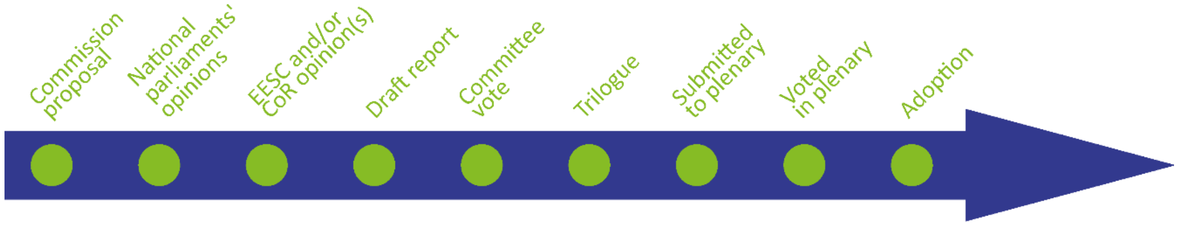
BRIEFING
EU Legislation in Progress

Amending securitisation requirements for the impact of coronavirus

OVERVIEW

Preserving the ability of banks to continue lending to companies, especially small and medium-sized enterprises, is key when it comes to softening the economic impact of the pandemic and easing recovery. The Commission believes that securitisation can contribute to this. It also considers that in order to increase the potential of securitisation the EU regulatory framework (Regulations (EU) 2017/2402 and (EU) 575/2013) must be updated, to cater for (i) on-balance-sheet synthetic securitisation and (ii) the securitisation of non-performing exposures (NPEs). The co-legislators amended the Commission proposal, with amendments concerning, among other things, the requirements concerning the credit protection agreement, the third party verification agent and the synthetic excess spread, the macroprudential oversight of the securitisation market, the obligations of the EBA, the reporting on prudential requirements and financial information, grandfathering for securitisation positions and NPE securitisations. The final act was signed on 31 March 2021.

(A) General framework for securitisation and specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 pandemic and (B) Capital Requirements Regulation (CRR): adjustments to the securitisation framework to support the economic recovery in response to the COVID-19 pandemic		
Committee responsible:	Economic and Monetary Affairs (ECON)	.COM(2020) 282 (A) COM(2020) 283 (B)
Rapporteurs:	Paul Tang (S&D, the Netherlands) (A) Othmar Karas (EPP, Austria) (B)	24.7.2020
Shadow rapporteurs:	Othmar Karas (EPP, Austria) (A) Jonás Fernández (S&D, Spain) (B) Luis Garicano (Renew, Spain) (A, B) Marco Zanni (ID, Italy) (A, B) Philippe Lamberts (Greens/EFA, Belgium) (A, B) Johan Van Overtveldt (ECR, Belgium) (A, B) Chris MacManus (The Left, Ireland) (A, B)	2020/0151(COD) (A) 2020/0156(COD) (B) Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
Procedure completed.	Regulation (EU) 2021/557 (A) Regulation (EU) 2021/558 (B) OJ L 116, 6.4.2021, pp. 1–32	



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Author: Angelos Delivorias
Members' Research Service
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Introduction

The severe economic shock caused by the coronavirus pandemic and the exceptional containment measures are having a far-reaching impact on the economy.

The Commission notes that one key element of economic recovery is the ability of banks to continue lending to corporates, especially small and medium-sized enterprises (SMEs). The Commission is of the view that securitisation can help achieve this aim, by freeing up bank capital for further lending and by allowing a broader range of investors to fund the economic recovery.

The EU securitisation regulatory framework, in place since January 2019, is composed of two regulations: Regulation (EU) 2017/2402 which created a specific framework for simple, transparent and standardised securitisation (the 'STS Regulation') and specific articles of Regulation (EU) 575/2013 (the Capital Requirements Regulation (or 'CRR')).[1]

The Commission finds that, to achieve its potential, the current framework needs to be further updated in order to cater for (i) on-balance-sheet synthetic securitisation so as to facilitate lending by credit institutions to the real economy and (ii) the removal of regulatory obstacles to the securitisation of non-performing exposures (NPEs), so as to maintain the lending capacity of banks during and following the crisis. Given that the review of the securitisation framework was scheduled for 2022, the Commission decided to speed up the process and amend the regulations to help the economy in the months during and after the pandemic.

