

Procedure file

Basic information			
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation 2020/0151(COD)		Procedure completed	
General framework for securitisation and specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 crisis Amending Regulation 2017/2402 2015/0226(COD)			
Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.05 Insurance, pension funds 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision			
Legislative priorities The EU's response to the Covid-19 pandemic Joint Declaration 2021			
Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Economic and Monetary Affairs	 TANG Paul	07/09/2020
		Shadow rapporteur	
		 KARAS Othmar	
		 GARICANO Luis	
		 LAMBERTS Philippe	
		 ZANNI Marco	
	 VAN OVERTVELDT Johan		
Council of the European Union			
European Commission	Commission DG Financial Stability, Financial Services and Capital Markets Union	Commissioner MCGUINNESS Mairead	
European Economic and Social Committee			

Key events			
24/07/2020	Legislative proposal published	COM(2020)0282	Summary
14/09/2020	Committee referral announced in Parliament, 1st reading		
10/11/2020	Vote in committee, 1st reading		
10/11/2020	Committee report tabled for plenary, 1st reading	A9-0215/2020	Summary
10/11/2020	Committee decision to open interinstitutional negotiations with report adopted in committee		
11/11/2020	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
13/11/2020	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
14/01/2021	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE663.108 GEDA/A/(2021)001303	
24/03/2021	Debate in Parliament		
25/03/2021	Results of vote in Parliament		
25/03/2021	Decision by Parliament, 1st reading	T9-0099/2021	Summary
31/03/2021	Act adopted by Council after Parliament's 1st reading		
31/03/2021	Final act signed		
06/04/2021	Final act published in Official Journal		
26/04/2021	End of procedure in Parliament		

Technical information	
Procedure reference	2020/0151(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation 2017/2402 2015/0226(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/9/03674

Documentation gateway					
Legislative proposal		COM(2020)0282	24/07/2020	EC	Summary
Document attached to the procedure		SWD(2020)0120	27/07/2020	EC	

European Central Bank: opinion, guideline, report	CON/2020/0022 OJ C 377 09.11.2020, p. 0001	23/09/2020	ECB	
Committee draft report	PE658.798	05/10/2020	EP	
Amendments tabled in committee	PE658.992	14/10/2020	EP	
Committee report tabled for plenary, 1st reading/single reading	A9-0215/2020	10/11/2020	EP	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2021)001303	17/03/2021	CSL	
Text agreed during interinstitutional negotiations	PE663.108	17/03/2021	EP	
Text adopted by Parliament, 1st reading/single reading	T9-0099/2021	25/03/2021	EP	Summary
Draft final act	00070/2020/LEX	31/03/2021	CSL	
Commission response to text adopted in plenary	SP(2021)260	27/04/2021	EC	

Additional information

Research document	Briefing	15/12/2020
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Final act

[Regulation 2021/557](#)
[OJ L 116 06.04.2021, p. 0001](#)

General framework for securitisation and specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 crisis

PURPOSE: to amend the regulation on securitisations with a view to facilitating the use of securitisation in the context of Europe's recovery from the COVID-19 pandemic.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Regulation (EU) 2017/2402 on securitisations and Regulation (EU) 575/2013 on capital requirements establish a general EU framework for securitisation and a specific framework for simple, transparent and standardised securitisations (STS).

The new securitisation regime has been in place since January 2019 and is the cornerstone of the EU's efforts to create a capital market union. Its objective is to promote a safe, deep, liquid and robust market for securitisation, which is able to attract a broad and stable investor base to help allocate finance to where it is most needed in the economy.

It will remain key for the banks to be able to continue lending to corporates also in the coming months once the immediate shock of the COVID-19 crisis will have passed. Therefore, it is important to prepare or upgrade any tools allowing banks to maintain and even enhance their capacity to lend to the real economy, in particular to SMEs. Securitisation can be a key enabler in this respect. By transforming loans into tradable securities, securitisation could free up bank capital for further lending and allow a broader range of investors to fund the economic recovery.

