

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

CHAPTER 2

PROVISIONS APPLICABLE TO ALL SECURITISATIONS

Article 8

Ban on resecuritisation

1 The underlying exposures used in a securitisation shall not include securitisation positions.

By way of derogation, the first subparagraph shall not apply to:

- a any securitisation the securities of which were issued before 1 January 2019; and
- b any securitisation, to be used for legitimate purposes as set out in paragraph 3, the securities of which were issued on or following 1 January 2019.

2 A competent authority ^{F1}... may grant permission to an entity under its supervision to include securitisation positions as underlying exposures in a securitisation where that competent authority deems the use of a resecuritisation to be for legitimate purposes as set out in paragraph 3 of this Article.

Where such supervised entity is a credit institution or an investment firm as defined in points (1) and (2) of Article 4(1) of Regulation (EU) No 575/2013, the competent authority ^{F2}... shall consult with the [^{F3}Bank of England] and any other authority relevant for that entity before granting permission for the inclusion of securitisation positions as underlying exposures in a securitisation. Such consultation shall last no longer than 60 days from the date on which the competent authority notifies the [^{F3}Bank of England], and any other authority relevant for that entity, of the need for consultation.

^{F4} ...

3 For the purposes of this Article, the following shall be deemed to be legitimate purposes:

- a the facilitation of the winding-up of a credit institution, an investment firm or a financial institution;
- b ensuring the viability as a going concern of a credit institution, an investment firm or a financial institution in order to avoid its winding-up; or
- c where the underlying exposures are non-performing, the preservation of the interests of investors.

4 A fully supported ABCP programme shall not be considered to be a resecuritisation for the purposes of this Article, provided that none of the ABCP transactions within that programme is a resecuritisation and that the credit enhancement does not establish a second layer of tranching at the programme level.

Changes to legislation: Regulation (EU) 2017/2402 of the European Parliament and of the Council, Article 8 is up to date with all changes known to be in force on or before 05 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

5 In order to reflect market developments of other resecuritisations undertaken for legitimate purposes, and taking into account the overarching objectives of financial stability and preservation of the best interests of the investors, [^{F5}the FCA and the PRA, acting jointly, may make] regulatory technical standards to supplement the list of legitimate purposes set out in paragraph 3.

F6

...

Textual Amendments

- F1** Words in Art. 8(2) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **10(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 8(2) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **10(2)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 8(2) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **10(2)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 8(2) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **10(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 8(5) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **10(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 8(5) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **10(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

Regulation (EU) 2017/2402 of the European Parliament and of the Council, Article 8 is up to date with all changes known to be in force on or before 05 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 1](#)