Existing situation

Traditional and synthetic securitisation

Traditional securitisation involves the effective legal transfer of the assets to the issuer of the securities (the securitisation special purpose entity – SSPE); as a result, the underlying assets are removed from the originator's balance sheet and the SSPE becomes entitled to the cash flows that are generated by those assets. Therefore, in traditional securitisation, there must be an SSPE and securities must be issued.

In *synthetic securitisation*, the ownership of the securitised exposures remains with the originator (that is, the exposures remain on the balance sheet) and the credit risk is transferred with the use of credit derivatives or financial guarantees. Therefore, neither the SSPE nor the issuance of securities are necessary in this type of securitisation.[2]

Synthetic securitisations can broadly be categorised as balance-sheet synthetic, or arbitrage-synthetic. Balance-sheet synthetic securitisations are securitisation transactions where the originating institution (typically a bank) uses financial guarantees or credit derivatives to transfer to third parties the credit risk of a specified pool of assets that it holds on its balance sheet and for which, in the vast majority of cases, it was also the original lender. The underlying assets are typically assets that are for various reasons more difficult or less attractive for the originator to securitise in a traditional way (e.g. corporate loans, SME loans or trade finance).[3]

While the possibility of including synthetic securitisations in the STS regime was debated during the legislative procedure for the adoption of Regulation (EU) 2017/2402, the co-legislators chose not to include it. Instead, they tasked the European Banking Authority (EBA) with publishing a report by July 2019 on the feasibility of a specific STS framework for balance-sheet synthetic securitisations; they also tasked the Commission with submitting by January 2020 a report to Parliament and Council, based on the EBA report, on the creation of such a framework, along with a legislative proposal.

From a prudential point of view, synthetic securitisation is addressed in CRR Articles 245 (general), 251 (originator institutions' calculation of securitised risk-weighted exposure amounts) and 252 (treatment of maturity mismatches).

Non-performing exposures and their securitisation

Non-performing exposures (NPEs), are exposures that are '(i) "defaulted" under the Basel framework, where applicable; (ii) credit-impaired according to the applicable accounting framework; (iii) not defaulted or impaired but nevertheless material and more than 90 days past due, *or* for which there is evidence that full repayment based on the contractual terms is unlikely without the bank's realisation of collateral'.

Increases in non-performing exposures can be problematic because they can impair bank balance sheets and therefore present risks to financial stability. In addition, they can depress credit growth, and thus delay economic recovery.

While various legal and administrative reforms have been undertaken in recent years in countries with high levels of non-performing loans, to streamline insolvency proceedings and maximise non-performing loan recovery values, the economic impact of the pandemic is expected to reverse the current trend.[4]

NPE securitisations are transactions backed by pools comprised exclusively or almost exclusively of non-performing exposures at the time of inception. Though structurally similar to other securitisations, they have particular features that distinguish them from securitisations of performing assets.

The ECB provides the following useful example of an NPE securitisation:

(1) the originator owns an NPE portfolio with an outstanding value of 100 and a book value of 60;
(2) the originator then transfers the NPE portfolio to an securitisation special purpose entity (SSPE) at a value of 60;
(3) the SSPE issues notes with a nominal value of 60 (i.e. junior notes with a nominal value of 20; mezzanine notes with a nominal value of 20; senior notes with a nominal value of 20), which it transfers to the originator in exchange for the NPE portfolio;
(4) the originator sells the junior and mezzanine notes to investors for a sale price of 10 (i.e. junior notes sold for 2; mezzanine notes sold for 8 – on the basis of the simplifying assumption that the originator is not required to comply with risk retention requirements) and retains the senior notes, attributing to them an accounting value of 20.

The key difference between many securitisations and non-performing loan securitisations lies in the nature of the underlying assets: while the assets in most securitisations generate (at least in theory) stable and predictable cash flows, the collection of which is straightforward, the assets underpinning non-performing loans are anything but stable and predictable. For this reason, it is the servicer[5] that must take active steps to resolve the NPEs and generate a cash flow. This, in turn results in the regulatory framework imposing certain constraints on credit institutions using securitisation technology to dispose of NPE holdings. These constraints include very high capital requirements on investor credit institutions under the CRR, and compliance challenges as regards certain risk retention and due diligence requirements under the Securitisation Regulation.

