

Legal Update

The EU Securitisation Regulation – Status of Secondary Legislation and Guidelines

INTRODUCTION

Regulation (EU) 2017/2402¹ (the “**Securitisation Regulation**”) has now been in effect for over fifteen months. However, the market is still awaiting the finalisation and adoption of much of the delegated legislation which is required in order to interpret and ensure compliance with the Securitisation Regulation. In this Legal Update, we consider the current status of the various pieces of secondary legislation, guidelines and other measures relating to the Securitisation Regulation.

THE SECURITISATION REGULATION

The Securitisation Regulation imposes certain requirements with respect to institutional investors, originators, original lenders, sponsors and securitisation special purpose entities (each as defined therein) which enter into securitisations (again, as defined therein). Those requirements include obligations in relation to due diligence, risk retention, transparency and credit-granting standards, as well as a ban on resecuritisation. In addition, the Securitisation Regulation sets out certain requirements which need to be met in order for a securitisation to be considered “simple, transparent and standardised”, or “**STS**”.

STS securitisations may qualify for preferential regulatory capital treatment, provided they meet any other applicable regulatory requirements. The Securitisation Regulation applies to securitisations entered into from 1 January 2019 as well as securitisations entered into before that date if they are no longer grandfathered.²

The Securitisation Regulation was published together with Regulation (EU) 2017/2401³ (the “**CRR Amending Regulation**”) which made certain amendments to the Capital Requirements Regulation.⁴

¹ Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012.

² For further information on the Securitisation Regulation, please see our previous Legal Update “The EU Securitisation Regulation – Where are we now?” (June 2019), available at https://www.mayerbrown.com/-/media/files/%20perspectives-events/publications/2019/06/%20eusecuritisationregulationwherarewenow_june19.pdf. For a discussion of how the Securitisation Regulation is likely to apply with respect to UK entities following the Brexit transition period (which will end on 31 December 2020 unless it is extended), please see our Legal Update “Securitisation after Brexit – Considerations for securitisations involving UK entities” (February 2020), available at <https://www.mayerbrown.com/en/perspectives-events/publications/2020/02/after-brexit-considerations-for-securitisations-involving-uk-entities>.

³ Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation No 575/2013 on prudential requirements for credit institutions and investment firms.

⁴ 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.

SECONDARY LEGISLATION AND GUIDELINES

Various provisions of the Securitisation Regulation and the CRR Amending Regulation require the development of certain delegated acts, regulatory technical standards ("RTS") and implementing technical standards ("ITS") (together, "**Level 2 Regulations**"). Level 2 Regulations set out the technical details and clarify various aspects of certain requirements set out in the Securitisation Regulation or introduced by the CRR Amending Regulation, for example, details of certain information to be provided in order to comply with Article 7 of the Securitisation Regulation. Level 2 Regulations also include templates for reports, applications and notifications to be completed under the Securitisation Regulation.

In some cases, guidelines are also required to be produced by the EBA⁵ relating to other requirements set out in the Securitisation Regulation or introduced by the CRR Amending Regulation ("**Level 3 Guidelines**"). Level 3 Guidelines are generally adopted by the EBA after a consultation period with industry participants and they typically apply on a "comply or explain" basis.

In the Appendix to this Legal Update, we have set out a summary and the current status of each of the Level 2 Regulations and Level 3 Guidelines, together with other requirements such as reports, which are currently contemplated in relation to the Securitisation Regulation and pursuant to the CRR Amending Regulation. A number of these items are already behind schedule, but given the effect of the COVID-19 pandemic on the global markets, there are likely to be further delays in the adoption of several Level 2 Regulations.

We have considered some of the key Level 2 Regulations and Level 3 Guidelines under the Securitisation Regulation in more detail below.

RISK RETENTION

The draft RTS in relation to risk retention were published on 31 July 2018 by the EBA (the "**Draft Risk Retention RTS**") and had been expected to have been adopted by now, but are still awaiting approval by the European Commission (the "**Commission**"). Until the new risk retention RTS apply, the existing RTS which were put in place in relation to the previous regime under the CRR⁶ (the "**CRR RTS**") apply to securitisations within the scope of the Securitisation Regulation. As with the CRR RTS, the Draft Risk Retention RTS, among other things how the retained interest can be held in the case of multiple originators, describe the requirements for the various risk retention options in more detail, provide details of how the level of retention should be measured, contain provisions on the prohibition on hedging or selling the retained interest, and set out the disclosure requirements for the risk retainer in relation to its risk retention obligations.

