
STATUTORY INSTRUMENTS

2018 No. 1288

The Securitisation Regulations 2018

PART 3

CHAPTER 1

Third party verifiers

Application for authorisation to provide a third party verification service

12.—(1) An application for authorisation to provide a third party verification service as provided for in Article 28 of the EU Securitisation Regulation 2017 must —

- (a) be made in such manner as the FCA may direct; and
- (b) contain, or be accompanied by, such information as may be required under Article 28 of the EU Securitisation Regulation 2017 and such other information as the FCA may reasonably require.

(2) At any time after the application is received and before it is determined, the FCA may require the applicant to provide it with such further information as it reasonably considers necessary to enable it to determine the application.

(3) The FCA may give different directions, and may impose different requirements, in relation to different applications or categories of application.

(4) The FCA may require an applicant to provide information which the applicant is required to provide to it under these regulations in such form, or to verify it in such a way, as the FCA may direct.

Determination of an application for authorisation to provide a third party verification service

13.—(1) The FCA must determine an application for authorisation to provide a third party verification service as provided for in Article 28 of the EU Securitisation Regulation 2017 before the end of the period of six months beginning with the date on which it received the completed application.

(2) The FCA may determine an incomplete application if it considers it appropriate to do so, and it must in any event determine such an application within 12 months beginning with the date on which it received the application.

(3) The applicant may withdraw its application, by giving the FCA notice, at any time before the FCA determines it.

(4) If the FCA decides to grant an application it must give the applicant notice of its decision specifying the date on which the authorisation takes effect.

Temporary withdrawal of authorisation to provide a third party verification service

14.—(1) The FCA may decide to withdraw temporarily the authorisation of a third party verifier if it appears to the FCA that —

- (a) the third party verifier is materially non-compliant with Article 28(1) of the EU Securitisation Regulation 2017;
 - (b) the third party verifier has failed, during a period of at least 12 months, to provide a third party verification service;
 - (c) the third party verifier has obtained the authorisation to provide a third party verification service through false statements or other irregular means;
 - (d) the third party verifier has failed to comply with Article 28(2) of the EU Securitisation Regulation 2017; or
 - (e) it is desirable to do so to advance one or more of the FCA's operational objectives set out in section 1B(3) of the Act.
- (2) The FCA may—
- (a) revoke the temporary withdrawal imposed under paragraph (1); or
 - (b) vary the period for which the temporary withdrawal has effect.

Temporary withdrawal of authorisation to provide a third party verification service: procedure

- 15.—(1) When the FCA exercises its functions under regulation 14, its decision takes effect —
- (a) immediately, if the notice given under paragraph (3) states that that is the case;
 - (b) on such other date as may be specified in the notice; or
 - (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.
- (2) A decision of the FCA made under regulation 14 may be expressed to take effect immediately (or on a specified date) only if the FCA, having regard to the ground on which it is exercising this power, reasonably considers that it is necessary for the decision to take effect immediately (or on that date).
- (3) If the FCA proposes to exercise, or exercises, its functions under regulation 14, it must give the third party verifier written notice.
- (4) The notice must —
- (a) give details of the temporary withdrawal, or the revocation of the temporary withdrawal, or the variation of the temporary withdrawal, including the period of the temporary withdrawal;
 - (b) state the FCA's reasons for the temporary withdrawal, or the revocation of the temporary withdrawal or the variation of the temporary withdrawal;
 - (c) inform the third party verifier that they may make representations to the FCA within such period as may be specified in the notice (whether or not they referred the matter to the Tribunal);
 - (d) inform the third party verifier when the temporary withdrawal, or the revocation of the temporary withdrawal or the variation of the temporary withdrawal, is to take effect; and
 - (e) inform the third party verifier of their right to refer the matter to the Tribunal and provide an indication of the procedure for such a reference.
- (5) The FCA may extend the period allowed in the notice given under paragraph (4)(c) for making representations.
- (6) If, having considered any representations made by the third party verifier to whom the notice has been given under paragraph (3), the FCA decides—

- (a) to withdraw temporarily, or revoke or vary the temporary withdrawal of the third party verifier's authorisation, in the way proposed;
- (b) not to withdraw temporarily, or revoke or vary the temporary withdrawal of the third party verifier's authorisation, in the way proposed;
- (c) to revoke the temporary withdrawal or variation of the temporary withdrawal which has taken effect; or
- (d) if the temporary withdrawal or variation of the temporary withdrawal has taken effect, not to revoke the temporary withdrawal or variation of the temporary withdrawal; or
- (e) to withdraw temporarily or vary the period of a withdrawal in a different way;

it must give the third party verifier written notice of its decision.

(7) A notice under paragraph (6)(a), (d) or (e) must inform the third party verifier of their right to refer the matter to the Tribunal and provide an indication of the procedure for such a reference.

(8) For the purposes of paragraph (1)(c), whether a matter is open to review is to be determined in accordance with section 391(8) of the Act.