Parliament's starting position

As the Commission proposals were drafted as a direct reaction to the economic emergency caused by the pandemic, Parliament had not adopted any prior resolution calling for those changes.

Preparation of the proposals

Owing to the urgent nature of the proposals, no impact assessments were carried out. However, the main costs and benefits resulting from the amendments were analysed in a separate staff working document. Moreover, the proposals are based on two EBA documents (the report on the STS framework for synthetic securitisation and the opinion on the regulatory treatment of non-performing exposure securitisations) and on draft standards proposed by the Basel Committee on Banking Supervision (BCBS) and published for consultation in June 2020.[6]

The changes the proposals would bring

Commission proposal for the Simple, Transparent and Standardised Securitisation Regulation

The Commission proposal begins by adding to Article 2 of Regulation (EU) No 2017/2402 (the STS Regulation), to clarify the terms 'non-performing exposure (NPE) securitisation', 'synthetic excess spread', and 'credit protection agreement' and its constituent parts.

On risk retention (Article 6), the proposal allows the servicer in an NPE transaction to take on the risk retention slice, given the servicer's special position in the deal, which ensures the alignment of its interests with those of the investors. In addition, it is proposed that the risk retention requirement (of at least 5 %) be calculated on the basis of the discounted value of the exposures transferred to the securitisation special purpose entity.[7]

Relative to the verification of credit-granting standards (Article 9), the proposal specifies that the requirements set out in the paragraph do not apply to underlying exposures that classify as NPEs when the originator purchased them from a third party.

Lastly, a new Section (2A – new article 26a-e)) contains the criteria for simple, transparent and standardised ('STS') balance-sheet synthetic securitisation: these are requirements relating to simplicity, standardisation and transparency, and are aligned as much as possible with those for traditional STS securitisation. It also includes requirements concerning the credit protection agreement, the third-party verification agent and the synthetic excess spread.

Commission proposal for the Capital Requirements Regulation

The Commission proposal amending Regulation (EU) No 575/2013 (the CRR) contains an amendment to Article 249 CRR and introduces two new articles.

According to Article 249(1) and (2) of the CRR, an institution may recognise funded or unfunded credit protection with respect to a securitisation position in the same way and under the same conditions as provided in the general credit risk mitigation framework applicable to non-securitised exposures. Point (3) of the same article introduces an exception to this treatment – i.e. a minimum credit rating requirement -for those institutions applying the standardised approach.

The Commission proposal amends this point (3), so as to align the credit risk mitigation rules applicable to the securitisation exposures with the general framework, in line with what was agreed at international level by the BCBS.

New article 269(a)

The current EU regulatory framework for securitisation is designed to account for the most common features of typical securitisation transactions, i.e. securitisations backed by pools of *performing* loans. When applied to NPE securitisations,[8] this framework yields capital requirements that have proved to be disproportionate, in particular when the internal ratings-based approach (SEC-IRBA) and the standardised approach (SEC-SA) are used, because their calibration is not consistent with the risk drivers that are specific to NPEs.[9]

The proposed amendment would therefore create, in article 269a, a new framework for NPE securitisations where all tranches of NPE securitisations except the senior tranche would be subject to the general framework with two specific adjustments: (i) a floor of 100 % applying to the risk weight; and (ii) the use of the foundation IRB parameters if securitisation exposures eligible for the use of the SEC-IRBA in accordance with Article 254 of the CRR were prohibited.

The *senior* tranche of a traditional NPE securitisation would be subject to a flat risk weight of 100 %, provided the exposures in the pool backing the securitisation had been transferred to the SSPE with a non-refundable price discount of at least 50 % on the nominal amount of the exposures.

New article 270

The current securitisation framework, as set out in Regulation (EU) 2017/2402, does not include any form of *balance-sheet synthetic* securitisation in the STS regime.

Article 270 of the CRR (*senior positions in SME securitisations*) currently allows specific treatment for only a subset of on-balance-sheet synthetic securitisations, namely those fulfilling the following criteria:

a) 70 % of the securitised exposures must be exposures to SMEs;
b) the securitisation must meet the traditional STS criteria as applicable to an on-balance-sheet synthetic securitisation; and
c) the credit risk not retained by the originator has to be transferred through a guarantee, or counter guarantee that fulfils a number of conditions.

