supplement and the offer or sale of Covered Bonds may be restricted by law in certain jurisdictions. Persons into whose possession the Prospectus, this Supplement or any Covered Bonds come must inform themselves about, and observe, any such restrictions on the distribution of the Prospectus, this Supplement and the offering and sale of Covered Bonds. In particular, there are selling restrictions in relation to the United States, the United Kingdom, Italy, The Netherlands and Japan and such other restrictions as may apply (see "Subscription and Sale" in the Prospectus).

An investor which has agreed, prior to the date of publication of this Supplement, to purchase or subscribe for Covered Bonds issued under the Programme may, in accordance with the Prospectus Directive, withdraw its acceptance within two working days commencing from the date of publication of this Supplement or such longer period as is required under applicable law.

## **AMENDMENTS OR ADDITIONS TO THE PROSPECTUS**

With effect from the date of this Supplement the information appearing in, or incorporated by reference into, the Prospectus shall be amended and/or supplemented in the manner described below. References to page numbers are to the pages of the Base Prospectus.

### **1) Introductory Pages**

On page 5 the following paragraph shall be inserted immediately preceding the final paragraph on that page:

"The Issuer is a public limited liability company (*naamloze vennootschap*) incorporated under the laws of The Netherlands with its registered office in Amsterdam, The Netherlands. Substantially all the officers and directors of the Issuer reside in The Netherlands or other jurisdictions outside the United States. Most of the Issuer's assets and substantially all of the assets of its executive officers and directors are located outside the United States. As a result, it may not be possible for investors to effect service of process in the United States upon the Issuer, or upon the Issuer's executive officers and directors, or to enforce against the Issuer, or them, judgments obtained in

U.S. courts predicated upon civil liability provisions of the federal securities law or other laws of the United States.

The United States and The Netherlands do not currently have a treaty providing for reciprocal recognition and enforcement of judgments rendered in connection with civil and commercial disputes. As a result, a final judgment for the payment of damages based on civil liability rendered by a U.S. court, whether or not predicated solely upon the federal securities laws of the United States, would not be enforceable in The Netherlands. If the party in whose favour the final judgment is rendered brings a new suit in a competent Dutch court, the party may submit to the Dutch court the final judgment that has been rendered by the U.S. court. Such judgment will only be regarded by a Dutch court as evidence of the outcome of the dispute to which the judgment relates, and a Dutch court may choose to rehear the dispute *ab initio*.”.

## 2) Chapter A. RISK FACTORS

- (i) On page 12 under the section entitled “A.1 COVERED BONDS” the first paragraph of the sub-paragraph entitled “Risk factor relating to FATCA” shall be deleted and replaced in its entirety as follows:

“In certain circumstances the Issuer and other non-U.S. financial institutions through which payments on the Covered Bonds are made may be required to withhold U.S. tax at a rate of 30% on all, or a portion of, payments made after 31 December 2016 in respect of (i) Covered Bonds that are treated as debt for U.S. federal tax purposes and are issued after the date that is six months after the date on which the final regulations applicable to “foreign passthru payments” are filed and (ii) Covered Bonds that are treated as equity for U.S. federal tax purposes and issued at any time (including before 1 January 2013) pursuant to sections 1471 through 1474 of the U.S. Internal Revenue Code and the regulations and other guidance promulgated thereunder (“FATCA”).”.

- (ii) On page 12 under the section entitled “A.1 COVERED BONDS” the third paragraph of the sub-paragraph entitled “Risk factor relating to FATCA” shall be deleted and replaced in its entirety as follows:

“Based on proposed regulations, FATCA generally will not apply to Covered Bonds that are (i) not classified as equity securities for U.S. federal income tax purposes and (ii) issued before the date that is six months after the date on which the final regulations applicable to “foreign passthru payments” are filed and not materially modified after that date. The withholding obligation in respect of a non-participating financial institution may apply whether the financial institution is receiving payments for its own account or on behalf of another person. If the Issuer or its agents were required to withhold any amount from any payment on the Covered Bonds in respect of FATCA, there will be no “gross up” amount (or any other additional amount) payable by way of compensation to the investor for the withheld amount. An investor that is able to claim the benefits of an income tax treaty between its own jurisdiction and the United States may be entitled to a refund of amounts withheld pursuant to the FATCA rules, though the investor would have to file a U.S. tax return to claim this refund and would not be entitled to interest from the IRS for the period prior to the refund.”.

- (iii) On page 41 under the section entitled “A.3 GUARANTEE SUPPORT” the sub-paragraph entitled “Changes to tax deductibility of interest may result in an increase of defaults” shall be deleted and replaced in its entirety as follows:

"In The Netherlands currently, subject to a number of conditions, mortgage loan interest payments are deductible from the income of the borrower for income tax purposes. The period for allowed deductibility is restricted to a term of 30 years and the mortgage loans must be secured by owner occupied property. It is also not permitted, after a refinancing, to deduct interest payable on any equity extractions. Furthermore, in the event that a borrower moves to a new house, the interest to be paid on the accumulated value released from the sale of the previous house is not tax deductible.

