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 5

Due-diligence requirements for institutional investors

1 Prior to holding a securitisation position, an institutional investor, other than the originator, sponsor or original lender, shall verify that:

a where the originator or original lender established in **[**[F1]the United Kingdom**]** is not 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 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 established processes for approving, amending, renewing and financing those credits and has effective systems in place to apply those criteria and processes in accordance with Article 9(1) of this Regulation;

b where the originator or original lender is established in a **[**[F2]country or territory outside the United Kingdom**]**, 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 established processes for approving, amending, renewing and financing those credits and has effective systems in place to apply those criteria and processes to ensure that credit-granting is based on a thorough assessment of the obligor's creditworthiness;

c if established in **[**[F3]the United Kingdom**]**, the originator, sponsor or original lender retains on an ongoing basis a material net economic interest in accordance with Article 6 and the risk retention is disclosed to the institutional investor in accordance with Article 7;

d if established in a **[**[F2]country or territory outside the United Kingdom**]**, the originator, sponsor or original lender retains on an ongoing basis a material net economic interest which, in any event, shall not be less than 5 %, determined in accordance with Article 6, and discloses the risk retention to institutional investors;

e **[**[F4]if established in the United Kingdom,**]** the originator, sponsor or SSPE has, where applicable, made available the information required by Article 7 in accordance with the frequency and modalities provided for in that Article;

[[F5]f if established in a **[**[F2]country or territory outside the United Kingdom**]**, the originator, sponsor or SSPE has, where applicable—

i made available information which is substantially the same as that which it would have made available in accordance with point (e) if it had been established in the United Kingdom; and

ii has done so with such frequency and modalities as are substantially the same as those with which it would have made information available in accordance with point (e) if it had been so established.**]**

Changes to legislation: *Regulation (EU) 2017/2402 of the European Parliament and of the Council, CHAPTER 2 is up to date with all changes known to be in force on or before 04 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*

2 By derogation from paragraph 1, as regards fully supported ABCP transactions, the requirement specified in point (a) of paragraph 1 shall apply to the sponsor. In such cases, the sponsor shall verify that the originator or original lender which is not a credit institution or an investment firm grants all the credits giving rise to the underlying exposures 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 in accordance with Article 9(1).

3 Prior to holding a securitisation position, an institutional investor, other than the originator, sponsor or original lender, shall carry out a due-diligence assessment which enables it to assess the risks involved. That assessment shall consider at least all of the following:

a the risk characteristics of the individual securitisation position and of the underlying exposures;

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;

c with regard to a securitisation notified as STS in accordance with Article 27, the compliance of that securitisation with the requirements provided for in Articles 19 to 22 or in Articles 23 to 26, and Article 27. Institutional investors may rely to an appropriate extent on the STS notification pursuant to Article 27(1) and on the information disclosed by the originator, sponsor and SSPE on the compliance with the STS requirements, without solely or mechanistically relying on that notification or information.

[[F6]d in point (c)—

i the reference to a securitisation notified as STS in accordance with Article 27 includes a reference to a securitisation notified in accordance with that Article before IP completion day, or before the expiry of a period of **[**[F7]four years**]** beginning with IP completion day, where the person responsible for the notification (the originator and sponsor or, in the case of an ABCP programme, the sponsor) is established in an EEA State;

ii in relation to any securitisation so notified, the reference to the STS notification is a reference to the notification of that securitisation as STS, and a reference to a numbered Article is a reference to the Article so numbered of this Regulation as it had or has effect in relation to an EEA State at any time on and after the date of the notification and before the end of the period referred to in paragraph (i).**]**

[[F8]da with regard to an STS equivalent non-UK securitisation, such matters as may be specified in regulations under Article 28A (and may rely on such matters to such extent as may be specified).**]**

Notwithstanding points (a) and (b) of the first subparagraph, in the case of a fully supported ABCP programme, institutional investors in the commercial paper issued by that ABCP programme shall consider the features of the ABCP programme and the full liquidity support.