The proposed new article 270 (*senior positions in STS on-balance-sheet securitisation*) provides that an originator institution can calculate the risk-weighted exposure amounts of an STS on-balance-sheet securitisation, when two conditions are met, namely

a) the securitisation meets the requirements set out in Article 243(2) of the CRR (i.e. the criteria for non-ABCP STS securitisations qualifying for differentiated capital treatment);
(b) the position qualifies as the senior securitisation position.

Advisory committees

In its 29 October 2020 plenary session, the EESC adopted a comprehensive opinion ('Amendments to financial regulation to facilitate economic recovery post Covid-19'), in which it considered the Commission proposals to amend MIFID II, the Prospectus Directive and the STS Regulation (including the relevant parts of the CRR).

On the STS proposal, the EESC noted that it especially welcomed the aim of making securitisations dealing with non-performing exposures easier, so as to allow banks to free part of their balance sheets and so boost their lending capacity at a time when this capacity is vital. It added however that rules relating in particular to the timeframe for banks to dispose of non-performing exposures must be managed with care, to avoid putting companies in (further) difficulty if banks are persuaded to get rid of these loans within too brief a timescale.

National parliaments

The subsidiarity deadline for both proposals was 27 October 2020.

The STS proposal was examined by the parliaments of 12 Member States. There was a political dialogue in the Spanish Cortes Generales. It led to a resolution that found the proposals to be in line with the principle of subsidiarity.

The CRR proposal was examined by the parliaments of 14 Member States. There were political dialogues in Spain (Cortes Generales) and Portugal (Assembleia da República). In Spain, the Joint Committee for EU Affairs adopted a resolution, which states that both proposals are in accordance with the principle of subsidiarity. In Portugal, the draft act was scrutinised by the European Affairs Committee, whose written opinion does not raise any subsidiary issues.

Stakeholder views[10]

On 23 September 2020, the European Central Bank adopted an opinion on proposals for regulations amending the Union securitisation framework in response to the pandemic.

The ECB generally welcomed the Commission's proposed regulations. However, as it has repeated in previous opinions, it is of the view that Articles 6 to 8 of the STS Regulation ((EU) 2017/2402)[11] should be viewed as primarily relating to the supervision of product markets and thus their supervision cannot be conferred to the ECB. In this context, it is concerned that recital 21 of the proposed securitisation regulation unduly assigns prudential character to those articles (and thus entrusts the ECB with ensuring compliance with them) without explaining the reason why. It therefore asked for recital 21 to be amended accordingly.

The ECB also recommended that a thorough system for monitoring the STS synthetic securitisation market be put in place.

The ECB recommended amending the proposed definition of non-refundable purchase price discount (NRPPD), so that the definition also captures discounts that are realised when notes are sold to investors at origination. It further recommended expressly excluding refundable purchase price discounts, which can undermine the risk transfer as the originator is still exposed to the performance of the NPEs.

Finally, the ECB recommended clarifying that the 100 % risk weight floor for NPE securitisations over-rides the so-called 'look-through approach' risk weight cap for senior securitisation positions pursuant to Article 267 of the CRR.

Legislative process

The position of the European Parliament

On 10 November 2020, the Committee on Economic and Monetary Affairs of the European Parliament adopted two reports, one for the STS proposal (rapporteur: Paul Tang, S&D, Netherlands) and one for the CRR proposal (rapporteur: Othmar Karas, EPP, Austria). The Committee's subsequent decisions of 11 November to enter into interinstitutional negotiations on the proposals were confirmed by plenary on 13 November 2020.

Amendments to the STS proposal

In new article 26c [*Requirements relating to standardisation*] the report would increase the minimum elements for performance triggers.[12] It also adds a specification that competent authorities may allow originators to disregard those triggers if it can be justified that such triggers are not appropriate to the securitisation structure or the class of securitised exposures.

In article 26e [*Requirements concerning the credit protection agreement, the third-party verification agent and the synthetic excess spread*], point 9 relative to the high-quality collateral, would list in greater detail (and additional requirements) the collateral in form of cash held with a third-party institution, or collateral held in form of cash on deposit with the originator, or one of its affiliates.[13]

The report adds a new paragraph to Article 31 [*Macroprudential oversight of the securitisation market*], establishing the obligation for the European Systemic Risk Board (ESRB), in cooperation with European supervisory authorities (ESAs), to publish a report analysing the impact of the introduction of STS on-balance sheet securitisations, as well as any systemic risks to financial stability arising from that introduction. If appropriate, the ESRB must issue warnings and recommendations for remedial action.