(9) Where the authorisation of a third party verifier is temporarily withdrawn, the FCA must as soon as practicable update the register accordingly.

Cancellation of authorisation to provide a third party verification service on the initiative of the FCA

16.—(1) The FCA may cancel an authorisation to provide a third party verification service if it appears to the FCA that—

- (a) the third party verifier is materially non-compliant with Article 28(1) of the EU Securitisation Regulation 2017;
- (b) the third party verifier has failed, during a period of at least 12 months, to provide a third party verification service;
- (c) the third party verifier has obtained the registration to provide third party verification services through false statements or other irregular means;
- (d) the third party verifier has failed to comply with Article 28(2) of the EU Securitisation Regulation 2017; or
- (e) it is desirable to do so to advance one or more of the FCA's operational objectives set out in section 1B(3) of the Act.

(2) Where the period for a reference to the Tribunal has expired without a reference being made, the FCA must as soon as practicable update the register accordingly.

Cancellation of authorisation to provide a third party verification service at request of third party verifier

17.—(1) The FCA may, on the application of a third party verifier, cancel their authorisation to provide a third party verification service.

(2) A request for cancellation of a person's authorisation under this regulation must be made in such a manner as the FCA may direct.

(3) The FCA may refuse an application under this regulation if it appears to it that it is desirable to do so in order to advance any of its operational objectives set out in section 1B(3) of the Act.

(4) An application under paragraph (1) must be determined by the FCA before the end of the period of 6 months beginning with the date on which it received the completed application.

(5) The FCA may determine an incomplete application if it considers it is appropriate to do so, and it must in any event determine such an application within 12 months beginning with the date on which it received the application.

(6) The applicant may withdraw its application, by giving the FCA notice, at any time before the FCA determines it.

(7) If the FCA decides to grant an application, it must give the applicant notice of its decision specifying the date on which the cancellation of the authorisation takes effect, and as soon as practicable update the register accordingly.

Register of third party verifiers

18.—(1) The FCA must maintain a register of all persons it has authorised as third party verifiers as provided for in Article 28 of the EU Securitisation Regulation 2017.

(2) The FCA must—

- (a) publish the register online and make it available for public inspection; and
- (b) update the register on a regular basis.

CHAPTER 2

Warning notices and decision notices

Warning notice

19.—(1) If the appropriate regulator proposes to—

- (a) impose a temporary prohibition under regulation 5 (temporary prohibition relating to management functions);
- (b) publish a statement in respect of a person under regulation 7 (public censure);
- (c) impose a penalty on a person under regulation 8 (financial penalties);
- (d) refuse an application for authorisation to provide a third party verification service under regulation 13 (determination of application for authorisation to provide a third party verification service);
- (e) cancel a person's authorisation to provide a third party verification service under regulation 16 (cancellation of authorisation to provide a third party verification service on the initiative of the FCA); or
- (f) refuse an application to cancel a person's authorisation to provide a third party verification service under regulation 17 (cancellation of authorisation to provide a third party verification service at request of third party verifier);

it must give the person a warning notice.

(2) A warning notice about a proposal to impose a temporary prohibition relating to management functions under regulation 5 must set out the terms of the proposed prohibition.

(3) A warning notice about a proposal to publish a statement under regulation 7 must set out the terms of the statement.

(4) A warning notice about a proposal to impose a penalty under regulation 8 must state the amount of the proposed penalty.

(5) A warning notice must inform the person concerned that the person may make representations to the appropriate regulator within such period as may be specified in the notice (whether or not the person concerned has referred the matter to the Tribunal).

Decision notice

20.—(1) If, having considered any representations made in response to the warning notice, the appropriate regulator decides to—

- (a) impose a temporary prohibition relating to management functions under regulation 5 (temporary prohibition relating to management functions) (whether or not in the terms proposed);
- (b) publish a statement under regulation 7 (public censure) (whether or not in the terms proposed);
- (c) impose a penalty under regulation 8 (financial penalties) (whether or not of the amount proposed);
- (d) refuse an application for authorisation to provide a third party verification service under regulation 13 (determination of application for authorisation to provide a third party verification service);
- (e) cancel a person's authorisation to provide a third party verification service under regulation 16 (cancellation of authorisation to provide a third party verification service on the initiative of the FCA);
- (f) refuse an application to cancel a person's authorisation to provide a third party verification service under regulation 17 (cancellation of authorisation to provide a third party verification service at request of third party verifier);

it must without delay give the person concerned a decision notice.

(2) A decision notice about a decision to impose a temporary prohibition relating to management functions under regulation 5 must set out the terms of the prohibition.

(3) A decision notice about a decision to publish a statement under regulation 7 must set out the terms of the statement.

(4) A decision notice about a decision to impose a penalty under regulation 8 must state the amount of the penalty.

