



2015/0226(COD)

6.6.2016

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council laying down common rules on securitisation and creating a European framework for simple, transparent and standardised securitisation and amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (COM(2015)0472 – C8-0288/2015 – 2015/0226(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Paul Tang

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council laying down common rules on securitisation and creating a European framework for simple, transparent and standardised securitisation and amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (COM(2015)0472 – C8-0288/2015 – 2015/0226(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2015)0472),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0288/2015),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 20 January 2016¹,
 - having regard to the opinion of the European Central Bank of 11 March 2016²
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0000/2016),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

² Not yet published in the Official Journal.

Amendment 1

Proposal for a regulation Citation 3 a (new)

Text proposed by the Commission

Amendment

***Having regard to the opinion of the
European Central Bank ^{1a},***

***^{1a} Opinion of 11 March 2016 , not yet
published in the Official Journal***

Or. en

Amendment 2

Proposal for a regulation Recital 2 a (new)

Text proposed by the Commission

Amendment

***(2 a) For that purpose, this Regulation
introduces disclosure requirements to
ensure that the issuance of securitisations
contributes, through re-allocation of
capital and through capital relief obtained
when benefitting from favourable capital
requirements, to the financing of the real
economy, in particular the sustainable
and green economy which the Union aims
to develop.***

Or. en

Amendment 3

Proposal for a regulation Recital 3

Text proposed by the Commission

Amendment

(3) The European Union ***does not
intent to weaken*** the legislative framework

(3) The European Union ***aims to
strengthen*** the legislative framework

implemented after the financial crisis to address the risks inherent in highly complex, opaque and risky securitisation. It is essential to ensure that rules are adopted to better differentiate simple, transparent and standardised products from complex, opaque and risky instruments and apply a more risk-sensitive prudential framework.

implemented after the financial crisis to address the risks inherent in highly complex, opaque and risky securitisation. ***For that purpose, this Regulation introduces a ban on re-securitisation and enhances the conditions for complying with the risk retention obligations.*** It is essential to ensure that rules are adopted to better differentiate simple, transparent and standardised products from complex, opaque and risky instruments and apply a more risk-sensitive prudential framework.

Or. en

Amendment 4

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Securitisation is an important element of well-functioning financial markets. Soundly structured securitisation is an important channel for diversifying funding sources and allocating risk more efficiently within the Union financial system. It allows for a broader distribution of financial sector risk and can help to free up originator's balance sheets to allow for further lending to the economy. Overall, it can improve efficiencies in the financial system and provide additional investment opportunities. Securitisation can create a bridge between credit institutions and capital markets with an indirect benefit for businesses and citizens (through, for example, less expensive loans and business financing, credits for immovable property and credit cards).

Amendment

(4) Securitisation is an important element of well-functioning financial markets. Soundly structured securitisation is an important channel for diversifying funding sources and allocating risk more efficiently within the Union financial system. It allows for a broader distribution of financial sector risk and can help to free up originator's balance sheets to allow for further lending to the economy. Overall, it can improve efficiencies in the financial system and provide additional investment opportunities. Securitisation can create a bridge between credit institutions and capital markets with an indirect benefit for businesses and citizens (through, for example, less expensive loans and business financing, credits for immovable property and credit cards). ***Nevertheless, this Regulation recognises the risks of increased interconnectedness and of excessive leverage that securitisation raises and encourages the strict monitoring by competent authorities of a financial institution's participation in the***

market. It also mandates the Commission to report on the effects of this Regulation, in particular on risks for the financial system.

Or. en

Amendment 5

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Implementation of the "STS criteria throughout the EU should not lead to divergent approaches. Those approaches would create potential barriers for cross-border investors by constraining them to enter into the details of the Member State frameworks and thus undermining investor confidence in the STS criteria.

Amendment

(9) Implementation of the "STS" criteria throughout the EU should not lead to divergent approaches. Those approaches would create potential barriers for cross-border investors by constraining them to enter into the details of the Member State frameworks and thus undermining investor confidence in the STS criteria. ***The European Securities and Market Authority (ESMA) should therefore, together with the authorities competent for securities markets, supervise compliance with the STS criteria and develop guidelines to ensure a common and consistent understanding of the STS requirements throughout the Union, in order to address potential interpretation issues. Such a single source of interpretation aims to support the adoption of the STS criteria by originators, sponsors and investors.***

Or. en

Amendment 6

Proposal for a regulation

Recital 10

(10) ***It is essential that competent authorities work closely together to ensure a common and consistent understanding of the STS requirements throughout the Union and to address potential interpretation issues. In the light of this objective the three ESAs should, in the framework of the Joint Committee of the European Supervisory Authorities, coordinate their work and that of the competent authorities to ensure cross-sectoral consistency and assess practical issues which may arise with regards to STS securitisations.*** In doing so, the views of market participants should also be requested and taken into account to the extent possible. The outcome of these discussions should be made public on the websites of the ***ESAs*** so as to help originators, sponsors, SSPEs and investors assess STS securitisations before issuing or investing in such positions. ***Such a coordination mechanism would be particularly important in the period leading to the implementation of this Regulation.***

(10) In doing so, the views of market participants should also be requested and taken into account to the extent possible. The outcome of these discussions should be made public on the websites of the ***ESMA*** so as to help originators, sponsors, SSPEs and investors assess STS securitisations before issuing or investing in such positions.

Or. en

Amendment 7

Proposal for a regulation Recital 12

(12) It is important that the interests of originators, sponsors and original lenders that transform exposures into tradable securities and investors are aligned. To achieve this, the originator, sponsor or original lender should retain a significant interest in the underlying exposures of the securitisation. It is therefore important for

(12) It is important that the interests of originators, sponsors and original lenders that transform exposures into tradable securities and investors are aligned. To achieve this, the originator, sponsor or original lender should retain a significant interest in the underlying exposures of the securitisation. It is therefore important for

the originators or the sponsors to retain a material net economic exposure to the underlying risks in question. More generally, securitisation transactions should not be structured in such a way so as to avoid the application of the retention requirement. That requirement should be applicable in all situations where the economic substance of a securitisation is applicable, whatever legal structures or instruments are used. There is no need for multiple applications of the retention requirement. For any given securitisation, it suffices that only the originator, the sponsor or the original lender is subject to the requirement. Similarly, where securitisation transactions contain other securitisations positions as underlying exposures, the retention requirement should be applied only to the securitisation which is subject to the investment. The STS notification indicate to investors that originators are retaining a material net economic exposure to the underlying risks. Certain exceptions should be made for cases when securitised exposures are fully, unconditionally and irrevocably guaranteed by in particular public authorities. In case support from public resources provided in the form of guarantees or by other means, any provisions in this Regulation are without prejudice to State aid rules.

the originators or the sponsors to retain a material net economic exposure to the underlying risks in question. ***The European Banking Authority (EBA), in cooperation with ESMA and the European Insurance and Occupational Pensions Authority (EIOPA), should have the possibility of proposing a lower risk retention rate for the securitisation market as a whole or for certain segments of that market by way of draft regulatory technical standards. When doing so, EBA should justify how it took into account the need for alignment of risk and the prudential aspects of lowering the retention rate.*** More generally, securitisation transactions should not be structured in such a way so as to avoid the application of the retention requirement. That requirement should be applicable in all situations where the economic substance of a securitisation is applicable, whatever legal structures or instruments are used. There is no need for multiple applications of the retention requirement. For any given securitisation, it suffices that only the originator, the sponsor or the original lender is subject to the requirement. Similarly, where securitisation transactions contain other securitisations positions as underlying exposures, the retention requirement should be applied only to the securitisation which is subject to the investment. The STS notification indicate to investors that originators are retaining a material net economic exposure to the underlying risks. Certain exceptions should be made for cases when securitised exposures are fully, unconditionally and irrevocably guaranteed by in particular public authorities. In case support from public resources provided in the form of guarantees or by other means, any provisions in this Regulation are without prejudice to State aid rules.