In addition, two key new provisions are included in the Draft Risk Retention RTS. The first is in relation to the "sole purpose test" (following previous recommendations by the EBA) to ensure that originators cannot be established solely for the purpose of meeting the risk retention requirements and must have a business strategy, the capacity to meet payment obligations consistent with a broader business enterprise and involving material support from its own resources and not the securitised exposures, with decision makers with the required experience and an adequate corporate governance arrangement. The second provision relates to the interpretation of Article 6(2) of the Securitisation Regulation, which broadly prohibits the adverse selection of assets to be included in the securitisation.

It is important for market participants' understanding of how the risk retention rules will operate in the future that the Draft Risk Retention RTS are finalised.

⁵ The European Banking Authority.

⁶ These RTS are set out in Commission Delegated Regulation (EU) No 625/2014.

TRANSPARENCY

The RTS and ITS relating to the transparency requirements under Article 7 of the Securitisation Regulation (the “**Transparency RTS**” and the “**Transparency ITS**” respectively) are taking some time to be finalised.

ESMA⁷ produced a consultation paper with respect to the draft Transparency RTS and Transparency ITS on 19 December 2017 and published a draft of the Transparency RTS and the Transparency ITS on 22 August 2018. However, market participants had a number of concerns about these draft regulations including with respect to the limited availability of the so-called “No Data” options and the templates for ABCP securitisations. The Commission notified ESMA on 30 November 2018 that it would only endorse the draft Transparency RTS and Transparency ITS once certain amendments were made and requested ESMA to consider expanding the use of “No Data” options. ESMA published a revised draft of the Transparency RTS and Transparency ITS on 31 January 2019, together with a Q&A document intended to provide guidance on the transparency requirements and the completion of the reporting templates, and also with respect to securitisation repositories and STS notifications. The Q&A document has since been updated several times with answers to further questions.⁸

A revised version of the Transparency RTS was adopted and published by the Commission on 16 October 2019.⁹ It has since been approved by the European Parliament (the “**Parliament**”), although not yet by the Council of the European Union (the “**Council**”). The Commission also published a revised version of the Transparency ITS on 29 October 2019.

Until the Transparency RTS and Transparency ITS come into force, the Securitisation Regulation requires the templates published under CRA3¹⁰ to be used to comply with the reporting requirements under Article 7 of the Securitisation Regulation. However, in a Joint Statement, the European Supervisory Authorities (the “**ESAs**”)¹¹ recognised the severe operational challenges of complying with the CRA3 templates and stated that they expected competent authorities to apply their supervisory powers in a proportionate and risk-based manner, taking into account the type and extent of information already being disclosed, considered on a case-by-case basis.¹²

The Transparency RTS include Annexes specifying the information fields which must be completed for the underlying exposures in a securitisation. If the information for a particular field in the applicable reporting template in the Transparency ITS is not available, or the information field is not relevant for a particular exposure, it may be possible to use one of the “No Data” options. There are five specific circumstances in which a “No Data” option can be used – where the required information:

1. was not collected at origination because the lending/underwriting criteria did not require it (ND1);
2. has not been loaded onto the reporting entity’s system (ND2);
3. has been loaded onto a system separate from the reporting entity (ND3);
4. has been collected but can only be made available at a later date (that later date must be specified) (ND4); or
5. is not applicable to the relevant item (ND5).

The Transparency RTS emphasise that these circumstances should be narrowly construed. The relevant authorities can request, at any time, that a reporting entity provides details which justify the use of any “No Data” option.

⁷ The European Securities and Markets Authority.

⁸ Questions and Answers on the Securitisation Regulation, published by ESMA on 25 November 2019, available here - https://www.esma.europa.eu/sites/default/files/library/esma33-128-563_questions_and_answers_on_securitisation.pdf

⁹ For further information please see our Legal Update “Regulatory technical standards in relation to transparency adopted by the European Commission” (October 2019), available at <https://www.mayerbrown.com/en/perspectives-events/publications/2019/10/regulatory-technical-standards-in-relation-to-transparency-adopted-by-the-european-commission>.