Certain changes to the deductibility of mortgage interest have been proposed by the new governing coalition following the Dutch elections in September 2012. For example, from 1 January 2013, it has been proposed that new mortgage loans will only qualify for tax deductibility if redeemed in full within thirty years at a minimum on an annuity basis. Furthermore, it has been proposed that the maximum amount of a mortgage loan against which tax deductibility may be claimed be gradually reduced to 100% of the purchase value of the residential property. Under the assessment framework introduced by the Netherlands Authority for the Financial Markets (AFM) in 2010, the maximum amount of a mortgage loan against which tax deductibility could be claimed was set at 112% of the purchase value of the residential property (with this amount having been lowered further in August 2011 to 104% of the purchase value of the residential property plus transfer tax). It has also been proposed that the income tax rate under which mortgage tax may be deducted be lowered from 52% to 38% over a period of 28 years, or by 0.5 per cent per year.

It also remains uncertain if and to what extent such deductibility of mortgage interest will be further restricted. For example, in its Council Recommendations of 30 May 2012, the European Commission suggested that the Dutch government phase out mortgage interest deductibility generally in order to reduce structural distortions on the Dutch housing market. These proposed changes, or changes that may be proposed in the future, to the possible deductibility of interest payments, may, among other things, have a negative effect on house prices and rates of recovery and, depending on the changes in treatment of existing mortgage loans, may result in an increase in the level of defaults, prepayments and repayments. Accordingly, defaults on Loans in relation to Transferred Receivables due to changes in Dutch laws on tax deductibility may decrease the CBC's proceeds from such Transferred Receivables, thereby adversely affecting the CBC's ability to meet fully and/or timely its obligations under the Guarantee."

- (iv) On page 41 under the section entitled "A.3 GUARANTEE SUPPORT" the following risk factors shall be inserted following the risk factor entitled "Changes to tax deductibility of interest may result in an increase of defaults":

**"The CBC's ability to meet its obligations under the Guarantee may be adversely affected by the relatively slow rate of principal repayment of Borrowers**

In The Netherlands currently, subject to a number of conditions, mortgage loan interest payments are deductible from the income of the borrower for income tax purposes. This fiscal benefit has incentivised certain borrowers to opt for products that do not directly require principal repayment until maturity of the mortgage loan. The most common mortgage loan types in The Netherlands are interest-only, savings, life and investment mortgage loans or a combination of these types. Under the interest-only, savings, life and investment types of mortgage loans no principal is required to be repaid during the term of the contract. Instead, except for interest-only mortgage loans, the borrower makes payments into a savings account, towards capital insurance or into an investment fund.

Upon maturity, amounts available pursuant to the savings accounts, the insurance contract or the investment funds are applied to repay the mortgage loans. In addition, prepayment penalties are often incorporated into mortgage loan contracts, which in turn tends to lower prepayment rates in The Netherlands. Penalties are generally calculated as the net present value of the interest loss to the lender upon prepayment. Although the deductibility of mortgage interest is increasingly subject to restriction, there can be no assurance whether and to what extent those restrictions will increase rates of prepayment and/or repayment by Borrowers.

In The Netherlands, lower rates of prepayment and repayment of the principal amount outstanding on mortgage loans throughout the term of those loans means that the exposure of the Originators to the Borrowers of the Loans tends to remain high over time and that in the event of a default in payment by a Borrower the Originator would be likely to suffer higher losses than on a mortgage loan subject to a higher rate or prepayment and/or repayment. The value of Transferred Receivables underlying the Covered Bonds is designed to reflect the risks associated with this exposure. Nonetheless, if and to the extent that the CBC must rely on cashflow on the Loans to fund its obligation under the Guarantee, the relatively low rate of principal repayment may adversely impact the Transferred Assets' value realisation, and, consequently, the CBC's ability to meet fully and/or timely its obligations under the Guarantee.

**Weak economic conditions and declining property values may result in losses**

To the extent that The Netherlands continues to experience, or may experience in the future, weak economic conditions and housing markets, either generally or in specific housing regions or segments, the risks relating to repayment by Borrowers under the Loans may increase. The economy of The Netherlands is dependent on a mixture of industries. Any downturn in the economy generally or in a particular industry may adversely affect Dutch employment levels and consequently the repayment ability of Dutch borrowers. In addition, declining property values associated with weak economic conditions and housing markets will result in a decline in the value of those properties subject to the Mortgages securing the Transferred Receivables. No assurance can be given that values of those properties have remained or will remain at the level at which they were on the date of origination of the related Loans. A decline in value may result in losses to Covered Bondholders if such security underlying those mortgage rights is required to be enforced, particularly in respect of Loans not requiring principal repayment until maturity of those Loans.

**Valuation may not accurately reflect the value or condition of the mortgaged property and actual foreclosure proceeds may be lower than the estimated foreclosure value**

In general, valuations relating to mortgaged property represent the analysis and opinion of the person performing the valuation at the time the valuation is prepared and are not guarantees of, and may not be indicative of, present or future value of that mortgaged property. There can be no assurance that another person would have arrived at the same valuation, even if such person used the same general approach to, and same method of, valuing the property. For a description of the valuation criteria applied as of January 2012 to Loans originated by the Initial Originator, see "*Guarantee Support – Eligible Assets – Valuation*" below.

Valuations obtained (including those based on the WOZ valuation applied by the Dutch tax authorities) in connection with the origination of the Loans sought to establish the amount a typically motivated buyer would pay a typically motivated seller at the time they were prepared. Such amount could be significantly higher than the amount obtained from the sale of the mortgaged property underlying the Loan under a distressed or liquidation sale. In addition, in many cases property values may have declined since the time the valuations were obtained, and therefore the valuations may not be an accurate reflection of the current market value of the Property securing the relevant Loan. The current market value of the Property securing the relevant Loan could be lower than the values indicated in the appraisals obtained at the origination of the relevant Loans. In addition, differences exist between valuations due to the subjective nature of valuations and appraisals, particularly between different appraisers performing valuations at different points in time. As a result, there can be no assurance that, upon enforcement, all amounts owed by a Borrower under a Loan can be recovered from the proceeds of a forced sale of the Property securing the relevant Loan or that the proceeds upon foreclosure will be at least equal to the estimated appraisal foreclosure value of such Property, which in turn may result in losses to Covered Bondholders.