Or. en

Amendment 8

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) The ability of investors to exercise due diligence and thus make an informed assessment of the creditworthiness of a given securitisation instrument depends on their access to information on those instruments.. Based on the existing acquis, it is important to create a comprehensive system under which investors will have access to all the relevant information over the entire life of the transactions and to reduce originators, sponsors and SSPEs reporting tasks and to facilitate investors' continuous; easy and free access to reliable information on securitisations.

Amendment

(13) The ability of investors to exercise due diligence and thus make an informed assessment of the creditworthiness of a given securitisation instrument depends on their access to information on those instruments. Based on the existing acquis, it is important to create a comprehensive system under which investors will have access to all the relevant information over the entire life of the transactions and to reduce originators, sponsors and SSPEs reporting tasks and to facilitate investors' continuous; easy and free access to reliable information on securitisations. ***To enhance market transparency, a data repository for underlying loans in securitisations should be established. Similar non-mandatory initiatives already exist, which have led to the establishment of infrastructures such as the European DataWarehouse. The information required to be disclosed under that requirement should therefore be based on existing templates for disclosures to such infrastructures. If ESMA chooses to delegate the responsibility of managing such infrastructure, then the data repository should be established along the lines of the Global LEI Foundation (GLEIF).***

Or. en

Amendment 9

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) In securitisations which are not 'true sale', the underlying exposures are not transferred to such an issuer entity, but rather the credit risk related to the underlying exposures is transferred by means of a derivative contract or guarantees. This introduces an additional counterparty credit risk and potential complexity related in particular to the content of the derivative contract. ***To date, no analysis on an international level or Union level has been sufficient to identify STS criteria for those types of securitisation instruments. An assessment in the future of whether some synthetic securitisations that have performed well during the financial crisis and are simple, transparent and standardised are therefore eligible to qualify as STS would be essential. On this basis, the Commission will assess whether securitisations which are not 'true sale' should be covered by the STS designation in a future proposal.***

Amendment

(16) In securitisations which are not 'true sale', the underlying exposures are not transferred to such an issuer entity, but rather the credit risk related to the underlying exposures is transferred by means of a derivative contract or guarantees. This introduces an additional counterparty credit risk and potential complexity related in particular to the content of the derivative contract. ***The progress made by the EBA in its report of December 2015, identifying a possible set of STS criteria for synthetic securitisation should be acknowledged. Once the EBA has clearly determined a set of STS criteria specifically applicable to balance sheet synthetic securitisations, and with a view to promoting funding to the real economy and in particular SMEs which benefit the most from such securitisations, the Commission is mandated to draft a report and, where appropriate, a legislative proposal in order to extend the STS framework to such securitisations, whereas no such mandate is given to the Commission in respect of arbitrage synthetic securitisations.***

Or. en

Amendment 10

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) To ensure that investors perform robust due diligence and to facilitate the assessment of underlying risks, it is important that securitisation transactions are backed by pools of exposures that are homogenous in asset type, ***such as pools of residential loans, pools of commercial***

Amendment

(18) To ensure that investors perform robust due diligence and to facilitate the assessment of underlying risks, it is important that securitisation transactions are backed by pools of exposures that are homogenous in asset type.

loans, leases and credit facilities to undertakings of the same category to finance capital expenditures or business operations, pools of auto loans and leases to borrowers or lessees or loans and pools of credit facilities to individuals for personal, family or household consumption purposes.

Or. en

Amendment 11

Proposal for a regulation Recital 35 a (new)

Text proposed by the Commission

Amendment

(35 a) This Regulation assumes that the Commission proposal for a Regulation of the European Parliament and of the Council on Money Market Funds (MMF) of 4 September 2013 ((COM 2013)615) will be adopted and identifies MMFs as regulated institutional investors that can invest in securitisation.

Or. en

Amendment 12

Proposal for a regulation Recital 37

Text proposed by the Commission

Amendment

(37) For securitisation positions outstanding as of the date of entry into force of this Regulation, originators, sponsors and SSPEs may use the designation 'STS' provided that the securitisation complies with the STS requirements. Therefore, originators, sponsors and SSPEs should be able to submit an STS notification pursuant to

deleted

Amendment 13

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down a general framework for securitisation. It defines securitisation and establishes due diligence, risk retention and transparency requirements for parties involved in securitisations, *such as institutional investors, originators, sponsors, original lenders and securitisation special purpose entities*. It also provides a framework for Simple, Transparent and Standardised or 'STS' securitisation.

Amendment

1. This Regulation lays down a general framework for securitisation. It defines securitisation and establishes due diligence, risk retention and transparency requirements for parties involved in securitisations. It also provides a framework for Simple, Transparent and Standardised or 'STS' securitisation.

Amendment 14

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation applies to institutional investors *becoming exposed to securitisation and* to originators, original lenders, sponsors and securitisation special purpose entities.

Amendment

2. This Regulation applies to institutional investors, to originators, original lenders, sponsors and securitisation special purpose entities.

Amendment 15

Proposal for a regulation

Article 2 – paragraph 1 – point 11

Text proposed by the Commission

(11) 'investor' means a person holding *securities resulting from a securitisation*;

Amendment

(11) 'investor' means a person holding ***a securitisation position***;

Or. en

Amendment 16

Proposal for a regulation

Article 2 – paragraph 1 – point 12

Text proposed by the Commission

(12) 'institutional investors' means *insurance undertakings as defined in Article 13 (1) of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II); reinsurance undertakings as defined in Article 13 point (4) of Directive 2009/138/EC; institutions for occupational retirement provision falling within the scope of Directive 2003/41/EC of the European Parliament and of the Council²⁵ in accordance with Article 2 thereof, unless a Member States has chosen not to apply that Directive in whole or in parts to that institution in accordance with Article 5 of that Directive; an alternative investment fund manager (AIFM) as defined in Article 4(1)(b) of Directive 2011/61/EU of the European Parliament and of the Council²⁶ that manage and/or market AIFs in the Union; or a UCITS management company as defined in Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council²⁷ ; or an internally managed*

Amendment

(12) 'institutional investors' means ***any*** of the ***following***:

UCITS, which is an investment company authorised in accordance with Directive 2009/65/EC and which has not designated a management company authorised under that Directive for its management; or credit institutions or investments firms as defined in Article 4(1) (1) and (2) of Regulation (EU) No 2013/575;

²⁵ *Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (OJ L 235, 23.9.2003, p. 10).*

²⁶ *Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).*

²⁷ *Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).*

Or. en

Amendment 17

Proposal for a regulation

Article 2 – paragraph 1 – point 12 – point i (new)

Text proposed by the Commission

Amendment

(i) an insurance undertaking as defined in Article 13(1) of Directive 2009/138/EC of the European Parliament and of the Council (Solvency II)^{1a};

^{1a} *Directive 2009/138/EC of the European*

Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), (JO L 335, 17.12.2009, p. 1).

Or. en

Amendment 18

Proposal for a regulation

Article 2 – paragraph 1 – point 12 – point ii (new)

Text proposed by the Commission

Amendment

(ii) a reinsurance undertaking as defined in Article 13(4) of Directive 2009/138/EC;

Or. en

Amendment 19

Proposal for a regulation

Article 2 – paragraph 1 – point 12 – point iii (new)

Text proposed by the Commission

Amendment

(iii) an institution for occupational retirement provision (IORP) falling within the scope of Directive 2003/41/EC of the European Parliament and of the Council^{1a} in accordance with Article 2 thereof, unless a Member States has chosen not to apply that Directive in whole or in parts to that institution in accordance with Article 5 of that Directive;

^{1a} Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (OJ L 235, 23.9.2003, p. 10).