The securitisation framework shall be subject to a comprehensive review by January 2022, including possible legislative changes if necessary. However, this proposal introduces targeted changes now, given their usefulness for economic recovery. It is part of a capital markets stimulus package to facilitate economic recovery post-COVID-19, which also includes legislative proposals to amend the [Prospectus Regulation](#), the [Markets in Financial Instruments Directive](#) (MiFID II) and the [Capital Requirements Regulation](#).

CONTENT: the proposed amendments aim to (i) extend the STS securitisation framework to on-balance-sheet synthetic securitisation and; (ii) remove regulatory obstacles to securitisation of NPEs to further increase lending capacities without lowering the prudential standards for bank lending.

Creation of a specific framework for on balance-sheet synthetic securitisations

On-balance-sheet synthetic securitisation is a type of securitisation where the originator continues to own the underlying exposures (while normally in traditional securitisation the underlying exposures are sold to another entity). They are an important risk management tool for bank lending to corporates, in particular SMEs.

The proposal encourages a broader use of securitisation in the recovery phase, by freeing up bank capital and supporting banks in their effort

to enhance lending to households and businesses. Investors wishing to participate in such securitisations shall also benefit from increased simplicity, standardisation and transparency. The amendments will not undercut the high standards of the current securitisation framework for investor protection in any way. The proposal neither changes the issuers' extensive disclosure requirements nor does it weaken the far-reaching restrictions that, as a general rule, ban the selling of securitisation to retail clients.

The proposed criteria are aligned as much as possible with those for traditional STS securitisation, but they also take into account the specificities of the synthetic product and the different objectives of synthetic securitisations and therefore seek to ensure protection for both originators and investors.

Securitisation of non-performing exposures (NPEs)

The proposal pursues the objective of expanding credit institutions and investment firms capacity to lend to corporates and SMEs and to free their balance sheets of non-performing exposures whilst maintaining the consistency of the prudential framework following the COVID-19 crisis.

In order to tackle comprehensively the regulatory shortcomings of NPE securitisation, this proposal puts forward a definition of NPE securitisation, which is aligned with the work of the Basel Committee on Banking Supervision.

In addition, the proposal:

- subjects securitisations of non-performing exposures to a special regime when it comes to fulfilling the risk retention requirement in order to better take account of their special characteristics;
- clarifies the verification duties on originators when it comes to securitising non-performing exposures.

General framework for securitisation and specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 crisis

The Committee on Economic and Monetary Affairs adopted the report by Paul TANG (S&D, NL) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 pandemic.

The proposed regulation would amend the regulation on securitisations with a view to facilitating the use of securitisation in the context of Europe's recovery from the COVID-19 pandemic.

The proposed amendments would (i) expand the STS framework to include on-balance sheet synthetic securitisations; and (ii) remove regulatory obstacles to the securitisation of non-performing exposures (NPEs) to further increase lending capacity without lowering prudential standards for bank lending.

The committee recommended that the European Parliament's first-reading position should amend the Commission proposal as follows:

Non-performing exposures (NPEs)

The amended text emphasises that the COVID-19 crisis is likely to lead to an increase in the number of non-performing exposures and, therefore, increases the need for them to be traded on the market. Even if synthetic securitisation is a means of strengthening the capital position of lenders, banks should nevertheless strive at the same time to consolidate their capital position by raising new capital.

It is clarified that securitisation special purpose entities (SSPEs) should only be established in third countries that are not listed by the European Union as high-risk third countries having strategic deficiencies in their regime on anti-money laundering and counter terrorist financing or as non-cooperative jurisdictions for tax purposes.

Development of a sustainable securitisation framework

In order to integrate sustainability transparency requirements into the regulation under consideration, the amended text provides in particular for the development of a specific framework for sustainable securitisation.

By 1 November 2021 at the latest, the European Banking Authority (EBA), in close cooperation with the European Supervisory Authority (European Securities and Markets Authority) (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA), should be mandated to publish a report on the development of a specific framework for sustainable securitisation.