4 An institutional investor, other than the originator, sponsor or original lender, holding a securitisation position, shall at least:

a establish appropriate written procedures that are proportionate to the risk profile of the securitisation position and, where relevant, to the institutional investor's trading and non-trading book, in order to monitor, on an ongoing basis, compliance with paragraphs 1 and 3 and the performance of the securitisation position and of the underlying exposures.

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Where relevant with respect to the securitisation and the underlying exposures, those written procedures shall include monitoring of the exposure type, the percentage of loans more than 30, 60 and 90 days past due, default rates, prepayment rates, loans in foreclosure, recovery rates, repurchases, loan modifications, payment holidays, collateral type and occupancy, and frequency distribution of credit scores or other measures of credit worthiness across underlying exposures, industry and geographical diversification, frequency distribution of loan to value ratios with band widths that facilitate adequate sensitivity analysis. Where the underlying exposures are themselves securitisation positions, as permitted under Article 8, institutional investors shall also monitor the exposures underlying those positions;

b in the case of a securitisation other than a fully supported ABCP programme, regularly perform stress tests on the cash flows and collateral values supporting the underlying exposures or, in the absence of sufficient data on cash flows and collateral values, stress tests on loss assumptions, having regard to the nature, scale and complexity of the risk of the securitisation position;

c in the case of fully supported ABCP programme, regularly perform stress tests on the solvency and liquidity of the sponsor;

d ensure internal reporting to its management body so that the management body is aware of the material risks arising from the securitisation position and so that those risks are adequately managed;

e be able to demonstrate to its competent **[**[F9]authority**]**, upon request, that it has a comprehensive and thorough understanding of the securitisation position and its underlying exposures and that it has implemented written policies and procedures for the risk management of the securitisation position and for maintaining records of the verifications and due diligence in accordance with paragraphs 1 and 2 and of any other relevant information; and

f in the case of exposures to a fully supported ABCP programme, be able to demonstrate to its competent **[**[F10]authority**]**, upon request, that it has a comprehensive and thorough understanding of the credit quality of the sponsor and of the terms of the liquidity facility provided.

5 Without prejudice to paragraphs 1 to 4 of this Article, where an institutional investor has given another institutional investor authority to make investment management decisions that might expose it to a securitisation, the institutional investor may instruct that managing party to fulfil its obligations under this Article in respect of any exposure to a securitisation arising from those decisions. [F11]... where an institutional investor is instructed under this paragraph to fulfil the obligations of another institutional investor and fails to do so, any sanction **[**[F12]imposed as a result of the failure**]** may be imposed on the managing party and not on the institutional investor who is exposed to the securitisation.

Textual Amendments

F1 Words in Art. 5(1)(a) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **7(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F2 Words in Art. 5(1) substituted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(3), **Sch. 2 para. 36(2)** (with s. 2(3)); S.I. 2023/779, reg. 4(zz)(iii)

F3 Words in Art. 5(1)(c) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **7(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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F4 Words in Art. 5(1)(e) inserted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **7(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F5 Art. 5(1)(f) inserted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **7(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F6 Art. 5(3)(d) inserted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **7(3)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 35(b)**) (with savings in S.I. 2019/680, **reg. 11**) ; 2020 c. 1, **Sch. 5 para. 1(1)**

F7 Words in Art. 5(3)(d)(i) substituted (31.12.2022 at. 11.00 p.m.) by The Financial Services (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/1223), regs. 1(2), **4(2)**

F8 Art. 5(3)(da) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(3), **Sch. 2 para. 36(3)** (with s. 2(3)); S.I. 2023/779, reg. 4(zz)(iii)

F9 Word in Art. 5(4)(e) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **7(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F10 Word in Art. 5(4)(f) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **7(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F11 Words in Art. 5(5) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **7(5)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F12 Words in Art. 5(5) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **7(5)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 6

Risk retention

1 The originator, sponsor or original lender of a securitisation shall retain on an ongoing basis a material net economic interest in the securitisation of not less than 5 %. That interest shall be measured at the origination and shall be determined by the notional value for off-balance-sheet items. Where the originator, sponsor or 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 retention requirements for any given securitisation. 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.