Amendment 20

Proposal for a regulation

Article 2 – paragraph 1 – point 12 – point iv (new)

Text proposed by the Commission

Amendment

(iv) an alternative investment fund manager (AIFM) as defined in Article 4(1)(b) of Directive 2011/61/EU of the European Parliament and of the Council^{1a};

^{1a} Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

Or. en

Amendment 21

Proposal for a regulation

Article 2 – paragraph 1 – point 12 – point v (new)

Text proposed by the Commission

Amendment

(v) an undertaking for the collective investment in transferable securities (UCITS) management company as defined in Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council^{1a};

^{1a} Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective

*investment in transferable securities
(UCITS) (OJ L 302, 17.11.2009, p. 32).*

Or. en

Amendment 22

Proposal for a regulation

Article 2 – paragraph 1 – point 12 – point vi (new)

Text proposed by the Commission

Amendment

*(vi) an internally managed UCITS,
which is an investment company
authorised in accordance with Directive
2009/65/EC and which has not designated
a management company authorised under
that Directive for its management;*

Or. en

Amendment 23

Proposal for a regulation

Article 2 – paragraph 1 – point 12 – point vii (new)

Text proposed by the Commission

Amendment

*(vii) a Money Market Fund (MMF) as
identified in the Regulation .../... of the
European Parliament and of the Council
on Money Market Funds (MMF)⁺ ;*

*⁺ OJ: Please insert the number of
Regulation contained in document PE-
CONS... (2013/0306(COD))*

Or. en

Amendment 24

Proposal for a regulation

Article 2 – paragraph 1 – point 12 – point viii (new)

Text proposed by the Commission

Amendment

(viii) a credit institution or an investment firm as defined in points (1) and (2) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council^{1a}.

^{1a} Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

Or. en

Amendment 25

Proposal for a regulation

Article 2 – paragraph 1 – point 18 a (new)

Text proposed by the Commission

Amendment

(18 a) 'securitisation position' means an exposure to a securitisation.

Or. en

Amendment 26

Proposal for a regulation

Article 2 – paragraph 1 – point 18 b (new)

Text proposed by the Commission

Amendment

(18 b) 'original lender' means an entity which, either itself or through related entities, concluded the original agreement

which created the obligations or potential obligations of the debtor or potential debtor giving rise to the exposure being securitised;

Or. en

Amendment 27

Proposal for a regulation

Article 2 – paragraph 1 – point 18 c (new)

Text proposed by the Commission

Amendment

(18 c) 'fully-supported ABCP programme' means an ABCP programme that its sponsor directly and fully supports by providing a liquidity facility to the SSPE that covers all of the following:

- (a) all liquidity and credit risks of the programme;*
- (b) any material dilution risks of the exposures being securitised;*
- (c) any other material ABCP transaction- and ABCP programme-level costs.*

Or. en

Amendment 28

Proposal for a regulation

Article 2a (new)

Text proposed by the Commission

Amendment

Article 2a

Scope of the securitisation market

- 1. Investors in securitisation shall be institutional investors.*
- 2. In a securitisation, the originator, sponsor or original lender shall be a regulated entity as defined in Article 2(4)*

of Directive 2002/87/EC of the European Parliament and of the Council^{1a}.

^{1a} Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1)

Or. en

Amendment 29

Proposal for a regulation Article 2b (new)

Text proposed by the Commission

Amendment

Article 2b

Requirements for SSPEs

Under this Regulation, SSPEs shall not be established in a third country to which any of the following applies:

- (a) the third country promotes itself as an off-shore financial centre or one in which there are no or nominal taxes;***
- (b) there is a lack of effective exchange of information with foreign tax authorities;***
- (c) there is a lack of transparency with regard to legislative, judicial or administrative provisions;***
- (d) there is no requirement for a substantive local presence;***
- (e) the third country is listed as a Non-Cooperative Country and Territory***

by the Financial Action Task Force on Anti-Money Laundering and Terrorist Financing or is part of the Union list of uncooperative tax jurisdiction;

(f) the third country has not signed an agreement with the home Member State of the issuer, originator or original lender to ensure that the third country fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements.

Or. en

Amendment 30

Proposal for a regulation

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. An institutional investor shall verify ***before becoming*** exposed to a securitisation that:

Amendment

1. An institutional investor shall verify ***prior to being*** exposed to a securitisation that:

Or. en

Amendment 31

Proposal for a regulation

Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) where the originator or original lender is not a credit institution or investment firm as defined in Article 4(1), points (1) and (2) of Regulation (EU) No 575/2013, the originator or original lender grants all ***its*** credits on the basis of sound and well-defined criteria and clearly established processes for approving,

Amendment

(a) where the originator or original lender is not a credit institution or investment firm as defined in Article 4(1), points (1) and (2) of Regulation (EU) No 575/2013, the originator or original lender grants all ***the*** credits ***giving rise to the underlying exposures*** on the basis of sound and well-defined criteria and clearly

amending, renewing and financing those credits and has effective systems in place to apply these criteria and processes;

established processes for approving, amending, renewing and financing those credits and has effective systems in place to apply these criteria and processes;

The originator, sponsor or original lender retains at all times a material net economic interest in accordance with Article 4 of this Regulation and discloses it to the institutional investor in accordance with Article 5 of this Regulation;

Or. en

Amendment 32

Proposal for a regulation Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the originator, sponsor or original lender retains a material net economic interest in accordance with Article 4 of this Regulation and discloses it to the institutional investor in accordance with Article 5;

deleted

Or. en

Amendment 33

Proposal for a regulation Article 3 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the originator, sponsor and SSPE make available the information required by Article 5 of this Regulation in accordance with the frequency and modalities provided in that Article;

(c) the originator, sponsor and SSPE have made available the information required by Article 5 of this Regulation in accordance with the frequency and modalities provided in that Article;

Or. en

Amendment 34

Proposal for a regulation

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. **Before becoming** exposed to a securitisation, institutional investors shall also carry out a due diligence assessment commensurate with the risks involved **including** at least the following aspects:

Amendment

2. **Prior to being** exposed to a securitisation, institutional investors shall also carry out a due diligence assessment commensurate with the risks involved. **That assessment shall cover consideration of** at least the following aspects:

Or. en

Amendment 35

Proposal for a regulation

Article 3 – paragraph 2 – point b

Text proposed by the Commission

(b) all the structural features of the securitisation that can materially impact the performance of the securitisation position, **such as** the contractual priorities of payment and priority of payment-related triggers, credit enhancements, liquidity enhancements, market value triggers, and transaction-specific definitions of default;

Amendment

(b) all the structural features of the securitisation that can materially impact the performance of the securitisation position, **including** the contractual priorities of payment and priority of payment-related triggers, credit enhancements, liquidity enhancements, market value triggers, and transaction-specific definitions of default;

Or. en

Amendment 36

Proposal for a regulation

Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) with regard to **securitisations designated** as STS, **whether** the securitisation **meets the STS** requirements

Amendment

(c) with regard to **a securitisation notified** as STS **in accordance with Article 14**, the **compliance of that** securitisation

laid down in Articles 7 to 10 or Articles 11 to 14. Institutional investors may place appropriate reliance on the STS notification pursuant to Article 14 (1) and on the information disclosed by the originator, sponsor and SSPE on the compliance with the STS requirements.

with the requirements laid down in Articles 7 to 10, *if that securitisation is not an ABCP securitisation*, or Articles 11 to 14, *if that securitisation is an ABCP securitisation*. Institutional investors may place appropriate reliance on the STS notification pursuant to Article 14 (1) and on the information disclosed by the originator, sponsor and SSPE on the compliance with the STS requirements.

Or. en

Amendment 37

Proposal for a regulation

Article 3 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

By derogation from points (a) and (b), investors in a fully-supported ABCP programme shall consider the features of the ABCP programme and the liquidity support by the sponsor.

Or. en

Amendment 38

Proposal for a regulation

Article 3 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(d a) notify ESMA after buying a securitisation investment on the secondary market.