¹⁰ Commission Delegated Regulation (EU) 2015/3 of 20 September 2014 supplementing Regulation (EC) No 1060/2009 of the European Parliament and the Council with regard to regulatory technical standards on disclosure requirements for structured finance instruments.

¹¹ The EBA, ESMA and EIOPA.

¹² Disclosure requirements for EU securitisations and consolidated application of securitisation rules for EU credit institutions, published by the Joint Committee of the European Supervisory Authorities on 30 November 2018.

SECURITISATION REPOSITORIES

A number of technical standards are required to be developed in relation to securitisation repositories. Under Article 7, the relevant information required to be disclosed must be made available by means of a securitisation repository of the Securitisation Regulation. Where no repository has been registered, such information needs to be made available via a website which meets the relevant criteria. These requirements do not apply to private securitisations.¹³

Firstly, ESMA was required under Article 10(7) of the Securitisation Regulation to develop draft RTS relating to:

- (a) the procedures to be applied by the repositories in order to verify the completeness and consistency of the information made available to them under Article 7(1);
- (b) the application for registration of a repository; and
- (c) a simplified application for extension of registration.

Together with this, ESMA was required under Article 10(8) to develop draft ITS specifying the format of the applications for registration and extension of registration of a repository referred to above.

Secondly, Article 17(2) required ESMA to develop draft RTS specifying the operational standards for collection and aggregation of data and the conditions for access to the data.

Together with this, Article 17(3) required ESMA to develop ITS specifying the standardised templates in which the information is to be provided to the repository.

Finally, under Article 16(2) of the Securitisation Regulation a delegated act is required to be adopted by the Commission in relation to the fees for repositories.

Final RTS in relation to the application for registration and the application for extension of registration (the “**Repositories Registration RTS**”) were adopted and published by the Commission on 29 November 2019 and the non-objection period for the Parliament has now passed. Final ITS in relation to the Repositories Registration RTS were also adopted by the Commission on 29 November 2019.

ESMA decided to merge the RTS in relation to the procedures to be applied by the repositories in order to verify the completeness and consistency of the information made available to them with the RTS specifying the operational standards for collection and aggregation of data and the conditions for access to the data (together, the “**Repositories Procedures and Operational Standards RTS**”). The Repositories Procedures and Operational Standards RTS were also adopted and published by the Commission on 29 November 2019 and the non-objection period for the Parliament has now passed.

Approval from the Council and publication in the Official Journal is still awaited for the Repositories Registration RTS and the Repositories Procedures and Operational Standards RTS.

ESMA published a final report on the fees for repositories on 12 November 2018 but the delegated act has not yet been published.

Until the various RTS, ITS and the above delegated act in relation to repositories are finalised, no repositories can be registered under the Securitisation Regulation.

However, on 17 January 2020, ESMA published a consultation paper on guidelines on securitisation repository data completeness and consistency thresholds¹⁴ (the “**ND Consultation Paper**”). The ND Consultation Paper contains draft guidelines (the “**ND Guidelines**”) to assist repositories with their obligations to verify the completeness and consistency of the information provided to them. Under the Repositories Procedures and Operational Standards RTS, repositories are required to ensure that “No Data” options “are only used where permitted and do not prevent the data submission from being sufficiently representative of the underlying exposures in the securitisation”.

¹³ The Securitisation Regulation excludes from this requirement “securitisations where no prospectus is required under Directive 2003/71/EC” (known as the Prospectus Directive). The Prospectus Directive has now been replaced by the Prospectus Regulation (Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market and repealing the Prospectus Directive).

¹⁴ Consultation Paper – Guidelines on securitisation repository data completeness and consistency thresholds, available at https://www.esma.europa.eu/sites/default/files/library/esma33-128-827_cp-guidelines_on_securitisation_repository_data_completeness_and_consistency_thresholds.pdf.

The ND Consultation Paper sets out suggested percentage thresholds which determine how frequently "No Data" options may be used before the repository should deem their use to be "unacceptable". The thresholds relate to (a) the situation where the reporting entity is unable to provide information for a limited number of underlying exposures (i.e. it will make use of the "No Data" options) for several fields (referred to as "**legacy assets**") and (b) the situation where the reporting entity is unable to provide information for many or all underlying exposures for a few fields, for example because such information is stored in other databases and cannot be retrieved without significant disproportionate expense (referred to as "**legacy IT systems**"). The cut-off point for determining whether the use of "No Data" options relates to legacy assets rather than legacy IT systems is 10%. The ND Consultation Paper includes a table setting out the proposed acceptable number of fields for each asset class for each of legacy assets and legacy IT systems (both may be relevant as the two categories are mutually exclusive). The thresholds apply only to "No Data" options ND1-ND4 and not to ND5. The intention is to gradually tighten the thresholds over time. These guidelines and the thresholds will be key for market participants to understand how "No Data" options should be deployed when reporting entities are reporting with respect to "public" securitisations¹⁵ under Article 7.