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.

2 Originators shall not select assets to be transferred to the SSPE with the aim of rendering losses on the assets transferred to the SSPE, measured over the life of the transaction, or over a maximum of 4 years where the life of the transaction is longer than four years, higher than the losses over the same period on comparable assets held on the balance sheet of the originator. Where the competent authority finds evidence suggesting contravention of that prohibition, the competent authority shall investigate the performance of assets transferred to the SSPE and comparable assets held on the balance sheet of the originator. If the performance of the transferred assets is significantly lower than that of the comparable assets held on the balance sheet of the originator as a consequence of the intent of the originator, the competent authority shall impose a sanction **[**[F13]for the contravention**]**.

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3 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:

a the retention of not less than 5 % of the nominal value of each of the tranches sold or transferred to investors;

b in the case of revolving securitisations or securitisations of revolving exposures, the retention of the originator's interest of not less than 5 % of the nominal value of each of the securitised exposures;

c the retention of randomly selected exposures, equivalent to not 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 not less than 100 at origination;

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 not less than 5 % of the nominal value of the securitised exposures; or

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

[[F14]4 Where—

a a mixed financial holding company,

b a UK parent institution,

c a financial holding company established in the United Kingdom, or

d a subsidiary of such a company or institution,

as an originator or sponsor, securitises exposures from one or more credit institutions, investment firms or other financial institutions which are included in the scope of supervision on a consolidated basis, the requirements set out in paragraph 1 may be satisfied on the basis of the consolidated situation of the mixed financial holding company, UK parent institution or financial holding company concerned.**]**

[[F15]Subject to the modifications for FCA investment firms in the third subparagraph, the first subparagraph applies**]** only where credit institutions, investment firms or financial institutions which created the securitised exposures comply with the requirements set out in Article 79 of Directive 2013/36/EU of the European Parliament and of the Council[(1)] and deliver the information needed to satisfy the requirements provided for in Article 5 of this Regulation, in a timely manner, to the originator or sponsor **[**[F16]and, if the originator or sponsor is a subsidiary, to the mixed financial holding company, UK parent institution or financial holding company which is the parent undertaking of the subsidiary**]**.

[[F17]In this paragraph—

a 'credit institution' **[**[F18], 'FCA investment firm'**]**, 'financial holding company', 'financial institution', 'investment firm', 'subsidiary' and 'UK parent institution' have the meaning given in Article 4(1) of Regulation (EU) No 575/2013; and

b 'mixed financial holding company" has the meaning given in regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004.**]**

[[F19]In the case of FCA investment firms, compliance with the requirements set out in Article 79(b) of Directive 2013/36/EU of the European Parliament and of the Council are modified in accordance with this subparagraph—

a FCA investment firms must have internal methodologies that enable them to assess the credit risk of exposures to individual obligors, securities or securitisation positions and credit risk at the portfolio level;

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b the internal methodologies must not rely solely or mechanistically on external credit ratings; and

c where an FCA investment firm determines the amount of own funds that it should hold by reference to a rating by an external credit assessment institution or by reference to the fact that an exposure is unrated, this does not exempt the FCA investment firm from additionally considering other relevant information for assessing its allocation of internal capital.**]**

5 Paragraph 1 shall not apply where the securitised exposures are exposures on or exposures fully, unconditionally and irrevocably guaranteed by:

a central governments or central banks;

b regional governments, local authorities and public sector entities within the meaning of point (8) of Article 4(1) of Regulation (EU) No 575/2013 [F20]...;

c institutions to which a 50 % risk weight or less is assigned under Part Three, Title II, Chapter 2 of Regulation (EU) No 575/2013 **[**[F21]and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]**;

d national promotional banks or institutions within the meaning of point (3) of Article 2 of Regulation (EU) 2015/1017 of the European Parliament and of the Council[(2)]; or

e the multilateral development banks listed in Article 117 of Regulation (EU) No 575/2013.