Or. en

Amendment 39

Proposal for a regulation

Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. *ESMA may adopt, in accordance with Article 16 of Regulation 1095/2010 of the European Parliament and of the Council^{1a} guidelines in order to determine investors for which the securitised exposures do not represent material risk exposures and therefore in respect of which the requirements in points (a) to (c) apply as a minimum*

^{1a} *Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).*

Or. en

Amendment 40

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

The originator, sponsor or the original lender of a securitisation shall retain on an ongoing basis a material net economic interest in the securitisation of not less than 5 %. Where the originator, sponsor or the original lender have not agreed between them who will retain the material net economic interest, the originator shall retain the material net economic interest. There shall be no multiple applications of

The originator, sponsor or the original lender of a securitisation shall retain on an ongoing basis a material net economic interest in the securitisation of not less than **20% or the percentage determined in regulatory technical standards in accordance with paragraph 6 of this Article**. Where the originator, sponsor or the original lender have not agreed between them who will retain the material

the retention requirements for any given securitisation. The material net economic interest shall be measured at the origination and shall be determined by the notional value for off-balance sheet items. The material net economic interest shall not be split amongst different types of retainers and not be subject to any credit risk mitigation or hedging.

net economic interest, the originator shall retain the material net economic interest. There shall be no multiple applications of the retention requirements for any given securitisation. The material net economic interest shall be measured at the origination and shall be determined by the notional value for off-balance sheet items. The material net economic interest shall not be split amongst different types of retainers and not be subject to any credit risk mitigation or hedging.

Or. en

Amendment 41

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

For the purposes of this Article, an entity shall not be considered to be an originator where the entity has been established or operates for the sole purpose of securitising exposures.

Amendment

deleted

Or. en

Amendment 42

Proposal for a regulation

Article 4 – paragraph 2 – introductory part

Text proposed by the Commission

2. Only the following shall qualify as a retention of a material net economic interest of not less than **5%** within the meaning of paragraph 1:

Amendment

2. Only the following shall qualify as a retention of a material net economic interest of not less than **20%** within the meaning of paragraph 1:

Or. en

Amendment 43

Proposal for a regulation

Article 4 – paragraph 2 – point a

Text proposed by the Commission

(a) the retention of no less than **5%** of the nominal value of each of the tranches sold or transferred to investors;

Amendment

(a) the retention of no less than **20%** of the nominal value of each of the tranches sold or transferred to investors;

Or. en

Amendment 44

Proposal for a regulation

Article 4 – paragraph 2 – point b

Text proposed by the Commission

(b) in the case of revolving securitisations or securitisations of revolving exposures, the retention of the originator's interest of no less than **5%** of the nominal value of each of the securitised exposures;

Amendment

(b) in the case of revolving securitisations or securitisations of revolving exposures, the retention of the originator's interest of no less than **20%** of the nominal value of each of the securitised exposures;

Or. en

Amendment 45

Proposal for a regulation

Article 4 – paragraph 2 – point c

Text proposed by the Commission

(c) the retention of randomly selected exposures, equivalent to no less than **5%** of the nominal value of the securitised exposures, where such non-securitised exposures would otherwise have been securitised in the securitisation, provided that the number of potentially securitised exposures is no less than 100 at origination;

Amendment

(c) the retention of randomly selected exposures, equivalent to no less than **20%** of the nominal value of the securitised exposures, where such non-securitised exposures would otherwise have been securitised in the securitisation, provided that the number of potentially securitised exposures is no less than 100 at origination;

Amendment 46

Proposal for a regulation

Article 4 – paragraph 2 – point d

Text proposed by the Commission

(d) the retention of the first loss tranche and, where such retention does not amount to **5%** of the nominal value of the securitised exposures, if necessary, other tranches having the same or a more severe risk profile than those transferred or sold to investors and not maturing any earlier than those transferred or sold to investors, so that the retention equals in total no less than 5% of the nominal value of the securitised exposures;

Amendment

(d) the retention of the first loss tranche and, where such retention does not amount to **20%** of the nominal value of the securitised exposures, if necessary, other tranches having the same or a more severe risk profile than those transferred or sold to investors and not maturing any earlier than those transferred or sold to investors, so that the retention equals in total no less than 5% of the nominal value of the securitised exposures;

Or. en

Amendment 47

Proposal for a regulation

Article 4 – paragraph 2 – point e

Text proposed by the Commission

(e) the retention of a first loss exposure of not less than **5%** of every securitised exposure in the securitisation.

Amendment

(e) the retention of a first loss exposure of not less than **20%** of every securitised exposure in the securitisation.

Or. en

Amendment 48

Proposal for a regulation

Article 4 – paragraph 6 – introductory part

Text proposed by the Commission

6. The European Banking Authority

Amendment

6. The European Banking Authority

(EBA), in *close* cooperation with the European Securities and Market Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) shall develop draft regulatory technical standards to specify in greater detail the risk retention requirement, in particular with regards to:

(EBA), in cooperation with the European Securities and Market Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) shall develop draft regulatory technical standards *to amend the level of risk retention where it has reason to deviate from the level of 20% laid down in this Article and* to specify in greater detail the risk retention requirement, in particular with regards to:

Or. en

Amendment 49

Proposal for a regulation Article 5 – title

Text proposed by the Commission

Amendment

Transparency requirements for originators, sponsors *and SSPE's*

Transparency requirements for originators, sponsors, *SSPEs and investors*

Or. en

Amendment 50

Proposal for a regulation Article 5 – paragraph 1 – point b – introductory part

Text proposed by the Commission

Amendment

(b) *where applicable, the following documents, including a detailed description of the priority of payments of the securitisation:*

(b) *all underlying documentation that is essential for an understanding of the transaction, including at least and where applicable:*

Or. en

Amendment 51

Proposal for a regulation

Article 5 – paragraph 1 – point b – point iii a (new)

Text proposed by the Commission

Amendment

*(iii a) a detailed description of the
priority of payments;*

Or. en

Amendment 52

Proposal for a regulation

Article 5 – paragraph 1 – point b – point vii a (new)

Text proposed by the Commission

Amendment

*(vii a) information about the credit
granting process followed for the
underlying assets in the securitisation;*

Or. en

Amendment 53

Proposal for a regulation

Article 5 – paragraph 1 – point c – point iv

Text proposed by the Commission

Amendment

(iv) a list of all triggers and events referred to in the documents provided to in accordance with point (b) that could have a material impact on the performance of the securitisation *instrument*;

(iv) a list of all triggers and events referred to in the documents provided to in accordance with point (b) that could have a material impact on the performance of the securitisation *position*;

Or. en

Amendment 54

Proposal for a regulation

Article 5 – paragraph 1 – point d

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Text proposed by the Commission

Amendment

(d) in the case of STS securitisations, the *STS* notification referred to in Article 14 (1) of this Regulation;

(d) in the case of STS securitisations, the notification referred to in Article 14;

Or. en

Amendment 55

Proposal for a regulation

Article 5 – paragraph 1 – point e – point iii a (new)

Text proposed by the Commission

Amendment

(iii a) information on the investors in the securitisation and their ultimate beneficial owner, the size of their investment and to which tranche of the securitisation it relates;

Or. en

Amendment 56

Proposal for a regulation

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The originator, sponsor and SSPE of a securitisation shall, in accordance with paragraph 2, make at least the information described in points (a) to (h) of paragraph 1 available to ESMA, at the same time as the transmission of that information to holders of a securitisation position and to the competent authorities referred to in Article 15.

ESMA shall publish the information on underlying loans described in point (a) of paragraph 1 in an anonymised way on a dedicated webpage, taking into account differences between private and public

transactions, data protection rules and legitimate privacy and trade secret concerns. That dedicated webpage shall be known as the 'European Securitisation Data Repository'. ESMA shall charge the originator, sponsor and SSPE of a securitisation for the costs of setting up and maintaining the European Securitisation Data Repository.

ESMA may delegate that obligation to a third party, provided that the third party in question complies with applicable safeguards regarding data ownership, access to information and procurement rules.

The European Securitisation Data Repository shall periodically publish industry-level aggregate data on market participation levels, data on risk transfers between financial institutions, including cross-border risk transfers, and any other developments that may be considered as raising systemic risks.

The European Securitisation Data Repository shall be established by [one year after the date of application of this Regulation], in cooperation with the competent authorities designated under Article 15 and after consultation with industry representatives.

Any exchange or transmission of personal data, pursuant to the application of this paragraph, shall be undertaken in accordance with the rules on transfer of personal data as laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council (the Data Protection Regulation)^{1a}.