Lastly, according to the provisions of (new) article 45a, the EBA, in cooperation with the other two ESAs would be obliged to publish a report on developing a specific sustainable securitisation framework for the purpose of integrating sustainability-related transparency requirements into the regulation.

Amendments to the CRR proposal

The Parliament report proposes the following amendments to the Commission's CRR proposal:

In Article 242 of the CRR [*definitions (in the chapter relative to securitisation)*] it proposes inserting the definition of 'synthetic excess spread' as defined in the amended STS Regulation.

In Article 248 of the CRR [*exposure value*], the report proposes to clarify the elements that the exposure value of a synthetic excess spread includes.[14] The amended article would add that the EBA is to be tasked with drafting regulatory technical standards to specify how originators should determine this exposure value.

The report adds a paragraph to Article 256 [*determination of attachment point (A) and detachment point (D)*], to specify how the originator should calculate attachment points (A) and (D) of a synthetic securitisation.[15]

Amendments are made to Article 269a [*treatment of non-performing exposures securitisations*] in several points: first, to describe in more detail the risk weights institutions assign to the senior tranche of a qualifying NPE securitisation; second, to note how the non-refundable purchase price discount is calculated; and third, to add the definition of 'qualifying traditional NPE securitisation'.

In new Article 270 [*senior positions in STS on-balance-sheet securitisation*] the report adds as a condition that the credit risk associated with the positions not retained by the originator institution be transferred through a guarantee or a counter-guarantee meeting the requirements for unfunded credit protection.

In Article 430 [*reporting on prudential requirements and financial information*] the report adds that when institutions report on own funds requirements on securitisations, the information they report should also include the exposure value of NPE securitisations benefitting from the treatment set out in Article 269a, the exposure value of synthetic securitisations they originate, and the breakdown of the assets underlying those synthetic securitisations by asset class.

The report adds a new article 494ba [*grandfathering for securitisation positions*], to add that by way of derogation from Article 270, an originator may calculate the risk-weighted exposure amounts of a securitisation in accordance with Articles 260, 262 or 264, where both of two conditions are met.

A new article 519aa [*NPE securitisations*] is also added to provide that the EBA must monitor the application of Article 269a, evaluate the regulatory capital treatment of NPE securitisations and submit a report to the Commission which, in turn, will submit a report to the European Parliament and the Council on the application of Article 269a.

Lastly, a new article 519ba [*collective investment undertakings with an underlying portfolio of euro area sovereign bonds*] is added to state that the Commission, in cooperation with the ESRB, will assess a preferential regulatory treatment of exposures in the form of units or shares in collective investment undertakings with an underlying portfolio consisting of sovereign bonds of euro area Member States, whose relative weights for each Member State's bonds equals the relative weight of each Member State's capital contribution to the ECB.

The position of the Council

Council published its negotiating mandates on both the STS proposal and the CRR proposal on 16 October 2020.

On the STS proposal

With regards to the amendment to Article 6, Council adds that, to fulfil the requirements of the paragraph, the servicer must demonstrate that it has expertise in servicing exposures of a similar nature to those securitised and has well-documented and adequate policies, procedures and risk-management controls relating to the servicing of exposure.

Council would amend the proposed new article 26e [*requirements concerning the credit protection agreement, the third-party verification agent and the synthetic excess spread*] so as to cover situations where the transfer of risk is achieved (i) by the use of guarantees and (ii) by the use of credit derivatives. In point 2 of the same article, it would change *the impairment* recorded by the originator in its financial statements, to *the expected loss amount that is equivalent to the impairment* recorded by the originator.

In point 9 of the same article, Council would add that the competent authorities may, after consulting the EBA, allow collateral in the form of cash held with a third-party credit institution or in the form of cash on deposit with the originator, subject to a credit quality step 3, provided that market difficulties, objective impediments related to the credit quality step assigned to the Member States of the institution or significant potential concentration problems in the Member States concerned due to the application of a minimum credit quality step 2 requirement, referred to in that paragraph, can be documented.

In Article 29(5) [*designation of competent authorities*], Council would add to the Commission proposal that, until the designation of a competent authority to supervise the requirements in accordance with article 26a to 26e, the competent authority designated to supervise the requirements in accordance with Articles 18 to 27 would also supervise those requirements.

