Common rules on securitisation and European framework for STS securitisation

Securitisation refers to the process of packaging and converting loans into securities, which can then be sold to investors. In the context of its efforts to build a Capital Markets Union, the Commission has proposed a regulation which lays down common rules on securitisation, and provides a framework for simple, transparent and standardised (STS) securitisations. Parliament is due to vote on the proposal during the October II plenary.

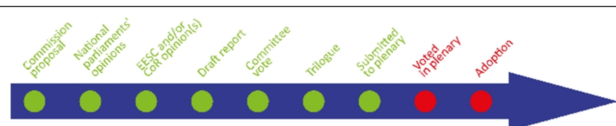
European Commission proposal

Up to now, the legislative framework relating to securitisation has encompassed provisions in various areas, such as banking, insurance, asset management, credit ratings and prospectuses. In September 2015, the Commission proposed to harmonise the rules that apply to all securitisations with regard to due diligence, risk retention, and transparency. Further, it set out criteria for long- and short-term STS securitisations (simple, transparent and standardised) as well as rules regarding supervision and sanctions. The proposal specified that pools of underlying exposures should comprise only one asset type to facilitate the assessment of underlying risks, it defined the issue of money 'trapped' in a securitisation special purpose entity (SSPE) after the termination of a revolving period or when there is no such period (STS standardisation), it drafted all transaction-level requirements analytically, and added an article regulating sponsors of ABCP programmes (requirements for ABCP securitisations). In terms of STS notifications, it added (under very strict conditions) the possibility of a third party being authorised to check whether a securitisation complies with STS requirements, and introduced joint liability of the originator, sponsor and SSPE in connection with an STS notification.

European Parliament position

On 30 November 2015, Member States reached agreement within the Council on their general approach to the proposed regulation. On 8 December 2016, the Committee on Economic and Monetary Affairs (ECON) adopted its report, enabling trilogue negotiations to open. The committee proposed a 5-10 % risk retention requirement, depending on the modality of retention. It would oblige originators, sponsors and SSPEs involved in an STS securitisation to be established in the EU or in a third country with an equivalence regime. It would prohibit arbitrage synthetic transactions from qualifying as STS. The report set conditions and procedures for the registration of a securitisation repository (SR), as well as requirements for SRs relating to operational reliability, safeguarding and recording information, transparency and data availability. Lastly, it detailed a list of infringements punishable by fines, and a list of coefficients linked to aggravating/mitigating factors for the application of those fines. On 30 May 2017, the Parliament and Council reached an agreement on the proposal. Under the agreement, the selling of securitisations to retail clients is not allowed, except under strict conditions; the risk retention must be at least 5 %, measured at the origination and determined by the notional value for off-balance sheet items; securitisation repositories are established; re-securitisation is banned; the originator, sponsor and SSPE involved in an STS securitisation must be established in the EU; and the originator, sponsor or SSPE can use the services of a third party to check whether a securitisation complies with STS requirements. The text is due to be the subject of a first-reading vote during the October II plenary session.

First-reading report: 2015/0226(COD); Committee responsible: ECON; Rapporteur: Paul Tang (S&D, The Netherlands). For further information, see our 'EU Legislation in progress' briefing.



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