^{1a} Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the Data

Amendment 57

Proposal for a regulation

Article 5 – paragraph 2 – introductory part

Text proposed by the Commission

2. The originator, sponsor and SSPE of a securitisation shall designate amongst themselves one entity to fulfil the information requirements pursuant to paragraph 1. The originator, sponsor and SSPE shall ensure that the information is available free of charge to the holder of a securitisation position and competent authorities, in a timely and clear manner. The entity designated to fulfil the requirements set out in paragraph 1 shall make the information available *by means of a website which* shall;

Amendment

2. The originator, sponsor and SSPE of a securitisation shall designate amongst themselves one entity to fulfil the information requirements pursuant to paragraph 1 *and paragraph 1a*. The originator, sponsor and SSPE shall ensure that the information is available free of charge to the holder of a securitisation position and competent authorities *and ESMA*, in a timely and clear manner. The entity designated to fulfil the requirements set out in paragraph 1 *and paragraph 1a* shall make the information available *on a webpage or website whose management* shall;

Amendment 58

Proposal for a regulation

Article 5 – paragraph 2 – point c

Text proposed by the Commission

(c) *set up* appropriate systems, controls and procedures to ensure that the website can fulfil its function in a reliable and secure manner and to identify sources of operational risk;

Amendment

(c) *rely on* appropriate systems, controls and procedures to ensure that the website can fulfil its function in a reliable and secure manner and to identify sources of operational risk;

Amendment 59

Proposal for a regulation

Article 5 – paragraph 3 – introductory part

Text proposed by the Commission

3. ESMA, in *close* cooperation with EBA and EIOPA, shall develop draft regulatory technical standards to specify

Amendment

3. ESMA, in cooperation with EBA and EIOPA, shall develop draft regulatory technical standards to specify

Or. en

Amendment 60

Proposal for a regulation

Article 5 – paragraph 3 – point a

Text proposed by the Commission

(a) the information that the originator, sponsor and SSPE should provide to comply with their obligations under paragraph 1(a) and (d) and the format thereof by means of standardised templates;

Amendment

(a) the information that the originator, sponsor and SSPE should provide to comply with their obligations under paragraph 1(a) and (d) and the format thereof by means of standardised templates; *and*

Or. en

Amendment 61

Proposal for a regulation

Article 5 – paragraph 3 – point a a (new)

Text proposed by the Commission

Amendment

(a a) the presentation of the information, including structure, format, method and period of reporting, that the originator, sponsor and SSPE shall provide to ESMA to comply with their obligations under paragraph 1a;

Amendment 62

Proposal for a regulation

Article 5 – paragraph 3 – point a b (new)

Text proposed by the Commission

Amendment

(a b) the methodology for calculating the fees to be paid to ESMA by the originator, sponsor and SSPE of a securitisation under paragraph 1a;

Or. en

Amendment 63

Proposal for a regulation

Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Credit-granting requirements

Originators and original lenders shall apply the same sound and well-defined criteria to exposures that are subject to securitisation and also to exposures that are not subject to securitisation.

Originators and original lenders shall, for that purpose, follow the same clearly-established processes for approving, amending, renewing and financing those credits. Those processes shall be disclosed to investors in accordance with Article 5.

Or. en

Amendment 64

Proposal for a regulation

Article 5 b (new)

Text proposed by the Commission

Amendment

Article 5b

Ban on re-securitisation

The underlying exposures used in a securitisation shall not include securitisations.

Or. en

Amendment 65

**Proposal for a regulation
Article 6**

Text proposed by the Commission

Amendment

Article 6

deleted

Use of the designation 'simple, transparent and standardised securitisation'

Originators, sponsors and SSPE's shall use the designation "STS" or a designation that refers directly or indirectly to these terms for their securitisation only where the securitisation meets all the requirements of Section 1 or Section 2 of this Regulation, and they have notified ESMA pursuant to Article 14 (1).

Or. en

Amendment 66

**Proposal for a regulation
Chapter 3 – section 1 – title**

Text proposed by the Commission

Amendment

General requirements for STS securitisation

Requirements for STS securitisation

Amendment 67

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

Securitisations, except ABCP securitisations, that meet the requirements in Articles 8, 9 and 10 of this Regulation shall be considered 'STS'.

Amendment

Securitisations, except ABCP securitisations, that meet the requirements in Articles 7a to 10 of this Regulation shall be considered 'STS'.

Or. en

Amendment 68

Proposal for a regulation Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Lending to the real economy

Under the notification set out in Article 14, the originator, sponsor or SSPE of a STS securitisation shall disclose how the resulting capital relief has contributed to the creation of new loans.

Or. en

Amendment 69

Proposal for a regulation Article 8 – title

Text proposed by the Commission

Amendment

Requirement relating to simplicity

Requirements relating to simplicity

Or. en

Amendment 70

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

4. The securitisation shall be backed by a pool of underlying exposures that are homogeneous in terms of asset type. The underlying exposures shall be contractually binding and enforceable obligations with full recourse to debtors, with defined periodic payment streams relating to rental, principal, interest payments, or related to any other right to receive income from assets warranting such payments. The underlying exposures shall not include transferable securities, as defined in Directive 2014/65/EU.

Amendment

4. The securitisation shall be backed by a pool of underlying exposures that are homogeneous in terms of asset type. ***Pools of residential loans, pools of business property loans, pools of corporate loans, leases and credit facilities of the same category, pools of auto loans and auto leases, and pools of credit facilities to individuals for personal, family or household consumption purposes with similar credit structure, credit quality and a clear geographically indication shall be understood as being homogeneous.*** The underlying exposures shall be contractually binding and enforceable obligations with full recourse to debtors, with defined periodic payment streams relating to rental, principal, interest payments, or related to any other right to receive income from assets warranting such payments. The underlying exposures shall not include transferable securities, as defined in Directive 2014/65/EU.

Or. en

Amendment 71

Proposal for a regulation Article 8 – paragraph 5

Text proposed by the Commission

5. ***The underlying exposures shall not include securitisations.***

Amendment

deleted

Or. en

Amendment 72

Proposal for a regulation Article 8 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9 a. Arbitrage synthetic securitisations, where the assets are not transferred to a SSPE in a true sales securitisation, nor are they retained on the balance sheet of the originator as is the case in a balance sheet synthetic securitisation, cannot be part of an STS securitisation.

Or. en

Amendment 73

Proposal for a regulation Article 10 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The originator, sponsor and SSPE shall publish information on the long-term, sustainable nature of the securitisation for the investors, using environmental, social and governance criteria to describe how the securitisation contributed to real economy investments and in which way the original lender used the freed-up capital.

Or. en

Amendment 74

Proposal for a regulation Article 10 – paragraph 3 b (new)

3 b. *The originator or original lender is required to disclose and publish an explanation of how the capital relief attained through STS securitisation helped to fund new lending.*

Or. en

Amendment 75

Proposal for a regulation Article 12 – paragraph 2

Text proposed by the Commission

2. Transactions within an ABCP programme shall be backed by a pool of underlying exposures that are homogeneous in terms of asset type and shall have a remaining weighted average life of no more than **two years** and none shall have a residual maturity of longer than three years. The underlying exposures shall not include loans secured by residential or commercial mortgages or fully guaranteed residential loans, as referred to in paragraph 1(e) of Article 129 of Regulation (EU) No 575/2013. The underlying exposures shall contain contractually binding and enforceable obligations with full recourse to debtors with defined payment streams relating to rental, principal, interest, or related to any other right to receive income from assets warranting such payments. The underlying exposures shall not include transferable securities, as defined in Directive 2014/65/EU.

Amendment

2. Transactions within an ABCP programme shall be backed by a pool of underlying exposures that are homogeneous in terms of asset type and shall have a remaining weighted average life of no more than **one year** and none shall have a residual maturity of longer than three years. The underlying exposures shall not include loans secured by residential or commercial mortgages or fully guaranteed residential loans, as referred to in paragraph 1(e) of Article 129 of Regulation (EU) No 575/2013. The underlying exposures shall contain contractually binding and enforceable obligations with full recourse to debtors with defined payment streams relating to rental, principal, interest, or related to any other right to receive income from assets warranting such payments. The underlying exposures shall not include transferable securities, as defined in Directive 2014/65/EU.