The deadline for responses to the ND Consultation Paper was extended from 16 March 2020 to 13 April 2020 in the light of the COVID-19 pandemic.¹⁶

It is expected that the coming into force of the Transparency RTS and the Repositories Procedures and Operational Standards RTS will be delayed and aligned with the publication of the ND Guidelines, so these RTS are unlikely to come into force before late in the second quarter of 2020.

STS

Guidelines were published by the EBA on 12 December 2018 in relation to the STS criteria for ABCP and non-ABCP Securitisations.¹⁷ A delegated regulation was also published on 6 November 2019 in relation to the RTS on the homogeneity of the underlying exposures in a securitisation (which relates to one of the STS requirements).¹⁸ These are very helpful in interpreting the relevant STS requirements.

In addition, the final RTS in relation to the application for authorisation of third party verification agents were published on 29 May 2019.

The RTS in relation to the information required to be provided in relation to STS notifications, and the related ITS with the applicable templates, have yet to be finalised. The Commission adopted and published these RTS and ITS in November 2019 and while the non-objection period for the Parliament has now passed for the RTS, a decision of the Council is still awaited. However, the fact that these RTS and ITS are not yet in effect is not preventing the notification of STS transactions as this can be done using the interim templates provided by ESMA. As at the date of this Legal Update over 230 transactions have been notified to ESMA as being STS.

In addition, the question of whether synthetic securitisations can be eligible for STS treatment (they are currently excluded) is under consideration (for balance-sheet synthetic securitisations only).

¹⁷ Final Report on Guidelines on the STS criteria for non-ABCP securitisation and Final Report on Guidelines on the STS criteria for ABCP securitisations, available at <https://eba.europa.eu/regulation-and-policy/securitisation-and-covered-bonds/guidelines-on-the-sts-criteria-for-abcp-and-non-abcp-securitisation>.

¹⁸ For further information please see our Legal Update "Regulatory Technical Standards on Homogeneity for STS transactions published in the Official Journal" (November 2019), available at https://www.mayerbrown.com/-/media/files/perspectives-events/publications/2019/11/regulatory-technical-standards-on-homogeneity-for-sts-transactions-published-in-official-journal_nov19.pdf.

¹⁵ See footnote 13.

¹⁶ <https://www.esma.europa.eu/press-news/esma-news/esma-extends-consultations-response-dates>.

A draft report on an STS framework for synthetic securitisation was published by the EBA in September 2019 and has been the subject of a public consultation.¹⁹ While the potential application of STS to synthetic securitisations has been delayed, the consultation was welcomed by market participants who are keen for synthetic securitisations to be capable of being STS, and crucially, for them to be able to benefit from preferential regulatory capital treatment as a result.

FURTHER REVIEW OF THE SECURITISATION REGULATION

The Joint Committee of the ESAs is required to publish a report by 1 January 2021 (and every three years after that) on certain matters relating to securitisation, including (a) the implementation of the STS requirements, (b) actions by competent authorities on material risks and actions of market participants with respect to standardisation of securitisation documentation, (c) the functioning of the due diligence and transparency requirements under the Securitisation Regulation and (d) the risk retention requirements.

In addition to the above, the Commission must publish a report by 1 January 2022, considering the findings of the report by the Joint Committee of the ESAs and assessing various matters including (a) the effects of the Securitisation Regulation, (b) the use of the various methods of risk retention, (c) whether the disclosure requirements should be expanded and (d) the possibility of a third country equivalence regime for STS.

CRR AMENDING REGULATION

There are also a number of Level 2 Regulations and Level 3 Guidelines which are still required to be prepared under the CRR Amending Regulation. Please see the Appendix for a summary.

CONCLUSION

While the timetable for the adoption of the outstanding Level 2 Regulations and Level 3 Guidelines may be delayed further as a result of the COVID-19 pandemic, it would be advisable for market participants to familiarise themselves with the current versions where these are available and to monitor further developments closely.

