

Prudential requirements for credit institutions and investment firms

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OPINION OF THE EUROPEAN CENTRAL BANK on (a) a [proposal for a regulation](#) laying down common rules on securitisation and creating a European framework for simple, transparent and standardised securitisation; and (b) a **proposal for a regulation** amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

The ECB welcomed the objectives of the proposed regulations of promoting the further integration of Union financial markets, diversifying funding sources and unlocking capital for sound lending to the real economy. It supported the establishment of criteria to identify a subset of securitisations which can be classified as simple, transparent and standardised (STS) and welcomed the proposed CRR amendment's adjustment to capital charges to provide for a more risk-sensitive treatment for STS securitisations.

As regards the proposed amendment of [Regulation \(EU\) No 575/2013](#) on prudential requirements for credit institutions and investment firms, the EBC made the following recommendations:

Capital treatment for STS securitisations: the ECB strongly supported the incorporation of the STS criteria in the banking regulatory capital framework through the proposed CRR amendment, as an enhancement to the December 2014 revisions to the Basel securitisation framework. It considered that the calibration, which reduces capital charges for STS securitisations, is appropriate, considering their lower risk profile.

In relation to the hierarchy of approaches, the ECB considered the proposed changes to be a positive first step towards a more equal regulatory treatment of STS securitisations issued in different Union jurisdictions. As drafted, it effectively permits credit institutions to cap capital charges under the securitisation external ratings-based approach (SEC-ERBA) at the level applicable under the securitisation standardised approach (SEC-SA), subject to certain conditions.

The ECB recommended **disallowing the use of SEC-ERBA for STS securitisations only**. This would provide equality of treatment across Union STS securitisations and between Union STS securitisations and non-Union securitisations issued in jurisdictions where the use of external ratings and, consequently, the application of SEC-ERBA, is not permitted.

Competent authorities should nevertheless retain their discretion to impose capital charges higher than those resulting from the application of SEC-SA for STS securitisations (as for non-STs securitisations), where justified on a case-by-case basis, e.g. due to residual structural complexities or other relevant risk drivers not sufficiently captured in all cases under the standardised approach.

Importantly, the ECB's recommendation to disallow the application of SEC-ERBA is, however, contingent on the maintenance of high standards for asset quality and self-attestation.

Capital treatment for qualifying synthetic securitisations: the proposed CRR amendment introduces a differentiated capital treatment for senior tranches of synthetic securitisations meeting certain criteria.

The ECB noted that, from a prudential perspective, the arguments for reducing capital charges for certain synthetic securitisations are not as strong as for traditional STS securitisations. Notably there is currently limited data available on both the volume and performance of synthetic securitisations due to their private

nature. The ECB therefore acknowledges the cautious approach taken by the Commission, whereby the preferential treatment is strictly limited to a subset of synthetic securitisation structures.

It recommended that the **prudence of the framework for qualifying synthetic structures should be further strengthened** by developing criteria specifically adapted to synthetic securitisations.

Strengthening the significant risk transfers (SRT) assessment: the ECB recommended that the proposed CRR amendment should be used as an opportunity to both clarify and strengthen the current CRR provisions with regard to significant risk transfer and implicit support. First, the conditions for recognising SRT (38) in Articles 244 and 245 should be linked to the conditions for implicit support in Article 250, as they address the same issues. In addition, the quantitative significant risk transfer tests should be reviewed by the EBA as they are insufficient and open to regulatory arbitrage in certain cases.