Or. en

Amendment 76

Proposal for a regulation Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Sponsor of an ABCP programme

- 1. The sponsor of an ABCP programme shall be a credit institution supervised under Directive 2013/36/EU.*
- 2. The sponsor of an ABCP programme shall be a liquidity facility provider and shall support all securitisation positions on an ABCP programme level by covering all liquidity and credit risks and any material dilution risks of the securitised exposures as well as any other transaction costs and programme-wide costs with such support. The sponsor shall disclose a description of the support provided at transaction level to the investors, including a description of the liquidity facilities provided.*
- 3. Before being able to sponsor a STS ABCP programme, the credit institution shall demonstrate to its supervisor in a stress test that its role under paragraph 2 does not endanger its financial stability, not even in an extreme stress situation in the market, where short term funding market dries up for all the ABCP programmes for which it has that role. For that purpose, the sponsor shall on a regular basis provide its supervisor with specific information concerning its cumulative liquidity risk obligations and how those obligations can be borne by its liquidity buffers.*
- 4. The sponsor of the ABCP programme shall, before becoming exposed to an ABCP transaction, verify that the seller grants all its credits on the basis of sound and well-defined criteria and clearly established processes for approving, amending, renewing and*

financing those credits and has effective systems in place to apply those criteria and processes. The sponsor shall perform its own due diligence and verify that the seller meets sound underwriting standards, servicing capabilities and collection processes that meet the requirements specified in points (i) to (m) of Article 259 (3) of Regulation (EU) No 575/2013 or equivalent requirements in third countries. Policies, procedures and risk management controls shall be well documented and effective systems shall be in place.

5. The seller, at the level of a transaction, or the sponsor, at the level of the ABCP programme, shall satisfy the risk retention requirement in accordance with Article 4.

6. Article 5 shall apply to ABCP programmes. The sponsor of the ABCP programme shall be responsible for compliance with Article 5 and shall comply with the following :

(a) make available to investors all aggregated information required by point (a) of Article 5(1), such information being updated on a quarterly basis;

(b) make available the information required by points (b) to (e) of Article 5(1) of this Regulation.

7. In the event that the sponsor does not renew the funding commitment of the liquidity facility before its expiry, the liquidity facility shall be drawn down and the maturing securities shall be repaid.

Or. en

Amendment 77

**Proposal for a regulation
Article 13 – paragraph 1**

Text proposed by the Commission

1. All transactions within an ABCP programme shall fulfil the requirements of Article 12 *of this Regulation*.

Amendment

1. All transactions within an ABCP programme shall fulfil the requirements of Article 12.

Or. en

Amendment 78

**Proposal for a regulation
Article 13 – paragraph 3**

Text proposed by the Commission

3. *The ABCP programme shall not be a re-securitisation and* the credit enhancement shall not establish a second layer of tranching at the programme level.

Amendment

3. The credit enhancement shall not establish a second layer of tranching at the programme level.

Or. en

Amendment 79

**Proposal for a regulation
Article 13 – paragraph 8 a (new)**

Text proposed by the Commission

Amendment

8 a. The prospectus or, where a prospectus has not been issued, the equivalent transaction document, shall state whether and how the STS criteria referred to in Articles 11 to 13 have been met.

Or. en

Amendment 80

**Proposal for a regulation
Article 14 – paragraph 1**

Text proposed by the Commission

1. Originators, sponsors and SSPE's shall jointly notify ESMA by means of the template referred to in paragraph 5 of this Article that the securitisation meets the requirements of Articles 7 to 10 or Articles 11 to 13 of this Regulation ('STS notification'). ESMA shall publish the STS notification on its official website pursuant to paragraph 4. They shall also inform their competent authority. The originator, sponsor and SSPE of a securitisation shall designate amongst themselves one entity to be the first contact point for investors and competent authorities.

Amendment

1. Originators, sponsors and SSPE's shall jointly notify ESMA by means of the template referred to in paragraph 5 of this Article that the securitisation meets the requirements of Articles 7 to 10 or Articles 11 to 13 of this Regulation ('STS notification'). ESMA shall publish the STS notification on its official website pursuant to paragraph 4. They shall also inform their competent authority. The originator, sponsor and SSPE of a securitisation shall designate amongst themselves one entity to be the first contact point for investors and competent authorities. ***Where the originator, sponsor and SSPE have not agreed between themselves which entity shall accomplish the requirements under this Article, the originator shall comply with those requirements.***

Or. en

Amendment 81

Proposal for a regulation

Article 14 – paragraph 2 – introductory part

Text proposed by the Commission

2. Where the originator or original lender is not a credit institution or investment firm as defined in Article 4 (1) points (1) and (2) of Regulation No 575/2013 the notification pursuant to paragraph 1 shall be accompanied by the following:

Amendment

2. Where the originator or original lender is not a credit institution or investment firm as defined in Article 4 (1) points (1) and (2) of Regulation No 575/2013 the notification pursuant to paragraph 1 ***of this Article*** shall be accompanied by the following:

Or. en

Amendment 82

Proposal for a regulation

Article 14 – paragraph 3

Text proposed by the Commission

3. The originator, sponsor **and** SSPE shall immediately notify ESMA and their competent authority when a securitisation no longer meets the requirements of either Articles 7 to 10 or Articles 11 to 13 **of this Regulation**.

Amendment

3. The originator, sponsor **or** SSPE shall immediately notify ESMA and their competent authority when a securitisation no longer meets the requirements of either Articles 7 to 10 or Articles 11 to 13.

Or. en

Amendment 83

Proposal for a regulation

Article 14 – paragraph 4

Text proposed by the Commission

4. ESMA shall maintain a list of all securitisations for which the originators, sponsors and SSPEs have notified that they meet the requirements of Articles 7 to 10 or Articles 11 to 13 **of this Regulation** on its **official** website. ESMA shall update the list where the securitisations are no longer considered to be STS following a decision of competent authorities or a notification by the originator, sponsor or SSPE. Where the competent authority has imposed administrative sanctions or remedial measures in accordance with Article 17, it shall immediately notify ESMA thereof. ESMA shall immediately indicate on the list that a competent authority has imposed administrative sanctions or remedial measures in relation to the securitisation concerned.

Amendment

4. ESMA shall maintain a list of all securitisations for which the originators, sponsors and SSPEs have notified that they meet the requirements of Articles 7 to 10 or Articles 11 to 13 on its website. ESMA shall update the list where the securitisations are no longer considered to be STS following a decision of competent authorities or a notification by the originator, sponsor or SSPE. Where the competent authority has imposed administrative sanctions or remedial measures in accordance with Article 17, it shall immediately notify ESMA thereof. ESMA shall immediately indicate on the list that a competent authority has imposed administrative sanctions or remedial measures in relation to the securitisation concerned.

Or. en

Amendment 84

Proposal for a regulation Article 14 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The originator, sponsor or SSPEs shall not transfer the STS certification of securitisations to a third party. They may consult a third party on the certification of a securitisation as STS, but that advice shall not alter in any way the liability of the issuer, nor that of the investor for the legal obligations following from this Regulation.

Or. en

Amendment 85

Proposal for a regulation Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14 a

Use of the designation 'simple, transparent and standardised securitisation'

Originators, sponsors and SSPEs shall use the designation 'simple, transparent and standardised securitisation' or 'STS', or a designation that refers directly or indirectly to those terms, for their securitisation only where the securitisation meets all the requirements of Section 1 or Section 2 of this Regulation, and they have notified ESMA pursuant to, and complied with, the requirements of Article 14(1).

The originator, sponsor and SSPE involved in a securitisation considered STS shall be established in the Union.