(5) After a statement under regulation 7 (public censure) is published, the appropriate regulator must send a copy of it to the person concerned and to any person to whom a copy of the decision notice is given under section 393(4)^{M1} of the Act (third party rights) (as applied by Schedule 1 (application of Part 26 of the Act)).

Marginal Citations

M1 Section 393 was amended by paragraph 32 of Schedule 9 to the [Financial Services Act 2012 \(c.21\)](#).

CHAPTER 3

Temporary ban on STS notifications

Imposition of a temporary ban

21.—(1) If the FCA considers that an originator, sponsor or SSPE has failed to meet the requirements under Article 19, 20, 21, 22, 23, 24, 25 or 26 of the EU Securitisation Regulation 2017, or an originator or sponsor has made a misleading notification pursuant to Article 27(1) of the EU Securitisation Regulation 2017, the FCA may, for such period as it considers appropriate, temporarily ban the originator or sponsor from making a notification under Article 27(1).

(2) The FCA may—

- (a) revoke a temporary ban imposed under paragraph (1); or

(b) vary the period for which the temporary ban has effect.

(3) The FCA must consult the PRA before imposing a temporary ban on an originator or sponsor who is a PRA-authorized person, or varying such a ban so as to extend the period it has effect.

Procedure for the imposition, variation or revocation of a temporary ban on STS notifications

22.—(1) When the FCA exercise its functions under regulation 21, its decision takes effect—

- (a) immediately, if the notice under paragraph (3) states that is the case;
- (b) on such other a date as may be specified in the notice; or
- (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.

(2) A decision of the FCA made under regulation 21 may be expressed to take effect immediately (or on a specified date) only if the FCA, having regard to the ground on which it is exercising this power, reasonably considers that it is necessary for the decision to take effect immediately (or on that date).

(3) If the FCA proposes to exercise, or exercises, its functions under regulation 21, it must give the originator or sponsor a written notice.

(4) The notice must—

- (a) give details of the temporary ban or variation;
- (b) state the FCA's reasons for the temporary ban, or the revocation of the temporary ban or the variation of the temporary ban;
- (c) inform the originator or sponsor that they may make representations to the FCA within such period as may be specified in the notice (whether or not the originator or sponsor have referred the matter to the Tribunal);
- (d) inform the originator or sponsor when the temporary ban, or the revocation of the temporary ban or the variation of the temporary ban takes effect; and
- (e) inform the originator or sponsor of their right to refer the matter to the Tribunal and an indication of the procedure for such a reference.

(5) The FCA may extend the period allowed under the notice for making representations.

(6) If, having considered any representations made by a person to whom the notice was given, the FCA decides—

- (a) to impose the temporary ban, or revoke or vary the temporary ban, in the way proposed;
- (b) not to impose the temporary ban, or revoke or vary the temporary ban, in the way proposed;
- (c) to revoke the temporary ban, or the variation of the temporary ban, which has taken effect;
- (d) if the temporary ban has been imposed or varied, not to revoke the temporary ban or variation of the temporary ban; or
- (e) to impose or vary the temporary ban in a different way;

it must give the person written notice.

(7) A notice given under paragraph (6)(a), (d) or (e) must inform the person to whom it is given of his right to refer the matter to the Tribunal and provide an indication of the procedure for such a reference.

(8) For the purposes of paragraph (2)(c), whether a matter is open to review is to be determined in accordance with section 391(8) of the Act.

CHAPTER 4

Right to refer to the Tribunal

Right to refer a matter to the Tribunal

23.—(1) If the appropriate regulator decides to—

- (a) impose a temporary prohibition on the person under regulation 5 (temporary prohibition relating to management functions);
- (b) publish a statement in respect of a person under regulation 7 (public censure); or
- (c) impose a penalty on a person under regulation 8 (financial penalties);

the person concerned may refer the matter to the Tribunal.

(2) If the FCA decides to refuse a person's application for authorisation to provide a third party verification service under regulation 13 (determination of application for authorisation to provide a third party verification service), the person concerned may refer the matter to the Tribunal.

(3) If the FCA decides to temporarily withdraw an authorisation to provide a third party verification service under regulation 15 (temporary withdrawal of authorisation to provide a third party verification service: procedure), or varies the details of the temporary withdrawal so as to extend the period it has effect, the person concerned may refer the matter to the Tribunal.

(4) If the FCA decides to cancel an authorisation to provide a third party verification service under regulation 16 (cancellation of authorisation to provide a third party verification service on the initiative of the FCA), the person concerned may refer the matter to the Tribunal.

(5) If the FCA refuses an application to cancel an authorisation to provide a third party verification service under regulation 17 (cancellation of authorisation to provide a third party verification service at request of third party verifier), the person concerned may refer the matter to the Tribunal.

(6) If the FCA imposes a temporary ban under regulation 21 (imposition of a temporary ban), or varies such a ban so as to extend the period it has effect, the person concerned may refer the matter to the Tribunal.

Changes to legislation:

There are currently no known outstanding effects for the The Securitisation Regulations 2018, PART 3.