**Underwriting guidelines may not identify or appropriately assess repayment risks**

The Loans have been originated by the Originators pursuant to certain established underwriting guidelines. In accordance with the Code of Conduct on mortgage financing (*gedragscode hypothecaire financieringen*) and the regulatory restrictions in effect at the time of origination of a Loan, these underwriting guidelines allow for exceptions subject to a further credit analysis. Although these underwriting guidelines and any further credit analysis have been designed to identify and appropriately assess the repayment risks associated with the origination of the Loans, it can not be ensured in all cases that the interest and principal payments due on a Loan will be repaid when due, or at all, or whether the value of the Property securing the relevant Loan will be sufficient to otherwise provide for recovery of such amounts. To the extent exceptions were made to the Originator's underwriting guidelines in originating a Loan, despite the performance of a further credit analysis as required for an exception to be made, those exceptions may increase the risk that principal and interest amounts may not be received or recovered and compensating factors, if any, which may have been the premise for making an exception to the underwriting guidelines, may not in fact compensate for any additional risk. Any increased risk that principal and interest amounts may not be received or recovered in respect of the Loans in turn increases the risk of losses for Covered Bondholders.”.

**3) Section 1. COVERED BONDS**

On page 147 under the section entitled “1.4 TAXATION”, under the heading “US Holders”, the sub-heading “Foreign Financial Asset Reporting” shall be deleted and replaced in its entirety as follows:

“Recently enacted legislation imposes new reporting requirements on the holding of certain foreign financial assets by individual U.S. Holders, including debt of foreign entities, if the aggregate value of all of these assets exceeds U.S.\$50,000 at the end of the taxable year or U.S.\$75,000 at any time during the taxable year. The Covered Bonds are expected to constitute foreign financial assets subject to these requirements unless the Covered Bonds are regularly traded on an established securities market and held in an account at a financial institution (in which case the account may be reportable if maintained by a foreign financial institute). Individual U.S. Holders should consult their tax advisors regarding the application of this legislation.”.

#### 4) Section 3. GUARANTEE SUPPORT

On page 196 the section entitled “3.4 OVERVIEW OF THE DUTCH RESIDENTIAL MORTGAGE MARKET” shall be deleted and replaced in its entirety as follows:

### “ 3.4 OVERVIEW OF THE DUTCH RESIDENTIAL MORTGAGE MARKET

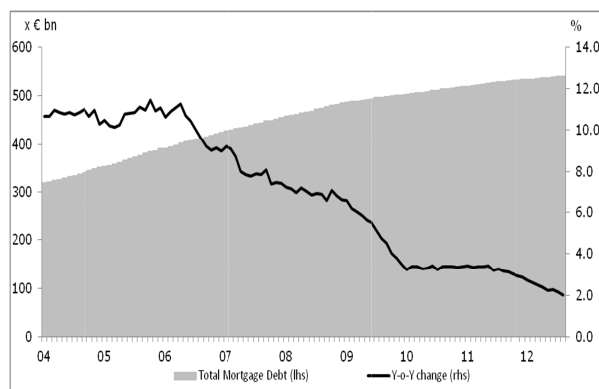
#### Housing Market Characteristics

Compared to other mortgage markets in Europe, the Dutch residential mortgage market has traditionally been characterised by the availability of a wide range of mortgage loan products and a relatively high degree of competition between mortgage lenders. More recently, however, certain consumer organisations in particular have suggested the emergence of decreased competition in this market. In their view, mortgage margins have become artificially high as a result of government interference in the banking sector following the financial crisis. Banks that received government support were generally restricted from becoming price leaders in the Dutch residential mortgage market. Nonetheless, a recent review of the Dutch residential mortgage market by the Dutch competition authority failed to substantiate this view (source: NMA, Sectorstudie Hypotheekmarkt, 30 May 2011). Furthermore, historic practices, culture and most importantly tax legislation (especially relating to the tax deductibility of mortgage interest) have served to shape the Dutch residential mortgage market.

Dutch residential mortgage loans predominantly carry fixed rates of interest that are typically set for a period of between 5 and 10 years. The historically low residential mortgage loan interest rates over the last decade have incentivised certain households to refinance their residential mortgage loans with long-term fixed interest rates (for periods up to as much as 30 years), which provides borrowers with a clear view of their required payments over an extended period of time and helps protect Dutch residential mortgage borrowers against adverse interest rate fluctuations.

Dutch house prices have declined since 2008, although the principal amount of outstanding Dutch mortgage debt continued to increase through the second quarter of 2011. Since that time, the aggregate outstanding mortgage debt of Dutch households has begun to stabilise. The Dutch residential mortgage market has been supported by a gradual increase in the level of owner-occupation and a low mortgage loan interest rate environment.

The following chart presents the aggregate outstanding mortgage debt of Dutch households:



Source: Dutch Central Bank, statistiek, statistieken DNB, huishoudens T11.1 (31 October 2012).