Or. en

Amendment 86

Proposal for a regulation Article 15 – paragraph 3

Text proposed by the Commission

3. Where originators, original lenders and SSPEs are supervised entities in accordance with Directive 2013/36/EU, Regulation (EU) No 1024/2013, Directive 2009/138/EC, Directive 2003/41/EC, Directive 2011/61/EU or Directive 2009/65/EC, the relevant competent authorities designated according to those acts, including the ECB in accordance with Council Regulation (EU) No 1024/2013, shall ensure compliance with the obligations set out in Articles 4 to **14** of this Regulation.

Amendment

3. Where originators, original lenders and SSPEs are supervised entities in accordance with Directive 2013/36/EU, Regulation (EU) No 1024/2013, Directive 2009/138/EC, Directive 2003/41/EC, Directive 2011/61/EU or Directive 2009/65/EC, the relevant competent authorities designated according to those acts, including the ECB in accordance with Council Regulation (EU) No 1024/2013, shall ensure compliance with the obligations set out in Articles 4 to **5** of this Regulation.

Or. en

Amendment 87

Proposal for a regulation Article 15 – paragraph 4

Text proposed by the Commission

4. For entities not covered by the Union legislative acts referred to in paragraph 3, Member States shall designate one or more competent authority to ensure compliance with Articles 4 to **14** of this Regulation. Member States shall inform the Commission, ESMA, EBA and EIOPA and the competent authorities of other Member States of the designation of competent authorities pursuant to this paragraph.

Amendment

4. For entities not covered by the Union legislative acts referred to in paragraph 3, Member States shall designate one or more competent authority to ensure compliance with Articles 4 to **5** of this Regulation. Member States shall inform the Commission, ESMA, EBA and EIOPA and the competent authorities of other Member States of the designation of competent authorities pursuant to this paragraph.

Or. en

Amendment 88

Proposal for a regulation Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. *ESMA, together with the national competent authorities responsible for the supervision of securities markets, shall ensure compliance with the obligations set out in Articles 6 to 14.*

In order to foster regulatory convergence and to reduce uncertainty about the application of the STS criteria, ESMA shall adopt guidelines in consultation with market participants on the implementation of Articles 6 to 14, in accordance with Article 16 of the ESMA Regulation 1095/2010.

Or. en

Amendment 89

Proposal for a regulation Article 16 – paragraph 2

Text proposed by the Commission

Amendment

2. The competent authority shall regularly review the arrangements, process and mechanisms implemented by originators, sponsors, SSPE's and original lenders to comply with this Regulation.

2. The competent authority ***designated in accordance with Article 15(2) to (4a)*** shall regularly review the arrangements, process and mechanisms implemented by originators, sponsors, SSPE's and original lenders to comply with this Regulation.

Or. en

Amendment 90

Proposal for a regulation Article 16 – paragraph 3 a (new)

3 a. The competent authority shall monitor, as applicable, the specific effects that participation in the securitisation market has on the stability of the financial institution that operates as original lender, originator, sponsor or investor as part of its prudential supervision in the field of securitisation, taking into account, as applicable, the following obligations and without prejudice to stricter sectoral regulation:

(a) only financial institutions with large enough capital buffers shall be allowed to originate and issue securitisations, in order to dampen the pro-cyclicality of the securitisation market;

(b) financial institutions that act as sponsors for a large concentration of ABCP securitisations shall have large enough liquidity buffers to ensure financial stability also in times of severe stress in the market for short term funding;

(c) financial institutions that act as investors shall not pose a risk for financial stability because of their high leverage or a high liquidity risk due to a large maturity mismatch between their funding and securitisation investments;

The competent authority shall also take into account any other effect of the participation in the securitisation market on the balance sheet of the financial institution, its leverage ratio and its liquidity ratio and whether or not that participation poses a risk to the financial sector in the Union as a whole. In cases where the competent authority identifies a risk to financial stability it shall notify the Commission and the European Parliament and take action to mitigate those risks.

Amendment 91

Proposal for a regulation Article 16 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. *The competent authorities, together with ESMA, shall monitor any possible circumvention of the obligations under Article 4(1a) of this Regulation whereby securitisations are specifically structured or marketed with a view to falling outside the scope of those obligations. ESMA shall monitor and report to the Commission any critical developments in the evolution of market practices in that respect.*

Or. en

Amendment 92

Proposal for a regulation Article 17 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) an originator, sponsor and SSPE have failed to meet the requirements of Articles 7 to 10 or Articles 11 to 13 ***of this Regulation*** .

(c) an originator, sponsor and SSPE have failed to meet the requirements of Articles 7 to 10 or Articles 11 to 13;

Or. en

Amendment 93

Proposal for a regulation Article 17 – paragraph 2 – introductory part

Text proposed by the Commission

2. Those sanctions and measures shall be effective, proportionate and dissuasive and shall include, at least the following:

Amendment

2. Those sanctions and measures shall be effective, proportionate **to the seriousness of identified deficiencies** and dissuasive and shall include, at least the following:

Or. en

Amendment 94

Proposal for a regulation

Article 17 – paragraph 2 – point c

Text proposed by the Commission

(c) a temporary ban against any member of the originator's, sponsor's or SSPE's management body or any other natural person, who is held responsible, **to exercise** management functions in such undertakings;

Amendment

(c) a temporary ban against any member of the originator's, sponsor's or SSPE's management body or any other natural person, who is held responsible, **from exercising** management functions in such undertakings;

Or. en

Amendment 95

Proposal for a regulation

Article 17 – paragraph 2 – point d

Text proposed by the Commission

(d) in case of the infringement referred to in the paragraph 1 (c) of this Article a temporary ban for the originator, sponsor and SSPE to **self-attest** that a securitisation meets the requirements set out in Articles 7 to 10 or Articles 11 to 13 of this Regulation;

Amendment

(d) in case of the infringement referred to in the paragraph 1 (c) of this Article a temporary ban for the originator, sponsor and SSPE to **notify** that a securitisation meets the requirements set out in Articles 7 to 10 or Articles 11 to 13 of this Regulation;

Or. en

Amendment 96

Proposal for a regulation

Article 17 – paragraph 2 – point e

Text proposed by the Commission

(e) maximum administrative fines of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on [date of entry into force of this Regulation]

Amendment

(e) ***in the case of a natural person,*** maximum administrative fines of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on [date of entry into force of this Regulation]

Or. en

Amendment 97

Proposal for a regulation

Article 24 – paragraph 1 – point 1

Directive 2009/138/EC

Article 135 – paragraph 2

Text proposed by the Commission

2. The Commission shall adopt delegated acts in accordance with Article 301a laying down the specifications for the circumstances under which a proportionate additional capital charge may be imposed when the requirements laid down in Articles 3 ***and*** 4 of Regulation [the securitisation Regulation] have been breached, without prejudice to Article 101(3).

Amendment

2. The Commission shall adopt delegated acts in accordance with Article 301a laying down the specifications for the circumstances under which a proportionate additional capital charge may be imposed when the requirements laid down in Articles 3 ***or*** 4 of Regulation [the securitisation Regulation] have been breached, without prejudice to Article 101(3).

Or. en

Amendment 98

Proposal for a regulation

Article 27 – paragraph 1 – point 4

Regulation (EU) 648/2012

Article 11 – paragraph 15 – subparagraph 4

Text proposed by the Commission

Amendment

Depending on the legal nature of the counterparty, power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with either Articles 10 to 14 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 or (EU) No 1095/2010.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with either Articles 10 to 14 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 or (EU) No 1095/2010, ***as applicable***.

Or. en

Amendment 99

Proposal for a regulation Article 28 – paragraph 2

Text proposed by the Commission

Amendment

2. *In respect of securitisation positions outstanding as of [date of entry into force of this Regulation], originators, sponsors and SSPEs may use the designation 'STS' or a designation that refers directly or indirectly to these terms only where the requirements set out in Article 6 of this Regulation are complied with.*

deleted

Or. en

Amendment 100

Proposal for a regulation Article 28 – paragraph 3

Text proposed by the Commission

Amendment

3. In respect of securitisations the securities of which were issued on or after 1 January 2011 and to securitisations issued before that date, where new underlying exposures have been added or

3. In respect of securitisations the securities of which were issued on or after 1 January 2011 *but before ...[date of entry into force of this Regulation]*, and *in respect of* securitisations issued before that

substituted after 31 December 2014, Article 3 of this Regulation shall apply.

date, **1 January 2011**, where new underlying exposures have been added or substituted after 31 December 2014, ***the due diligence requirements laid down in Regulation (EU) No 575/2013, Commission Delegated Regulation (EU) 2015/35 and Commission Delegated Regulation (EU) No 231/2013 shall continue to apply in the version applicable on [day before date of entry into force of this Regulation].*** Article 3 of this Regulation shall apply.