Please feel free to contact any member of the Mayer Brown securitisation team if you have any questions on the issues discussed in this Legal Update.

¹⁹ For further information please see our Legal Update "EBA consults on the creation of an STS framework for synthetic securitisations" (October 2019), available at https://www.mayerbrown.com/-/media/files/perspectives-events/publications/2019/10/eba-consults-on-the-creation-of-an-sts-framework-for-synthetic-securitisations_oct19.pdf.

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Securitisation Regulation and CRR Amending Regulation – Level 2 Regulations, Level 3 Guidelines and other measures

The below table summarises the current state of Level 2 Regulations, Level 3 Guidelines and other measures relating to the Securitisation Regulation and the CRR Amending Regulation, as at the date of this Legal Update.

KEY:

"CAS":	competent authorities	"ESMA":	European Securities and Markets Authority
"CP":	Consultation Paper	"ESRB":	European Systemic Risk Board
"DA":	Delegated Act	"GL":	Guidelines
"EBA":	European Banking Authority	"ITS":	Implementing Technical Standards
"EIOPA":	European Insurance and Occupational Pensions Authority	"OJ":	Official Journal
"ESAs":	European Supervisory Authorities (EBA, ESMA and EIOPA)	"RTS":	Regulatory Technical Standards

Securitisation Regulation					
	Subject Matter/ Article Cross-reference	Drafting Entity	Type of Measure	Description	Status
1.	Risk Retention Article 6(7)	EBA	RTS	Risk retention rule details, including modalities (Article 6(3)), measurement (Article 6(1)), no hedging/selling, consolidated basis (Article 6(4)), index (correlation trading) (Article 6(6)).	CP published 15 December 2017. Draft RTS published 31 July 2018. Awaiting Commission approval. Expected to be finalised later in 2020.
2.	Transparency Requirements Article 7(3)	ESMA	RTS	Information to be provided under Article 7(1)(a) (underlying exposures) and (e) (investor reports).	Final RTS adopted and published by Commission on 16 October 2019. Non-objection period for Parliament has now lapsed. Awaiting Council approval and publication in OJ. In addition, ESMA has published a Q&A on the Securitisation Regulation which contains questions and answers in relation to the disclosure requirements and templates, STS notifications and repositories (as at the date of this Legal Update this is Version 4, last updated on 15 November 2019).
3.	Transparency Requirements Article 7(4)	ESMA	ITS	Format of reports – standardised templates.	ITS published by Commission on 29 October 2019. Expected to come into force at same time as RTS in row 2 above.

Securitisation Regulation

	Subject Matter/ Article Cross-reference	Drafting Entity	Type of Measure	Description	Status
4.	Ban on resecuritisation Article 8(5)	ESMA	RTS	ESMA, in close cooperation with the EBA, may develop draft RTS to supplement to list of legitimate purposes for permitted resecuritisations set out in Article 8(3).	No date specified.
5.	Verification procedures to applied by repositories; registration of a repository; extension of registration Article 10(7)	ESMA	RTS	Procedures to verify completeness and consistency of reported information; application for registration; extension of registration.	Final draft RTS adopted and published by Commission on 29 November 2019. Non-objection period for Parliament has now lapsed. Awaiting Council approval and publication in OJ. In addition, ESMA published a CP on guidelines for securitisation repository data completeness and consistency thresholds which discusses the use of "No Data" options on 17 January 2020.
6.	Registration of a repository; extension of registration Article 10(8)	ESMA	ITS	Format of applications for registration and extension of registration.	ITS published by Commission on 29 November 2019. Non-objection period for Parliament has now lapsed. Awaiting Council approval and publication in OJ.
7.	Supervisory fees Article 16(2)	Commission	DA	Fees payable by securitisation data repositories to ESMA.	CP published on 23 March 2018. Final report published 12 November 2018. Draft expected in 2020.
8.	Availability of data held in repository Article 17(2)	ESMA	RTS	Details of securitisation to be provided to comply with Article 7(1); operational standards; scope and conditions of access.	See row 5 above.
9.	Information to repository Article 17(3)	ESMA	ITS	Standardised templates.	See row 3 above.
10.	STS Non-ABCP securitisation Article 19(2)	EBA	GL	Guidelines on harmonised interpretation and application of requirements in Articles 20-22.	Final GL (EBA/GL/2018/09) published 12 December 2018.