In the period prior to the credit crisis in 2008, increased competition and deregulation of the Dutch financial markets resulted in the development of tailor-made mortgage loan products consisting of different loan parts and features, including mortgage loan products involving investment risks for borrowers. These higher risk mortgage loan products became less attractive following the onset of

the credit crisis and are no longer offered by Dutch mortgage lenders. Nonetheless, certain of these mortgages are included within the Transferred Receivables.

### **Tax deductibility and regulation**

The Dutch mortgage loan products offered by lenders reflect the tax deductibility of mortgage loan interest (which was deductible in full until 2001) and enable borrowers to defer repayment of principal so as to maximise tax deductibility. This is evidenced by relatively high loan to foreclosure values and the extensive use of interest-only mortgage loans (which need only be redeemed at maturity). For borrowers wanting to redeem their mortgage loans without losing tax deductibility, alternative products such as 'bank savings mortgage loans' were introduced. The main feature of a bank savings mortgage loan is that the borrower opens a deposit account which accrues interest at the same interest rate that the borrower pays on the associated mortgage loan. At maturity, the bank savings are used to redeem the mortgage loan.

As from January 2001, mortgage loan interest tax deductibility has been restricted in three ways. First, tax deductibility applies only to mortgage loans on the borrower's primary residence (and not to secondary homes such as holiday homes). Second, deductibility is only allowed for a period of up to 30 years. Last, the top tax rate has been reduced from 60% to 52%. However, these tax changes did not have a significant impact on the rate of mortgage loan origination, mainly as a result of the continued decrease in mortgage interest rates throughout the period.

In addition to the limitations that came into force in 2001, tax deductibility of mortgage loan interest payments was further restricted as from 1 January 2004 for borrowers that relocate to a new house and refinance their mortgage loan. Under the new tax regulation (*Bijleenregeling*), tax deductibility in respect of interest on the mortgage loan pertaining to the new house is available only for that part of the mortgage loan that equals the purchase price of the new house less the realised net profit on the old house.

Since 1 August 2011, the requirements for residential mortgage lending have been tightened by the Netherlands Authority for the Financial Markets (AFM) under a revised Code of Conduct in order to limit the risks of over-extension of credit. Under those tightened requirements, the principal amount of a mortgage loan may not exceed 104% of the market value of the mortgaged property plus transfer tax. In addition, only a maximum of 50% of the market value of the mortgaged property may be financed by way of an interest-only mortgage loan. The revised Code of Conduct also provides less leeway for exceptions using an 'explain' clause in respect of the applicable loan underwriting criteria. Lenders are expected to be less willing to deviate from the rules set by the AFM. This in turn will likely make it more difficult for first-time buyers in particular to borrow as this segment has been traditionally overrepresented among borrowers of mortgage loans subject to an 'explain' clause in which expected income increases of starters were taken into consideration when establishing borrowing capacity, which has led to increased borrowing limits.

### **Recent changes in regulation**

On 26 April 2012, five political parties agreed upon an austerity package to reduce the Dutch budget deficit to less than 3% of GDP in 2013. As part of this agreement (referred to as the "Spring Agreement"), from 1 January 2013 new mortgage loans will only qualify for tax deductibility if redeemed in full within 30 years on an annuity basis. Furthermore, the maximum amount of a mortgage loan against which tax deductibility may be claimed will be gradually reduced to 100% of the purchase value of the residential property. The transfer tax that was already temporarily lowered from 6% to 2% on 1 July 2011 with effect from 15 June 2011, will remain at 2% (source: Rijksoverheid, 2012, Stabiliteitsprogramma Nederland, April 2012 actualisatie). Following the Dutch elections in September 2012, the coalition agreement that was subsequently agreed

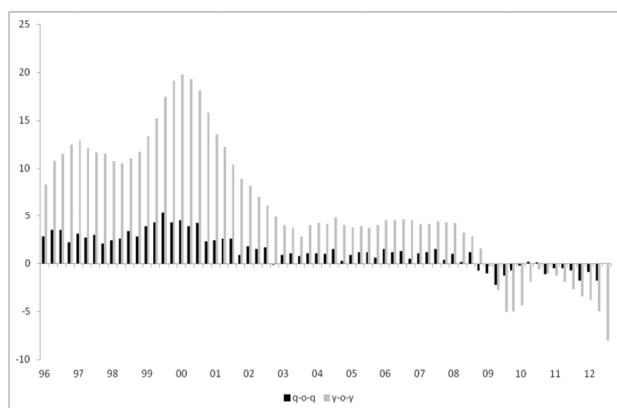


between the new governing coalition largely left the Spring Agreement intact but proposed certain additional measures. For example, the income tax rate under which mortgage interest may be deducted will be lowered from 52% to 38% in 28 years, or by 0.5 per cent per year. In addition, it has been proposed that interest paid on any outstanding debt from a mortgage loan remaining after the sale of the related home will remain deductible for a number of years (the exact number of which remains to be specified) following the sale. Both the Spring Agreement and the coalition agreement remain to be translated into legislation. It is likely that these agreements will have some negative impact on house price levels (source: CPB, 2012, Analyse economische effecten financieel kader Regeerakkoord, 29 October 2012), but the extent of the impact is uncertain and depends, among other things, on the levels of overall market confidence and real disposable income development. See “*Risk Factors – Guarantee Support – Changes to tax deductibility of interest may result in an increase of defaults*” above.

