

General framework for securitisation and specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 crisis

2020/0151(COD) - 25/03/2021 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 474 votes to 172, with 62 abstentions, a resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 pandemic.

The proposed Regulation seeks to amend the Securitisation Regulation to facilitate the use of securitisation in the context of the recovery in Europe from the COVID-19 pandemic.

The proposed amendments aim to (i) extend the framework for STS securitisations to on-balance sheet synthetic securitisations; and (ii) remove regulatory obstacles to the securitisation of non-performing exposures (NPEs) to further increase lending capacity without lowering prudential standards for bank lending.

The European Parliament's first reading position amends the Commission's proposal as follows:

Non-performing exposures

The amended text highlights that the COVID-19 crisis is likely to lead to an increase in the number of non-performing exposures and increases the need for institutions to address and manage their non-performing exposures. One way for institutions to do this is to trade their non-performing exposures in the market through securitisation. In the current context, risks need to be separated from the systemically important parts of the financial system.

Securitisation special purpose entities (SSPEs) established in third countries

It is clarified that SSPEs should only be established in third countries that are not on the EU list of high-risk third countries with strategic deficiencies in their anti-money laundering and anti-terrorist financing regimes, or on the list of non-cooperative countries and territories for tax purposes.

Risk retention requirement

The risk retention requirement in Regulation (EU) 2017/2402, which applies to all types of securitisations, helps to align the interests of originators, sponsors and original lenders participating in a securitisation. The amended text provides that this requirement should also apply to on-balance sheet STS securitisations.

As a minimum, the originator, sponsor or original lender should retain a significant net economic interest in the securitisation of at least 5% at all times.

The originator should ensure that it does not hedge the same credit risk more than once by obtaining credit protection in addition to that provided by the STS on balance sheet. On-balance sheet STS securitisations might feature non-sequential amortisation in order to avoid disproportionate costs for protecting the underlying exposures and the evolution of the portfolio.

Macro-prudential oversight of the securitisation market

Within its mandate, the European Systemic Risk Board (ESRB) would provide ongoing macro-prudential oversight of the EU securitisation market. When the ESRB deems it necessary, and at least every three years, the ESRB, in cooperation with the EBA, should publish a report on the financial stability implications of the securitisation market in order to highlight the risks to financial stability.

Transparency requirements

From 1 June 2021, originators of STS securitisations should also have the option to disclose specific information regarding the consideration of adverse impacts on sustainability factors, giving particular attention to climate and other environmental, social and governance-related impacts.

No later than three months after the date of entry into force of the Amending Regulation, the Joint Committee of the European Supervisory Authorities (ESAs) should develop regulatory technical standards, building as much as possible on their work under Regulation (EU) 2019/2088 on sustainability disclosures in the financial services sector and adapting them, where necessary and relevant, to the specificities of securitisations.

Development of a sustainable securitisation framework

By 1 November 2021, the European Banking Authority (EBA), in close cooperation with the European Supervisory Authority (European Securities and Markets Authority) (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA), should publish a report on the development of a specific sustainable securitisation framework, in order to incorporate sustainability-related transparency requirements into this Regulation.

This report should duly assess in particular:

- the implementation of proportionate disclosure and due diligence requirements;
- environmental, social and governance-related adverse impacts;
- any potential effects on financial stability and on the scaling up of the Union securitisation market and of bank lending capacity.

On the basis of the EBA report, the Commission should present a report to the European Parliament and the Council on the development of a specific framework for sustainable securitisation, accompanied, if necessary, by a legislative proposal.