Securitisation Regulation

	Subject Matter/ Article Cross-reference	Drafting Entity	Type of Measure	Description	Status
11.	Requirements re. simplicity Article 20(14)	EBA	RTS	Which underlying exposures deemed homogenous (Article 20(8)).	Final RTS (Commission Delegated Regulation (EU) 2019/1851) published in the Official Journal on 7 November 2019.
12.	STS ABCP securitisation Article 23(3):	EBA	GL	Harmonised interpretation and application of requirements in Articles 24 and 26.	Final GL (EBA/GL/2018/08) published 12 December 2018.
13.	Transaction-level requirements Article 24(21)	EBA	RTS	Which underlying exposures of ABCP transaction deemed homogenous (Article 24(2)).	See row 11 above.
14.	STS notification requirements Article 27(6)	ESMA	RTS	Information for originator/sponsor/SSPE notification (Article 27(1)).	Final RTS adopted and published by Commission on 12 November 2019. Non-objection period for Parliament has now lapsed. Awaiting Council approval and publication in OJ.
15.	STS notification requirements Article 27(7)	ESMA	ITS	Templates for originator/sponsor/SSPE notification (Article 27(6)).	ITS published by Commission on 12 November 2019. Expected to come into force at same time as RTS in row 14 above.
16.	Third party verifying STS compliance Article 28(4)	ESMA	RTS	Information to be provided in application for authorisation (Article 28(1)).	Final RTS (Commission Delegated Regulation (EU) 2019/885) published in Official Journal 29 May 2019.
17.	Macroprudential oversight of securitisation market Article 31	ESRB	Report	Financial stability of securitisation market, and if material risks are observed, warnings and recommendations for remedial action.	When ESRB considers necessary, or at least every 3 years.
18.	Peer review Article 36(7)	ESMA	Peer review	Implementation of criteria in Articles 19-26 of Securitisation Regulation	Due 1 January 2022.
19.	Cooperation between CAs and ESAs Article 36(8)	ESMA	RTS	Cooperation obligation and information exchange (Article 36(1)); notification obligations (Articles 36(4) and (5)).	Draft RTS published 8 January 2019.

Securitisation Regulation

	Subject Matter/ Article Cross- reference	Drafting Entity	Type of Measure	Description	Status
20.	Amendment to Directive 2009/138/EC (Solvency II) Article 39(1)	Commission	DA	Amendment of Article 135 of Directive 2009/138/EC (Solvency II) - circumstances for imposition of proportional additional capital charge for breach of Articles 5 or 6 of the Securitisation Regulation.	Date not specified.
21.	Amendment to Directive 2009/138/EC (Solvency II) Article 39(1)	EIOPA	RTS	Methods for calculation of proportionate additional capital charge referred to in row 20 above.	Date not specified.
22.	Amendment to Regulation (EU) No 648/2012 (Amended EMIR) Article 42(2)	ESAs	RTS	RTS to be developed specifying criteria for establishing which arrangements under covered bonds or securitisations adequately mitigate counterparty credit risk.	Final RTS (Commission Delegated Regulation (EU) 2020/447) published in Official Journal 27 March 2020.
23.	Amendment to Article 11(15) of Regulation (EU) No 648/2012 (Amended EMIR) Article 42(3)	ESAs	RTS	Article 11(15) of Regulation (EU) No 648/2012 RTS replaced by a requirement to develop RTS specifying (a) risk management procedures including levels and types of collateral and segregation arrangements required for compliance with Article 11(3) of Regulation (EU) No 648/2012, (b) the procedures for counterparties and the relevant CAs to be followed when applying exemptions under Article 11(6)-(10) of Regulation (EU) No 648/2012 and (c) the applicable criteria referred to in Article 11(5)-(10) of Regulation (EU) No 648/2012 including in particular what is to be considered as a practical or legal impediment to the prompt transfer of own funds and repayment of liabilities between counterparties.	Final RTS (Commission Delegated Regulation (EU) 2020/448) published in Official Journal 27 March 2020.