### Recent trends in house prices and transactions

The Dutch residential property market has not yet shown any meaningful signs of recovery. In the third quarter of 2012 the average house price fell by 8.0% as compared to the same period in 2011. A lack of confidence among house buyers has impacted the market. From peak-to-trough the price decline has amounted to about 15.6%. Residential property sales were down in the third quarter of 2012 and still fluctuate at low levels. On a twelve-month basis, the number of house sale transactions added up to 113,637, which is around 45% lower than in the pre-crisis period (source: Statistics Netherlands, cijfers, cijfers per thema, bouwen en wonen, verkochte woningen (31 October 2012)).

The following chart presents the development of Dutch property prices over the stated periods:



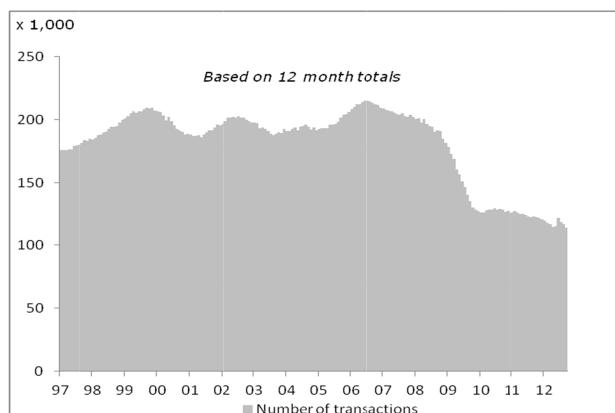
Source: Nederlandse Vereniging van Makelaars o.g. en vastgoeddeskundigen NVM

The following chart presents developments in the Dutch house price index over the stated periods:



Source: Statistics Netherlands/State Registry

The following chart presents the number of house sale transactions in The Netherlands over the stated periods:



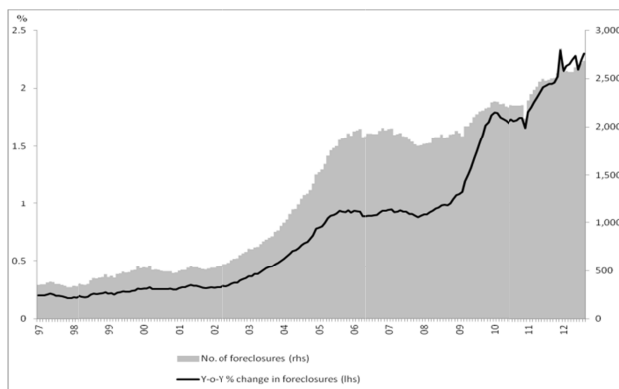
Source: Land Registry (Kadaster), cijfers, cijfers per thema, bouwen en wonen, verkochte woningen (31 October 2012).

### Foreclosures

The level of Dutch mortgage loan payment arrears and involuntary sales of residential property by public auction ("forced sales") is traditionally low by international standards (source: Comparison of Standard & Poor's 90+ day delinquency data). Especially in the late 1990s, when the demand for residential property was exceptionally strong, house sales by auction, even in the event of a forced sale, rarely occurred and were rarely required. Moreover, the 1990s were characterised by low levels of unemployment and a continued reduction of mortgage interest rates.

The relatively prolonged economic downturn from 2001 to 2005 led to a significant rise in the level of Dutch mortgage loan payment arrears and corresponding forced sales. The annual number of forced sales in The Netherlands reported by the Land Registry (Kadaster) rose from 695 in 2002 to about 2,000 from 2005 onwards. This increase was mainly the result of a structural change in the Dutch mortgage loan market introduced in the 1990's: instead of issuing mortgage loans based solely on the borrowing capacity of a single individual, lenders were allowed to issue mortgage loans based on the borrowing capacity of a dual-earning couple as well. The credit crisis beginning in 2008 and the subsequent upswing in unemployment has led to a further rise of the number of forced sales. The Land Registry (Kadaster) recorded 2,811 forced sales in 2011. In the third quarter of 2012 the number of forced sales amounted to 520, compared to 432 in the same period in 2011. Recent research suggests that the number of households in payment difficulties in The Netherlands is relatively low by international standards and that such difficulties mainly are the result of 'external' factors such as divorce or unemployment as opposed to excessively high mortgage debt as such (source: Standard & Poor's, 2010, Mortgage lending business supports some European banking systems).

The following chart presents the number of mortgaged property foreclosures in The Netherlands over the stated periods:



Source: Land Registry (Kadaster)

The current proportion of forced sales is of such size that to date it is generally not viewed as significantly impacting house prices. Moreover the Dutch housing market is generally perceived as being marked by an imbalance between demand and supply, which may help mitigate the negative effect of the current economic recession on house prices. At the same time, were the number of foreclosures to increase dramatically, this could in the future have a negative effect on house prices. Decreasing house prices could in turn increase loss levels should a borrower default on its mortgage loan payment obligations.

Although the increase in forced sales since 2008 is substantial, the absolute number of forced sales remains limited as a proportion of the total number of residential mortgage loans outstanding (source: Land Registry (Kadaster)). There is no precise data of the number of residential mortgage loans outstanding in The Netherlands. However, based on the published total amount of residential mortgage debt outstanding and the current average mortgage loan principal amount, it is estimated that the total number of residential mortgage loans outstanding in The Netherlands exceeds 3 million (source: Dutch Central Bank, statistiek, statistieken DNB, huishoudens T11.1 (31 October 2012)). A total of approximately 2,500 foreclosures per year since 2005 therefore corresponds to approximately 0.1% of the total number of residential mortgage loans outstanding.”.