[[F22]In this paragraph 'PRA Rulebook' means the rulebook published by the PRA containing rules made by that Authority under the 2000 Act as that rulebook has effect on 1 January 2022.**]**

6 Paragraph 1 shall not apply to transactions based on a clear, transparent and accessible index, where the underlying reference entities are identical to those that make up an index of entities that is widely traded, or are other tradable securities other than securitisation positions.

7 **[**[F23]The FCA and the PRA, acting jointly, may make**]** technical standards to specify in greater detail the risk-retention requirement, in particular with regard to:

a the modalities for retaining risk pursuant to paragraph 3, including the fulfilment through a synthetic or contingent form of retention;

b the measurement of the level of retention referred to in paragraph 1;

c the prohibition of hedging or selling the retained interest;

d the conditions for retention on a consolidated basis in accordance with paragraph 4;

e the conditions for exempting transactions based on a clear, transparent and accessible index referred to in paragraph 6;

[F24]…

Textual Amendments

F13 Words in Art. 6(2) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **8(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F14 Words in Art. 6(4) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **8(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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F15 Words in Art. 6(4) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **30(3)(a)(i)** (with regs. 35, 38)

F16 Words in Art. 6(4) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **8(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F17 Words in Art. 6(4) inserted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **8(3)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F18 Words in Art. 6(4) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **30(3)(a)(iii)** (with regs. 35, 38)

F19 Words in Art. 6(4) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **30(3)(a)(ii)** (with regs. 35, 38)

F20 Words in Art. 6(5)(b) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **8(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F21 Words in Art. 6(5)(c) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **30(3)(b)(i)** (with regs. 35, 38)

F22 Words in Art. 6(5) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **30(3)(b)(ii)** (with regs. 35, 38)

F23 Words in Art. 6(7) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **8(5)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F24 Words in Art. 6(7) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **8(5)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 7

Transparency requirements for originators, sponsors and SSPEs

1 The originator, sponsor and SSPE of a securitisation shall, in accordance with paragraph 2 of this Article, make at least the following information available to holders of a securitisation position, to the competent **[**[F25]authority**]** referred to in Article 29 and, upon request, to potential investors:

a information on the underlying exposures on a quarterly basis, or, in the case of ABCP, information on the underlying receivables or credit claims on a monthly basis;

b all underlying documentation that is essential for the understanding of the transaction, including but not limited to, where applicable, the following documents:

(i) the final offering document or the prospectus together with the closing transaction documents, excluding legal opinions;

(ii) for traditional securitisation the asset sale agreement, assignment, novation or transfer agreement and any relevant declaration of trust;

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(iii) the derivatives and guarantee agreements, as well as any relevant documents on collateralisation arrangements where the exposures being securitised remain exposures of the originator;

(iv) the servicing, back-up servicing, administration and cash management agreements;

(v) the trust deed, security deed, agency agreement, account bank agreement, guaranteed investment contract, incorporated terms or master trust framework or master definitions agreement or such legal documentation with equivalent legal value;

(vi) any relevant inter-creditor agreements, derivatives documentation, subordinated loan agreements, start-up loan agreements and liquidity facility agreements;

That underlying documentation shall include a detailed description of the priority of payments of the securitisation;

c **[**[F26]where section 85 of the 2000 Act (prohibition of dealing etc in transferable securities without approved prospectus) and rules made by the FCA for the purposes of Part 6 of the 2000 Act (official listing) do not require a prospectus to be drawn up**]**, a transaction summary or overview of the main features of the securitisation, including, where applicable:

(i) details regarding the structure of the deal, including the structure diagrams containing an overview of the transaction, the cash flows and the ownership structure;

(ii) details regarding the exposure characteristics, cash flows, loss waterfall, credit enhancement and liquidity support features;

(iii) details regarding the voting rights of the holders of a securitisation position and their relationship to other secured creditors;

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

d in the case of STS securitisations, the STS notification referred to in Article 27;

e quarterly investor reports, or, in the case of ABCP, monthly investor reports, containing the following:

(i) all materially relevant data on the credit quality and performance of underlying exposures;

(ii) information on events which trigger changes in the priority of payments or the replacement of any counterparties, and, in the case of a securitisation which is not an ABCP transaction, data on the cash flows generated by the underlying exposures and by the liabilities of the securitisation;

(iii) information about the risk retained, including information on which of the modalities provided for in Article 6(3) has been applied, in accordance with Article 6.

f any inside information relating to the securitisation that the originator, sponsor or SSPE is obliged to make public in accordance with Article 17 of Regulation (EU)

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No 596/2014 of the European Parliament and of the Council[(3)] on insider dealing and market manipulation;

g where point (f) does not apply, any significant event such as:

(i) a material breach of the obligations provided for in the documents made available in accordance with point (b), including any remedy, waiver or consent subsequently provided in relation to such a breach;

(ii) a change in the structural features that can materially impact the performance of the securitisation;

(iii) a change in the risk characteristics of the securitisation or of the underlying exposures that can materially impact the performance of the securitisation;

(iv) in the case of STS securitisations, where the securitisation ceases to meet the STS requirements or where **[**[F27]the competent authority has**]** taken remedial or administrative actions;

(v) any material amendment to transaction documents.

The information described in points (b), (c) and (d) of the first subparagraph shall be made available before pricing.

The information described in points (a) and (e) of the first subparagraph shall be made available simultaneously each quarter at the latest one month after the due date for the payment of interest or, in the case of ABCP transactions, at the latest one month after the end of the period the report covers.

In the case of ABCP, the information described in points (a), (c)(ii) and (e)(i) of the first subparagraph shall be made available in aggregate form to holders of securitisation positions and, upon request, to potential investors. Loan-level data shall be made available to the sponsor and, upon request, to **[**[F28]the competent authority**]**.

Without prejudice to Regulation (EU) No 596/2014, the information described in points (f) and (g) of the first subparagraph shall be made available without delay.

When complying with this paragraph, the originator, sponsor and SSPE of a securitisation shall comply with **[**[F29]the law applicable in the United Kingdom**]** governing the protection of confidentiality of information and the processing of personal data in order to avoid potential breaches of such law as well as any confidentiality obligation relating to customer, original lender or debtor information, unless such confidential information is anonymised or aggregated.

In particular, with regard to the information referred to in point (b) of the first subparagraph, the originator, sponsor and SSPE may provide a summary of the documentation concerned.

[[F30]The competent authority**]** shall be able to request the provision of such confidential information to them in order to fulfil their duties under this Regulation.

2 The originator, sponsor and SSPE of a securitisation shall designate amongst themselves one entity to fulfil the information requirements pursuant to points (a), (b), (d), (e), (f) and (g) of the first subparagraph of paragraph 1.

The entity designated in accordance with the first subparagraph shall make the information for a securitisation transaction available by means of a securitisation repository.

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The obligations referred to in the second and fourth subparagraphs shall not apply to securitisations **[**[F31]for which section 85 of the 2000 Act and rules made by the FCA for the purposes of Part 6 of the 2000 Act do not require a prospectus to be drawn up**]**.

Where no securitisation repository is registered in accordance with Article 10, the entity designated to fulfil the requirements set out in paragraph 1 of this Article shall make the information available by means of a website that:

a includes a well-functioning data quality control system;

b is subject to appropriate governance standards and to maintenance and operation of an adequate organisational structure that ensures the continuity and orderly functioning of the website;

c is subject to appropriate systems, controls and procedures that identify all relevant sources of operational risk;

d includes systems that ensure the protection and integrity of the information received and the prompt recording of the information; and

e makes it possible to keep record of the information for at least five years after the maturity date of the securitisation.