Lastly, in Article 32(2) [*administrative sanctions and remedial measures*], Council would replace points (d) and (h), so as to add articles 26a-26e to other articles in the cases covered by a temporary ban on originator/sponsor notification, or a temporary withdrawal of authorisation.

On the CRR proposal

To avoid the misuse of the synthetic excess spread for arbitrage purposes for all synthetic securitisation transactions (as opposed to STS securitisation only), the Council suggests complementing the Commission's proposals with a dedicated prudential treatment for synthetic excess spread. To that end, it would include a new point 20 to Article 242 of the CRR defining the synthetic excess spread. In addition, it would add a new point 1(e) to Article 248, to specify which items are included in the exposure value of a synthetic excess spread. The same article would task the EBA with drafting regulatory technical standards to specify how originators determine the exposure value.

Like Parliament, Council would also propose a procedure to calculate the attachment and detachment points of a synthetic securitisation, in Article 256.

In Article 270, Council would add an extra point, tasking the EBA with monitoring the application of paragraph 1 of that Article with regard to specific elements and addressing a report to the Commission on its findings.

Lastly, the Council would add a new article 494c specific to the grandfathering of securitisation positions.

Trilogue agreement

Interinstitutional negotiations between the European Parliament and the Council concluded in December 2020. The compromise texts agreed by the two institutions' negotiators were endorsed by Coreper, for the Council, on 16 December 2020, and approved by Parliament's Committee on Economic and Monetary Affairs (ECON) on 14 January 2021.

The compromise text concerning Regulation (EU) 2017/2402 includes most of the aforementioned amendments proposed by Parliament. It does not include the proposed performance-related triggers; it does however contain additional details for traditional NPE securitisations (article 6) and for cases where an option to call the transaction at a given point in time (time call) is exercised (article 26e).

Similar to that for the STS Regulation, the compromise text on Regulation (EU) No 575/2013 takes on board most of Parliament's suggestions. It does not include the amendments to article 269a relative to the treatment of non-performing exposures securitisations. At the same time, it expands that same article, by adding specific formulae to calculate the maximum capital requirement in case of a qualifying traditional NPE securitisation, and the risk weight applicable to a senior position in a qualifying traditional NPE securitisation when the look-through approach is used. Additionally, the EBA is tasked with monitoring the impact of the application of Article 270 (senior positions in STS balance sheet securitisations) on the leverage of financial institutions and with submitting a report to the Commission, which will consider whether to propose further amendments in this regard.

The texts agreed at first reading in interinstitutional negotiations were adopted in plenary on 25 March 2021. After the Council's formal adoption, the final acts were signed on 31 March 2021, and published in the Official Journal on 6 April 2021. Both took effect on 9 April 2021, with the exception of certain provision in the CRR concerning synthetic excess spreads, which take effect on 10 April 2022.

EP SUPPORTING ANALYSIS

De Jong W., Level-2 measures under the new Securitisation framework, ECON Secretariat briefing, European Parliament, August 2018.

Delivorias A., Understanding Securitisation - Background – benefits – risks, EPRS, European Parliament, October 2015.

Delivorias A., Synthetic securitisation: A closer look, EPRS, European Parliament, June 2016.

Delivorias A., Common rules and new framework for securitisation, EPRS, European Parliament, January 2018.

Delivorias A., Securitisation and capital requirements, EPRS, European Parliament, January 2018.

OTHER SOURCES

General framework for securitisation and specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 pandemic, European Parliament, Legislative Observatory (OEIL).

Capital Requirements Regulation (CRR): adjustments to the securitisation framework to support the economic recovery in response to the COVID-19 pandemic, European Parliament, Legislative Observatory (OEIL).

ENDNOTE

1 Regulation (EU) No 575/2013 of the European Parliament and of the Council, known as the Capital Requirements Regulation (hereinafter 'the CRR'), together with Directive 2013/36/EU, known as the Capital Requirements Directive (hereinafter 'the CRD'), establishes the prudential regulatory framework for credit institutions operating in the EU.

2 For more information on synthetic securitisation, see A. Delivorias, Synthetic securitisation: A closer look, EPRS, European Parliament, June 2016.