#### 5) Section 3. GUARANTEE SUPPORT

On page 200 the section entitled “3.5 MUNICIPALITY/NHG GUARANTEE PROGRAMME” shall be deleted and replaced in its entirety as follows:

### **“3.5 MUNICIPALITY/NHG GUARANTEE PROGRAMME**

#### **Municipality Guarantee**

In 1960, the Netherlands government introduced the ‘municipal government participation’, an open ended scheme in which the municipalities give, according to a set of defined criteria, municipality guarantees to banks who grant mortgage loans to certain lower income groups (the “Municipality Guarantees”). The municipalities and the Dutch State shared the risk on a 50/50 basis. If a municipality was unable to meet its obligations under the Municipality Guarantee, the Dutch State would make an interest free mortgage loan to cover its obligations. The aim was to promote house ownership among the lower income groups. The Municipality Guarantee covers the outstanding principal, accrued unpaid interest and disposal cost. To the extent that the mortgage loan is partially redeemed either through scheduled payments or prepayments, the Municipality Guarantee is reduced accordingly. Additional mortgage loans made under a mortgage loan agreement are not covered by the Municipality Guarantee to the extent that the outstanding amount of the mortgage loan is greater than the original amount less scheduled repayments.

## **NHG Guarantee**

Since 1 January 1995 a central, privatised entity WEW has been responsible for the administration and granting of the NHG Guarantee (*Nationale Hypotheek Garantie*), under a set of uniform rules. The NHG Guarantee covers the outstanding principal, accrued unpaid interest and disposal costs. Irrespective of scheduled repayments or prepayments made on a mortgage loan, the NHG Guarantee reduces on a monthly basis by an amount which is equal to the monthly payments (interest and principal) as if such mortgage loan were being repaid on a thirty year annuity basis. In respect of each mortgage loan, the NHG Guarantee reduces further to take account of scheduled repayments and prepayments under such mortgage loan (See “Risk Factors – Guarantee Support – NHG Guarantees and Municipality Guarantees” above).

## **Transition from Municipality to NHG Guarantee**

The Dutch State has effectively transferred its reimbursement obligations with respect to amounts guaranteed by a Municipality to the WEW. All municipalities have transferred their obligations under guarantees issued pursuant to the previous State terms and conditions to the WEW.

The transfer of obligations by the Dutch State and the municipalities to the WEW is set forth, respectively, in a ‘buy-off’ agreement (*afkoopovereenkomst*) dated 8 December 1994 between the Dutch State and the WEW and in standard buy-off agreements entered into between each participating municipality and the WEW. The buy-off agreements basically provide for WEW to assume all payment obligations of the Dutch State and the municipalities under guarantees issued (but not enforced) prior to 1 January 1995 against payment by the Dutch State and the participating municipalities of an up-front lump sum (and, if necessary, additional payments) to the WEW.

## **Financing of the WEW**

The WEW finances itself, *inter alia*, by a one-off charge to the borrower at origination of 0.70% (as of 1 January 2012) of the principal amount of the mortgage loan. Besides this, the NHG scheme provides for liquidity support to the WEW from the Dutch State and, for mortgage loans, benefiting from the NHG Guarantee, originated before 1 January 2011, the participating municipalities. If the WEW is not able to meet its obligations under guarantees issued in respect of mortgage loans originated before 1 January 2011, the Dutch State will provide subordinated interest free loans to the WEW of up to 50% of the difference between the WEW’s own funds and a pre-determined average loss level, while municipalities participating in the NHG scheme will provide subordinated interest free loans to the WEW in respect of the other 50% of the difference. If the WEW is not able to meet its obligations under guarantees issued relating to mortgage loans originated after 1 January 2011, the Dutch State will provide subordinated interest free loans to the WEW for up to 100% of the difference between the WEW’s own funds and the pre-determined average loss level. Both the ‘keep well’ agreement entered into between the Dutch State and the WEW and the ‘keep well’ agreements entered into between the municipalities and the WEW contain general undertakings of the Dutch State and the municipalities to enable the WEW at all times (including in the event of bankruptcy (*faillissement*), moratorium of payments (*surseance van betaling*) or liquidation (*ontbinding*) of the WEW) to meet its obligations under guarantees issued.

## **Terms and Conditions of the Municipality Guarantee**

The Dutch State established the terms and conditions for the Municipality Guarantees. These terms and conditions have been amended from time to time over the years. As of October 1992, to qualify for a Municipality Guarantee under the relevant State terms and conditions, *inter alia*, the following conditions had to be met: (1) a municipality guarantee must be applied for the purchase

of an asset; (2) the applicant for whose benefit the guarantee is given must be the owner-occupier; (3) the purchase price (as defined in the relevant terms and conditions) must not exceed Dutch Guilders 250,000 (which amounts to EUR 113,445); (4) the relevant mortgage loan granted for the purchase of the property must have a minimum maturity of five years and a maximum maturity of 30 years; (5) repayments have to be on a monthly basis and can be 'annuity' or 'linear'; (6) the relevant mortgage loan must be secured by a first priority mortgage right securing only the mortgage loan on the mortgaged asset, in favour of the lender; (7) the guarantee covers the lender's claims under the mortgage loan as of the date of sale of the property by the lender enforcing the mortgage; (8) if the mortgage right is combined with a life insurance policy, the rights under the policy must be pledged to the lender; (9) the lender must ensure that the property is adequately insured (by the borrower) against fire damage during the term of the mortgage loan. In addition, once the guarantee has been issued, the lender has certain ongoing obligations under the Municipality Guarantee vis-à-vis the municipality; (i) without the consent of the municipality the lender shall not agree to a suspension of payment under the mortgage loan; (ii) the lender must inform the municipality on a yearly basis as to the amount outstanding under the mortgage loan; (iii) if and when the borrower is in default under the mortgage loan, the lender must inform the municipality accordingly; (iv) if the default of the borrower under the mortgage loan is continuing, the lender may not sell the property, except with the consent of the municipality; (v) the lender may not claim under the guarantee, unless the mortgage has been enforced and the property has been sold.