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	Subject Matter/ Article Cross-referenced	Drafting Entity	Type of Measure	Description	Status
24.	Reports on Securitisation Regulation Article 44	Joint Committee of ESAs	Report	Report on (a) STS implementation, (b) actions by CAs on material risks and actions of markets participants re. standardisation, (c) the due diligence and transparency requirements and (d) risk retention.	Due by 1 January 2021 and every 3 years thereafter.
25.	STS framework for synthetic securitisations Article 45	EBA/Commission	Report and possible legislative proposal	EBA report on feasibility of STS framework for synthetic securitisations (balance-sheet only). To be followed by report by Commission and possible legislative proposal.	CP published by EBA on 24 September 2019. EBA report awaited.
26.	Report on Securitisation Regulation Article 46	Commission	Report and possible legislative proposal	Report on Securitisation Regulation, considering in particular the findings of the report referred to in row 24 above and assessing (a) effects of the Securitisation Regulation, (b) differences in use of risk retention methods, (c) whether there has been disproportionate risk in transactions referred to in Article 7(2) and whether transactions have been structured to circumvent obligation to make information available via repositories, (d) whether disclosure requirements should be expanded, (e) whether a third country equivalence regime could be introduced for STS, (f) implementation of disclosure re. environmental performance and whether this should be extended to other assets, (g) third party verification and (h) whether a system should be established for licensed banks to purchase exposures.	Due by 1 January 2022.

CRR Amending Regulation

	Subject Matter/ Article Cross- reference	Drafting Entity	Type of Measure	Description	Status
1.	Significant risk transfer - traditional/synthetic securitisation Articles 244(6) and 245(6)	EBA	Report and possible DA	Significant risk transfer conditions, interpretation and assessment.	EBA required to provide report to Commission by 2 Jan 2021. (EBA published a Discussion Paper on SRT in 2017.) Expected 2020. Commission may adopt a DA.
2.	Exposure value Article 248(1)	EBA	RTS	Method for measuring undrawn portion of cash advance facility, entitled to 0% conversion factor.	Due by 18 January 2019. Expected 2020.
3.	Implicit support Article 250(4)	EBA	GL	What constitutes "arm's length" for purposes of Article 250(4) and circumstance in which transaction is not structured to provide support.	Final GL (EBA/GL/2016/08) published 3 October 2016
4.	Hierarchy of methods Article 254(8)	EBA	Annual report/GL	EBA to monitor impact of Article 254 on capital requirements and range of supervisory practices under Article 254.	Annual report and GL.
5.	Determination of K_{IRB} – dilution and credit risk Article 255(8)	EBA	GL	Methods to combine K_{IRB} for dilution and credit risk where not treated in aggregate manner in transaction in transaction.	Deadline not specified.
6.	Determination of K_{IRB} – purchased receivables approach Article 255(9)	EBA	RTS	Conditions for calculating K_{IRB} for pools of underlying exposures under purchased receivables approach including with regard to (a) internal credit policy and models for calculating K_{IRB} for securitisations, (b) use of different risk factors relating to pool of underlying exposures and, if sufficient accurate/reliable data is not available, of proxy data to estimate PD and LGD and (c) due diligence requirements to monitor actions and policies of originators.	EBA Final Draft RTS published 8 April 2019 (CP 19 June 2018). Expected to be adopted in 2020.

CRR Amending Regulation

	Subject Matter/ Article Cross-reference	Drafting Entity	Type of Measure	Description	Status
7.	Determination of tranche maturity (M_T) Article 257(4)	EBA	GL	Range of practices esp. re application of paragraph 1(a) of Article 257(4) (weighted average maturity of contractual payments under tranche).	GL due by 31 December 2019. CP published on draft GL on the determination of the weighted average maturity (WAM) of the contractual payments due under the tranche on 31 July 2019. Expected to be finalised 2020.
8.	Determination of estimates of PD and LGD based on IRC model Article 337(2)	EBA	GL	Use of estimates of PD and LGD as inputs for incremental default & migration risk model (IRC model).	Deadline not specified.
9.	Reporting and review Article 519a	Commission	Report and possible legislative proposal	Application of securitisation framework including (a) impact of hierarchy of methods and RWEA calculations, (b) effects on financial stability, (c) measures which would be warranted to reduce and counter negative effects of securitisation on financial stability while preserving its positive effect on financing, including possible maximum limit on exposure to securitisations, and (d) effects on ability of financial institutions to provide a sustainable and stable funding channel to the real economy, especially SMEs.	Due by 1 January 2022.

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