The entity responsible for reporting the information, and the securitisation repository where the information is made available shall be indicated in the documentation regarding the securitisation.

3 **[**[F32]The FCA and the PRA, acting jointly, may make**]** technical standards to specify the information that the originator, sponsor and SSPE shall provide in order to comply with their obligations under points (a) and (e) of the first subparagraph of paragraph 1 taking into account the usefulness of information for the holder of the securitisation position, whether the securitisation position is of a short-term nature and, in the case of an ABCP transaction, whether it is fully supported by a sponsor;

[F33]…

4 In order to ensure uniform conditions of application for the information to be specified in accordance with paragraph 3, **[**[F34]the FCA and the PRA, acting jointly, may make**]** technical standards specifying the format thereof by means of standardised templates.

[F35]…

Textual Amendments

F25 Word in Art. 7(1) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(2)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F26 Words in Art. 7(1)(c) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(2)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F27 Words in Art. 7(1)(g)(iv) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(2)(a)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F28 Words in Art. 7(1) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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F29 Words in Art. 7(1) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F30 Words in Art. 7(1) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(2)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F31 Words in Art. 7(2) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F32 Words in Art. 7(3) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(4)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F33 Words in Art. 7(3) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(4)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F34 Words in Art. 7(4) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(5)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F35 Words in Art. 7(4) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **9(5)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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 [F36]... 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 [F37]... shall consult with the **[**[F38]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 **[**[F38]Bank of England**]**, and any other authority relevant for that entity, of the need for consultation.

[F39]...

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;

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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.

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, **[**[F40]the FCA and the PRA, acting jointly, may make**]** regulatory technical standards to supplement the list of legitimate purposes set out in paragraph 3.

[F41]…

Textual Amendments

F36 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)

F37 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)

F38 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)

F39 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)

F40 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)

F41 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)

Article 9

Criteria for credit-granting

1 Originators, sponsors and original lenders shall apply to exposures to be securitised the same sound and well-defined criteria for credit-granting which they apply to non-securitised exposures. To that end, the same clearly established processes for approving and, where relevant, amending, renewing and refinancing credits shall be applied. Originators, sponsors and original lenders shall have effective systems in place to apply those criteria and processes in order to ensure that credit-granting is based on a thorough assessment of the obligor's creditworthiness taking appropriate account of factors relevant to verifying the prospect of the obligor meeting his obligations under the credit agreement.

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2 Where the underlying exposures of securitisations are residential loans made **[**[F42]on or after 20th March 2014**]**, the pool of those loans shall not include any loan that is marketed and underwritten on the premise that the loan applicant or, where applicable, intermediaries were made aware that the information provided by the loan applicant might not be verified by the lender.

3 Where an originator purchases a third party's exposures for its own account and then securitises them, that originator shall verify that the entity which was, directly or indirectly, involved in the original agreement which created the obligations or potential obligations to be securitised fulfils the requirements referred to in paragraph 1.

4 Paragraph 3 does not apply if;

a the original agreement, which created the obligations or potential obligations of the debtor or potential debtor, was entered into before **[**[F43]20th March 2014**]**; and

b the originator that purchases a third party's exposures for its own account and then securitises them meets the obligations that originator institutions were required to meet under Article 21(2) of Delegated Regulation (EU) No 625/2014 before 1 January 2019.

Textual Amendments

F42 Words in Art. 9(2) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **11(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F43 Words in Art. 9(4)(a) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **11(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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(**1**) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

(**2**) Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).

(**3**) Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

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Changes and effects yet to be applied to :

– Regulation revoked by 2023 c. 29 Sch. 1 Pt. 1