This report should duly assess in particular:

- the introduction of sustainability factors;
- the implementation of proportionate disclosure and due diligence requirements;
- the content, methods and presentation of information on negative environmental, social and governance-related impacts,
- any potential effects on financial stability, the development of the EU securitisation market and the banks lending capacity.

Based on the EBA report, the Commission should present a report to the European Parliament and the Council on the creation of a specific sustainable securitisation framework, together with a legislative proposal, if appropriate.

General framework for securitisation and specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 crisis

The European Parliament adopted by 474 votes to 172, with 62 abstentions, a resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific

framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 pandemic.

The proposed Regulation seeks to amend the Securitisation Regulation to facilitate the use of securitisation in the context of the recovery in Europe from the COVID-19 pandemic.

The proposed amendments aim to (i) extend the framework for STS securitisations to on-balance sheet synthetic securitisations; and (ii) remove regulatory obstacles to the securitisation of non-performing exposures (NPEs) to further increase lending capacity without lowering prudential standards for bank lending.

The European Parliament's first reading position amends the Commission's proposal as follows:

Non-performing exposures

The amended text highlights that the COVID-19 crisis is likely to lead to an increase in the number of non-performing exposures and increases the need for institutions to address and manage their non-performing exposures. One way for institutions to do this is to trade their non-performing exposures in the market through securitisation. In the current context, risks need to be separated from the systemically important parts of the financial system.

Securitisation special purpose entities (SSPEs) established in third countries

It is clarified that SSPEs should only be established in third countries that are not on the EU list of high-risk third countries with strategic deficiencies in their anti-money laundering and anti-terrorist financing regimes, or on the list of non-cooperative countries and territories for tax purposes.

Risk retention requirement

The risk retention requirement in Regulation (EU) 2017/2402, which applies to all types of securitisations, helps to align the interests of originators, sponsors and original lenders participating in a securitisation. The amended text provides that this requirement should also apply to on-balance sheet STS securitisations.

As a minimum, the originator, sponsor or original lender should retain a significant net economic interest in the securitisation of at least 5% at all times.

The originator should ensure that it does not hedge the same credit risk more than once by obtaining credit protection in addition to that provided by the STS on balance sheet. On-balance sheet STS securitisations might feature non-sequential amortisation in order to avoid disproportionate costs for protecting the underlying exposures and the evolution of the portfolio.

Macro-prudential oversight of the securitisation market

Within its mandate, the European Systemic Risk Board (ESRB) would provide ongoing macro-prudential oversight of the EU securitisation market. When the ESRB deems it necessary, and at least every three years, the ESRB, in cooperation with the EBA, should publish a report on the financial stability implications of the securitisation market in order to highlight the risks to financial stability.

Transparency requirements

From 1 June 2021, originators of STS securitisations should also have the option to disclose specific information regarding the consideration of adverse impacts on sustainability factors, giving particular attention to climate and other environmental, social and governance-related impacts.

No later than three months after the date of entry into force of the Amending Regulation, the Joint Committee of the European Supervisory Authorities (ESAs) should develop regulatory technical standards, building as much as possible on their work under Regulation (EU) 2019/2088 on sustainability disclosures in the financial services sector and adapting them, where necessary and relevant, to the specificities of securitisations.

Development of a sustainable securitisation framework

By 1 November 2021, the European Banking Authority (EBA), in close cooperation with the European Supervisory Authority (European Securities and Markets Authority) (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA), should publish a report on the development of a specific sustainable securitisation framework, in order to incorporate sustainability-related transparency requirements into this Regulation.

This report should duly assess in particular:

- the implementation of proportionate disclosure and due diligence requirements;
- environmental, social and governance-related adverse impacts;
- any potential effects on financial stability and on the scaling up of the Union securitisation market and of bank lending capacity.

On the basis of the EBA report, the Commission should present a report to the European Parliament and the Council on the development of a specific framework for sustainable securitisation, accompanied, if necessary, by a legislative proposal.