3 As such, balance-sheet synthetic securitisations can be clearly distinguished from arbitrage synthetic securitisations, which involve underlying assets that are not owned by the originator of the securitisation. Instead of hedging credit risk, the main aim of an arbitrage synthetic transaction is to seek arbitrage between the spread on the credit quality of a pool of assets or product indices and the spread on the resulting securitisation product.

4 More specifically, the ECB noted in its May 2020 financial stability review that these could increase to 3 % of total loans, i.e. €160 billion. Together with the existing NPL stock (in excess of €500 billion as of September 2019), the European Banking Federation estimated that the total could rise to over €700 billion.

5 In a securitisation, the servicer is responsible for the collection of interest and principal repayments deriving from the pooled assets and the remittance of these funds to the trustee. For these services, the servicer is entitled to receive a fee and may benefit from the temporary investment of the funds collected pending periodic onward transmission.

6 See Basel Committee on Banking Supervision, Technical amendment: Capital treatment of securitisations of non-performing loans, June 2020.

7 'The net value of a non-performing exposures shall result from deducting the non-refundable purchase price discount agreed at the time of origination from the exposure's nominal value or, where applicable, its outstanding value at the same time'.

8 According to the STS securitisation, a NPE securitisation is a securitisation where at least 90 % of the exposures in the underlying pool are non-performing, within the meaning of Article 47a of the CRR.

9 SEC-IRBA and SEC-SA rely on quantitative credit risk information that is based on the gross book value of the exposures included in the pool and, as a result, yield risk weights that are too high when compared with the risk-weights applicable under the securitisation external ratings-based approach (SEC-ERBA).

10 This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

11 These articles deal with the compliance of significant banks acting as originators, sponsors or original lenders, with risk retention rule (Article 6); transparency requirements (Article 7) and the prohibition of re-securitisation (Article 8).

12 Specifically '(i) a threshold of cumulative credit losses as a percentage of lifetime expected losses (EL); (ii) a threshold of cumulative non-matured defaults as a percentage of outstanding nominal amount of the securitisation; (iii) a minimum level for the weighted average credit quality of the portfolio; (iv) a maximum level of concentration in high credit risk (PD) buckets; (v) a minimum level of portfolio granularity'.

13 In the first case, the third-party credit institution would have to have credit quality step 2 or above at the time of origination and credit quality step 3 or above thereafter. In the second, the cash on deposit with the originator or its affiliates, must (i) be in the form of 0 % risk-weighted debt securities (as per the CRR); (ii) have a principal market value at the last payment date at least equal to 100 % of the outstanding balance value of the protected tranche; (iii) be held by a custodian independent of the originator and the investors; and (iv) either have a remaining maximum maturity that is not later than the next payment date or that is provided under an arrangement that provides for margining at least on a quarterly basis (or each payment date) with cash or additional collateral meeting the requirements of points (i) and (iii).

14 Namely,
'(i) any income from the securitised exposures already recognised by the originator institution in its income statement under the applicable accounting framework that the originator institution has contractually designated to the transaction as synthetic excess spread;

(ii) any synthetic excess spread contractually designated by the originator institution in any previous periods that is still available to absorb losses;

(iii) any synthetic excess spread contractually designated by the originator for the current period that is still available to absorb losses;

(iv) any synthetic excess spread contractually designated by the originator for future periods'.

15 Tranches that absorb losses sequentially are defined by an attachment and a detachment point. According to Adonis Antoniades and Nikola Tarashev, the attachment point indicates the minimum of pool-level losses at which a given tranche begins to suffer losses. In turn, the detachment point corresponds to the amount of pool losses that completely wipe out the tranche. The riskiness of a tranche decreases with the tranche's seniority in the securitisation's capital structure. A junior tranche, for example, could have attachment and detachment points equal to 0 % and 10 % respectively of the pool exposure. Such a tranche would be intact if there were no losses but would be partly eroded with the first losses. The erosion would be complete when losses reached 10 % of the pool exposure. By contrast, a mezzanine tranche with attachment and detachment points of 10 % and 20 % respectively would initially be protected but would be affected as soon as losses exceeded 10 % of the pool size. Finally, a senior tranche with attachment and detachment points of 20 % and 100 % respectively would be the most protected, starting to incur losses only when both the junior and mezzanine tranches were wiped out. For given attachment and detachment points, the risk to a tranche would depend on the risk characteristics of the underlying pool. See 'Securitisations: tranching concentrates uncertainty', BIS Quarterly Review, December 2014.

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