Or. en

Amendment 101

Proposal for a regulation Article 29 – paragraph 1

Text proposed by the Commission

Amendment

1. By [two years after entry into force of this Regulation] and every three years thereafter, EBA, in close cooperation with ESMA and EIOPA, shall publish a report on the implementation of the STS requirements as laid down by Articles 6 to 14 of this Regulation.

deleted

Or. en

Amendment 102

Proposal for a regulation Article 29 – paragraph 2

Text proposed by the Commission

Amendment

2. The report shall also contain an assessment of the actions that competent authorities have undertaken, on material risks and new vulnerabilities that may have materialised and on the actions of market participants to further standardise

deleted

Amendment 103

Proposal for a regulation Article 29 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. By...[two years after the date of entry into force of this Regulation], the Commission, after consulting the ESAs and the ESRB, shall publish a report on the effects of this Regulation on the market for securitisations in the Union. That report shall contain in particular an assessment of all of the following:

- (a) the effects of the introduction of the STS securitisation label;**
- (b) the functioning of that market;**
- (c) the effects on interconnectedness between financial institutions and the stability of the financial sector.**

Or. en

Amendment 104

Proposal for a regulation Article 29 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. The EBA, in close cooperation with the ESMA and the EIOPA, shall publish a report at least every two years after date of entry into force of this Regulation on compliance by market participants with the requirements of this Regulation and in particular risk retention requirements and the modalities of retaining risk pursuant to Article 4(2).

Amendment 105

Proposal for a regulation Article 29 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. By...[two years after the date of entry into force of this Regulation] and every three years thereafter, ESMA, in close cooperation with EBA and EIOPA, shall publish a report on the implementation of the STS requirements as laid down by Articles 6 to 14 of this Regulation.

Or. en

Amendment 106

Proposal for a regulation Article 29 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. By...[one year after the date of entry into force of this Regulation], the EBA, in close cooperation with the ESMA and the EIOPA, shall publish a report on the establishment of a framework for simple, transparent and standardised synthetic securitisation, limited to balance sheet securitisation and including proposals for appropriate capital requirements for such securitisation, with a view to promoting synthetic securitisation of SME loans.

Or. en

Amendment 107

Proposal for a regulation

Article 29 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3 c. By...[18 months after the date of entry into force of this Regulation], the Commission shall, on the basis of the EBA report referred to in paragraph 4, submit a report to the European Parliament and the Council on the establishment of a framework for simple, transparent and standardised synthetic securitisation proposals, limited to balance sheet securitisation and including proposals for appropriate capital requirements for such securitisation, together with legislative proposals if appropriate.

Or. en

Amendment 108

Proposal for a regulation

Article 30 – paragraph 1

Text proposed by the Commission

Amendment

By [**four** years after entry into force of this Regulation] the Commission shall present a report to the European Parliament and the Council on the functioning of this Regulation, accompanied, where appropriate, by a legislative proposal.

By [**three** years after entry into force of this Regulation] the Commission shall present a report to the European Parliament and the Council on the functioning of this Regulation, accompanied, where appropriate, by a legislative proposal.

That report shall consider in particular the findings of the reports referred to in Article 29(1) to (3a).

Or. en

EXPLANATORY STATEMENT

In the draft report, your Rapporteur continues to build on the analysis and observations made in the Working Document on the proposal for common rules on securitisations and for a framework for Simple, Transparent and Standardised (STS) securitisation.

Securitisation, in theory, serves a more stable financial system through risk sharing. In practice, however, the securitisation market has been prone to the twin problems of asymmetric information and moral hazard and has been extremely unstable. In order to solve these problems, your Rapporteur puts forward amendments to the make securitisation market more reliable, even during times of crisis by:

- making the market more transparent and by better aligning interest of market participants;
- making the STS securitisation support the real economy and a sustainable environment;
- to empower the supervisors, including at the European level, to prevent any threat to financial stability through the revival of the European securitisations market.

More transparency: the European Securitisation Data Repository

Your rapporteur would like a true transparent securitisation market to be built upon a public register of securitisations and underlying loans' information, which could ultimately replace the issuers' disclosure website set up in the Credit Rating Agency regulation and would have synergies with existing private-sector and public-sector initiatives in this area (e.g. the ECB ABS loan-level initiative). This public register, called the European Securitisation Repository, should give an overview of the EU securitisation market, not only of the underlying loans. Information available in the register should therefore be comparable and based on uniform reporting standards, while applicable data protection rules are respected. Requirements applicable to investors must go hand in hand with the disclosure requirements applicable to originators. The information to be disclosed by originators should allow investors to fulfil their legal obligation without over-feeding them with unnecessary information. The disclosure should therefore take into account the specificities of the type of securitisation and be tailored to the asset class. However, for transparency reasons, disclosure requirements are expanded to information with regard to investors and their beneficial owners, to assure an overview of the market and to know where the transferred risk precipitates.

Re-securitisation should be banned in order to improve transparency and promote alignment of interests and not to threaten financial stability. In the same vein, your rapporteur believes that any future STS criteria for synthetic securitisation should clearly exclude already all forms of arbitrage synthetic securitisation as identified by the EBA.

Only regulated institutional investors should be allowed to take part in the securitisation market in order to exclude the shadow banking sector. This will enhance prudential supervision and will reduce further opacity.

Finally and very importantly, risk retention requirements by the issuer should be enhanced to assure a better alignment of interests. This will help avoiding moral hazard and make the securitisation market more stable during times of crisis. Moving to a "direct approach" seems

consistent with the objective of attributing the legal responsibilities where they belong most.

STS securitisation that serves real economy

The main aim of the STS label for securitisation should be to support consumers and the real economy, sustainable long-term investment and to promote lending to SMEs. Therefore, the capital relief achieved by securitisation qualifying as STS should be linked to additional lending and greater transparency.

With regards to the STS criteria for term securitisation, those criteria were developed by international and European bodies and are therefore sound and thorough. However, certain key adjustments are required. In particular, the transparency for STS securitisation should be made conditional on the provision information to the European Securitisation Data Repository. In order to promote green investments through STS securitisation, information on the long-term, sustainable nature of the securitisation should be published by originators, sponsors and investors, including how the securitisation contributed to real economy investments and in which way the original lender used the freed-up capital. For ABCP securitisation, greater transparency and financial solidity of the sponsors should be required, also at the macro-prudential level, given that the special role banks take as sponsor in providing full credit and liquidity cover and which effect this has on financial stability.

The rapporteur emphasises that full responsibility for the STS certification of the securitisation as STS should always lay with the issuer, without prejudice to involving the advice of a third party regarding the self-certification process.

Better supervision at the European and national levels

Your rapporteur considers that the supervision and interpretation of the STS requirements should be left to securities markets authorities and ESMA, while the involvement of the other competent authorities for the supervision of entities involved in securitisation should remain. It is crucial to introduce a European level supervision in order not to leave the interpretation of the STS criteria in the hands of the numerous national competent authorities only, which could lead to uncertainty. To reduce therefore uncertainty, ESMA should be responsible to provide clarification and guidance to market participants. When evaluating and addressing risks arising from securitisation transactions, the competent authorities should pay specific attention to financial stability, take action if risks are identified and notify the European Commission and European Parliament.

Importantly, your rapporteur agrees that the originator, sponsor and SSPE involved in an STS securitisation should be established within the European Union in order to avoid importing substantial risks from third countries and ensure better supervision.