### **Terms and Conditions of the NHG Guarantees**

Under the NHG scheme, the lender is responsible for ensuring that the guarantee application meets the NHG terms and conditions. If the application meets these terms and conditions, various reports are produced that are used in the processing of the application, including the form that will eventually be signed by the relevant lender and forwarded to the NHG to register the mortgage and establish the guarantee. The WEW has, however, no obligation to pay any loss (in whole or in part) incurred by a lender after a private or a forced sale of the relevant mortgaged property if such lender has not complied with the terms and conditions of the NHG Guarantee which were applicable at the date of origination of the mortgage loan, unless such non-payment is unreasonable towards the lender.

The specific terms and conditions for the granting of NHG Guarantees, such as eligible income, purchasing or building costs etc., are set forth in published documents available on [www.nhg.nl](http://www.nhg.nl).

The NHG has specific rules for the level of credit risk that will be accepted. The creditworthiness of the applicant must be verified with BKR, a central credit agency used by all financial institutions in The Netherlands. All financial commitments over the past five years that prospective borrowers have entered into with financial institutions are recorded in this register. In addition, as of 1 January 2008, the applicant itself must be verified with the Foundation for Fraud Prevention of Mortgages (*Stichting Fraudepreventie Hypotheken*, "SFH"). If the applicant has been recorded in the SFH system, no NHG Guarantee will be granted.

To qualify for an NHG Guarantee various conditions relating to valuation of the property must be met. In addition, the mortgage loan must be secured by a first ranking mortgage right (or a second or subsequently lower ranking mortgage right in the case of a further advance). Furthermore, the borrower is required to take out insurance in respect of the mortgaged property against risk of fire, flood and other accidental damage for the full restitution value thereof. The borrower is also required to create a right of pledge in favour of the lender on the rights of the relevant borrower against the insurance company under the relevant life insurance policy connected to the mortgage loan or to create a right of pledge in favour of the lender on the proceeds of the investment funds.

The terms and conditions also require a risk insurance policy, which pays out upon the death of the borrower/insured, if the amount of the mortgage loan exceeds 80% of the value of the relevant property.

The mortgage conditions applicable to each mortgage loan should include certain provisions such as the provision that any proceeds from foreclosure on the mortgage right and the right of pledge on the life insurance policy or the investment funds shall be applied firstly towards repayment of the mortgage loan guaranteed under the NHG scheme.

An NHG Guarantee for new mortgage loans can be issued up to a maximum of EUR 320,000 (three hundred and twenty thousand euro) as of 1 July 2012 until 1 July 2013. The maximum amount of the NHG Guarantee is expected to be reduced to EUR 290,000 (two hundred and ninety thousand euro) from 1 July 2013 until 1 July 2014 and to EUR 265,000 (two hundred and sixty-five euro) from 1 July 2014 onwards. The maximum amount of the NHG Guarantee previously was:

- from 1 January 2007 until 1 July 2009 EUR 265,000 (two hundred and sixty-five thousand euro); and
- from 1 July 2009 until 1 July 2012 EUR 350,000 (three hundred and fifty thousand euro).

#### **Claiming under the Municipality Guarantee**

The claim must be made under the same conditions as for the NHG claim (see below). There are three possibilities for claiming payment for a defaulted mortgage loan by a Municipality Guarantee: (1) the municipality has joined the NHG scheme and has transferred its obligations to the NHG, (2) the municipality has joined the NHG scheme and has transferred its obligations to the NHG but the municipality has retained its old obligations, or (3) the municipality has not joined the NHG scheme. The claims procedure is as follows:

- (A) in relation to (1) above, the claim is made to the municipality that issued the guarantee, which checks the validity of the claim and forwards it to the WEW which makes the payment to the lender;
- (B) in relation to (2) above, the claim is made to the issuing municipality which checks the claim and makes the payment to the lender (the WEW will reimburse the municipality for 50% of the claim); and
- (C) in relation to (3) above, the claim is made to the issuing municipality which checks the claim and makes the payments to the lender.

In all cases the full file of relevant information must be submitted with the claim within the required time. Payment should be made within two months. If not, interest is payable for the delayed payment period.

In its letter dated 26 October 2000, the WEW confirmed that the starting point for its policies is that each financial institution with which it has a guarantee arrangement acts in good faith (*te goeder trouw*) and that breaches of the terms and conditions (*Voorwaarden en Normen*), which do not have a material influence on the occurrence and the size of the loss, lead to payment under the claims. The WEW also confirmed that if a financial institution should transfer to a third party its rights under mortgage loans which have the benefit of a Guarantee and which are registered with the WEW in accordance with the provisions of such terms and conditions, pursuant to a sale by that financial institution of a mortgage loan portfolio to which the mortgage loans in question

belong or in connection with a financial transaction, such third party transferee will become the beneficiary of the Guarantee as provided for in article 6:142 sub-section 1 of the Dutch Civil Code.

### **Claiming under the NHG Guarantees**

When a borrower is in arrears of payment under a mortgage loan for a period of 4 months or when a third party places an attachment (*beslag*) on the property of the borrower, the lender informs the WEW in writing within 30 days of the outstanding payments and/or the existence of the attachment, including the guarantee number, the borrower's name and address, information about the underlying security, the date of the start of late payments, the attachment and the total of outstanding payments. When the borrower is in arrears, the WEW may approach the lender and/or the borrower to attempt to solve the problem and make the borrower aware of the consequences. If an agreement cannot be reached, the WEW reviews the situation with the lender to endeavour to generate the highest possible proceeds from the property. The situation is reviewed to see whether a private sale of the property, rather than a public auction, would generate proceeds sufficient to cover the outstanding mortgage loan. Permission of the WEW is required in case of (i) a forced sale and (ii) a private sale unless the property is sold for an amount higher than the foreclosure value. Within three months of the private or forced sale of the property, the lender must make a formal request to the WEW for payment, using standard forms, which request must include all of the necessary documents relating to the original mortgage loan and the NHG Guarantee. After receipt of the claim and all the supporting details, the WEW must make payment within two months. If the payment is late, provided the request is valid, the WEW must pay interest for the late payment period.

In the event that a borrower fails to meet its obligation to repay the mortgage loan and no or no full payment is made to the lender under the NHG Guarantee by the WEW because of the lender's culpable negligence (*verwijtbaar handelen of nalaten*), the lender must act vis-à-vis the borrower as if the WEW were still guaranteeing the repayment of the mortgage loan during the remainder of the term of the mortgage loan. In addition, the lender is not entitled to recover any amounts due under the mortgage loan from the borrower in such case. This is only not applicable if the borrower is determined to have not acted in good faith with respect to his inability to repay the mortgage loan and to have failed to render his full cooperation in trying to have the mortgage loan repaid to the lender to the extent possible.

### **Additional loans**

Furthermore, on 1 July 2005 provisions were added to the NHG Conditions pursuant to which a borrower who is or threatens to be in arrears with payments under the existing mortgage loan may request that the WEW grants a second guarantee in respect of an additional mortgage loan to be granted by the relevant lender (*woonlastenfaciliteit*). The monies drawn down under the additional loan have to be placed on deposit with the relevant lender and may, up to a maximum period of two years, be used for, among other things, payment of the amounts which are due and payable under the existing mortgage loan, interest due and payable under the additional mortgage loan and the costs made with respect to the granting of the additional mortgage loan. The granting of such an additional loan is subject to certain conditions, including, among other things, the fact that the financial difficulties are caused by a divorce, unemployment, disability or death of the partner of the borrower.

### **Main NHG Underwriting Criteria (*Normen*) as of January 2012**

With respect to a borrower, the underwriting criteria include but are not limited to:

- (i) The lender must perform a BKR check.

- (ii) As a valid source of income the following qualifies: indefinite contract of employment or temporary contract of employment if the employer states that the employee will be provided an indefinite contract of employment in case of equal performance by the employee under equal business conditions. In respect of employees working on a flexible contract, such employees must produce a three year history of income statements. Self employed borrowers must provide three year annual statements.
- (iii) Up to 1 April 2007, the maximum loan based on the income of a borrower was based on the so-called "*toetsinkomen toegestane financieringslasten*" tables (i.e. the DTI table) and an annuity style redemption (even if the actual loan is (partially) interest only). The applicable interest rate is set by the NHG for loans with an interest rate period of five years or less or the actual commercial interest rate of the relevant mortgage loan for loans with an interest rate period in excess of five years.
- (iv) From 1 April 2007 onwards, the maximum loan based on the income of a borrower is based on the so-called "*toetsinkomen toegestane financieringslasten*" tables (i.e. the DTI table) and an annuity style redemption (even if the actual loan is (partially) interest only). The applicable interest rate is that published by the Mortgage Lenders Contact Organisation (Contactorgaan Hypothecair Financiers, "CHF") for loans with an interest rate period of 10 years or less or the actual commercial interest rate of the relevant mortgage loan for loans with an interest rate period in excess of 10 years.

With respect to the mortgage loan, the underwriting criteria include but are not limited to:

- (i) The maximum loan amount is EUR 320,000 as of 1 July 2012 (the maximum amount was EUR 350,000 from 1 July 2009 until 1 July 2012 and before 1 July 2009 it was EUR 265,000). The loan amount is also limited by the amount of income of a borrower and the market value of the property.
- (ii) For the purchase of existing properties, the maximum loan amount is broadly based on the sum of (i) the lower of the purchase price and the market value based on a valuation report, (ii) the costs of improvements, (iii) 8 per cent. of the amount under (i) plus (ii). In case an existing property can be bought without paying stamp duty (*vrij op naam*), the purchase price under (i) is multiplied by 97 per cent.
- (iii) For the purchase of properties to be built, the maximum loan amount is broadly based on the sum of (i) purchase-/construction cost increased with a number of costs such as the cost of construction interest, VAT and architects (to the extent not included already in the purchase-/construction cost) and (ii) 8 per cent. of the amount under (i).
- (iv) The maximum loan amount that is interest only is 50% of the market value (as defined by the NHG) of the property.
- (v) The risk insurance policy should at a minimum cover the loan amount in excess of 80% of the market value of the property (as defined by the NHG)."